



THE REGIONAL MUNICIPALITY OF NIAGARA COUNCIL ORDER OF BUSINESS

CL 15-2021

Thursday, August 26, 2021

6:30 p.m.

Meeting will be held by electronic participation only

This electronic meeting can be viewed on Niagara Region's Website at:

<https://www.niagararegion.ca/government/council/>

Due to the efforts to contain the spread of COVID-19 the Council Chamber will not be open to the public to attend Council meetings until further notice. To view live stream meeting proceedings, please visit: [niagararegion.ca/government/council](https://www.niagararegion.ca/government/council/)

Pages

1. CALL TO ORDER

2. ADOPTION OF AGENDA

2.1. Addition of Items

2.2. Changes in Order of Items

3. DISCLOSURES OF PECUNIARY INTEREST

4. PRESENTATIONS

5. CHAIR'S REPORTS, ANNOUNCEMENTS, REMARKS

5.1. CHR 04-2021
Regional Chair's Youth Advisory Panel

Diodati 10 - 12

5.2. CHR 5-2021
Need for a Province-wide COVID-19 Vaccine Certificate

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6. DELEGATIONS

6.1. Regional Chair's Youth Advisory Panel (Memorandum CHR 4-2021 (Agenda Item 5.1))

- 6.1.1. Salony Sharma and Arul Dilwaria, Niagara Falls Mayor's Youth Advisory Committee 15 - 21
The delegation submission is attached to this agenda item as CL-C 58-2021.

6.2. Niagara Official Plan: Land Needs Assessment and Settlement Area Boundary Review Update (Minute Item 5.1 of Minutes PEDC 8-2021 (Agenda Item 9.4)).

- 6.2.1. *Evan Sugden, Bousfields Inc., representing the Jukic Group Inc.* 22 - 27
The delegation submission is attached to this agenda item as CL-C 66-2021.

This delegation request was received after the deadline. The request must be considered by Council.

7. ADOPTION OF MINUTES

- 7.1. Council Minutes CL 14-2021 Easton 28 - 39
Thursday, July 22, 2021

The above minutes are presented for errors and/or omissions only.

8. CORRESPONDENCE

8.1. Receive and/or Refer

- 8.1.1. CL-C 59-2021 40 - 55
Report on Municipal Conflict of Interest Act Inquiry - IC-13715-0521 - Councillor Gale
Recommended Action: Receive.
- 8.1.2. CL-C 60-2021 56 - 74
Report on Code of Conduct Complaint - IC-13741-0521 - Councillor Gale
Recommended Action: Receive.

- | | | |
|--------|--|-----------|
| 8.1.3. | CL-C 61-2021
A letter from K. Jones, Welland Downtown Business Improvement Area, dated July 16, 2021, respecting Niagara Region Incentive Review.

Recommended Action: Receive. | 75 |
| 8.1.4. | CL-C 62-2021
A letter from Mayor W. Steele, City of Port Colborne, dated July 19, 2021, respecting Niagara Region's Review of Incentive Programs.

Recommended Action: Receive. | 76 - 77 |
| 8.1.5. | COTW-C 4-2021
A letter from S. Zorbas, Chief Administrative Officer , City of Welland, dated August 4, 2021, respecting City of Welland Comments regarding PDS 31-2021 - Niagara Region Incentives Policy.

<i>This item was not dealt with at the Committee of the Whole meeting held on August 5, 2021.</i>

Recommended Action: Receive. | 78 - 83 |
| 8.1.6. | <i>CL-C 63-2021 REVISED</i>
Letters from D. Falletta, Partner, Bousfields Inc., dated August 25, 2021, and August 11, 2021, respecting Urban Area Boundary Expansion Request – Black Creek Commons and Response to Niagara Region Official Plan Update Report No. PDS 33-2021.

Recommended Action: Receive. | 84 - 98 |
| 8.1.7. | CL-C 64-2021
A memorandum from F. Meffe, Director, Human Resources, dated August 26, 2021, respecting 2021 Medical Officer of Health / Associate Medical Officer of Health Compensation Initiative.

Recommended Action: Receive. | 99 - 100 |
| 8.1.8. | <i>CL-C 65-2021</i>
A letter from T. Stephens, City Clerk, City of Welland, dated August 10, 2021, respecting Welland City Council Motion regarding Niagara Region Grants and Incentives Review.

Recommended Action: Receive. | 101 - 126 |

- 8.1.9. CL-C 67-2021 127 - 128
A memorandum from A.-M. Norio, Regional Clerk, dated August 26, 2021, respecting Rapid Housing Initiative Capital Funding (Report CSD 52-2021).

Recommended Action: Receive.

- 8.1.10. CL-C 68-2021 129 - 130
A letter from A. LaPointe, City Clerk, City of Port Colborne, dated August 25, 2021, respecting City of Welland Resolution – Request Niagara Region to Maintain Existing Grants and Incentive Programs.

Recommended Action: Receive.

- 8.2. For Consideration
None.

9. COMMITTEE REPORTS - OPEN SESSION

- 9.1. Committee of the Whole Ugulini 131 - 202
Minutes COTW 3-2021, Thursday, August 5, 2021
- 9.2. Public Works Committee Rigby 203 - 256
Minutes PWC 8-2021, Tuesday, August 10, 2021
- 9.3. Corporate Services Committee Foster 257 - 500
Minutes CSC 8-2021, Wednesday, August 11, 2021
- 9.4. Planning and Economic Development Committee Huson 501 - 806
Minutes PEDC 8-2021, Wednesday, August 11, 2021

10. CHIEF ADMINISTRATIVE OFFICER'S REPORT(S)

- 10.1. CAO 15-2021 Butters 807 - 811
Updated Land Acknowledgement Statements
- 10.2. CAO 16-2021 Huson 812 - 814
Planning for Return to the Workplace and Gradual Re-opening
- 10.3. CAO 17-2021 Heit 815 - 818
COVID-19 Vaccination Policy Update

11. MOTIONS

- | | | | |
|-------|---|--------|-----|
| 11.1. | <u>Recruitment of Permanent Medical Officer of Health</u>
In accordance with the notice and submission deadline requirements of Sections 18.1(a) and 11.3, respectively, of Niagara Region's Procedural By-law, the Regional Clerk received from Councillor Gibson a motion to be brought forward for consideration at the August 26, 2021, Council meeting respecting Recruitment of Permanent Medical Officer of Health. | Gibson | 819 |
| 11.2. | <u>Request to Review and Amend Section 128 (Rate of Speed) of the Highway Traffic Act</u>
In accordance with the notice and submission deadline requirements of Sections 18.1(b) and 11.3, respectively, of Niagara Region's Procedural By-law, the Regional Clerk received from Councillor Foster a motion to be brought forward for consideration at the August 26, 2021, Council meeting respecting Request to Review and Amend Section 128 (Rate of Speed) of the Highway Traffic Act. | Foster | 820 |

12. NOTICES OF MOTION

- | | | | |
|-------|---|----|-----|
| 12.1. | <u>National Day for Truth and Reconciliation</u>
In accordance with Section 18.2 of Niagara Region's Procedural By-law, the Regional Clerk received from Councillor Ip a motion to be brought forward for consideration at the August 26, 2021, Regional Council meeting respecting National Day for Truth and Reconciliation.

<i>In order for Council to consider the above motion at this meeting, an affirmative vote of two-thirds of the Members present will be required.</i> | Ip | 821 |
|-------|---|----|-----|

13. OTHER BUSINESS

14. CLOSED SESSION

- | | |
|---------|---|
| 14.1. | <u>Committee Reports - Closed Session</u> |
| 14.1.1. | Corporate Services Committee - Closed Session
Minutes CSC 8-2021, Wednesday, August 11, 2021 |
| 14.1.2. | Planning & Economic Development Committee - Closed Session
Wednesday, August 11, 2021 |

15. BUSINESS ARISING FROM CLOSED SESSION

16. BY-LAWS

Edgar

- | | | |
|-------|---|----------------|
| 16.1. | <u>Bill 2021-55</u>
A by-law to accept, assume and dedicate Part of Township Lot 90, in the Town of Niagara-on-the-Lake as part of Regional Road No. 100 (Four Mile Creek Road). | 822 - 823 |
| 16.2. | <u>Bill 2021-56</u>
A by-law to accept, assume and dedicate Part of Township Lot 90, in the Town of Niagara-on-the-Lake as part of Regional Road No. 81 (York Road). | 824 - 825 |
| 16.3. | <u>Bill 2021-57</u>
A by-law to licence, regulate and govern owners, drivers and brokers of taxicabs and transportation network company businesses. | 826 - 874 |
| 16.4. | <u>Bill 2021-58</u>
A by-law to licence, regulate and govern vehicles used for hire (specialty vehicles, shuttle buses, sightseeing vehicles, caleche). | 875 - 912 |
| 16.5. | <u>Bill 2021-59</u>
A by-law to licence, regulate and govern salvage shops and salvage yards. | 913 - 939 |
| 16.6. | <u>Bill 2021-60</u>
A by-law to licence, regulate and govern second-hand good shops and dealers in second-hand goods. | 940 - 963 |
| 16.7. | <u>Bill 2021-61</u>
A by-law to licence, regulate and govern tow trucks, and owners, drivers and brokers of towing businesses. | 964 - 1008 |
| 16.8. | <u>Bill 2021-62</u>

A by-law to amend By-Law No. 2021-03, being a by-law to establish fees and charges for the services and activities provided by the Regional Municipality of Niagara and for the use of its property. | 1009 -
1013 |
| 16.9. | <u>Bill 2021-63</u>

A by-law to amend By-Law 89-2000 to Provide for the Regulation of Traffic on Regional Highways (Speed Limit Reduction Regional Road 27 in The Town of West Lincoln). | 1014 -
1015 |

16.10.	<u>Bill 2021-64</u>	1016 - 1017
	A by-law to amend By-Law 89-2000 To Provide for the Regulation of Traffic on Regional Highways (Parking Prohibition Regional Road 69 in The Town of Lincoln and The City of St. Catharines).	
16.11.	<u>Bill 2021-65</u>	1018 - 1019
	A by-law to amend By-Law 89-2000 To Provide for the Regulation of Traffic on Regional Highways (Speed Limit Reduction Regional Road 20 in The Town of West Lincoln).	
16.12.	<u>Bill 2021-66</u>	1020 - 1021
	A by-law to amend By-Law 89-2000 To Provide for the Regulation of Traffic on Regional Highways (Speed Limit Reduction Regional Road 10 in The Town of Grimsby).	
16.13.	<u>Bill 2021-67</u>	1022 - 1023
	A by-law to amend By-Law 89-2000 To Provide for the Regulation of Traffic on Regional Highways (Parking Prohibition Regional Road 81 in The Town of Grimsby).	
16.14.	<u>Bill 2021-68</u>	1024 - 1025
	A by-law to amend By-Law 89-2000 To Provide for the Regulation of Traffic on Regional Highways (Speed Limit Reduction Regional Road 38 in The City of St. Catharines).	
16.15.	<u>Bill 2021-69</u>	1026
	A by-law to adopt, ratify and confirm the actions of Regional Council at its meeting held on August 26, 2021.	

17. ADJOURNMENT

If you require any accommodations for a disability in order to attend or participate in meetings or events, please contact the Accessibility Advisor at 905-980-6000 ext. 3252 (office), 289-929-8376 (cellphone) or accessibility@niagararegion.ca (email).



Office of the Regional Chair | Jim Bradley

1815 Sir Isaac Brock Way Thorold, ON L2V 4T7

Telephone: 905-980-6000 Toll-free: 1-800-263-7215 Fax: 905-685-6243

Email: jim.bradley@niagararegion.ca

www.niagararegion.ca

Memorandum

CHR 04-2021

TO: Regional Council

FROM: Daryl Barnhart, Executive Officer to the Regional Chair

DATE: August 26, 2021

SUBJECT: Regional Chair's Youth Advisory Panel

On May 11, 2021, the City of Niagara Falls passed a motion supporting representatives from the Mayor's Youth Advisory Committee to appear before Regional Council to seek the creation of a Regional Youth Advisory Committee.

Once in receipt of the City's motion, staff from the Regional Chair's office proactively met with proponents from the Niagara Falls Mayor's Youth Advisory Committee. As the Regional Chair is fully supportive of this initiative, the meeting was held to gain a better understanding of the proposal, and to find ways for the Chair to best support the creation of such a committee. This memo also serves as endorsement of the recommendations being brought forward by the representative delegates from the Niagara Falls Youth Advisory Committee, namely Salony Sharma and Arul Dilwaria.

Upon the completion of these initial meetings, staff identified that a Regional Chair's youth advisory panel would be able to provide unique and valuable insights on numerous Regional policies and initiatives. In these discussions, it was determined that the panel will have valuable perspectives on numerous topics including public transit, waste management, climate change, diversity, equity and inclusion and mental health issues. The Chair also supports this initiative as a way to capitalize on the successes of the youth advisory groups that exist in the local municipalities, while also supporting both the sharing of information and coordination of youth-based initiatives at the local level.

This panel will have a distinct mandate and will not replicate the efforts of other Region youth-centric groups such as REACT.

Given the desired outcomes of this panel (as articulated by the Niagara Falls Youth Committee representatives), the timelines associated with the recruitment of membership for the panel, and the resources associated with providing administrative support for advisory committees, the following parameters were proposed by staff in the Chair's office:

1. The panel will be formed as a special initiative of the Regional Chair rather than a formal advisory committee of Regional Council. This structure will allow for the expedited establishment of the panel, with the first meeting being expected in October, versus an anticipated start date of January.
2. The panel will have one representative from each of the 12 local area municipalities that will be selected through a formal recruitment process. The membership term will be 12 months, with an optional extension for an additional year.
3. Membership will include one Regional Councillor who will volunteer to sit on the panel to provide guidance and mentorship, as well as act as the panel's advocate when required.
4. Youth members will be selected through the completion of a scoring matrix that will be marked by the panel's Regional Council volunteer representative along with staff from the Regional Chair's office.
5. Staff from the Regional Chair's office will sit on the panel in an ex-officio status to provide advice and guidance when required.
6. The panel will meet a maximum of six times per year; however, should a time-sensitive matter arise, the panel may meet at the call of the Chair. Minutes will be circulated on the Council Weekly Correspondence Distribution and the panel's terms of reference, will be shared with Regional Council through the Corporate Services Committee.
7. The Regional Chair's Youth Advisory Panel will differ from some other Mayor's Youth Advisory Committees across the Region as it will not have an operational budget, nor will it develop and/or execute on its own initiatives. Any recommendations will be provided to Regional Council through a memorandum or report from the Regional Chair's Office.
8. The chair of the Youth Advisory Panel will provide a minimum of one verbal update per year directly to Regional Council.

Staff anticipate starting the recruitment process in early September, with the first meeting being conducted by the end of October. The final membership list will be shared with Regional Council at the October 21 Regional Council meeting. Councillors wishing to volunteer to participate on the panel are asked to reach out directly to the Regional Chair's office.

Sincerely,

Daryl Barnhart, MA, APR
Niagara Region



Office of the Regional Chair | Jim Bradley

1815 Sir Isaac Brock Way Thorold, ON L2V 4T7

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Email: jim.bradley@niagararegion.ca

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Memorandum

CHR 5-2021

TO: Regional Council

FROM: Regional Chair, Jim Bradley

DATE: August 26, 2021

SUBJECT: Need for a Province-wide COVID-19 vaccine certificate

As we have all observed, the COVID-19 pandemic continues to drastically impact both the health and economy of Niagara. More recently, studies have shown that the Delta variant is as much as twice as contagious as the original strain of the virus, potentially bringing with it more severe illness (Katella, 2021).

Equally as important, studies have shown that unvaccinated individuals remain at the greatest risk of both becoming infected and spreading the virus. While it is still true that fully vaccinated people with the Delta variant can spread the virus to others, vaccinated people appear to be infectious for a shorter period (CDC, 2021). The CDC has also found that unvaccinated individuals are 2,900% more likely to become hospitalized after becoming infected by COVID-19 (Griffin, et al, 2021).

In short, the best-available science is pointing towards the critical importance of vaccinations in combating the pandemic and helping us return to our normal lives. Slowing the spread of the virus, and thereby reducing the chances of additional variants, is a crucial step in protecting the health of our residents and the sustainability of our economy.

In the recent days, we have seen a number of private businesses and public institutions across both Niagara and the province introduce policies that would require proof of vaccination in order for individuals to gain access to facilities and in-person services. These actions demonstrate the wide-spread support of vaccinations in our community and the important part that vaccines will play in helping us return to a sense of normalcy.

Just this morning, the president of the Association of Local Public Health Agencies (ALPHA) called on the province of Ontario to develop a province-wide vaccination certificate system. ALPHA President Dr. Paul Roumeliotis stated that a province-run system would provide an easy and convenient way for individuals to prove their vaccination status. ALPHA has stated that in the absence of a provincial solution, the association would implement their own system.

It is important to note that the Provinces of Quebec, British Columbia and Manitoba have already moved to create such systems in order to both support local businesses and encourage vaccination rates with residents. I believe that it is in Ontario's best interest to keep in pace with our neighbours across the country.

I believe that now is the time to act. All evidence shows that vaccines save lives, and they will play a crucial role in keeping our economy open.

Give the importance of vaccines in combating COVID-19, the increasing number of businesses and organizations who are requiring proof of vaccination status, the need to support our private sector, and the opinion of Ontario's Medical Officers of Health, I respectfully request that this council consider passing a motion that calls on the Province of Ontario to implement a proof-of-vaccination status certification program at the earliest possible opportunity.

Sincerely,

Jim Bradley
Regional Chair

References:

Centers for Disease Control and Prevention. (n.d.). *Delta variant: What we know about the science*. Centers for Disease Control and Prevention. <https://www.cdc.gov/coronavirus/2019-ncov/variants/delta-variant.html>.

Griffin, J. B., Haddix, M., Danza, P., Fisher, R., Koo, T. H., Traub, E., Gounder, P., Jarashow, C., & Balter, S. (2021). SARS-CoV-2 infections and Hospitalizations among persons aged ≥ 16 years, by vaccination status — Los Angeles County, California, May 1–JULY 25, 2021. *MMWR. Morbidity and Mortality Weekly Report*, 70(34). <https://doi.org/10.15585/mmwr.mm7034e5>

Katella, K. (2021, August 18). *5 things to know about the Delta Variant*. Yale Medicine. <https://www.yalemedicine.org/news/5-things-to-know-delta-variant-covid>.

From: [PF-Mailbox-01](#)
To: [Norio, Ann-Marie](#); [Trennum, Matthew](#)
Subject: FW: Online Form - Request to Speak at a Standing Committee or Regional Council
Date: Wednesday, July 21, 2021 2:57:26 PM

From: Niagara Region Website
Sent: Wednesday, 21 July 2021 14:57:21 (UTC-05:00) Eastern Time (US & Canada)
To: Clerks
Subject: Online Form - Request to Speak at a Standing Committee or Regional Council

Request to Speak at a Standing Committee or Regional Council

To reply, copy the email address from below and put into 'To'. (if resident entered their email address)

Name

Beth Angle

Address

4310 Queen Street

City

Niagara Falls

Postal

L2E6X5

Phone

9053567521

Email

bangle@niagarafalls.ca

Organization

Niagara Falls Mayor's Youth Advisory Committee

standing committee

Regional Council

Presentation Topic

Regional Youth Advisory Committee Proposal

Presentation includes slides

Yes

Previously presented topic

No

Presentation Details

Members of the Niagara Falls Mayor's Youth Advisory Committee, Salony Sharma and Arul Dilwaria, will be presenting a proposal for the creation of a Regional Youth Advisory Committee. The Niagara Falls Mayor's Youth Advisory Committee would like to respectfully request that the Regional Chair and Regional Council Representatives consider the proposal, and provide a motion to support and move forward with the creation of a Regional Youth Advisory Committee.

Video Consent

Yes



Regional Chair's youth advisory committee



Niagara Falls Mayor's Youth Advisory Committee
Presented By: Arul Dilwaria & Salony Sharma



purpose

RCYAC aims to facilitate the collaboration between student leaders in each municipality.

- **Share** updates on current youth-focused initiatives
- **Strengthen** the impact of existing youth leadership groups
- **Discuss** youth-related matters with community partners
- **Connect** youth to regional government



logistics

Membership

- 1 voting youth representative from each municipality
- Non-voting representation from REACT Niagara (Niagara Region Public Health) and School Board Student Trustees
- Assigned representatives from the Regional Chair's office
- Volunteer representative from Regional Council

Meetings

- Held virtually
- Include student voice from each municipality

Benefits

Direct Benefits

- Opportunity for youth input
- Youth feedback on Regional campaigns
- Generate awareness on Region's role in the community

Indirect Benefits

- Strengthens Region's youth-friendly image
- Builds community and attracts youth/young families to the Region
- Supports an interconnected Regional identity

Thank you for your time and support

Please feel free to ask any questions or
provide your comments



From: [PF-Mailbox-01](#)
To: [Norio, Ann-Marie](#); [Trennum, Matthew](#)
Subject: FW: Online Form - Request to Speak at a Standing Committee or Regional Council
Date: Monday, August 23, 2021 3:16:37 PM
Attachments: [Jukic Group - UAB Expansion Request.pdf](#)

From: Niagara Region Website
Sent: Monday, 23 August 2021 15:16:10 (UTC-05:00) Eastern Time (US & Canada)
To: Clerks
Subject: Online Form - Request to Speak at a Standing Committee or Regional Council

Request to Speak at a Standing Committee or Regional Council

To reply, copy the email address from below and put into 'To'. (if resident entered their email address)

Name

Evan Sugden

Address

1 Main Street East, Suite 200

City

Hamilton

Postal

L8N 1E7

Phone

[REDACTED]

Email

esugden@bousfields.ca

Organization

Bousfields Inc.

standing committee

Regional Council

Presentation Topic

Made-in-Niagara Forecast and the Revised Land Needs Assessment

Presentation includes slides

Yes

Previously presented topic

No

Presentation Details

We represent Jukic Group Inc. who are “the Owners” of 10 parcels of land located between the Stevensville Secondary Plan area and the Douglas Town-Black Creek Secondary Plan area in the Town of Fort Erie, including the property municipally addressed as 2900 College Road (“subject lands”). We would like to commend the Region on their re-evaluation of their growth forecasts and land needs as it pertains to additional community and employment land areas and support Regional planning staff in their recommendation to include an additional 35 hectares of community area land and 210 hectares of additional employment area land. We agree with the “Made-in-Niagara Forecast and the Revised Land Needs Assessment” and ask that Regional Council approve the revised community and employment land needs areas. Jukic Group Inc have requested an urban area boundary expansion to facilitate the development of a portion of their lands for a new community called Black Creek Commons, which would provide for new homes, jobs, and recreational activities in a Village, Resort, and Golf Course format. The proposed Black Creek Commons vision and Master Plan, which was submitted to Regional planning staff July 2nd, 2021, will help to accommodate the Region's forecasted population and job growth to 2051, complementing the Made-in-Niagara Forecast and the Revised Land Needs Assessment presented before you today.

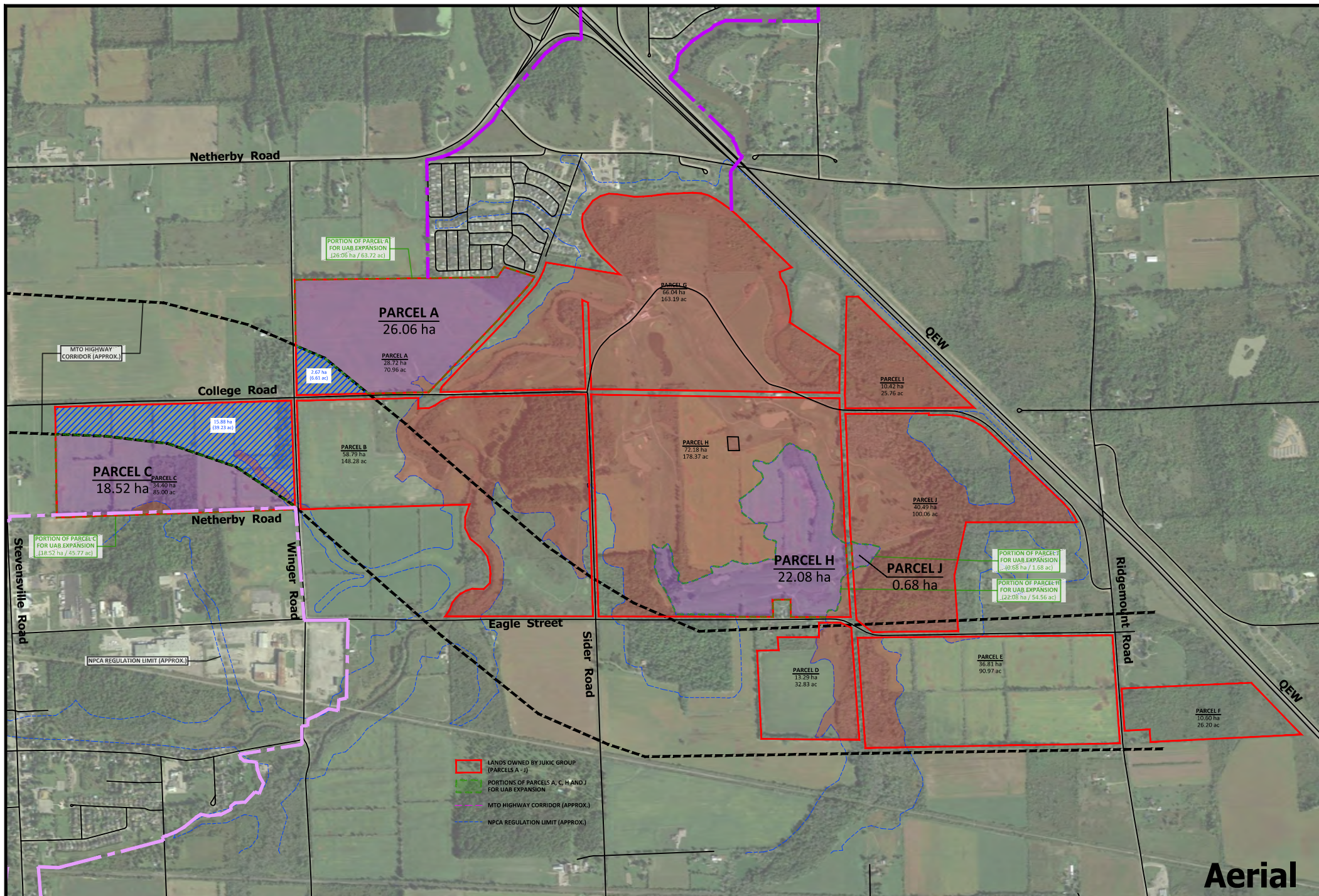
Video Consent

Yes

Support_File_1

Jukic Group - UAB Expansion Request.pdf





Aerial

MASTER PLAN

Netherby Rd

Winger Rd

VILLAGE

College Rd

GOLF

Queen Elizabeth Way

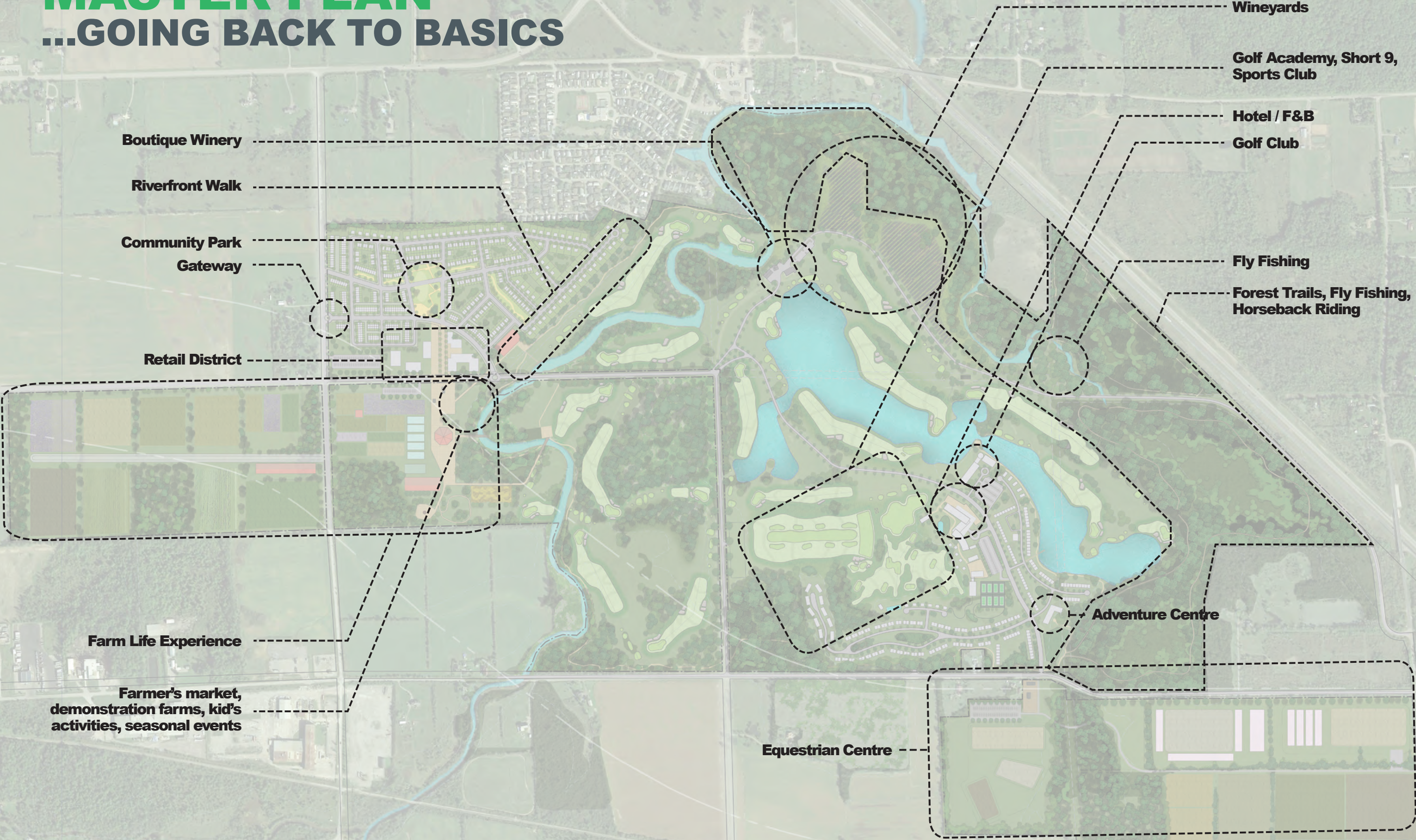
RESORT

Eagle St

Sider Rd

MASTER PLAN

...GOING BACK TO BASICS



**THE REGIONAL MUNICIPALITY OF NIAGARA
PROCEEDINGS OF COUNCIL
OPEN SESSION**

**CL 14-2021
Thursday, July 22, 2021
Council Chamber/Video Conference
Niagara Region Headquarters, Campbell West
1815 Sir Isaac Brock Way, Thorold, ON**

Council Members Present in the Council Chamber: Bradley (Regional Chair), Foster, Insinna

Council Members Present via Video Conference: Bellows, Butters, Bylsma, Campion, Chiocchio, Darte, Diodati, Disero, Easton, Edgar, Fertich, Gale, Gibson, Greenwood, Heit, Huson, Ip, Jordan, Nicholson, Redekop, Rigby, Sendzik, Ugulini, Whalen, Witteveen, Zalepa

Absent/Regrets: Junkin, Steele, Villella

Staff Present in the Council Chamber: H. Chamberlain, Director, Financial Management & Planning/ Deputy Treasurer, T. Harrison, Treasurer/ Commissioner, Corporate Services, M. Lewis, Client & Support Advisor, A.-M. Norio, Regional Clerk, M. Sergi, Commissioner, Planning and Development Services, R. Tripp, Acting Chief Administrative Officer

Staff Present via Video Conference: D. Barnhart, Executive Officer to the Regional Chair, D. Gibbs, Director, Legal & Court Services, D. Giles, Director, Community & Long Range Planning, Dr. M. M. Hirji, Acting Medical Officer of Health, A. Jugley, Commissioner, Community Services, R. Salewytch, Transit Services Program Manager, B. Menage, Director, Procurement & Strategic Acquisitions, K. Smith, Chief/ Director, Emergency Medical Services, G. Spezza, Director, Economic Development, M. Trennum, Deputy Regional Clerk, D. Woiceshyn, Director, Niagara Housing/Chief Executive Officer, Niagara Regional Housing, B. Zvaniga, Interim Commissioner, Public Works

Others Present via Video Conference: B. MacCulloch, Chief, Niagara Regional Police Service

1. CALL TO ORDER

Regional Chair Bradley called the meeting to order at 6:33 p.m.

2. ADOPTION OF AGENDA

2.1 Addition of Items

There were no items added to the agenda.

2.2 Changes in Order of Items

There were no changes in the order of items on the agenda.

Moved by Councillor Bellows

Seconded by Councillor Nicholson

That Council Agenda CL 14-2021, **BE ADOPTED.**

Carried

3. DISCLOSURES OF PECUNIARY INTEREST

Councillor Gale declared an indirect pecuniary interest with respect to the portion of the Corporate Services Committee Minutes CSC 7-2021 (Agenda Item 9.4) concerning Report CSD 45-2021, respecting 2018-RFP-33 - Architectural Services for Two Long Term Care Homes in St. Catharines and Fort Erie (Minute Item 7.2) as his daughter-in-law works in long-term care.

4. PRESENTATIONS

4.1 T. Roy Adams Humanitarian of the Year Award

Regional Chair Bradley stated that T. Roy Adams was an eminent Niagaran, well known throughout the region, Canada and abroad for his service to the community. In 2003, Niagara Region initiated a memorial award in his name to honour a resident of Niagara who best exemplifies Roy's values and dedication to community service.

Chair Bradley announced Susan Venditti as this year's recipient of the award.

Councillor Greenwood highlighted Mrs. Venditti's contributions to the community. Councillor Sendzik thanked Mrs. Venditti for her volunteerism, her generosity and her drive to give back to the community.

Mrs. Venditti thanked Regional Council for the recognition and award.

5. CHAIR'S REPORTS, ANNOUNCEMENTS, REMARKS

The Regional Chair provided an update respecting activities within the Region and the efforts of Niagara Region with respect to the COVID-19 pandemic.

6. DELEGATIONS

There were no delegations.

7. **ADOPTION OF MINUTES**

7.1 **Council Minutes CL 13-2021**

Thursday, June 24, 2021

Moved by Councillor Butters

Seconded by Councillor Darté

That Minutes CL 13-2021 being the Open Session minutes of the Regional Council meeting held on Thursday, June 24, 2021, **BE ADOPTED.**

Carried

8. **CORRESPONDENCE**

8.1 **Receive and/or Refer**

Correspondence Item CL-C 56-2021 and Report CHR 3-2021 were considered separately.

Moved by Councillor Disero

Seconded by Councillor Whalen

That the following items **BE DEALT WITH** as follows:

CL-C 57-2021 respecting Reject request for Home Depot Niagara Falls to remain open on Statutory Holidays, **BE RECEIVED**; and

CAO 14-2021 respecting Pandemic Relief Taskforce, **BE RECEIVED.**

Carried

8.1.1 CL-C 56-2021

Amendment to Procedural By-law for Continued Electronic Meeting Participation

Moved by Councillor Huson

Seconded by Councillor Darté

1. That Correspondence Item CL-C 56-2021, being a memorandum from A.-M. Norio, Regional Clerk, dated July 22, 2021, respecting Amendment to Procedural By-law for Continued Electronic Meeting Participation, **BE RECEIVED**; and

2. That Regional Council **DIRECTS** the Clerk to initiate the planning and implementation of a gradual transition of Committee/Council meetings (as well as public access) to a hybrid model of Committee/Council that accommodates both in-person as well as continued virtual options and report back on a plan at the September Corporate Services Standing Committee meeting with a projected transition/implementation goal of Q4 2021, consistent with applicable health guidelines.

Moved by Councillor Foster
Seconded by Councillor Insinna

That clause two of the motion **BE REFERRED** to the Procedural By-law Review Committee.

Carried

The Regional Chair called the vote on the balance of the motion and declared it,

Carried

8.1.3 CHR 3-2021

COVID-19 Economic Recovery Forum Summary

Moved by Councillor Zalepa
Seconded by Councillor Greenwood

That Report CHR 3-2021, dated July 22, 2021, respecting COVID-19 Economic Recovery Forum Summary, **BE RECEIVED** for information.

Carried

8.2 For Consideration

8.2.1 PW 42-2021

Niagara Falls Water Treatment Plant Dechlorination and Waste System Upgrade – Gross Budget Increase

Moved by Councillor Rigby
Seconded by Councillor Fertich

That Report PW 42-2021, dated July 22, 2021, respecting Niagara Falls Water Treatment Plant Dechlorination and Waste System Upgrade – Gross Budget Increase, **BE RECEIVED** and the following recommendations **BE APPROVED**:

1. That the gross budget for the Niagara Falls Water Treatment Plant Dechlorination Waste Upgrade project **BE INCREASED** by \$1,371,559 for a total project budget of \$4,866,559 and that the increase **BE FUNDED** from the Capital Variance Project – Water; and
2. That the current contract amount of \$232,117.07 (including 13% HST) awarded to Associated Engineering (Ont.) Ltd. **BE INCREASED** by \$403,309.43 (including 13% HST), for a total revised contract amount of \$635,426.50 (including 13% HST) to include administration and inspection services and that Staff **BE AUTHORIZED** to proceed with the necessary amending agreement with Associated Engineering (Ont.) Ltd. in a form satisfactory to the Director of Legal and Court Services.

Carried

9. COMMITTEE REPORTS - OPEN SESSION

9.1 Committee of the Whole

Minutes COTW 2-2021, Thursday, July 8, 2021

Moved by Councillor Edgar

Seconded by Councillor Fertich

That Minutes COTW 2-2021 being the Open Session minutes of the Committee of the Whole meeting held on Thursday, July 8, 2021, **BE RECEIVED** and the recommendations contained therein **BE APPROVED**.

Carried

9.2 Public Works Committee

Minutes PWC 7-2021, Tuesday, July 13, 2021

Moved by Councillor Rigby

Seconded by Councillor Fertich

That Minutes PWC 7-2021 being the Open Session minutes of the Public Works Committee meeting held on Tuesday, July 13, 2021, **BE RECEIVED** and the recommendations contained therein **BE APPROVED**.

9.2.1 Minute Item 5.1 respecting Niagara Regional Transit (NRT)
OnDemand - Port Colborne Inclusion

The motion contained in Minute Item 5.1 was considered separately as follows:

That Report PW 38-2021, dated July 13, 2021, respecting Niagara Regional Transit (NRT) OnDemand – Port Colborne Inclusion, **BE RECEIVED** and the following recommendations **BE APPROVED**:

1. That the report from the City of Port Colborne titled, “Transit Enhancement Opportunity” (Appendix 1 to Report PW 38-2021) **BE RECEIVED** for information;
2. That the Chief Administrative Officer **BE AUTHORIZED** to execute any amendments to the Agreement and/or Service Order between the Regional Municipality of Niagara and River North Transit, LLC (a.k.a. Via Mobility, LLC) in the amount of \$898,840 (excluding HST) to enable the inclusion of a turnkey, on-demand transit service pilot in Port Colborne to be branded and administered as part of the Niagara Regional Transit (NRT) OnDemand pilot;
3. That the Chief Administrative Officer **BE AUTHORIZED** to execute a Memorandum of Understanding (MOU) between Niagara Region and the City of Port Colborne to allow for Niagara Region to facilitate and administer the deployment of on-demand transit services within the City of Port Colborne as approved in the terms and value outlined in City of Port Colborne report 2021-15 (Appendix 1 to Report PW 38-2021); and
4. That the Chief Administrative Officer **BE AUTHORIZED** to execute amendments and/or extensions to both the MOU and the Agreement/Service Order such that it facilitates the continuity of services as a result of the Niagara Transit Governance Study.

Moved by Councillor Chiocchio
Seconded by Councillor Campion

That Report PW 38-2021 **BE REFERRED** to the Public Works Committee meeting being held on August 10, 2021, to allow the City of Welland to consult with the City of Port Colborne on this matter.

Carried

9.2.2 Balance of the Recommendations from Public Works Committee

The Regional Chair called the vote on the balance of the recommendations from the Public Works Committee and declared it,

Carried

9.3 Public Health and Social Services Committee

Minutes PHSSC 7-2021, Tuesday, July 13, 2021

Moved by Councillor Greenwood
Seconded by Councillor Chiocchio

That Minutes PHSSC 7-2021 being the Open Session minutes of the Public Health & Social Services Committee meeting held on Tuesday, July 13, 2021, **BE RECEIVED** and the recommendations contained therein **BE APPROVED**.

Carried

9.4 Corporate Services Committee

Minutes CSC 7-2021, Wednesday, July 14, 2021

Moved by Councillor Foster
Seconded by Councillor Whalen

That Minutes CSC 7-2021 being the Open and Closed Session minutes of the Corporate Services Committee meeting held on Wednesday, July 14, 2021, **BE RECEIVED** and the recommendations contained therein **BE APPROVED**.

9.4.1 Minute Item 7.4 respecting Deferred Motion Respecting Hospice Niagara Request for Funding

The motion contained in Minute Item 7.4 was considered separately as follows:

That Correspondence Item CSC-C 19-2021, being a memorandum from A.-M. Norio, Regional Clerk, dated July 14, 2021, respecting Deferred Motion - Hospice Niagara Request for Funding (Report CSD 24-2021), **BE RECEIVED** and the following recommendations **BE APPROVED**:

1. That the Hospice Niagara Funding request of \$4 million **BE RECEIVED** for information;
2. That Council **SUPPORTS** the request for funding by Hospice Niagara in the amount of \$4 million;

3. That funding for the project **BE INCLUDED** in the 2022 Niagara Region operating budget, to be paid in 4 equal annual instalments with timing to be determined and a report to come forward to the Budget Review Committee of the Whole; and
4. That staff **BE DIRECTED** to develop a program for dealing with this type of health care related request for funding, possible criteria to include how the proposed project integrates with other health care services in Niagara, the extent of service to all residents of Niagara, the impact of proposed new services or extension of existing services and how the project will be funded through private fundraising and other sources of revenue.

Recorded Vote:

Yes (24): Butters, Bylsma, Campion, Chiocchio, Dart, Disero, Easton, Edgar, Fertich, Foster, Gale, Greenwood, Heit, Huson, Insinna, Ip, Jordan, Nicholson, Redekop, Rigby, Sendzik, Ugulini, Whalen, Witteveen.

No (2): Gibson, Zalepa.

Carried

9.4.2 Balance of the Recommendations from Corporate Services Committee

The Regional Chair called the vote on the balance of the recommendations from the Public Works Committee and declared it,

Carried

9.5 Planning and Economic Development Committee

Minutes PEDC 7-2021, Wednesday, July 14, 2021

Moved by Councillor Huson
Seconded by Councillor Witteveen

That Minutes PEDC 7-2021 being the Open Session minutes of the Planning & Economic Development Committee meeting held on Wednesday, July 14, 2021, **BE RECEIVED** and the recommendations contained therein **BE APPROVED**.

Carried

10. CHIEF ADMINISTRATIVE OFFICER'S REPORT(S)

10.1 CAO 13-2021

Third Progress Report respecting Implementation of Recommendations from the Ontario Ombudsman Report "Inside Job"

Moved by Councillor Heit
Seconded by Councillor Butters

That Report CAO 13-2021, dated July 22, 2021, respecting Third Progress Report respecting Implementation of Recommendations from the Ontario Ombudsman Report "Inside Job", **BE RECEIVED** and the following recommendations **BE APPROVED**:

1. That Regional Council **ENDORSE** the Terms of Reference for a Municipal Ombudsman attached as Appendix 1 to Report CAO 13-2021; and
2. That Report CAO 13-2021 **BE CIRCULATED** to the Ontario Ombudsman for information.

Carried

11. MOTIONS

There were no motions for consideration.

12. NOTICES OF MOTION

Councillor Gibson advised that he would be bringing forward a motion to the next Council meeting respecting a human resources matter.

13. OTHER BUSINESS

13.1 Niagara Regional Transit Update

Councillor Foster requested staff provide a presentation respecting the progress of Niagara Regional Transit at the Public Works Committee meeting being held on August 10, 2021.

13.2 Conduct of Citizen Members of Regional Committees

Councillor Bylsma raised concerns over the social media posts of a citizen member of a Regional committee. Ron Tripp, Acting Chief Administrative Officer, advised staff would follow up with the Councillor.

Councillor Information Request(s):

Provide information to the Procedural By-law Review Committee concerning a code of conduct policy for citizen members appointed to Regional Committees. Councillor Redekop.

13.3 Whistleblower Report Recommendations

Councillor Gale requested an update respecting the status of the recommendations from the independent investigator related to the whistleblower investigation conducted in early 2021. Ron Tripp, Acting Chief Administrative Officer, advised he would follow up on the matter. .

13.4 Regional Staff Return to Work

Councillor Huson requested information respecting when Regional Staff would be returning to Regional facilities. Ron Tripp, Acting Chief Administrative Officer, advised a plan is being developed and that no changes are anticipated prior to September 2021.

14. **CLOSED SESSION**

Council did not resolve into Closed Session.

15. **BUSINESS ARISING FROM CLOSED SESSION**

15.1 Confidential CSD 47-2021

A Confidential Matter Respecting Litigation before Administrative Tribunal under s. 239 (2) of the Municipal Act, 2001 - Appeal of Council Decision for Development Charges Complaint - Grimsby

Moved by Councillor Whalen
Seconded by Councillor Zalepa

That Confidential Report CSD 47-2021, dated July 22, 2021, respecting A Confidential Matter Respecting Litigation before Administrative Tribunal under s. 239 (2) of the Municipal Act, 2001 - Appeal of Council Decision for Development Charges Complaint – Grimsby, **BE RECEIVED** and the recommendations contained therein **BE APPROVED**.

Carried

16. **BY-LAWS**

Moved by Councillor Ip
Seconded by Councillor Gibson

That the following Bills **BE NOW READ** and **DO PASS**:

Bill 2021-42

A by-law to stop up and close a portion of Regional Road 1 (Dominion Road) in the Town of Fort Erie.

Bill 2021-43

A bylaw to approve the Application for Tourism Exemption for Holiday Openings under the Retail Business Holidays Act – Home Depot Store, City of Niagara Falls.

Bill 2021-44

A by-law to amend By-law 120-2010, The Procedural By-law to permit electronic meeting participation.

Bill 2021-45

A by-law to authorize the borrowing upon 10 year instalment debentures in the aggregate principal amount of \$30,125,519.07 for capital works of the Town of Niagara-on-the-Lake and of the Cities of St. Catharines and Welland.

Bill 2021-46

A by-law to authorize the borrowing upon 10 year instalment debentures in the aggregate principal amount of \$15,958,480.93 for capital works of The Regional Municipality of Niagara.

Bill 2021-47

A by-law to provide for the borrowing upon 10 year instalment debentures in the aggregate of the principal amounts authorized by By-law No. 2021-45 and By-law No. 2021-46 in the aggregate principal amount of \$46,084,000.00 and for the issuing of one series of instalment debentures therefor.

Bill 2021-48

A by-law to amend By-Law 89-2000 to provide for the regulation of traffic on Regional highways (speed limit reduction Regional Road 81 in The Town of Niagara-on-the-Lake).

Bill 2021-49

A by-law to amend By-Law 89-2000 to provide for the regulation of traffic on Regional highways (speed limit reduction Regional Road 55 in The Town of Niagara-on-the-Lake).

Bill 2021-50

A by-law to amend By-Law 89-2000 to provide for the regulation of traffic on Regional highways (speed limit reduction Regional Road 24 and Regional Road 29 in The Town of West Lincoln).

Bill 2021-51

A by-law to amend By-Law 89-2000 provide for the regulation of traffic on Regional highways (speed limit reduction Regional Road 3 in The Township of Wainfleet).

Bill 2021-52

A by-law to amend By-Law 89-2000 to provide for the regulation of traffic on Regional highways (stopping prohibition Regional Road 101 in The City of Niagara Falls).

Bill 2021-53

A by-law to amend By-Law 89-2000 to provide for the regulation of traffic on Regional highways (prohibiting turns on Regional Road 24 in The Town Lincoln and on Regional Road 89 in The City of St. Catharines).

Bill 2021-54

A by-law to adopt, ratify and confirm the actions of Regional Council at its meeting held on July 22, 2021.

Carried

17. ADJOURNMENT

There being no further business, the meeting adjourned at 8:46 p.m.

Jim Bradley
Regional Chair

Matthew Trennum
Deputy Regional Clerk

Ann-Marie Norio
Regional Clerk



ADR
CHAMBERS

Integrity Commissioner Office
for Niagara Region

MICHAEL L. MAYNARD

Interim Integrity Commissioner

Niagara Region

E-mail: mmaynard@adr.ca

July 30, 2021

SENT BY EMAIL TO:

Ann-Marie Norio, Clerk

Ann-marie.norio@niagararegion.ca

Re: Investigation Report
IC-13715-0521

Dear Ms. Norio:

I wish to advise that I, along with my delegated associate (Benjamin Drory), have now completed our investigation with respect to the above referenced Application, which was brought to the Office of the Integrity Commissioner for investigation under the *Municipal Conflict of Interest Act*, 1990 ("MCIA").

I am enclosing a copy of our Investigation Report.

As this matter was brought solely under the MCIA, there was no *Code* provision under consideration, and there are accordingly no *Code*-related recommendations for Council to consider.

As you will note in the Investigation Report itself, I have determined not to apply to a judge under section 8 of the MCIA. I would therefore request that, in accordance with the requirements of section 223.4.1 (17) of the *Municipal Act*, 2001, the attached Investigation Report be published by being placed on the open Council Agenda for the next meeting of Council. I would ask that you kindly please advise me when this has been done.

I can also advise that the Parties, Ms. Spanton and Councillor Gale, have been provided with a copy of this Investigation Report.

Subject to the Investigation Report being published on the open Council Agenda, this matter is now concluded, and our file will be closed accordingly.

Yours very truly,

A handwritten signature in black ink, appearing to read 'M. Maynard', followed by a long horizontal flourish.

Michael L. Maynard
Interim Integrity Commissioner, Niagara Region

Cc: Ms. Emily Spanton
Councillor Bob Gale



ADR
CHAMBERS

Integrity Commissioner Office
for Niagara Region

MICHAEL L. MAYNARD

Interim Integrity Commissioner
Niagara Region

E-mail: mmaynard@adr.ca

BENJAMIN DRORY

Investigator
Office of the Integrity Commissioner
E-mail: bdrory@adr.ca

July 30, 2021

SENT BY EMAIL TO:

Emily Spanton

And To:

Regional Councillor Bob Gale

cc: Ann-Marie Norio, Regional Clerk

Re: Investigation Report – IC-13715-0521

1.0 Introduction and Delegation of Investigative Powers

1.1 – Introduction

This is our report respecting an application brought by Ms. Emily Spanton (the “Applicant”) against Regional Councillor Bob Gale (“Councillor Gale”) under the *Municipal Conflict of Interest Act*, R.S.O.1990, c. M.50 (the “MCIA”). Section 223.4.1 of the *Municipal Act, 2001* (the “Municipal Act”) allows an elector or a person demonstrably acting in the public interest to apply to the Integrity Commissioner for an inquiry concerning a member of Council’s alleged contravention of section 5, 5.1, and/or 5.2 of the MCIA.

In accordance with ss. 223.4.1(15)-(17) of the *Municipal Act*, the Integrity Commissioner may, if he or she considers it appropriate upon completion of the inquiry, apply to a judge under s. 8 of the *MCIA* for a determination as to whether the member has contravened section(s) 5, 5.1, and/or 5.2 of the *MCIA*. The Integrity Commissioner shall advise the applicant whether they will be doing so, and publish written reasons for the decision after deciding whether or not to apply to a judge.

1.2 – Delegation

Mr. Edward T. McDermott, the former Integrity Commissioner for the Region of Niagara (the “Region”), accepted that the Applicant was demonstrably acting in the public interest. Following Mr. McDermott’s retirement, Mr. Michael L. Maynard, Interim Integrity Commissioner for the Region, delegated his powers and duties to me on July 2, 2021, to investigate and prepare the report for this matter, subject to his review and approval, pursuant to section 223.3(3) of the *Municipal Act, 2001*.

1.3 – Investigative Process

The *Municipal Act* does not direct a specific procedure that an Integrity Commissioner must follow in handling *MCIA* applications. I followed a process that ensured fairness to both parties. As part of my investigation, I reviewed:

- The Applicant’s Complaint Form and Affidavit, dated May 12, 2021;
- Councillor Gale’s formal response, dated June 2, 2021;
- The Applicant’s reply, dated June 21, 2021; and
- Councillor Gale’s Supplemental Response, dated July 13, 2021.

I also interviewed the Applicant and Councillor Gale separately by telephone, researched relevant law, and reviewed the matters before Regional Council and the Corporate Services Committee (“CSC”) that the Applicant identified.

2.0 The Parties’ Positions

2.1 – Complaint

The Applicant alleges that Councillor Gale violated section 5 of the *MCIA*, which provides:

When present at meeting where matter considered

5 (1) *Where a member, either on his or her own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter and is present at a meeting of the council or local board at which the matter is the subject of consideration, the member,*

- (a) shall, prior to any consideration of the matter at the meeting, disclose the interest and the general nature thereof;*
- (b) shall not take part in the discussion of, or vote on any question in respect of the matter; and*
- (c) shall not attempt in any way whether before, during or after the meeting to influence the voting on any such question.*

The Applicant's allegations against Councillor Gale are based upon a combination of the April 14, 2021 CSC meeting (CSC-4-2021)¹ and the April 22, 2021 Regional Council meeting.² She stated that during the Regional Council meeting, and in particular during discussion about whether to accept the minutes of the CSC meeting, Councillor Diodati asked that the Niagara Health presentation be "lifted", so that a motion could be brought for staff. She noted that Councillor Gale called a point of order³ to ask whether he should declare a conflict of interest ("COI")⁴ on the Niagara Health presentation – as he had done at the CSC meeting, because his son works for the Greater Niagara General Hospital ("GNGH") – or whether the previous COI declaration carried over. However, she stated that Councillor Gale did not in fact declare a COI at the CSC meeting, and had stated on the record that he had no conflict. She submitted that during the CSC meeting,⁵ Councillor Gale asked about the status of Hotel Dieu Shaver ("Shaver") relative to Niagara Health – because his daughter sits on the Shaver board – and after receiving clarification that Shaver was not part of Niagara Health, replied "Thank you, I have no conflict."

¹ <https://pub-niagararegion.escribemeetings.com/Meeting.aspx?Id=61596aed-75a5-4afe-9e16-304b9b9bc25f&Agenda=Agenda&lang=English>

² <https://pub-niagararegion.escribemeetings.com/Meeting.aspx?Id=63701f04-0cdd-4d3e-925a-fd05b72dd5eb&Agenda=Merged&lang=English>

³ <https://www.youtube.com/embed/BSz9EM2B6Mg>, at 1:34:30

⁴ **Note:** The MCIA requires Members to disclose "pecuniary interests" in the avoidance of "conflicts of interest"; accordingly, although the term "declare a conflict" is often used interchangeably, it is technically the interest itself that is to be disclosed.

⁵ https://www.youtube.com/embed/MvdXhM_O1rE?, beginning at 7:18

The Applicant submitted that her issue was Councillor Gale failing to disclose that his son worked for Niagara Health before taking part in their presentation on the new hospital in Niagara Falls, following which Niagara Health requested financial assistance from the Region.

2.2 – Response

Councillor Gale described the complaint as frivolous and vexatious. He stated that he has a daughter who serves as a Director for the Hotel Dieu Shaver Hospital, and a son who is an employee of the Niagara Health system.

He acknowledged that section 3 of the MCIA states *“a pecuniary interest, direct or indirect, of a parent or the spouse or any child of the member shall, if known to the member, be deemed to also be the pecuniary interest of the member”*. He noted that the legislation does not define “pecuniary interest”, but submitted there is case law which provides guidance, and noted some other municipalities do define “pecuniary interest” – such as the City of Toronto, which specifies:

“A member may have a pecuniary interest when the result of a matter before Council or the board could impact, either positively or negatively, the member’s finances, economic prospects or asset value.”

He acknowledged that the Region’s Code of Conduct does not define “pecuniary interest”, but the policy provides:

“Members of Council shall not use their position within the Region to gain any particular interest personal or family advantage or benefit in utilizing any service provided by the Region or in conducting any business on behalf of the Region.

(i) Members of Council shall not be involved as an official of the Region in judging, inspecting or making a decision on any matter in which they have a personal or family interest. Any Member of Council involved shall immediately declare a conflict of interest as soon as such conflict is identified.

Councillor Gale stated that the Region had been asked to assist in capital funding to replace the existing hospital in Niagara Falls, but the Region has no decision-making authority over the hospital’s operations, including labour relations, staffing, or any other employee compensation or benefits. He stated that his daughter has no pecuniary interest with the Niagara Health System (“NHS”). He

acknowledged that his son is an NHS employee, but his occupation is front-line and he has no management responsibility. He stated that his son's employment or economic prospects are not impacted by whether NHS builds a new hospital in Niagara or not, as he will remain an NHS employee regardless of whether it receives capital funding from the Region or not. Accordingly, Councillor Gale stated that his son has no pecuniary interest in the Region's funding for a new replacement hospital – and if his son and daughter have no pecuniary interest, then neither does he.

Councillor Gale acknowledged that there might be a “perceived” conflict of interest and so, in an abundance of caution, he has and would continue to provide conflict declarations on any discussions relating to the Region's capital funding decisions about replacing the Niagara Falls hospital; but he maintained that if he does not declare a conflict and participates in such discussions or decisions, neither he nor his family will be impacted financially.

Councillor Gale stated that at the April 14, 2021 CSC meeting, the NHS delivered a presentation titled “Healthier Niagara”, which reviewed a proposed model of delivering health care across Niagara Region.⁶ He said there was no decision point or associated capital funding request, nor any requested Council decision or even any motion (as typically occurs) to receive the presentation as information. Accordingly, he stated he had no real or perceived conflict.

With respect to the Applicant's statement about the April 22 Regional Council meeting (i.e., that Councillor Diodati asked to “pull” the NHS presentation from the minutes), Councillor Gale stated that not knowing Councillor Diodati's intent, he contemplated whether he needed to declare a conflict, and was concerned Councillor Diodati might discuss aspects of capital funding for a new hospital – for which he might be perceived as having a COI owing to his son's employment, and for which he has previously declared conflicts on the topic. He stated that not knowing Councillor Diodati's intent, he asked the Regional Clerk a procedural question – i.e., whether he needed to declare a COI at each meeting.

Councillor Gale concluded that the Applicant's assumptions were incorrect, in that the NHS' CSC presentation did not include a “request” for hospital care funding. He stated that he did not have a pecuniary interest in the proposed health care model in the presentation, and felt the complaint was frivolous, vexatious, and politically motivated.

⁶ <https://pub-niagararegion.escribemeetings.com/filestream.ashx?DocumentId=15588>

2.3 – Reply

The Applicant replied that Councillor Gale was first elected to office in 2014, and should be well aware of the rules by now, and said others in the video were commenting to that effect as well. She reiterated that Councillor Gale did not actually declare a conflict in the April 14 meeting, so he was either confused, or was picking and choosing when to make such declarations, which did not instill confidence in the integrity of the system. She disputed that Councillor Gale's son would not benefit from his place of employment not being permanently closed.

2.4 – Supplemental Response

Both parties made arguably provocative comments towards / about each other in the course of their written submissions, none of which I will repeat in this Report.

In a Supplemental Response, Councillor Gale took issue with some of the things the Applicant said. The Interim Integrity Commissioner and I independently communicated to Councillor Gale that there was no basis for our office to do anything about what he complained of, and I noted that the inquiry was only about the narrow issue of whether he had a pecuniary interest in NHS' April 14, 2021 CSC presentation, and would not focus on any alleged behaviour by the Applicant herself.

3.0 Relevant case law and analysis

Prior to speaking with the parties, I identified case law relevant to analyzing s. 5 of the *MCIA*.

Among the most significant cases is the Ontario Court of Appeal's decision in *Ferri v. Ontario (Attorney General)*,⁷ which identified that "pecuniary interest" is not a defined term in the *MCIA*, but that case law has established it is restricted to a financial, monetary, or economic interest, and "must not be construed so broadly that it captures almost any financial or economic interest such that it risks needlessly disqualifying municipal councillors ... from participating in local matters of importance to their constituents".⁸

In the 2020 case *Yorke et al. v. Harris*,⁹ Justice Braid of the Ontario Superior Court of

⁷ *Ferri v. Ontario (Attorney General)*, 2015 ONCA 683

⁸ *Ibid*, para. [9]-[10]

⁹ *Yorke et al. v. Harris*, 2020 ONSC 7361, released December 9, 2020

Justice stated that “[p]ossible future outcomes do not qualify as pecuniary interests under the *Act*. There must be a real issue of actual conflict, or at least, a reasonable assumption that conflict will occur. The pecuniary interest must be definable and real rather than hypothetical.”¹⁰

In *Durham Flight Centre Inc. v. Marimpietri*,¹¹ Oshawa’s Integrity Commissioner wrote that the case law is clear that a pecuniary interest must be real and present, not speculative or remote. He noted a pecuniary interest does not arise from speculation based on hypothetical circumstances.¹²

It is instructive to contrast those cases against others where courts found that councillors *did* violate the *MCI*A.

*Costello v. Barr*¹³ concerned a vote about a proposed waste management facility where the councillor owned three adjacent parcels of land. The court looked at the impact on the market value of the lands involved, and determined that selecting a preferred location for an eventual landfill obviously impacted the market value of adjacent lands, which were decreased by being located next to a noxious land use, and by the legal restrictions on uses to which the lands could be put after the landfill was constructed.

In *Craig v. Ontario (Attorney General)*,¹⁴ the court accepted that properties within a 600-metre radius of proposed rapid transit stations would experience one-time uplifts in value, on account of increased demand for residential properties within a reasonable walking distance of transit stations. Accordingly, the regional municipality’s approval of a new rapid transit project had the potential to affect the councillor’s financial interests.

In *Jafine v. Mortson*,¹⁵ the Court held that a Mayor had a pecuniary interest in the alignment and terminus of a highway extension near agricultural lands his family owned, which were increasingly being purchased for development purposes. The highway extension, and resultant subdivision lots, made those lands inherently more valuable due to increased connectivity to the transportation network.

In sum, I find the law is clear that a “pecuniary interest”, as understood in the

¹⁰ *Ibid*, para. [47]

¹¹ *Durham Flight Centre Inc. v. Marimpietri*, 2019 ONMIC 18

¹² *Ibid*, para. [38]-[39]

¹³ *Costello v. Barr*, [1997] O.J. No. 4470 Ont. Gen. Div.)

¹⁴ *Craig v. Ontario (Ministry of the Attorney General)*, 2013 ONSC 5349

¹⁵ *Jafine v. Mortson*, 1999 CanLII 14775 (Ont. S.C.J.)

MCIA, only relates to a councillor's financial or economic interests, and its impact must be direct and immediate, not hypothetical or requiring a series of other events to happen. Through section 3 of the *MCIA*, the pecuniary interests of a councillor's direct family (i.e., parents, spouse, children) are also deemed to be the councillor's pecuniary interest.

The penalties for violating the *MCIA* can be severe. Under s. 9 of the *MCIA*, upon finding a breach of s. 5, a judge may declare a councillor's seat vacant, or disqualify them from becoming a councillor again for a period of up to seven years. Therefore, the standard for establishing a breach of the *MCIA* must appropriately be high.

To establish a breach of the *MCIA* in this case, the evidence would have to show, without conjecture or requiring a series of speculative events, that either Councillor Gale or his children stood to directly financially benefit from any votes that he participated in.

4.0 Investigation

4.1 – Review of Incident

I reviewed the minutes of the April 14, 2021 CSC meeting.¹⁶ The NHS presentation was the meeting's first item, and was not formally an "item for consideration" – it was not carried or defeated as all other items on that day's agenda were.

Councillor Redekop declared a "conflict",¹⁷ as his daughter is employed by NHS. The presentation was entitled "Niagara Health – Partnering Together for the Future South Niagara Hospital", and topics within the presentation included:

- *Building a Healthier Niagara, Together*
- *Current Service Model*
- *Future Service Model*
- *South Niagara Site Overview*
- *South Niagara Site Programs and Services*
- *South Niagara Site – Regional Benefits*
- *Regional Local Share – Commitments*

¹⁶ <https://pub-niagararegion.escribemeetings.com/FileStream.ashx?DocumentId=15954>

¹⁷ Note 5, at 7:44

Excerpts from the PowerPoint slides¹⁸ identified that the NHS' vision called for it to centralize expert care from hospitals, and expand access to local healthcare services in communities across Niagara. The future vision called for three sites – St. Catharines, South Niagara, and Welland. The final four slides noted a breakdown of anticipated contributors to the project's cost (i.e., governments, donations, and parking/retail revenue), and outlined the NHS' perception of benefits to the Region from potential investment.

The minutes of the April 14, 2021 CSC meeting became agenda item 9.4 at the April 22, 2021 Regional Council meeting. I watched the videos of both meetings.¹⁹

At the beginning of the April 14 NHS presentation, Councillor Gale asked if he had to declare a conflict, because his daughter is part of the Shaver board.²⁰ The NHS presenter confirmed that Shaver is not part of NHS – to which Councillor Gale thanked the presenter, and said he had no conflict. The presentation ran for 40 minutes; there was no vote or motion at its conclusion, and the meeting then moved on to the “Items for Consideration” portion of its agenda.

At the April 22, 2021 Regional Council meeting, the Chair moved that the minutes of the April 14, 2021 CSC meeting be received, and that the recommendations therein be approved. Councillor Diodati requested that the NHS presentation be “lifted”,²¹ and initiated a motion asking staff to attend the next CSC meeting with a report on the Region's contribution to the new hospital. Councillor Gale raised a point of order, asking if he had to declare a conflict – because he declared a conflict on the matter at the CSC meeting, because his son works at the GNGH – or whether it was taken into account that he declared a conflict on it previously.²² The Regional Clerk eventually told Councillor Gale he had to decide that on his own. Councillor Gale replied that he would declare it again; he just did not think he had to keep repeating it every time.

The CAO suggested to the Chair that a direction to staff would be best, as opposed to Councillor Diodati's motion. Councillors Steele and Sendzik then declared conflicts, as the discussion was getting into financing decisions, and they had family members working for NHS. Councillor Redekop raised a point of order,²³ asking if the NHS matter had been removed from the package by virtue of

¹⁸ Note 6, *supra*

¹⁹ Notes 3 and 5, *supra*

²⁰ Note 5, *supra*, at 7:56

²¹ Note 3, *supra*, at 1:33:07

²² Note 3, *supra*, at 1:34:38

²³ Note 3, *supra*, at 1:37:58

Councillor Diodati's request. The Regional Clerk replied that the NHS matter was just a presentation at the CSC, and no motion or recommendation had come out of it – so there was really nothing to 'lift' or vote on. Councillor Redekop asked to clarify that it was understood councillors who voted on the CSC minutes were not voting on the NHS item – which the Regional Clerk affirmed, as there had not been any motion on the NHS item. The CSC meeting minutes were then affirmed by vote.

4.2 – Interviews with Parties

I spoke with the Applicant. She said that she had never personally interacted with Regional Councillor Gale outside of politics. She opined this sort of problem undermines the integrity of the entire system – i.e., if Councillor Gale does not know if he has a conflict of interest, or whether he has declared one, then one questions what else he is not declaring. She said it's important for citizens to know that Councillor Gale knows what he's doing. She said she did not even know Councillor Gale had two children working in Niagara's health care system until he said so himself in the meetings.

The Applicant asserted that when the CSC accepted the presentation, it then went to the Region, at which point they would be talking about money. She said this was a very large expenditure for the Region, and other councillors declared conflicts, so something was not on the up-and-up, and a conversation would be appropriate about it.

The Applicant stated that the GNGH is going to close, so it was uncertain that Councillor Gale's son would continue to be employed if the hospital closed or moved to another location – which was what the NHS presentation was about. She said the language of the *MClA* is that if there is a perception of conflict of pecuniary interest, councillors are supposed to declare it. She understood a "pecuniary interest" under the *MClA* to be a financial interest, as opposed to a fiduciary duty of care. She emphasized that the perception was mostly the problem, especially respecting tens of millions of dollars – i.e., we cannot know that building the new location would not affect Councillor Gale's son's employment, and she would have declared a conflict if she worked for Niagara Health in any capacity herself.

I spoke with Councillor Gale. He stated that he had only spoken with the Applicant personally once, at the front desk of Regional Chambers about three or four years ago – he said the Applicant told him "I don't like you, but will say hi to you", and that was it. He said he had to ask who she was afterwards.

Councillor Gale stated that it is not common for presentations to be made at committees for which no motion is made, nor any decision or recommendation is requested – it has happened, but it is uncommon, and usually there is at least a motion to receive the item, but that was not the case in this instance.

Councillor Gale stated that he did not know if the Region has agreed to provide funding to Niagara Health; he did not think there had been an agreement to it, but he really did not know, because months ago he declared a conflict and left the meeting at which this may have been discussed.

Councillor Gale asserted that he did not have a direct pecuniary interest related to the NHS presentation, nor any deemed pecuniary interest through family members. He said neither he nor his family would gain financially as a consequence of hospital capital funding. He said that since his daughter sits on the Shaver Board of Directors, and his son is a front-line employee of the NHS, out of an abundance of caution he has declared conflicts at times, out of perception. But he felt that when there's a discussion about hospital programming, where Council is just being advised of the programming, and no financial decision is being discussed, he did not believe there was even a perception of COI. He reiterated that no council decision was being requested, nor was any made; there was not even a motion to receive it. He said he did not declare a COI because he did not have one, and added that he was concerned about the removal of services in Fort Erie and Port Colborne, and therefore asked a question to that effect.

He said that other examples of conversations related to the NHS where he has not declared COIs are when the Region's public health doctor (Dr. Hirji) presents his COVID updates every other Friday. He noted the Region's largest vaccination clinics are run by the NHS. Councillor Gale said he has stood up and complimented the NHS, because he thought they did a good job, but there were no discussions of capital funding or motions involved.

Councillor Gale stated that his son will always work for the hospital system, whether the Region gets a new hospital or not – he has seniority in the union, as per the collective bargaining agreement. He said his son works predominantly at the GNGH, but if it closes and moves, he would probably go with it, because of his seniority with the union – he has also worked at the Welland, St. Catharines, and Port Colborne hospitals before, so his position is flexible. Councillor Gale said his son could be moved to another hospital in a heartbeat, but he did not know all the union rules. He noted that he did not know his son's exact title, but his son does casting – i.e., during operations, doctors will turn to him and ask him to put casts on the patients. Councillor Gale stated that his son is not involved in management

or ownership of the hospital, and he does not receive any financial benefits from the hospital if it achieves any specific outcomes, nor is his salary based on any contingencies.

Councillor Gale said his daughter is on the Board of Directors at the Hotel Dieu Shaver Hospital (he believed she was Second Vice Chair), so that is why he asked if the Shaver hospital was part of the NHS, because his daughter could influence decisions at Shaver. But he said his kids are in their forties, so he does not closely follow the boards they are on. Councillor Gale said he declared a COI respecting Shaver, but he did not have to. He added he has declared so many conflicts in the past he can lose track of them – but he acknowledged it was correct that he did not declare a conflict at the April 14 CSC meeting. However, he said that was because he did not have a conflict in that case – there were no motions on the item.

Councillor Gale concluded that he felt this investigation was a waste of taxpayer money, because the Applicant never communicated her concerns to him, and just filed a complaint. He thought as a Regional Councillor he would have received a phone call, or a meeting or conversation request to discuss the matter, but that was never requested. He thought a common-sense individual would understand why he did not declare a COI, if he had been given an opportunity to explain.

5.0 Analysis and Findings

5.1 – Question(s) to be Determined

The questions to be determined in this matter are:

- a. whether Councillor Gale had a deemed pecuniary interest in the NHS Presentation of April 14, 2021; and
- b. if he had a pecuniary interest (per (a)), whether he therefore had a conflict of interest in respect of that matter.

5.2 – Findings

The Applicant's assertion that Councillor Gale improperly had a pecuniary interest which he did not declare does not meet the necessary legal tests, for two main reasons.

First, a pecuniary interest under s. 5 of the *MCI*A is fundamentally a financial or economic interest, and cannot be merely speculative or hypothetical – it needs to

be direct and obvious. I do not believe that Councillor Gale's son had a pecuniary interest in NHS' presentation – I accept Councillor Gale's submission that his son is not involved in management of the hospital, nor is his salary contingent on the hospital achieving capital funding from the Region. I also have no reason to doubt Councillor Gale's assertion that his son would remain working in the hospital system regardless of whether the NHS' desired capital funding is achieved. The Applicant's assertions are fundamentally speculative – i.e., in the nature of "it could happen", or that "we can't prove that it wouldn't be the case". But the standard of proof to establish an *MCIA* violation is much higher – it had to be clear that Councillor Gale's son would directly financially benefit as a result of Council's consideration of a matter. There is no evidence of this.

Secondly, I do not consider the NHS presentation at the April 14 CSC meeting to have actually been a "meeting where a matter was considered" – which is the basis for the entirety of section 5 of the *MCIA*. There was no decision to be made on the presentation, nor even anything as simple as a motion to receive the presentation for information. The NHS was simply providing a presentation, and no action was taken of any kind. There had to be some kind of vote or decision-making process in order for Councillor Gale to have been able to exercise any influence on the matter. Accordingly, I do not believe a COI was possible in this context – there was nothing for Councillor Gale to actually 'consider' in the first place.

6.0 Decision and Publication

6.1 – Decision

Pursuant to the above findings, the Interim Integrity Commissioner, Mr. Maynard, and I have determined that the Respondent, Councillor Gale, did not contravene section 5 of the *MCIA*.

6.2 – Application to a judge

Subsection 223.4.1 (15) of the *Municipal Act* requires that, upon completion of an inquiry under the *MCIA*, the Integrity Commissioner may, if he or she considers it appropriate, apply to a judge under section 8 of the *MCIA* for a determination as to whether the Member has contravened section 5, 5.1, or 5.2 of that *Act*.

We have determined that Councillor Gale did not breach s. 5 of the *MCIA* in these circumstances, and accordingly there is no basis for the Integrity Commissioner to apply to a judge under s. 8 of the *MCIA* respecting the matter.

6.3 – Notice to Applicant

Subsection 223.4.1 (16) of the *Municipal Act* requires that the applicant be notified if an application to a judge will not be made. The Applicant, by being furnished with a copy of this Report, is so notified.

6.4 – Publication of Reasons

Subsection 223.4.1 (17) of the *Municipal Act*, requires the Integrity Commissioner to publish written reasons for such decision. This Investigation Report contains such reasons and shall be published accordingly.

Respectfully submitted by,



Benjamin Drory, Investigator

7.0 Endorsement and Issuance of Report

I, Michael L. Maynard, Interim Integrity Commissioner for Niagara Region, have reviewed the evidence, process, and results of my delegate, Mr. Drory's, Investigation and Report.

I agree with and endorse this Report in respect of Complaint IC-13715-0521, and hereby issue it to the Applicant, Respondent, and Council in conclusion of this matter.



Michael L. Maynard
Interim Integrity Commissioner, Region of Niagara



ADR
CHAMBERS

Integrity Commissioner Office
for Niagara Region

MICHAEL L. MAYNARD

Interim Integrity Commissioner

Niagara Region

E-mail: mmaynard@adr.ca

August 9, 2021

SENT BY EMAIL TO:

Ann-Marie Norio, Clerk

Ann-marie.norio@niagararegion.ca

Re: Investigation Report
IC-13741-0521

Dear Ms. Norio:

I wish to advise that I, along with my delegated associate (Benjamin Drory), have now completed our investigation of the above referenced Complaint, which was brought to the Office of the Integrity Commissioner for investigation under the Region's *Code of Conduct for Members of Council* ("Code").

I am enclosing a copy of our Investigation Report.

Though our investigation resulted in no finding of a *Code* contravention by the Respondent Member, I have determined that there is significant public interest in the matters contained in our Report, and I am accordingly recommending that it be placed on the public agenda for the next meeting of Council. I therefore confirm, in accordance with s. 223.6 (2) of the *Municipal Act*, all information contained in the attached Report is necessary for the purposes of the Report itself.

I can also advise that the Parties, Councillor Ip and Councillor Gale, have been provided with a copy of this Investigation Report.

This matter is now concluded, and our file will be closed accordingly.

Yours very truly,

A handwritten signature in black ink, appearing to read 'm m' followed by a long, sweeping horizontal stroke that curves upwards at the end.

Michael L. Maynard
Interim Integrity Commissioner, Niagara Region

Cc: Councillor Laura Ip
Councillor Bob Gale



ADR
CHAMBERS

Integrity Commissioner Office
for Niagara Region

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BENJAMIN DRORY

Investigator
Office of the Integrity Commissioner

E-mail: bdrory@adr.ca

August 9, 2021

SENT BY EMAIL TO:

Regional Councillor Laura Ip

And to:

Regional Councillor Bob Gale

cc: Ann-Marie Norio, Regional Clerk

Re: Investigation Report – IC-13741-0521

Dear Councillors Ip and Gale:

1.0 Mandate of Integrity Commissioner and Delegation of Investigative Powers

1.1 – Introduction

This is our Investigation Report respecting an application brought by Regional Councillor Laura Ip (“Councillor Ip”) against Regional Councillor Bob Gale (“Councillor Gale”) on May 14, 2021, concerning the Region of Niagara’s *Code of Conduct for Members of Niagara Region Council* (the “Code of Conduct”, or alternately “Code”). This report has been prepared in accordance with Mr. Michael L. Maynard’s appointment as the Interim Integrity Commissioner for the Region of

Niagara (the “Region”), pursuant to s. 223.3(1) of the *Municipal Act, 2001*.

1.2 – Delegation

Following Mr. Maynard’s appointment as the Interim Integrity Commissioner for the Region, upon the retirement of Mr. Edward T. McDermott, Mr. Maynard delegated his powers and duties to me on July 28, 2021, to investigate and prepare the report for this matter, subject to his review and approval, pursuant to section 223.3(3) of the *Municipal Act, 2001*.

1.3 – Investigative Process

The *Municipal Act* does not direct a specific procedure that an Integrity Commissioner must follow in handling *Code of Conduct* Complaints. I followed a process that ensured fairness to both parties. As part of my investigation, I reviewed:

- Councillor Ip’s Request for Investigation/Affidavit, dated May 14, 2021;
- Councillor Gale’s formal response, dated May 26, 2021;
- Councillor Ip’s reply, dated May 27, 2021; and
- Councillor Gale’s Supplemental Responses, dated May 31, 2021 and June 8, 2021.

I also reviewed videos of the Regional Council meetings that were the subject of the complaint, the Region’s Procedural By-Law, and case law from other municipalities germane to the issues in question.

2.0 The Parties’ Positions

Both parties submitted extensive written submissions. I have summarized their substance herein, rather than reproducing them in their entirety.

2.1 – Complaint

Councillor Ip alleged that Councillor Gale violated several provisions in the *Code*, most notably the following provisions:

As representatives of the Region, every member of Council has the duty and responsibility to treat members of the public, one another and staff appropriately and without abuse, bullying or intimidation and to ensure that the municipal work environment is free from discrimination and harassment.

And:

Members of Council shall not maliciously or falsely injure the professional or ethical reputation of staff.

Councillor Ip wrote that at the April 22, 2021 Regional Council meeting,¹ Councillor Gale sought the Regional Clerk's advice respecting whether he should be declaring a conflict of interest on item 9.4 (acceptance of the minutes of the April 14, 2021 Corporate Services Committee ("CSC") meeting), as he had already declared a conflict at the CSC meeting. Shortly following this question, an unknown staff member could be heard saying "how long have you been a Councillor?"² The item continued, but Councillor Ip noted that Councillors Nicholson, Diodati, and Gale all commented later in the meeting about how insulting the remark was, and insisted that staff review the tape to determine who made it.

Councillor Ip wrote that at the April 29, 2021 Special meeting of Regional Council,³ Councillor Gale raised a "point of personal privilege", and used it to speak about the 'disparaging' remark against him for more than two minutes – during which he attacked the integrity of the Region's leadership, and specifically Acting CAO Ron Tripp. She noted that a couple councillors attempted to call a point of order, remarking that Councillor Gale shouldn't be using a point of personal privilege to "trash staff", and that his statements were "inappropriate" and "too far of a reach" – but Councillor Gale insisted there was to be no debate or discussion about his point of personal privilege, and he proceeded with his prepared remarks.

Councillor Ip felt that Councillor Gale's comments were particularly concerning given that the Region was actively recruiting for a new CAO. She felt that the tone and content of Councillor Gale's comments demonstrated disrespect for staff, and that he was actively bullying and harassing the Acting CAO.

Councillor Ip wrote that a week later (May 6, 2021), staff sent a message to councillors informing them that the "offending staff member" in question had sent a formal apology on April 23, 2021, in which said staff took responsibility for the comment, apologized, and ensured it would not reoccur, and the Acting CAO and Commissioner of Corporate Services deemed the issue to have been resolved with no further action required.

¹ <https://www.youtube.com/embed/BSz9EM2B6Mg>, beginning at 1:34:30

² Note 1, at 1:34:57

³ <https://www.youtube.com/embed/kEMqSi8tttQ>, from 1:02:49 to 1:08:38

Councillor Ip wrote that Councillor Gale's statements at the April 29, 2021 Special meeting therefore occurred after he received the apology from the staff member, but he positioned his comments to make it appear that staff took no action. She added that Councillor Gale mischaracterized how the staff's remark came to be – i.e., it wasn't in response to him asking questions about purchasing and the awarding of contracts, but rather arose from his question about declaring a conflict – which Councillor Ip felt Councillor Gale should be fully aware of, given how long he has been on Regional Council.

Councillor Ip concluded that by publicly attacking the Acting CAO, Councillor Gale failed to maintain and promote the public trust, and failed to recognize the influence afforded by his role.

2.2 – Response

Councillor Gale described the complaint as frivolous and vexatious. He said he raised a point of order at the April 22, 2021 Regional Council meeting, asking if he had to express the same conflict again at Council if he had expressed a "conflict of interest" on the item at Committee. He noted that prior to receiving a response from the Regional Clerk, an open microphone captured two comments from unknown persons. I note myself that there is universal agreement from multiple corners that at least one of the comments was inappropriate.

Councillor Gale wrote that Councillor Nicholson expressed concern about the incident later in the meeting, and asked the Regional Chair to review it – to which the Regional Chair agreed.⁴ Councillor Gale added that Councillor Diodati also said he heard the comment, and that it was unprofessional, to which the Regional Chair responded that Councillor Gale's question was legitimate, and he would review the tape.⁵

Councillor Gale wrote that on the evening of April 23, 2021, he received an email from a staff member (the "Impugned Staff"), who he said wrote to him, cc'ing the Regional Chair and the Acting CAO:

Councillor Gale,

I'm writing further the highly unfortunate incident at Council last night. I made an offhand comment in a momentary lapse in judgment that I sincerely regret. It is

⁴ Note 1, from 3:08:10 to 3:09:41

⁵ *Ibid*, from 3:10:39 to 3:11:48

not reflective of the high standard of professionalism that I hold myself accountable to and strive to maintain, I must apologize for any offence my comments caused, which was in no way intended.

Councillor Gale stated that he wrote back to the Impugned Staff on Monday, April 26, 2021:

Good morning [Impugned Staff],

I am sending this message to acknowledge receipt of your email.

Regards, Bob

Councillor Gale wrote that because there had been two comments made, he waited to hear how the Regional Chair would publicly report back to Council on the incident; but there was no such item on the April 29, 2021 agenda, nor did the Chair make any comments at the start of the meeting. Accordingly, Councillor Gale said he raised a “point of personal privilege” at 1:02:50, which the Chair recognized. He noted that the Region’s Procedural By-Law⁶ states the following:

17. POINTS OF PRIVILEGE AND ORDER

17.1 When a Member believes that his or her rights, privileges or integrity, or those of the Members collectively have been prejudicially affected, that Member may ask leave of the Chair to raise a question of privilege and after leave is granted, the Member shall state the point of privilege to the Chair and the point of privilege shall be immediately decided by the Chair.

...

17.3 It shall be the duty of the Chair to decide all points of privilege and order and, if called upon to do so, to state the rule applicable to any point of order, practice or procedure. The Chair’s ruling on a point of order shall be made without debate and shall be final subject only to an immediate appeal from such ruling by a Member.

Councillor Gale provided the prepared statement he read, as follows:

Last week, there was a disparaging comment made, in reference to me, as a Regional Councillor. You’ll remember that the issue was raised by both Councillor

⁶ <https://www.niagararegion.ca/government/bylaws/pdf/procedural-by-law.pdf>

Nicholson and Mayor Diodati. And you said you would review the matter.

What I do want to raise in this Point of Privilege is that the circumstances that led to the disparaging comment is the type of leadership espoused by those in senior positions.

Over the past two years I have asked important questions related to purchasing and the awarding of contracts. I will never apologize for this because it is what the people of Niagara elected me to do. Accountability isn't just a buzzword for me. It's the way I live my life. Just like many of our amazing residents.

Perspective is important here. Each year, we are responsible for \$1.5 billion in taxpayer's money, and it is our job as Councillors to ask questions, make decisions, and ensure accountability and transparency. It is with this lens that I bring matters forward. It is a lens of service and accountability. Especially as so many of our residents are suffering emotionally and financially because of COVID, through no fault of their own. My intention is to get timely information so that we can make informed decisions. Our communities deserve this from us.

We as a council must serve those who entrusted us. And for clarity, we as a council have one employee. Just one. The CAO. As we are in the process of selecting a new CAO, I am asking each of you to take note of what's happening. I want you to be aware of the culture that created the opportunity for last week's events to transpire. We need a leader who will inspire and unite and work to bring the priorities of this council forward. () For the people of Niagara. They deserve it, and it's our responsibility to them. Thank you, Mr. Chair.*

Councillor Gale wrote that Councillor Redekop attempted to interrupt his Point of Privilege with a Point of Order, at the point marked by the asterisk (*) – to which Councillor Gale objected, and asked the Regional Chair to consult with the Regional Clerk – who reviewed the Procedural By-Law, and advised that there is no Point of Order on a Point of Privilege, per s. 17.1.

Councillor Gale wrote that Councillor Redekop then began debating his Point of Privilege, stating he felt it was inappropriate for Councillor Gale to “trash” a senior member of staff, who had no opportunity to respond. The Chair turned to the Clerk for advice again, who cited section 17.6 of the Procedural By-Law:

17.6 When the Chair considers that the integrity of the Chief Administrative Officer or a member of the staff has been impugned or questioned, the Chair may permit the Chief Administrative Officer or other staff member present to make a

statement to the Council.

The Chair was then advised, upon inquiring, that the CAO didn't wish to respond.⁷

Councillor Gale wrote that the Regional Clerk sent the following email to all Council members on May 6, 2021, on behalf of Todd Harrison, Commissioner of Corporate Services:

Councillors Gale, Nicholson, Diodati, and Regional Council:

In response to concerns first raised by Councillor Nicholson and then by Councillor Diodati at the Regional Council meeting of April 22, 2021 with respect to what was believed to be an inappropriate comment made by a staff member about Councillor Gale, we can confirm that this matter was followed up both that evening and into the next day. We can confirm the staff member emailed Councillor Gale on April 23, 2021, acknowledged the comment, expressed regret for making it, accepted accountability, and apologized for it. ... [W]e understand that Councillor Gale acknowledged receipt of staff member's email.

The Region has a Respectful Workplace Conduct Policy, along with Respectful Workplace Conduct Procedures and Guidelines. The Policy applies to all staff and Councillors ... including measures in which we achieve this; one of them being through appropriate conflict resolution processes and resources.

When employees (or in this case Councillor Gale) are subjected to inappropriate behaviour, they (or in this case other Councillors that were in attendance) may express their concerns appropriately to the identified contact persons in accordance with this policy, which are outlined therein. ...

Per the policy, the first step in the process is "Early Resolution"; known as the "Informal Early Resolution Process" ...

...

Informal complaints shall be managed first by the early resolution process and shall be documented to record each incident. This will be forwarded in writing and submitted to their immediate non-union supervisor or manager, with a copy to Human Resources on the applicable reporting form if a formal complaint is

⁷ Note 3, at 1:06:57

necessary.

Given that this circumstance is not a course of vexatious or malicious conduct, rather an unfortunate isolated incident that staff member has acknowledged, accepted responsibility for, expressed regret, and formally apologized, no further action will be taken in this manner.

*Respectfully,
Todd Harrison
Commissioner, Corporate Services/Treasurer*

Councillor Gale took issue with several aspects of Councillor Ip's complaint. He denied that he used his Point of Privilege to attack the integrity of the Acting CAO, and said the purpose of his statement was to object to continuous attempts to prevent him from seeking information on issues. He said the work environment isn't conducive or welcoming to councillors asking questions to make informed decisions, and said he stated *"What I do want to raise in this Point of Privilege is that the circumstances that led to the disparaging comment is the type of leadership espoused by those in senior positions"* – by which he was referring to his Council colleagues, and not CAO Ron Tripp.

With respect to his statement *"As we are in the process of selecting a new CAO, I am asking each of you to take note of what's happening. I want you to be aware of the culture that created the opportunity for last week's events to transpire"*, Councillor Gale said this was again talking about the culture generated by his Council colleagues, who would be selecting the next CAO – who, as Council's only employee, needs to be part of creating a welcoming environment to the public, staff, and councillors, and be a productive model for Council, staff, and the corporation.

Councillor Gale wrote that Councillor Ip should be aware of the Rules of Procedure, and that there is no Point of Order on a Point of Privilege, which the Regional Clerk confirmed. He wrote that the Chair is to make a ruling on a Point of Privilege, without debate, and if there is an immediate appeal to the Chair's ruling, then there is to be an immediate vote by Council on the ruling, regarding whether to sustain it or not.

Councillor Gale denied that he was actively "bullying and harassing the Acting CAO"; he stated that Mr. Tripp hadn't approached him suggesting his comments were offensive, and never communicated with him about the incident. He added that the Acting CAO declined to speak when the Chair provided him the opportunity to do so during the meeting – ostensibly because, from Councillor

Gale's perspective, he was aware the statement referred to the culture of leadership of Council.

Councillor Gale denied that the issue of the Impugned Staff's comment had been resolved. He stated that no review had occurred and been reported back to Council, and if that was the purpose of Commissioner Harrison's May 6, 2021 email, then it was unclear that the Regional Chair delegated that responsibility to the Commissioner. Councillor Gale was unaware of any authority the Commissioner had to decide no further action was required, and added that although the Impugned Staff's defamatory comment was made publicly, nothing thereafter was public, except for his own Point of Privilege. Councillor Gale denied that he had "accepted the apology", and said he only confirmed being in receipt of the email, which contained a conditional apology. He stated that nobody (e.g., the Commissioner, Acting CAO, or Regional Chair) ever contacted him to determine if he agreed with their review, actions, and conclusions, and added that Councillor Ip never took the opportunity to contact him with her concerns either, prior to filing the present *Code* complaint.

Councillor Gale concluded that he didn't consider the April 22, 2021 matters resolved, and still awaited a formal response from the Regional Chair to Council. He stated that if Commissioner Harrison's May 6, 2021 email was the final response, then he rejected its conclusions both in terms of process and content.

2.3 – Reply

Councillor Ip replied that whether a councillor had to keep "repeating" conflicts at every meeting is something that anybody on Council should know. She disputed that Councillor Gale even declared a conflict at the April 14, 2021 CSC meeting, based on the video of that meeting.⁸ Councillor Ip acknowledged that there seemed to be two people commenting at the time of the Impugned Staff's remark on April 22, 2021, but she couldn't decipher what the other comment was or who said it – and because nobody could decipher the second comment, nobody could assume that it was "disparaging".

Councillor Ip stated that Councillor Gale didn't indicate to Council at the April 29, 2021 Special meeting that an apology had been sent and received; councillors only learned about it via Commissioner Harrison's email a week later. She noted that when Councillor Gale asked to raise the Point of Personal Privilege, he didn't indicate what it concerned. She disputed that Councillor Gale's prepared

⁸ https://www.youtube.com/embed/MvdXhM_O1rE? from 7:57 to 8:09

statement even related to his asking questions about purchasing and contracts, when the originating circumstances were merely whether Councillor Gale needed to declare a conflict of interest a second time.

Councillor Ip wrote that Councillor Gale's prepared statement was interpreted by herself, several of her colleagues, some staff, and many members of the community to be about the Acting CAO – and in fact Councillor Gale never referenced his Council colleagues, but mentioned the Acting CAO and the recruitment of a new CAO. She felt that nothing in Councillor Gale's comments made clear they were directed towards Council, and that she wasn't the only one who heard Councillor Gale's comments as an attack on staff's leadership – specifically the CAO's.

Councillor Ip stated she is aware of the Rules of Procedure, including that one cannot simply use a Personal Point of Privilege for anything one wants – and certainly not to attack staff or mischaracterize why they are making the statement. She added that it would have been inappropriate for the Regional Chair to publicly report back to Council on Human Resources matters, and that the Acting CAO might have had reasons to not wish to speak to Councillor Gale's comments during the meeting, or approach him about it.

2.4 – Supplemental Response

Councillor Gale filed Supplemental Responses on May 31, 2021 and June 8, 2021, both of which predominantly took issue with various alleged behaviours by Councillor Ip. There is no basis in this process for a Respondent to raise a counter-complaint against a Complainant; therefore, nothing in this report will consider the comments in Councillor Gale's Supplemental Responses, which were unrelated to the matters in the present dispute and are not permitted in this process.

3.0 Relevant case law and analysis

I acknowledge that the Procedural By-Law provisions Councillor Gale identified (ss. 17.1, 17.3, and 17.6) are ultimately determinative of this case. Nonetheless, the substance of Councillor Ip's complaint raised legitimate *Code of Conduct* concerns, which merit elaboration.

The *Code of Conduct* is itself part of the Procedural By-Law (Appendix "A"), which Members are obliged to respect by virtue of s. 15 of the Procedural By-Law:

15. CODE OF CONDUCT

15.1 *A code of conduct setting out general standards for acceptable conduct by Members in performance of their public duties is set out in Appendix “A” to this By-law.*

The relevant *Code of Conduct* provision reads as follows:

Influence on Staff

Under the direction of the Chief Administrative Officer, Regional staff serve Council as a whole. Without a specific delegation from Council, no individual member of Council has executive authority over municipal staff. Members of Council shall be respectful of the fact that staff work for the Region as a body corporate and are charged with making recommendations to Council that reflect their professional expertise and a corporate perspective without undue influence from any member or group of members. Members of Council shall not maliciously or falsely injure the professional or ethical reputation of staff.

Integrity Commissioners in other municipalities have considered the meaning of similarly-worded provisions, and have also considered whether they have jurisdiction to address public statements that take place during Council meetings – which is subject to unique rules.

Toronto’s former Integrity Commissioner (“Commissioner Jepson”) considered Article XII of its Code of Conduct (“Conduct Respecting Staff”) in a 2018 report.⁹ There, a councillor participated in an interview on a local radio station, during which he suggested that the CEO of the Toronto Transit Commission (“TTC”) deliberately misled Council in a briefing note respecting the Scarborough LRT. The TTC’s CEO took issue with the councillor’s insinuation that some staff’s advice was questionable and untrustworthy, and that the CEO’s personal motives weren’t honourable. The councillor replied that the contents of the briefing note were untrue, and that there seemed to be a pattern of City staff providing information that appeared influenced by the politicization of City Hall, rather than objective advice.

Toronto’s *Code of Conduct* included a provision “[N]o member shall maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of staff, and

⁹ Report Regarding the Conduct of Councillor Josh Matlow (June 18, 2018) <https://www.toronto.ca/legdocs/mmis/2018/cc/bgrd/backgroundfile-117207.pdf>

all members shall show respect for the professional capacities of staff". Commissioner Jepson also noted that Toronto's Public Service By-Law entrenched characteristics of political neutrality and professionalism in the public service.

Commissioner Jepson referred to writings by Michael Fenn and David Siegel,¹⁰ which she said helpfully examined the nuances of the relationship between municipal councils and a professional public service. She wrote that Fenn and Siegel highlighted that municipal councils are elected by popular vote, and are accountable to an electorate to answer for their actions – which can be referred to as “political accountability”, and is a critical component of our democratic system of government. But Fenn and Siegel remarked that while the public service must also be aware of local concerns, they bring a different perspective than Council – “senior staff members derive their legitimacy from specialized professional expertise” – and the occasional tension between political accountability and professional expertise that sometimes results between Council and staff is a “healthy dynamic”, which can lead to good public policy. Commissioner Jepson commented that the health of the relationship between Council and staff is a matter of public interest, and Members of Council and staff each have separate and important roles to play – so accordingly, Members of Council shouldn't treat public servants as political adversaries or allies when debating public policy matters.

Commissioner Jepson noted that against this backdrop, Fenn and Siegel advised that elected officials shouldn't “air dirty laundry in public”, although they recognized certain realities. Fenn and Siegel stated:¹¹

Municipal government operates in a political arena, with all that implies. As a result, a councillor may quite properly – or even simply for political reasons – accuse staff of being incorrect, lacking in research or creativity, being insensitive to community concerns, or being too slow to deal with an issue. Staff may not like it, but they have broad shoulders and it is the right of the democratically elected representative to say such things if they are warranted.

But there are limits that should not be exceeded. Best practice says it is the duty of the head of council and the CAO to act decisively when these limits are exceeded. A councillor should never accuse a staff member publicly of stupidity, unethical

¹⁰ Michael Fenn and David Siegel, “The Evolving Role of City Managers and Chief Administrative Officers”, IMFG Papers on Municipal Finance and Governance (2017: No. 31) https://munkschool.utoronto.ca/imfg/uploads/420/imfgpaper_no31_cao_fennsiegel_may_5_2017.pdf

¹¹ *Ibid*, s. 6.5

behaviour, or incompetence. If an elected representative feels that way about a member of staff, he or she should take it up with the CAO (or with the head of council, in the case of the CAO), in private. Likewise, if a staff member feels his or her integrity or honesty is being questioned, or if workplace interactions with a councillor are inappropriate or demeaning, he or she should take the matter up with the CAO and take advantage of the protections afforded to all employees, including in serious cases, access to the municipal integrity commissioner.

Commissioner Jepson asserted that, in considering whether councillors' statements about staff contravene Article XII:¹²

- 1. When questioning staff reports or actions, members of Council should ensure that their comments are in the nature of "fair comment"... City Council discharges its duties when it is robustly and fairly scrutinizing the information and advice that staff provide.*
- 2. However, members of Council should not publicly state or imply that a particular public servant, or a group of public servants, acted for political or private motivations or in a way that is negligent or that failed to meet professional standards. ... [T]hese types of statements will not normally be tolerated by the Speaker or a Chair in a Council proceeding, and could result in a Councillor being found to have contravened the Code of Conduct.*
- 3. Extra scrutiny should be applied to public statements about the public service that are broadcast in mass media. This is because staff do not have the same platform as members of Council to engage in the public arena. (They do not have a political accountability.)*

Commissioner Jepson determined that the councillor in question had breached Article XII of the Code of Conduct by his comments about staff in the radio interview, and recommended a reprimand.

However, another series of cases have considered whether integrity commissioners have jurisdiction in the first place to rule on complaints about a Member's decorum or conduct during Council meetings.

An instructive case is *Moore v. Maika*,¹³ in which the Township of Madawaska

¹² Note 10, p. 11

¹³ *Moore v. Maika*, 2018 ONMIC 7 (CanLII)

<https://www.canlii.org/en/on/onmic/doc/2018/2018canlii140173/2018canlii140173.html>

Valley's Integrity Commissioner, Guy Giorno ("Commissioner Giorno"), analyzed his jurisdiction over a *Code of Conduct* complaint, in which a Member was accused of making inappropriate statements during a Council meeting. Commissioner Giorno wrote:

65. In the City of Toronto, integrity commissioners have consistently taken the position that they do not have jurisdiction over the behaviour of Council Members during Council and committee meetings. Professor David Mullan, the first municipal integrity commissioner ever appointed in Canada, noted that the Municipal Act¹⁴ requires that each municipality pass a procedure by-law and that the procedure by-law provides a clear mechanism for enforcing decorum and orderly conduct during meetings. Integrity Commissioner Mullan concluded:¹⁵

"In general, the Integrity Commissioner does not have authority under the Code of Conduct to review complaints about the behaviour of Councillors at Council and Committee meetings. The behaviour of Councillors at Council, while regulated by the Code of Conduct, is the responsibility of Council (acting primarily through the Mayor or his deputy). Absent a resolution of Council requesting the Integrity Commissioner to become involved, this self-policing is part of the statutory rights and privileges of Council."

66. Subsequently, Toronto's Interim Integrity Commissioner Lorne Sossin,¹⁶ Integrity Commissioner Janet Leiper¹⁷ and Integrity Commissioner Valerie Jepson¹⁸ have all declined to exercise jurisdiction over comments made during meetings. As Integrity Commissioner Jepson has explained:

"The strong policy principle behind this approach is that the Integrity Commissioner ought not to interfere with the conduct and management of any particular meeting. This makes good sense. The Speaker, or any Chair of a meeting, requires a certain degree of autonomy to ensure that a meeting is conducted in accordance with the procedural bylaw and as specifically

¹⁴ *Municipal Act, 2001*, S.O. 2001, c. 25, s. 238

¹⁵ City of Toronto, Notice of Motion J(36): Report on Complaint of Violation of the Code of Conduct (April 6, 2005) <https://www.toronto.ca/legdocs/2005/minutes/council/cc050412.pdf> (beginning at p. 241)

¹⁶ City of Toronto, Integrity Commissioner Annual Report 2009 (July 29, 2009), p. 9 <https://www.toronto.ca/legdocs/mmis/2009/cc/bgrd/backgroundfile-22620.pdf>

¹⁷ City of Toronto, Integrity Commissioner Annual Report 2010 (June 28, 2010), p. 4 <https://www.toronto.ca/legdocs/mmis/2010/cc/bgrd/backgroundfile-31794.pdf>

¹⁸ City of Toronto, Report on Violation of Code of Conduct: then-Mayor Rob Ford (September 22, 2015), p. 10 <https://www.toronto.ca/legdocs/mmis/2015/cc/bgrd/backgroundfile-84167.pdf>

stated therein, to oversee order and behaviour of members (s. 27-43(C)). So, if a councillor uses an insulting term against another councillor, in an effort to ensure decorum, the speaker might rule the question out of order and seek some remedial measure such as an apology or – in a serious case – an ejection from a meeting. In most cases, these issues are resolved and the meeting proceeds. There would be little gained by a subsequent referral to the Integrity Commissioner to review the actions.”

67. I also note, as Toronto’s integrity commissioners have observed, that federal and provincial integrity commissioners/ethics commissioners do not exercise jurisdiction over comments made in the House or in committee. In Parliament, the Legislature, and committees, responsibility for enforcing order rests with the Speakers and the committee chairs.

...

72. It seems evident that the subject matter of this Complaint falls squarely within the boundaries of the rules and enforcement mechanisms of the Procedural By-law. Under these circumstances, and following precedent, I do not believe that I have jurisdiction over the Complaint, or, if I do, that, I should exercise it.

Interim Integrity Commissioner Maynard has also declined jurisdiction over statements made during a Council meeting in the Town of Grimsby, based upon these same precedents.¹⁹

Section 4.3 of the Region’s Procedural By-Law further reinforces this principle, which states:

4. ROLE OF THE CHAIR

4.3 It shall be the duty of the Chair, with respect to any meetings over which he or she presides, to:

(a) preserve order and decide all questions of order, subject to appeal, and without argument or comment, state the rule applicable to any point of order if called upon to do so;

...

(e) enforce on all occasions the observance of order and decorum among the

¹⁹ <https://grimsby.civicweb.net/FileStorage/12E02E56FEEE449593BFA3B67828753A-IC%20Investigation%20Report%20-%20IC-12378-0121%20-%20Kadwell%20.pdf>

Members;

4.0 Analysis and Findings

4.1 – Question(s) to be Determined

The questions to be determined in this matter are:

- a. Does the Integrity Commissioner have jurisdiction to consider this complaint?; and
- b. If the Integrity Commissioner does have jurisdiction to consider the complaint, did Councillor Gale breach the *Code of Conduct*?

4.2 – Findings

At the outset, I note that both the Integrity Commissioner and I disagree with Councillor Gale's assertion that Councillor Ip's complaint was frivolous and vexatious. The materials canvassed herein make clear that the relationship between a municipality's council and staff is a matter of public interest, and that it is best practice for councillors to raise issues they might have about particular staff behind closed doors. These are meaningful issues that merit scrutiny.

However, a series of authoritative case precedents, dating back to the country's first municipal Integrity Commissioner in 2005, establishes that an Integrity Commissioner has no "free-standing" jurisdiction over a Member's decorum or statements at Council and/or Committee meetings, unless Council as a whole provides the Integrity Commissioner with such direction. In the absence of such direction, deference should appropriately be extended to the Procedural By-Law – and the appropriate individual to address such matters is not the Integrity Commissioner, but rather the Chair of the meeting – which respects the self-policing that is part of Council's statutory rights and privileges.

Having found that the Integrity Commissioner has no jurisdiction to address this matter, there is no basis for me, as his delegate, to comment respecting the second question to be determined.

Respectfully submitted by,



Benjamin Drory, Investigator

7.0 Endorsement and Issuance of Report

I, Michael L. Maynard, Interim Integrity Commissioner for Niagara Region, have reviewed the evidence, process, and results of my delegate, Mr. Drory's, Investigation and Report. I agree with and endorse this Report in respect of Complaint IC-13741-0521, and hereby issue it to Councillor Ip and Councillor Gale in conclusion of this matter.

I have further determined that there is sufficient public interest in the subject matter and content of this Report that it is appropriate to release the full Report to Council, despite there being no finding of a *Code* contravention.

I further note that s. 223.6 (2) of the *Municipal Act* provides that, "If the Commissioner reports to the municipality [...] his or her opinion about whether a member of council [...] has contravened the applicable code of conduct, the Commissioner may disclose in the report such matters as in the Commissioner's opinion are necessary for the purposes of the report." I confirm that I find all matters detailed in this Report necessary for inclusion herein.

Accordingly, I hereby request that the Regional Clerk place this Report on the public agenda for the next regular meeting of Regional Council, pursuant to s. 223.6 (3) of the *Municipal Act*, so that Council may receive it in open session.



Michael L. Maynard
Interim Integrity Commissioner, Niagara Region

Marian Bannerman
Program Manager, Grants and Incentives
Region of Niagara
1815 Sir Isaac Brock Way, PO Box 344
Thorold, Ontario L2V 3Z3



Welland Downtown Business Improvement Area
Kelly Jones
60 East Main Street
Welland ON, L3B 3X4

Friday July 16th, 2021

Re: Niagara Region Incentive Review

Dear Ms. Bannerman

It has come to our attention that the Niagara Region has undertaken a review of incentive programs, including various Community Improvement Plan (CIP) programs available to businesses within our Business Improvement Area (BIA).

The **Welland Downtown BIA** is comprised of **272 businesses** and oversees the improvement, beautification, maintenance, marketing and promotion, and communication within our BIA boundary. Additionally, by working with local stakeholders, we promote the area as an attractive place for individuals to visit; and entrepreneurs to locate their businesses.

It is with great concern that we have learned about the potential elimination of incentive programs within our BIA. Programs such as the Smarter Niagara Incentive Program (SNIP), including façade and building improvement and TIG programs; and the Smart Growth Regional DC Program are vital to create a vibrant economic environment within the area. Having programs such as these creates an opportunity for additional investment attraction and redevelopment, helping fulfil our mandate as a BIA, and ensuring Niagara remains an attractive and competitive place to invest.

We strongly encourage the Niagara Region to reconsider the elimination of these incentive programs.

Sincerely,



Kelly Jones



PORT COLBORNE

MAYOR'S OFFICE

CL-C 62-2021

Municipal Offices: 66 Charlotte Street
Port Colborne, Ontario L3K 3C8 • www.portcolborne.ca

T 905-835-2900 ext 301 **F** 905-835-2969
E william.steele@portcolborne.ca

July 19, 2021

Members of Regional Council
c/o Ann-Marie Norio, Regional Clerk

Chair Diana Huson
Planning and Economic Development Committee
Niagara Region
PO Box 1042
Thorold ON L2V 4T7

Dear Members of Regional Council and Chair Huson:

I'm writing to you with the support of Port Colborne Council to provide feedback regarding Niagara Region's review of incentive programs, including various Community Improvement Plan (CIP) programs available to businesses within the City of Port Colborne.

The City of Port Colborne is comprised of several CIP areas that are connected to a number of different programs. In the most recent consultations, it was revealed that the Smarter Niagara Incentive Program (SNIP), including façade and building improvement and TIG programs, and the Smart Growth Regional DC Program, which are vital to create a vibrant economic environment within the City, were going to be eliminated. In addition, the Waterfront Revitalization Grant Program is scheduled to be eliminated as well.

These programs have made a positive impact in Port Colborne by creating opportunities to attract and leverage additional public and private sector investment, redevelop and revitalize properties, help fulfil our mandate as a City, and ensure Niagara remains an attractive and competitive place to invest.

The City of Port Colborne supports these programs and uses them in its business and investment strategies. We see the benefits in our community and in the Region through increased tax assessments, business retention and growth, public-private investment, and economic activity.

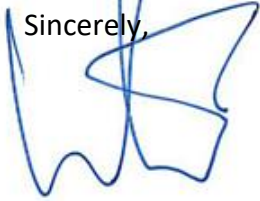
As such, please be advised that, at its meeting of July 12, 2021, the Council of The Corporation of the City of Port Colborne resolved as follows:

That Chief Administrative Office Report 2021-202 be received; and

That Council endorse the letter attached as Appendix A to Chief Administrative Office Report 2021-202.

We strongly encourage the Niagara Region to reconsider the elimination of these incentive programs.

Sincerely,

A handwritten signature in blue ink, appearing to read 'W. Steele', with a stylized flourish at the end.

William C. Steele
Mayor

**Office of the CAO**

Steve Zorbas

Chief Administrative Officer

Civic Square

60 East Main Street, Welland, ON L3B 3X4

Phone: 905-735-1700 Ext. 2122 | **Fax:** 905-735-1543**Email:** cao@welland.ca | www.welland.ca

August 4, 2021

Regional Chair Jim Bradley
 Region of Niagara,
 1815 Sir Isaac Brock Way, Campbell West,
 P.O. Box 1042, Thorold, Ontario.
 L2V 4T7.

Dear Chair Bradley

RE: City of Welland Comments Regarding PDS 31-2021 – Niagara Region Incentives Policy

The City of Welland would like to thank Niagara Region for the opportunity to participate in the Incentive Review. Our various policies, financial incentives and programs in partnership with the Region have created a positive impact on the City and the Region as a whole. This includes brownfield redevelopment, affordable housing, downtown redevelopment, and employment growth.

We request that Niagara Region Council maintain the existing Grants and Incentives Programs as detailed in this letter. The City has no objection to the Region adding additional financial incentives to create more affordable housing. We have and continue to work with public and private

City Staff have reviewed the Niagara Region's presentation on June 24, 2021 to Municipal Staff and Information Session for Regional Council on July 22, 2021 and Report PDS 31-2021. The City's comments are as follows regarding what Regional Staff are proposing:

1. Affordable Housing

City Staff agree that there is a need for more affordable housing units. The root cause of this situation is complex and multi-faceted. The need for this has been an ongoing issue for at least 20 years. There has been limited investment both by Federal and Provincial Governments and the private sector in rental housing or affordable housing for a range of reasons including, zoning and planning rules which prohibit investment. The City's current CIP areas and programs have, and will continue to offer incentives for housing, including affordable housing. For example, the City provides funding for the creation of additional apartment units, but without the affordable requirement, recognizing that the current vacancy rate is very low in the City and this will encourage the creation of additional rental units. Additionally, the City approved a New Zoning By-law in October, 2017 which creates a more favourable regulatory environment for small scale to large scale rental housing.

City Staff fully support the creation of more affordable housing units through more incentive programs, but at this point it is unclear as to how the Region will implement some of the requirements, such as

ensuring that the units are affordable and maintained. The implementation piece of these programs has not been identified.

2. Employment

The current alignment of Employment Attraction Policies between the City and Region has attracted over \$361 million in private sector investment on employment lands, over 1.4 million square feet of industrial buildings, and over 400 jobs retained/created. Current approved applications will generate over \$4 million in new taxes for the City and over \$4.6 million for the Region when factoring in the Tax Increment Grants (TIG grants). The net taxes for the City and Region will significantly increase as individual TIGs are completed.

Regional Staff indicate the goals of the Employment focus area are as follows:

- Incentivize an average of 100 full time jobs per year in the next five years;
- Attract five new businesses in the next five years;
- Expand the range of employment TIGs while maintaining unique status of Gateway CIP

Regional Staff are planning to attain the above goals by proposing to create, retain and modify the following programs under this focus area. The major highlights are as follows:

Program	Status
Gateway CIP Tax Increment Grant	Remains the same
Gateway CIP Regional DC Grant	Remains the same
Niagara Business Attraction Tax Increment Grant	New
Regional Employment Grant	Reduced from a 100% reduction to sliding scale based on number of employees
50% Industrial Expansion Grant	Proposed. However, is an existing requirement under the Development Charges Act.

City Staff have reviewed the proposed additions and changes. Staff have no objection to the additional of the Niagara Business Attraction TIG, however, it is unclear if this program would be available in Welland. The reduction in the grant for the Regional Employment DC-Base Grant from a 100% to a sliding scale based on the amount of employees is not supported by Staff and will impact economic development goals of the City. Small Businesses are the future of the City and the Region and these businesses will now be required to pay regional development charges.

City Staff also note that the goals of this focus area are concerning as they are very limited. For example, attracting 5 new businesses across the Region over five-years seems very low for a growing Region. However, when factoring in the reduction in certain programs this may be a plausible outcome. It should also be noted that affordable housing and jobs are invariably linked. If we cannot attract a growing job base it will continue to create affordable housing problems.

3. Brownfield

Under the current City and Regional policies for Brownfield redevelopment, the City will have produced over \$59 million in private sector investment, over \$2.6 million in City taxes, over \$2.8 million in Regional taxes. The additional benefits of Brownfield Redevelopment include improvements to the natural environment and human health by facilitating the remediation of contaminated sites.

The goals of the Brownfield focus area identified by the Region are as follows:

- Generate an average increase of 10 times the original assessment value on brownfield properties
- Approve two Tier 1 BTIGs in the next five years
- Provide funding for remediation of at least 200 acres in the next five years

The Region indicates they are focusing on Brownfield Remediation, however it is City Staff's opinion that this is not the case as they are proposing to further reduce the incentives available for brownfield remediation. Major changes proposed include:

- A reduction of the 50% rebate of the applicable Development Charge to a 100% Regional Development Charge (DC) deferral until occupancy permit is issue or five years.
- Elimination of the Brownfield Study Grant which provides funding for the Phase 2 Environmental Site Assessment allowing applicants to identify areas of contamination and determine clean-up costs; helping to reduce the risk of investing in Brownfields.
- Elimination of the Brownfield Tax Assistance Program which provides a freeze of the property taxes on a property that is undergoing or has undergone remediation and redevelopment to assist with payment of the cost of environmental remediation.
- Modifying the TIG programs to be tied to a minimum clean up amount and a reduction of the incentive currently offered.
- Modifying the TIG programs to be tied in with the creation of Affordable Housing.

City Staff question how the Region is focusing on Brownfields when in actual fact they are defocusing. The Brownfield remediation programs all now seem to be tied in some way to the number of affordable housing units created. Although incentivizing affordable housing is supported by the City, it's not the objective of the Brownfield Incentives Programs, in Staff's opinion. The goal of these programs is to have brownfield sites within the urban area remediated and redeveloped. It seems that tying it to the creation of affordable housing units creates another layer of red tape that is unnecessary, and may not be achievable. Furthermore, tying the TIG to a minimum clean up amount may leave some smaller sites to languish because they're not eligible for the TIG program with the Region.

As mentioned, the DC Exemption program has been proposed to change to a DC Deferral program. Brownfield lands are typically within areas that are developed with existing services and will not require the extension or expansion of services. The DCs may also be another barrier to realizing the clean-up of these sites, depending on the scale and costs of clean-up required. It's unclear as to why this program change is being proposed, and the City is not in support. Brownfield redevelopment is costly and has significant risks for investors. This will only make these site less desirable and less likely to be developed for affordable housing.

4. Public Realm

Regional Staff indicate their goals on programs for the Public Realm is as follows:

- Improve public realm including road, bike paths, sidewalk, trails and accessibility amenities in an average of six projects annually;
- Plant approximately 500 trees through Public Realm Investment Program (PRIP) in the next five years; and,
- Achieve at least 10 of the following in the next five years: public plaza enhancements, place making and public art installations, gateway features.

Regional Staff are proposing to continue the Public Realm Investment Program. City Staff have no objection to continuing this program, however, the funding allocations proposed are very low compared to actual cost of public realm improvements.

Programs Proposed to be Eliminated

Smarter Niagara Incentive Program (SNIP)

The Region is proposing to eliminate the Smarter Niagara Incentive Program (SNIP): façade and building improvement, heritage restoration, planning grant. These programs in partnership with Region form the City's Downtown CIP and have and continued to help enhance the City's Downtown and Health and Wellness Areas. Promoting investment in downtowns and intensification areas is critical for sustainable development and smart growth. The City's Downtown CIP will have generated over \$34 million in private sector investment, and over \$600,000 in taxes over a 10 year period for the City and over \$500,000 for the Region. This is in addition to the other numerous benefits that result from these investments. The net taxes for the City and Region will significantly increase as individual TIG's are completed.

As mentioned, the City supports the concept of trying to promote more affordable/rental housing but this should not occur at the cost of promoting Smart Growth and sustainable development in our communities. This is not to say that the current Programs are not achieving this, but there may be an opportunity to do more here. The SNIP program is one of the most popular incentive programs that the City provides as it allows small businesses to make improvements to their buildings that would otherwise have been outside of their financial abilities. Small businesses have had an incredibly difficult time these past 18 months, and it does not seem like now is the time to be taking away any financial incentives that would help them improve their buildings or facades. Further to this, the Region's new draft Official Plan policies are encouraging regrowth and development of downtowns, it is incongruous to remove the SNIP funding while encouraging a high level of urban design and upgrades in downtown areas. There needs to be incentive for the Region's policy initiatives to be realized.

Other Programs

The below table lists other programs that the Region is proposing to discontinue as a result of their incentives review.

Program	City Staff Comments
Brownfield Tax Assistant Program	As mentioned above, the program provided a tax freeze during the remediation period. Elimination of this program increases the financial risk associated with Brownfield redevelopment. This will make it more

	costly to redevelop brownfields, whether it be for affordable housing or not.
Niagara Investment in Culture Program	As the population of the City and Regions grows and diversifies the need for cultural investment will increase.
Waterfront Investment Program	As the Region and the City grows there is an increasing need for investment in waterfront access and enhancement. For example, there are ongoing issues in Waterfront Municipalities regarding waterfront access.
Heritage Tax Rebate Program	Heritage preservation is a component of good planning. Private landowners should be supported by municipalities to effectively maintain heritage properties.
Smart Growth Regional DC program	This program has helped the City to achieve and exceed Regional and Provincial intensification requirements and promote sustainable growth within the City. Elimination of this program will lead to increased urban sprawl in the Region and a reduction in intensification.

SUMMARY AND CONCLUSION:

Staff have reviewed the Region's presentations and Staff Report regarding their review of its various Incentives and Grants and proposed recommendations to create, retain, modify and remove them. Staff support the direction to develop incentives programs under the categories:

- Affordable Housing;
- Brownfield Remediation;
- Employment; and
- Public realm.

However, we are of the opinion that the current incentives and grants are working very well. The City has experienced significant redevelopment and investment as a result of the implementation of the various Community Improvement Plans (CIP) and Development Charge Incentives in place. They are helping the City transition to a more socially, environmentally and economic sustainable community in line with the Principles of Smart Growth. Staff note that these Incentives and Grants offered by both the City and Region are part of the toolbox of planning tools we have available to create sustainable planning outcomes. We do not want to see an abandonment of these tools as we need to retain a multi-pronged approach to planning our communities.

Staff support the concept of trying to promote more affordable/rental housing but the Region's approach seems to be doing this at the expense of the Brownfield, SNIP incentives, and various other programs. Rather than eliminate programs, this may be an opportunity to do more. In addition to the benefits associated with affordable/rental housing, the SNIP is one of the most popular incentive programs that the City provides as it allows small businesses to make improvements to their buildings that would otherwise have been outside of their financial abilities. Given the extreme adversities small businesses have faced due to the pandemic, it does not seem like now is the time to be taking away any financial incentives that would help them improve their buildings or facades. Lastly, City Staff question how the Region is focusing on Brownfields and Employment when in actual fact they are defocusing by reducing support and veering away from program objectives for these two priority areas.

Yours truly

Steve Zorbas
CAO



BOUSFIELDS INC.

Project No. 20359

August 25, 2021

Isaiah Banach
Planning and Development
Niagara Region
1815 Sir Isaac Brock Way
P.O. Box 1042
Thorold, ON L2V 4T7

Via e-mail: isaiah.banach@niagararegion.ca

Dear Mr. Banach,

***Re: Urban Area Boundary Expansion Request – Black Creek Commons
Additional Clarity on Request and Mapping***

As you are aware, we are the planning consultants for Jukic Group Inc. who are “the Owners” of 10 parcels located between the Stevensville Secondary Plan area and the Douglas Town-Black Creek Secondary Plan area, including the property municipally addressed as 2900 College Road (“subject lands”). We have attached a map of the subject lands for your easy reference. The purpose of this letter is to clarify our requested urban boundary expansion and to support the staff recommendation in Report No. PDS 33-2021.

On July 2, 2021 we submitted a request to have 67.34 hectares from the subject lands added as urban area within the Town of Fort Erie. That request follows the mapping referenced above, which again is attached, and on August 11, 2021 we submitted a letter to you reiterating our request and confirming our support for the Region’s re-evaluation of their growth forecasts and land needs as it pertains to additional community and employment land areas.

Our request to have 67.34 hectares from the subject lands added as urban area within the Town of Fort Erie would contribute to the Region’s land needs to the year 2051. However, we feel it is necessary to clarify that the request does in fact include that the entirety of the 371.74 hectares be brought into the urban area boundary in order to create a cohesive connection between and expansion of the Stevensville Secondary Plan area and the Douglas Town-Black Creek Secondary Plan area. More specifically, of the 371.74 hectares requested to be brought into the urban area, only the 67.34 hectares would contribute to the net developable area within that urban area. Our

August 11, 2021 request to have the Regional mapping updated was intended to clarify the difference between the urban area boundary and the net developable forming the request. The remaining area would be maintained as is without the introduction of new urban land use designations.

In this regard, the attached map shows two things: 1) the subject lands which include 371.74 hectares to form a newly expanded urban area boundary (shown in pink with red boundary outlines); and 2) 67.34 hectares (shown in purple) representing the net developable area of land that will be made available to accommodate Regional population and job growth to 2051. I trust the above provides some additional measure of understanding with respect to our request.

In addition, as is outlined in our letter dated August 11, 2021, we support staff's recommendation as it relates to the "Made-in-Niagara Forecast and the Revised Land Needs Assessment". We commend the Region for re-evaluating their growth forecasts and land needs as it pertains to additional community and employment land areas and support Regional planning staff in their recommendation to include an additional 35 hectares of community area land and 210 hectares of additional employment area land.

We agree with the Made-in-Niagara Forecast and the Revised Land Needs Assessment and ask that Regional Council approve the revised community and employment land needs areas.

Should you require any additional information or clarification, please feel free to contact Evan Sugden at esugden@bousfields.ca or 905-549-3005 Ext. 259 or the undersigned.

Respectfully submitted,
Bousfields Inc.



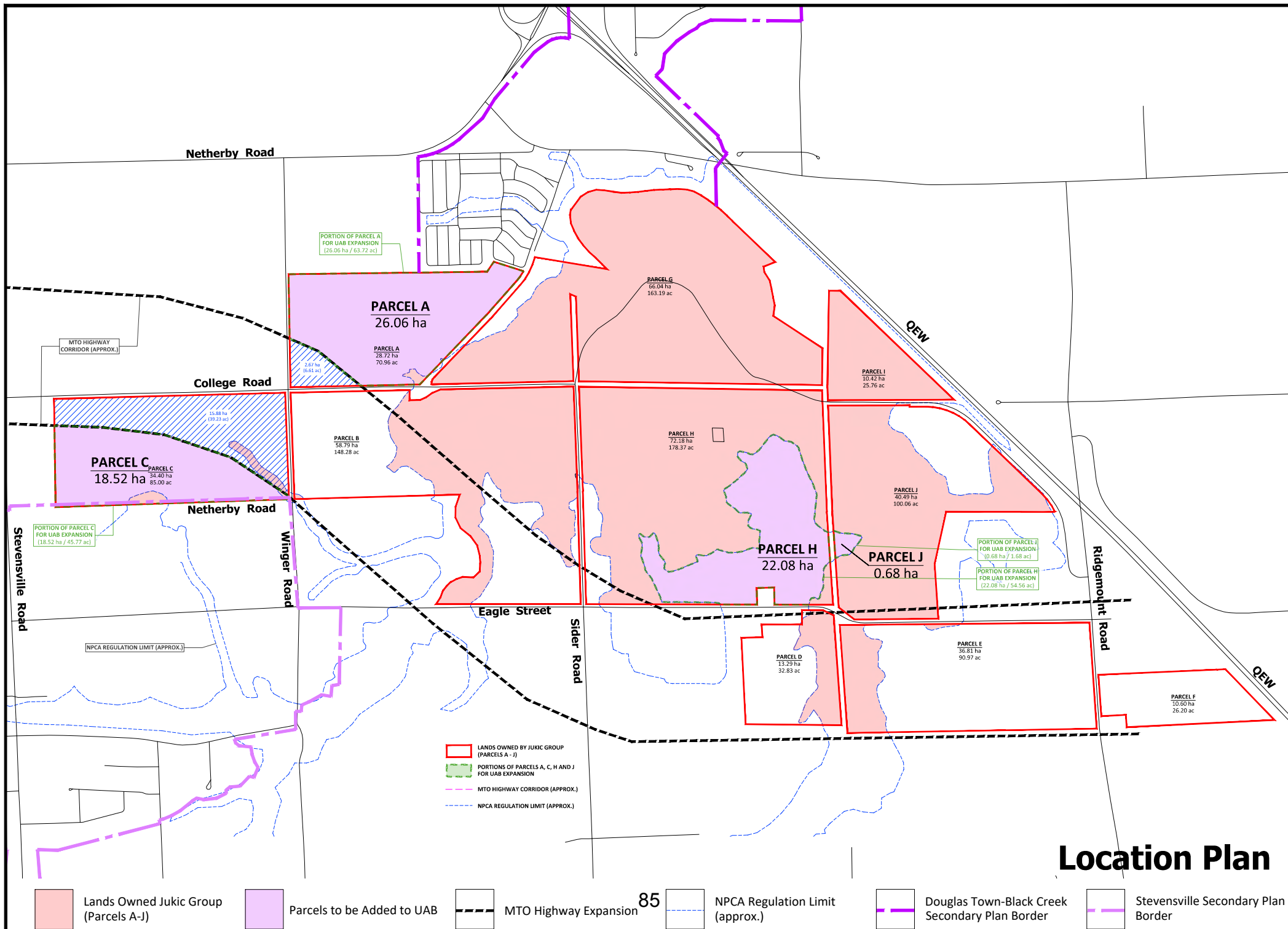
David Falletta MCIP, RPP
Partner

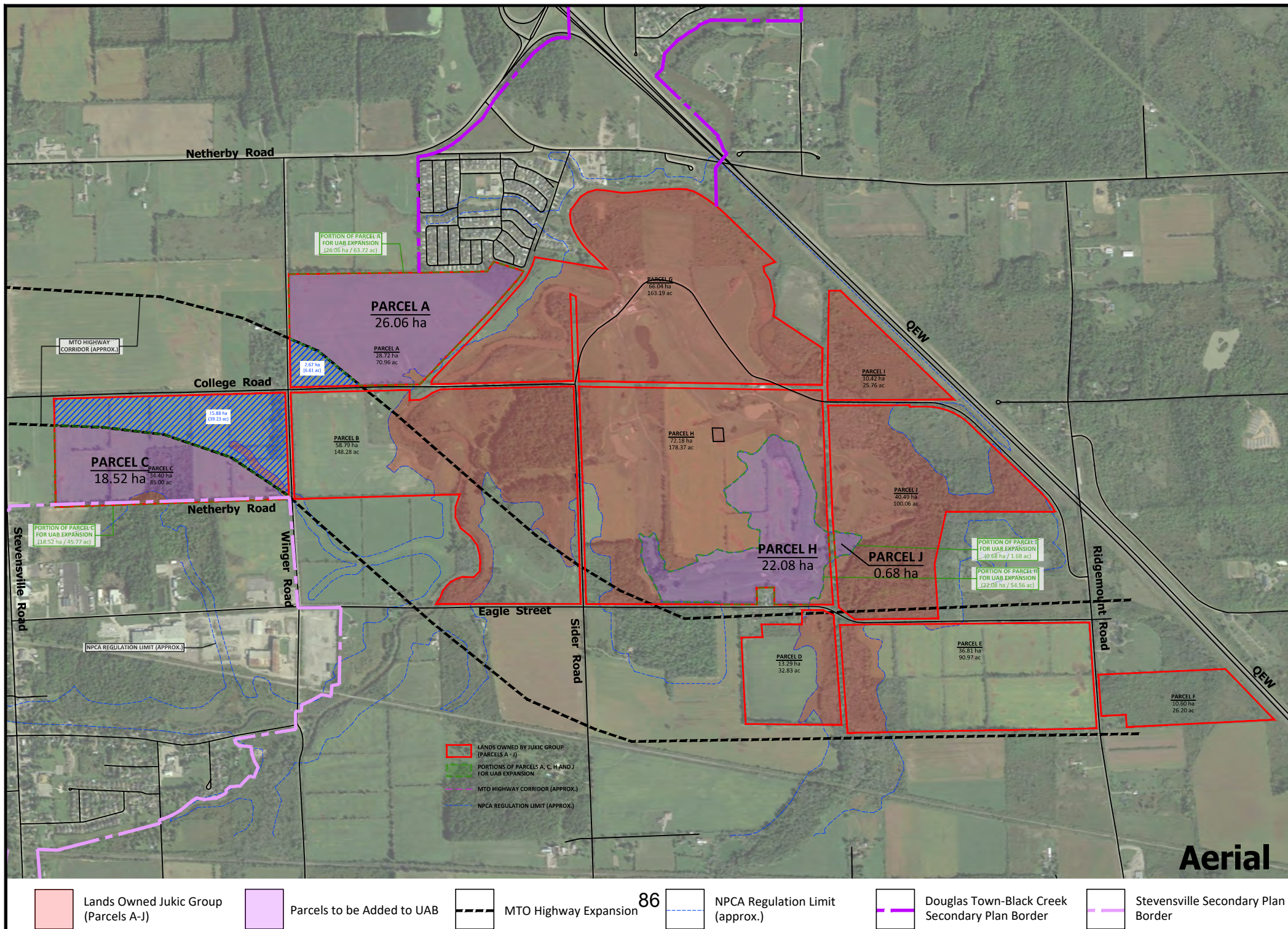
ES/df:jobs



Attachment (1)

Cc. *Client*
Stikeman Elliott
Greg Bowie
Town of Fort Erie





MASTER PLAN



Netherby Rd

Winger Rd

VILLAGE

College Rd

Eagle St

Sider Rd

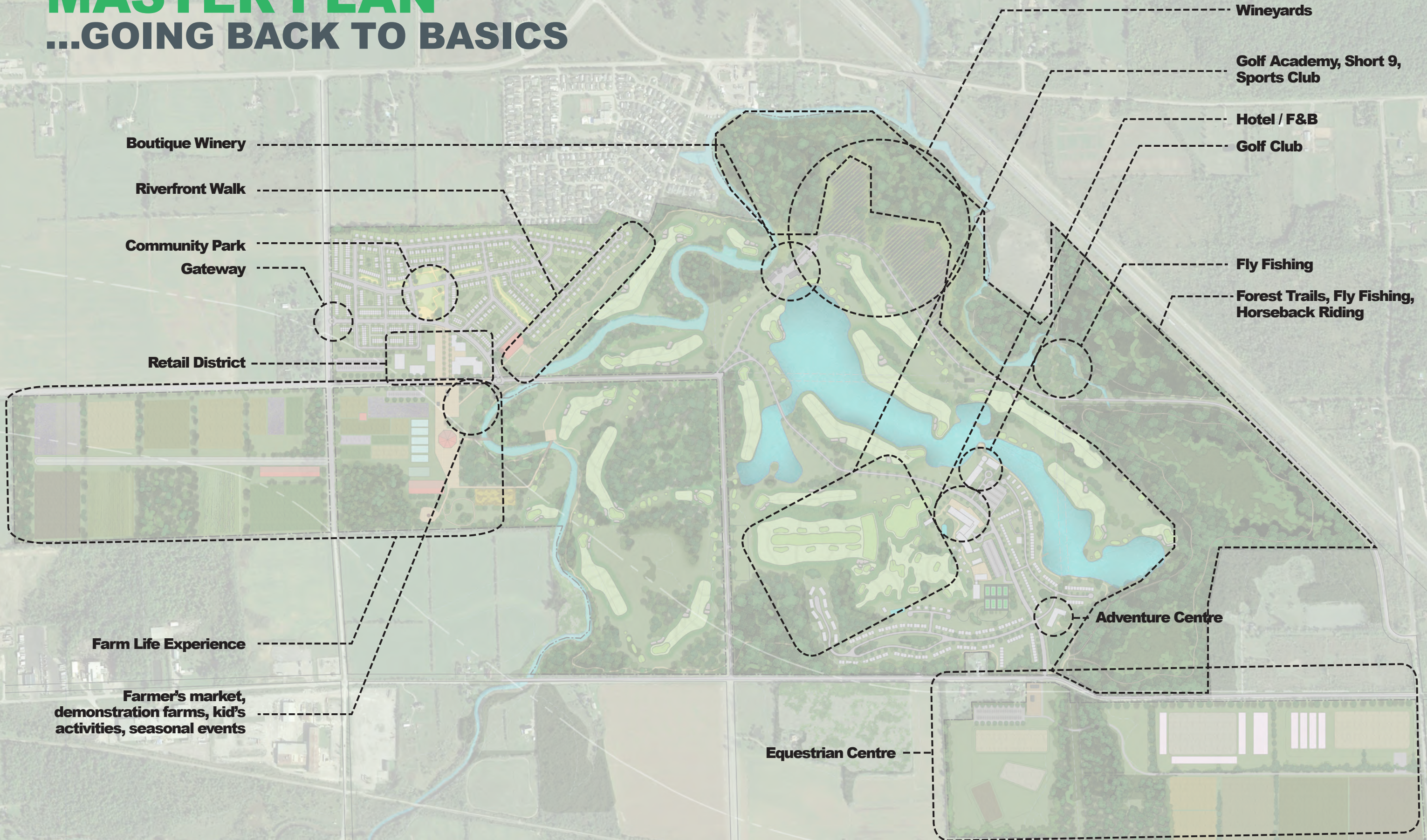
Queen Elizabeth Way

GOLF

RESORT

MASTER PLAN

...GOING BACK TO BASICS





Project No. 20359

August 11, 2021

Isaiah Banach
 Planning and Development
 Niagara Region
 1815 Sir Isaac Brock Way
 P.O. Box 1042
 Thorold, ON L2V 4T7

Via e-mail: isaiah.banach@niagararegion.ca

Dear Mr. Banach,

***Re: Urban Area Boundary Expansion Request – Black Creek Commons
 Response to Niagara Region Official Plan Update Report No. PDS 33-2021***

INTRODUCTION

As you are aware, we are the planning consultants for Jukic Group Inc. who are “the Owners” of 10 parcels located between the Stevensville Secondary Plan area and the Douglas Town-Black Creek Secondary Plan area, including the property municipally addressed as 2900 College Road (“subject lands”). We have attached a map of the subject lands for your easy reference.

As you are also aware, on July 2, 2021 we submitted a request to have 67.34 hectares from the subject lands added as urban area within the Town of Fort Erie. That request follows the mapping referenced above, which again is attached.

SUMMARY OF URBAN AREA EXPANSION REQUEST

The Owners’ land holdings include 10 parcels of land located between the Stevensville Secondary Plan and Douglastown-Black Creek Secondary Plan areas, which total 371.74 hectares and is home to the International Country Club of Niagara (the “ICC”), regulated Natural Heritage Area lands, and vacant and agricultural lands. The proposal, is to create Black Creek Commons, a one-of-a-kind destination that includes a residential village as an extension to Douglastown and a resort that will reimagine ICC into the Niagara National Golf and Country. Black Creek Commons is a complete community with a mix of housing options, accommodation, commercial amenities, outdoor recreation and adventure activities, farm-to-table functions, parkland and

event space. In addition to Black Creek Commons a portion of the subject lands are intended to be added to the Region and Town's employment land inventory.

The proposed development will help accommodate a portion of the Region and Town's population and employment growth forecast by adding a variety of housing options in what will be a desirable location, creating a variety of diverse job opportunities and boosting the local economy by adding permanent and seasonal residents, tourists, commercial amenities and a variety of agriculturally related uses and recreational amenities.

For the reasons outlined in our July 2nd, 2021 request, we again are recommending the following:

1. That 26.06 hectares of the subject lands (a portion of Parcel A) be added to the Urban Area Boundary for community area lands (Black Creek Commons Village) to be utilized as part of the 105 hectares of land allocated to the Town to accommodate population growth to 2051;
2. That 22.76 hectares of the subject lands (portions of Parcels H and J) be added to the Urban Area Boundary to accommodate the Black Creek Commons Resort. In. our opinion, these lands would be in excess of the required 105 hectares of community lands and the 130 hectares of employment lands required to accommodate population and job growth to 2051, given that these lands would accommodate seasonal residences and resort facilities; and,
3. That 18.52 hectares of the subject lands (a portion of Parcel C) be added to the Urban Area Boundary for employment area lands to be utilized as part of the 130 hectares of land allocated to the Town to accommodate job growth to 2051.

From a planning perspective, the proposed expansion areas are located immediately adjacent to the existing urban boundary and their inclusion within the urban area would result in a rounding out of the urban boundary to logical limits. As well, the three sites are small infill parcels, which can be easily serviced by urban infrastructure through extension and improvements. Their development for urban purposes will complete an existing community and integrate with the surrounding rural area by including agriculturally related uses and recreational amenities.

The proposal will accommodate a minimum of 1120 people and is expected to generate approximately 867 jobs for the Black Creek Commons Village and Resort lands and the Parcel C lands as employment, which will optimize the use future urban land supply.

In terms of overall urban land needs, it is our opinion that establishing an urban boundary should not be a purely mathematical exercise. Instead, it should fundamentally be a strategic exercise that considers questions about how the City should best grow and evolve. In this context, land needs calculations should be viewed as an input into that exercise and not as the final outcome. We believe that, if land needs calculations are considered flexibly and strategically, there is planning merit in including the lands from a land needs perspective as a minor rounding out of the boundary and will result in a number of significant public benefits, including:

1. Creation of new permanent housing supply to accommodate the Town and Region's forecasted growth to 2051 and additional seasonal housing supply;
2. Establishment approximately 589 new jobs (full time equivalent) jobs on the Black Creek Commons Village and Resort parcels and at least 278 jobs on the employment parcel (i.e. Parcel 'C') based on the Region's Vacant Employment Area Density Target of 15 jobs per hectare;
3. The proposed development would help support new commercial uses to serve existing and future residents in the Douglastown-Black Creek Secondary Plan area.
4. The re-imagination of the ICC into the Niagara National Golf and Country, as a key destination in the Town and Region;
5. The proposal will reduce the need for long distance commuting by creating new jobs
6. and adding new commercial, tourism and recreational amenities near existing residential areas in the Town and with excellent access to the QEW and Regional Road 25, which provides strong transportation connections to Niagara Falls, St. Catharines, and Welland; and,
7. The strengthening of the local economy through the addition of new commercial, tourism and outdoor recreation and adventure activities, as well as agriculturally related and agri-tourism uses.

REVIEW & RESPONSE TO REPORT NO. PDS 33-2021

We received notice from the Region that staff Report No. PDS 33-2021 had been released complete with three appendices, a presentation, and online mapping. Based on our review Report No. PDS 33-2021 expands upon the May 2021 Regional Land Needs Assessment, and provides updated growth forecasts, which are referred to as the “Made-in-Niagara” growth forecasts. Report No. PDS 33-2021 recommends approval of the “Made-in-Niagara” growth forecast to 2051. The Forecast is a land needs assessment (“LNA”) derived from the Provincial Land Needs Methodology.

Furthermore, we now understand that the Made-in-Niagara forecasts and updated LNA result in a Region-wide net community area land need of 495 hectares and net employment area land need of 210 hectares. This represents an increase of 35 hectares of additional land, or a 7.6% increase, required to meet population growth to 2051, since the May 2021 growth forecasts and LNA.

These areas are used to make decisions about changes to urban and rural boundaries.

On behalf of the Owners, we commend the Region for re-evaluating their growth forecasts and land needs as it pertains to additional community and employment land areas and support Regional planning staff in their recommendation to include an additional 35 hectares of community area land and 210 hectares of additional employment area land.

Our request to have 67.34 hectares from the subject lands added as urban area within the Town of Fort Erie would contribute to the Region’s land needs to the year 2051. In our opinion, and based on our July 2nd, 2021 submission, the 26.06-hectare portion of Parcel A would be utilized as part of the 105 hectares of land allocated to the Town of Fort to accommodate population growth to 2051. The 22.76-hectare portions of Parcels H and J would be in excess of the required 105 hectares of community lands and the 130 hectares of employment lands required to accommodate population and job growth to 2051 for Fort Erie, given that these lands would accommodate seasonal residences and resort facilities. Lastly, the 18.52-hectare portion of Parcel C would contribute to employment area lands to be utilized as part of the 130 hectares of land allocated to the Town of Fort Erie to accommodate job growth to 2051.

Further to our review, we did notice two discrepancies with the Region’s mapping. Specifically, the mapping shown on slide 12 of the Region’s presentation on the Made-

in-Niagara forecast and land need's assessment does not illustrate an accurate representation of what our request specifically is. As well, the online web mapping application that the Region provided which also shows all urban boundary expansion requests also does not illustrate an accurate representation of what our request specifically is. Furthermore, where the entirety of the subject lands are illustrated in the Region's mapping, they tend to be illustrated in a way that would suggest all of the 371.74 hectares are being asked to be brought into the urban area boundary. When in fact, only 67.34 hectares from the subject lands are requested to be added as urban area, with some as community area and some as employment area, as described above and in our July 2nd, 2021 submission.

In this regard, we have prepared two mapping overlay figures which illustrate our requested urban boundary expansion on top of the Region's presentation map (Figure 1 below) and on top of the Region's online web mapping application (Figure 2 below). Note that images are based on materials provided by the Region and are not high resolution. Our overlay is based on a survey prepared by an Ontario Land Surveyor. The subject lands are outlined in red, with the requested urban area expansions shown in purple.

Figure 1 – Overlay of UAB Expansion Request Against Map on Slide 12

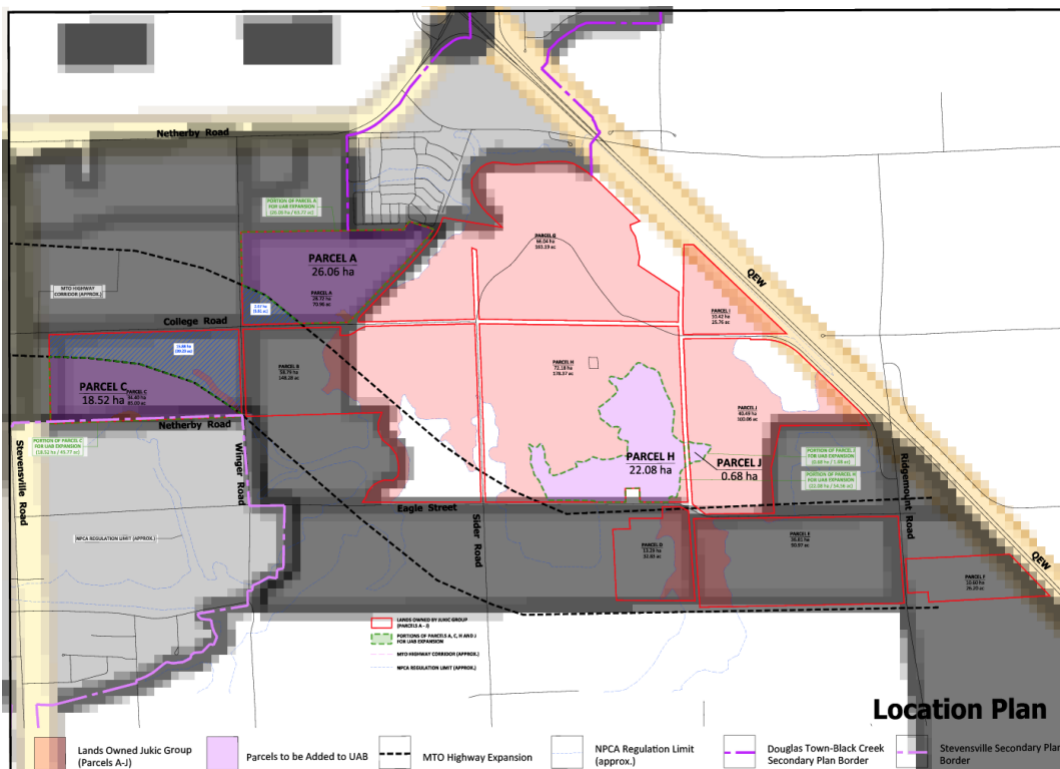
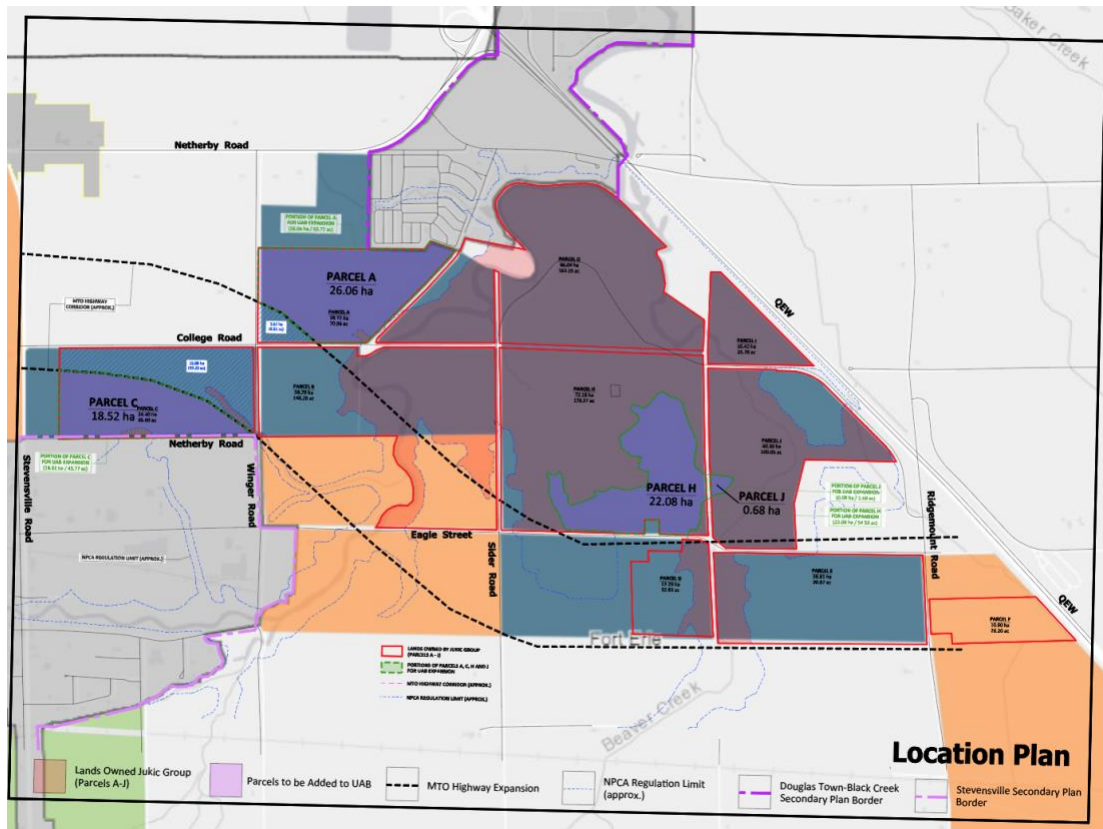


Figure 2 – Overlay of UAB Expansion Request Against Online Mapping



In this regard, we respectfully request that Region update their mapping to more accurately reflect the specifics of our urban area boundary expansion request which was submitted on July 2nd, 2021.

CONCLUSIONS

I trust the above provides some additional measure of understanding with respect to our request. On behalf of the Owners, we also ask that you please circulate a copy of our original UAB expansion request (submitted July 2nd, 2021) and this letter to Regional Council for review and the record.

Should you require any additional information or clarification, please feel free to contact Evan Sugden at esugden@bousfields.ca or 905-549-3005 Ext. 259 or the undersigned.

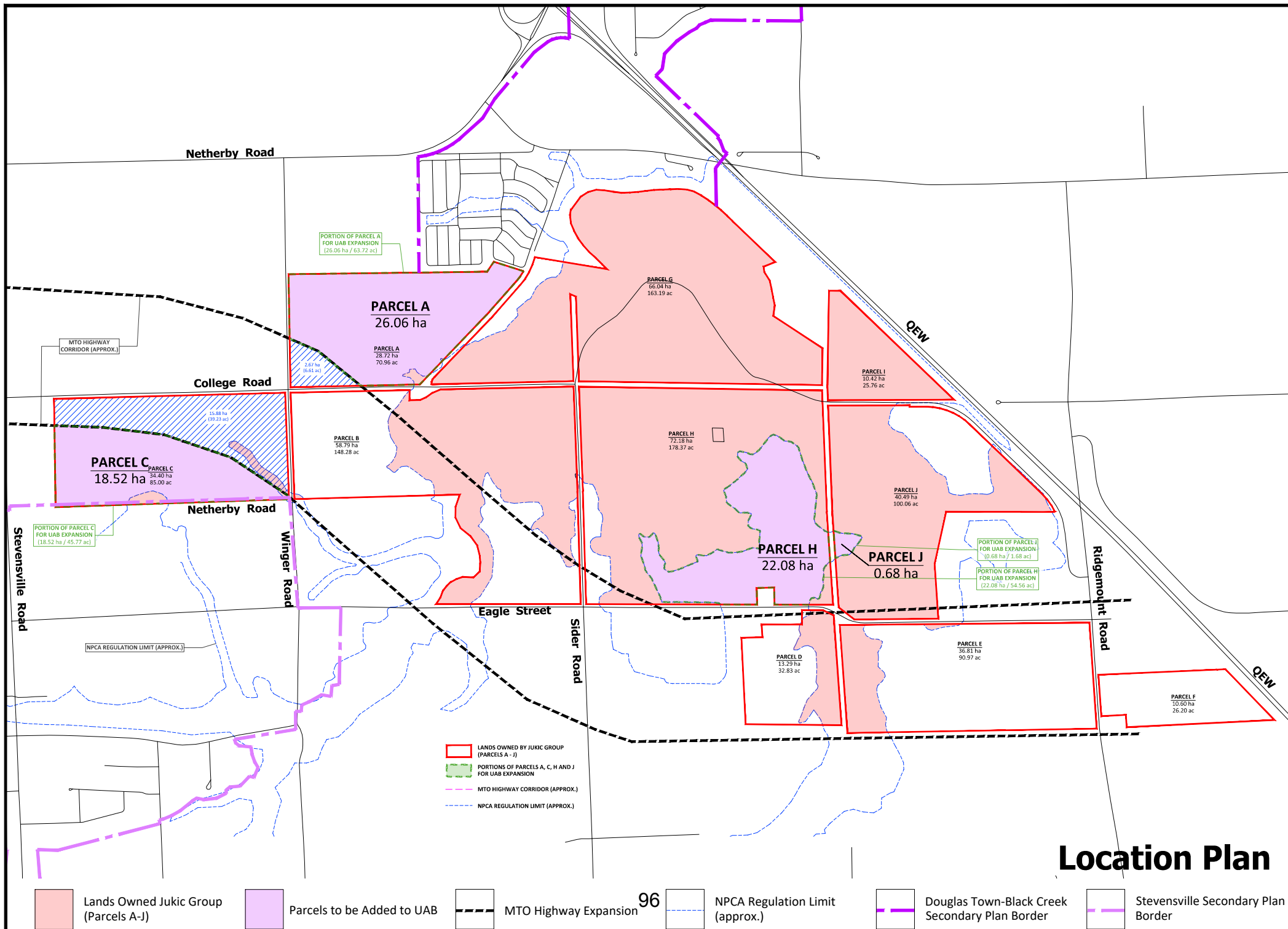
Respectfully submitted,
Bousfields Inc.



David Falletta MCIP, RPP
Partner

ES/df:jobs

Cc. Client
Stikeman Elliott
Greg Bowie
Town of Fort Erie



MEMORANDUM

CL-C 64 2021

**Subject: 2021 Medical Officer of Health / Associate Medical Officer of Health
Compensation Initiative**

Date: August 26, 2021

To: Regional Council

From: Franco Meffe, Director Human Resources

This memo serves to advise Regional Council that the Chair of the Board of Health will be signing the current year application forms as requested by the Ministry of Health for the Medical Officer of Health (MOH) and the Associate Medical Officers of Health (AMOH) Compensation Initiative.

The following is an outline of the key facts associated with this initiative:

- In 2009, the Ministry of Health introduced a program, which offered new provincial funding to increase the MOH and AMOH base salary compensation to address recruitment and retention issues, as well as maintain competitive compensation levels with those of other physician specialists.
- To be eligible for the program, applications are submitted on an annual basis.
- The Niagara Region has continued to administer the compensation for the MOH and AMOH roles annually as per the current agreement with the Ministry of Health.
- The cost of providing additional compensation under this program is 100% funded by the Ministry of Health.
- Participation in the program is voluntary and enables the Niagara Region to maintain competitive salaries for the physician roles, reducing the risk of losing physicians to another health unit or regional municipality.
- The Ministry of Health sent the current year application in July with a submission deadline for applications of August 20, 2021.
- The application requires that the Chair of the Board of Health sign the application form.

- Applications have been prepared by staff and have been submitted to the Ministry of Health in advance of the August 20, 2021 deadline.
- The timeframe for the funding initiative is January 1, 2021 to December 31, 2021.
- The application to the Ministry of Health is for a fully subsidized portion of additional pay to supplement the base MOH and AMOH pay provided by the public health unit.
- The salary grid for MOH and AMOH roles, set by the Ministry was last increased effective April 1, 2020. There has been no change to the salary grid for 2021, based on information available at this time.
- Individual incumbent positioning within the range is based on years of experience, education and level of responsibility.
- In addition to the base salary supplement, the Ministry of Health will fund associated benefit and payroll related costs (e.g. CPP, EI, health and dental).

Respectfully submitted and signed by

Franco Meffe
Director, Human Resources



City of Welland
Corporate Services
 Office of the City Clerk
 60 East Main Street, Welland, ON L3B 3X4
Phone: 905-735-1700 Ext. 2159 | **Fax:** 905-732-1919
Email: clerk@welland.ca | www.welland.ca

August 10, 2021

File No. 21-109

SENT VIA EMAIL

Niagara Region
 1815 Sir Isaac Brock Way
 P.O. Box 1042
 Thorold, ON L2V 4T7

Attention: Ann-Marie Norio, Regional Clerk

Dear Ms. Norio:

Re: August 10, 2021 – WELLAND CITY COUNCIL

At its meeting of August 10, 2021, Welland City Council passed the following motion:

- “1) THAT THE COUNCIL OF THE CITY OF WELLAND receives for information Report P&B-2021-42; and further
 2) THAT Welland City Council requests Niagara Region Council to maintain the existing Grants and Incentives Programs as detailed in this Report; and further
 3) THAT Welland City Council is supportive of adding additional financial incentives for affordable/rental housing; and further
 4) THAT Welland City Council requests the City Clerk forward a copy of this Report to the Niagara Region, and all municipalities within the Niagara Region for information and support.”

Yours truly,

Tara Stephens
 City Clerk

TS:bl

- c.c.: - Local Municipalities
 - Grant Munday, Director of Planning & Development Services
 - Steve Zorbas, CAO/Director of Corporate Services

APPROVALS	
DIRECTOR	
CFO	
CAO	

COUNCILPLANNING AND DEVELOPMENT SERVICES

REPORT P&B-2021-42
AUGUST 10, 2021

SUBJECT: NIAGARA REGION GRANTS AND INCENTIVES REVIEW

AUTHOR: NICOLAS AIELLO
POLICY PLANNER

**APPROVING
MANAGER:** RACHELLE LAROCQUE, BES, M.Sc., MCIP, RPP
MANAGER OF PLANNING

**APPROVING
DIRECTOR:** GRANT MUNDAY, B.A.A., MCIP, RPP
DIRECTOR OF PLANNING AND DEVELOPMENT
SERVICES

RECOMMENDATIONS:

- 1) THAT THE COUNCIL OF THE CITY OF WELLAND receives for information Report P&B-2021-42; and further
- 2) THAT Welland City Council requests Niagara Region Council to maintain the existing Grants and Incentives Programs as detailed in this Report; and further
- 3) THAT Welland City Council is supportive of adding additional financial incentives for affordable/rental housing; and further
- 4) THAT Welland City Council requests the City Clerk forward a copy of this Report to the Niagara Region, and all municipalities within the Niagara Region for information and support.

ORIGIN AND BACKGROUND:

In 2017, the Region of Niagara started a review of its various Incentives and Grants (Smarter Niagara Incentives and Grants, Brownfield Incentives and Grants, Gateway CIP Incentives and Grants). City Staff were supportive of the Region's current Grants and Incentives Programs for a range of reasons but most notably that these programs promote Smart Growth Principles, a key element of City and

Regional Planning. We noted a number of successful outcomes of these Grants and Incentives and how they were serving their intended purpose. The CIPs and Incentives currently in place in Welland are as follows:

- Downtown Health and Wellness Cluster CIP (Downtown CIP);
- City of Welland Niagara Gateway Economic Zone and Centre CIP (Gateway CIP);
- Brownfield CIP; and
- Development Charge Exemptions and Reductions for Industrial Development and other CIP Areas.

On June 24, 2021 the Region presented to Local Municipal Staff the results of their review and proposed recommendations, they also held an Information Session for Regional Council on July 22, 2021. They indicated that the goals of the review were as follows:

- Align with Regional priorities and responsibilities
- Address current and future needs
- Provide meaningful and measurable results
- Be sustainable, clear and accountable

As a result of the review, Regional Council endorsed four priority areas with respect to incentives and programs:

- 1) Affordable Housing
- 2) Employment
- 3) Brownfield Remediation
- 4) Public Realm

Regional Staff are proposing to create, retain, remove and modify programs under these focus areas.

COMMENTS AND ANALYSIS:

Staff have reviewed the Regions presentation and have provided an outline below of the proposed recommendations based on the four priority areas.

1. Affordable Housing

Regional Staff indicate that there is a need for affordable housing. The goals of this priority area is to:

- Increase affordable and attainable rental supply;
- Decrease NRH wait times;
- Maintain existing affordable housing stock

A number of programs have been proposed which are aimed to encourage affordable and attainable rental housing. These programs include:

Programs	Description
Partnership Housing Program	Suite of Incentives (e.g., grants, deferrals)
Affordable and Supportive Housing	Regional Development Charge Deferral
Non-Profit Grant	Regional Development Charge Grant
Intensification Grant	Regional Development Charge Grant
Residential Rental Grant	Regional Project Grant
Small Building Rental Grant	Regional Project Grant
NRH Home Ownership Downpayment Assistance	Forgivable Loan
NRH Niagara Renovates Homeownership	Forgivable Loan
NRH Niagara Renovates Multi-residential	Forgivable Loan
NRH Non-Profit and Co-op Capital Repair Costs	Forgivable Loan
NRH Housing Provider Capital Loan Program	Loan and Grant

City Staff agree that there is a need for more affordable housing units. The root cause of this situation is complex and multi-faceted. The need for this has been an ongoing issue for at least 20 years. There has been limited investment both by Federal and Provincial Governments and the private sector in rental housing or affordable housing for a range of reasons including, zoning and planning rules which prohibit investment. The City's current CIP areas and programs have, and will continue to offer incentives for housing, including affordable housing. For example, the City provides funding for the creation of additional apartment units, but without the affordable requirement, recognizing that the current vacancy rate is very low in the City and this will encourage the creation of additional rental units. Additionally, the City approved a New Zoning By-law in October, 2017 which creates a more favourable regulatory environment for small scale to large scale rental housing.

City Staff fully support the creation of more affordable housing units through more incentive programs, but at this point it is unclear as to how the Region will implement some of the requirements, such as ensuring that the units are affordable and maintained. The implementation piece of these programs has not been identified.

2. Employment

The current alignment of Employment Attraction Policies between the City and Region has attracted over \$361 million in private sector investment on employment lands, over 1.4 million square feet of industrial buildings, and over 400 jobs retained/created. Current approved applications will generate over \$4 million in

new taxes for the City and over \$4.6 million for the Region when factoring in the Tax Increment Grants (TIG grants). The net taxes for the City and Region will significantly increase as individual TIGs are completed.

Regional Staff indicate the goals of the Employment focus area are as follows:

- Incentivize an average of 100 full time jobs per year in the next five years;
- Attract five new businesses in the next five years;
- Expand the range of employment TIGs while maintaining unique status of Gateway CIP

Regional Staff are planning to attain the above goals by proposing to create, retain and modify the following programs under this focus area. The major highlights are as follows:

Program	Status
Gateway CIP Tax Increment Grant	Remains the same
Gateway CIP Regional DC Grant	Remains the same
Niagara Business Attraction Tax Increment Grant	New
Regional Employment Grant	Reduced from a 100% reduction to sliding scale based on number of employees
50% Industrial Expansion Grant	Proposed. However, is an existing requirement under the Development Charges Act.

City Staff have reviewed the proposed additions and changes. Staff have no objection to the additional of the Niagara Business Attraction TIG, however, it is unclear if this program would be available in Welland. The reduction in the grant for the Regional Employment DC-Base Grant from a 100% to a sliding scale based on the amount of employees is not supported by Staff and will impact economic development goals of the City. Small Businesses are the future of the City and the Region and these businesses will now be required to pay regional development charges.

City Staff also note that the goals of this focus area are concerning as they are very limited. For example, attracting 5 new businesses across the Region over five-years seems very low for a growing Region. However, when factoring in the reduction in certain programs this may be a plausible outcome. It should also be noted that affordable housing and jobs are invariably linked. If we cannot attract a growing job base it will continue to create affordable housing problems.

3. Brownfield

Under the current City and Regional policies for Brownfield redevelopment, the City will have produced over \$59 million in private sector investment, over \$2.6 million in City taxes, over \$2.8 million in Regional taxes. The additional benefits of

Brownfield Redevelopment include improvements to the natural environment and human health by facilitating the remediation of contaminated sites.

The goals of the Brownfield focus area identified by the Region are as follows:

- Generate an average increase of 10 times the original assessment value on brownfield properties
- Approve two Tier 1 BTIGs in the next five years
- Provide funding for remediation of at least 200 acres in the next five years

The Region indicates they are focusing on Brownfield Remediation, however it is City Staff's opinion that this is not the case as they are proposing to further reduce the incentives available for brownfield remediation. Major changes proposed include:

- A reduction of the 50% rebate of the applicable Development Charge to a 100% Regional Development Charge (DC) deferral until occupancy permit is issue or five years.
- Elimination of the Brownfield Study Grant which provides funding for the Phase 2 Environmental Site Assessment allowing applicants to identify areas of contamination and determine clean-up costs; helping to reduce the risk of investing in Brownfields.
- Elimination of the Brownfield Tax Assistance Program which provides a freeze of the property taxes on a property that is undergoing or has undergone remediation and redevelopment to assist with payment of the cost of environmental remediation.
- Modifying the TIG programs to be tied to a minimum clean up amount and a reduction of the incentive currently offered.
- Modifying the TIG programs to be tied in with the creation of Affordable Housing.

City Staff question how the Region is focusing on Brownfields when in actual fact they are defocusing. The Brownfield remediation programs all now seem to be tied in some way to the number of affordable housing units created. Although incentivizing affordable housing is supported by the City, it's not the objective of the Brownfield Incentives Programs, in Staff's opinion. The goal of these programs is to have brownfield sites within the urban area remediated and redeveloped. It seems that tying it to the creation of affordable housing units creates another layer of red tape that is unnecessary, and may not be achievable. Furthermore, tying the TIG to a minimum clean up amount may leave some smaller sites to languish because they're not eligible for the TIG program with the Region.

As mentioned, the DC Exemption program has been proposed to change to a DC Deferral program. Brownfield lands are typically within areas that are developed with existing services and will not require the extension or expansion of services. The DCs may also be another barrier to realizing the clean-up of these sites, depending on the scale and costs of clean-up required. It's unclear as to why this

program change is being proposed, and the City is not in support. Brownfield redevelopment is costly and has significant risks for investors. This will only make these site less desirable and less likely to be developed for affordable housing.

4. Public Realm

Regional Staff indicate their goals on programs for the Public Realm is as follows:

- Improve public realm including road, bike paths, sidewalk, trails and accessibility amenities in an average of six projects annually;
- Plant approximately 500 trees through Public Realm Investment Program (PRIP) in the next five years; and,
- Achieve at least 10 of the following in the next five years: public plaza enhancements, place making and public art installations, gateway features.

Regional Staff are proposing to continue the Public Realm Investment Program. City Staff have no objection to continuing this program, however, the funding allocations proposed are very low compared to actual cost of public realm improvements.

Programs Proposed to be Eliminated

Smarter Niagara Incentive Program (SNIP)

The Region is proposing to eliminate the Smarter Niagara Incentive Program (SNIP): façade and building improvement, heritage restoration, planning grant. These programs in partnership with Region form the City's Downtown CIP and have and continued to help enhance the City's Downtown and Health and Wellness Areas. Promoting investment in downtowns and intensification areas is critical for sustainable development and smart growth. The City's Downtown CIP will have generated over \$34 million in private sector investment, and over \$600,000 in taxes over a 10 year period for the City and over \$500,000 for the Region. This is in addition to the other numerous benefits that result from these investments. The net taxes for the City and Region will significantly increase as individual TIG's are completed.

As mentioned, the City supports the concept of trying to promote more affordable/rental housing but this should not occur at the cost of promoting Smart Growth and sustainable development in our communities. This is not to say that the current Programs are not achieving this, but there may be an opportunity to do more here. The SNIP program is one of the most popular incentive programs that the City provides as it allows small businesses to make improvements to their buildings that would otherwise have been outside of their financial abilities. Small businesses have had an incredibly difficult time these past 18 months, and it does not seem like now is the time to be taking away any financial incentives that would help them improve their buildings or facades. Further to this, the Region's new draft Official Plan policies are encouraging regrowth and development of downtowns, it is incongruous to remove the SNIP funding while encouraging a high

level of urban design and upgrades in downtown areas. There needs to be incentive for the Region's policy initiatives to be realized.

Other Programs

The below table lists other programs that the Region is proposing to discontinue as a result of their incentives review.

Program	City Staff Comments
Brownfield Tax Assistant Program	As mentioned above, the program provided a tax freeze during the remediation period. Elimination of this program increases the financial risk associated with Brownfield redevelopment. This will make it more costly to redevelop brownfields, whether it be for affordable housing or not.
Niagara Investment in Culture Program	As the population of the City and Regions grows and diversifies the need for cultural investment will increase.
Waterfront Investment Program	As the Region and the City grows there is an increasing need for investment in waterfront access and enhancement. For example, there are ongoing issues in Waterfront Municipalities regarding waterfront access.
Heritage Tax Rebate Program	Heritage preservation is a component of good planning. Private land owners should be supported by municipalities to effectively maintain heritage properties.
Smart Growth Regional DC program	This program has helped the City to achieve and exceed Regional and Provincial intensification requirements and promote sustainable growth within the City. Elimination of this program will lead to increased urban sprawl in the Region and a reduction in intensification.

SUMMARY AND CONCLUSION:

Staff have reviewed the Region's presentation regarding their review of its various Incentives and Grants and proposed recommendations to create, retain, modify and remove them. Staff support the direction to develop incentives programs under the categories:

- Affordable Housing;
- Brownfield Remediation;
- Employment; and
- Public realm.

However, we are of the opinion that the current incentives and grants are working very well. The City has experienced significant redevelopment and investment as a result of the implementation of the various Community Improvement Plans (CIP) and Development Charge Incentives in place. They are helping the City transition to a more socially, environmentally and economic sustainable community in line with the Principles of Smart Growth. Staff note that these Incentives and Grants offered by both the City and Region are part of the toolbox of planning tools we have available to create sustainable planning outcomes. We do not want to see an abandonment of these tools as we need to retain a multi-pronged approach to planning our communities.

Staff support the concept of trying to promote more affordable/rental housing but the Region's approach seems to be doing this at the expense of the Brownfield, SNIP incentives, and various other programs. Rather than eliminate programs, this may be an opportunity to do more. In addition to the benefits associated with affordable/rental housing, the SNIP is one of the most popular incentive programs that the City provides as it allows small businesses to make improvements to their buildings that would otherwise have been outside of their financial abilities. Given the extreme adversities small businesses have faced due to the pandemic, it does not seem like now is the time to be taking away any financial incentives that would help them improve their buildings or facades. Lastly, City Staff question how the Region is focusing on Brownfields and Employment when in actual fact they are defocusing by reducing support and veering away from program objectives for these two priority areas.

ATTACHMENTS:

Appendix I - Niagara Region Incentive Review – Regional Council
Information Session

Niagara Region Incentive Review

Local Area Municipalities

June 24, 2021

Incentive Review Catalysts and Goals

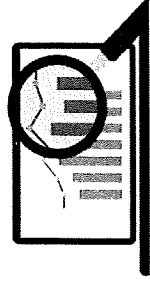
Increased Programs



Increased Cost



New Business Models



Incentive Review Goals

- Align with Regional priorities and responsibilities
- Address current and future needs
- Provide meaningful and measurable results
- Be sustainable, clear and accountable

Regional Incentive Review

- Implementation of aligned incentive programs
- Finalize Regional DC By-law

173

2021

2022

- Meeting and survey for Local Municipal staff
- Regional staff work on program alignment

2020

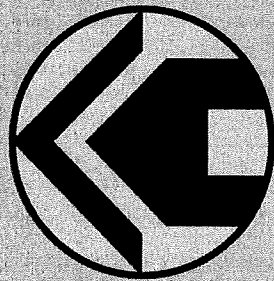
2019

2018

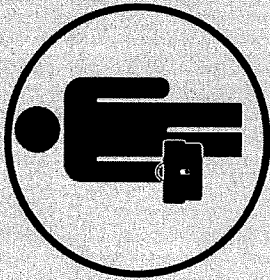
110

- Council establishes four incentive Priority Areas
- Engagement with Local Municipal staff
- Resident and Stakeholder survey and webinar
- Local Municipal staff engagement
- Recommendation report Regional Council
- Information sessions on aligned programs

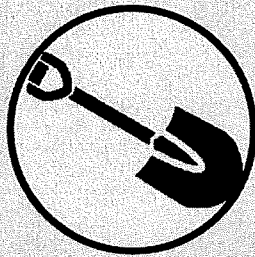
Four Priority Areas



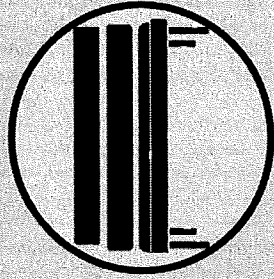
**Affordable
Housing**



Employment



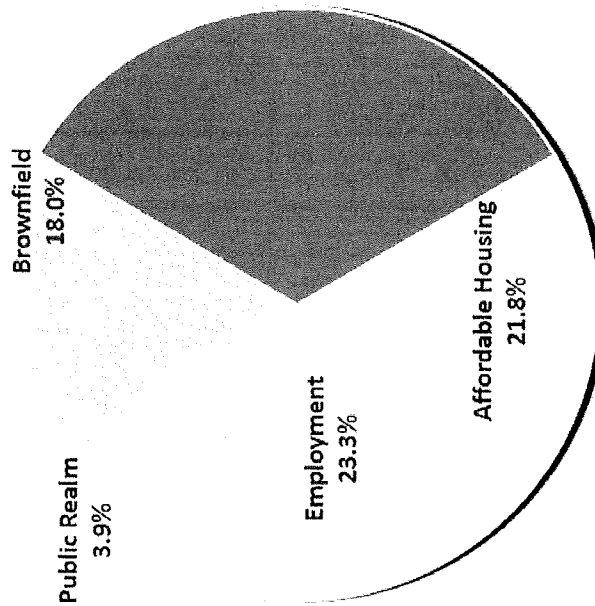
**Brownfield
Remediation**



Public Realm

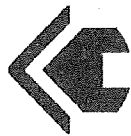
Funding

2021 Incentive Budget (\$14M)



- Funding from expiring commitments will be repurposed over time to Priority Areas
- Future investment will be guided by:
 - Program performance over time
 - Key variables such as pandemic recovery, housing market, employment patterns
 - Provincial and federal funding

Affordable Housing



Over 26,000 households
in core housing need in
Niagara

Housing prices increased
26% in 2020, the largest
increase on record

Over 23,000 renters and
owners spend over 50% of
their income on housing

NRH waitlist for housing
for singles aged 16-54 is
7-18 years in Niagara

- ✓ Increase affordable and attainable rental supply
- ✓ Decrease NRH affordable housing wait times
- ✓ Maintain existing affordable housing stock

Affordable Housing



Encourage affordable and attainable rental housing

Program	Grant Type	Regional grant minimums/maximums	Key Parameters	Key Performance Indicators
Partnership Housing Program	Suite of Incentives (e.g., TIGs, DC grants/deferrals) for Affordable Housing Capital Development	Dependent on incentives accessed and annual budget	Scoring criteria for projects TBD, similar to CHMC funding criteria	Number of affordable units created Households removed from waitlist Amount of incentive per unit
Affordable and Supportive Housing RDC Deferral	Regional Development Charge Deferral	100% of Regional DCs deferred for eligible units	Deferral effective as long as units remain affordable	Number of affordable units created Households removed from waitlist Amount of incentive per unit
Non-Profit RDC-based Grant	Regional Development Charge Grant	Up to 100% of Regional DCs Annual budget (current \$150k)	Scoring criteria for projects TBD based on alignment with Regional priorities	Number of affordable units created Households removed from waitlist Amount of incentive per unit
Intensification RDC Grant	Regional Development Charge Grant	100% of Regional DCs granted for eligible projects	Includes interior and exterior secondary suites as defined by provincial DC Act	Number and type of rental units created (affordable, attainable)
Residential Rental Grant	Regional Project Grant	Maximum \$40k/unit for up to two units Annual budget	Must remain attainable rental units for a minimum of 10 years	Number and type of rental units created (affordable, attainable)
Small Building Rental Grant	Matching Project Grant (Local CIP)	Maximum matching grant of \$15k/unit for up to four units Annual budget	For rental units only	Number and type of rental units created (affordable, attainable)



Affordable Housing

Encourage affordable home ownership and maintain existing affordable housing stock

Program	Grant Type	Regional grant minimums/maximums	Key Parameters	Key Performance Indicators
NRH Home Ownership Downpayment Assistance	Forgivable Loan	Up to 5% of downpayment Provincial funding	Must meet age, renter household, income and asset requirements	Number of affordable units purchased Households removed from waitlist Amount of incentive per unit
NRH Niagara Renovates Homeownership	Forgivable Loan	Up to \$22k for eligible projects and up to \$5k in accessibility renovations Provincial funding	Must meet certain income and ownership requirements	Number of affordable units maintained through repair, accessible accommodation Amount of incentive per unit
NRH Niagara Renovates Multi-residential	Forgivable Loan	Maximum \$10k/unit, maximum per building of \$25k-\$90k depending on number of units Provincial funding	Must have over two units, units must be at or below average market rent for 15 years	Number of affordable units maintained through repair, accessible accommodation Amount of incentive per unit
NRH Non-Profit and Co-op Capital Repair Costs	Forgivable Loan	Federal/provincial funding	Must have agreements with Housing Services Ranked on criteria including urgency, ability to fund	Number of affordable units maintained Amount of incentive per unit
NRH Housing Provider Capital Loan Program	Loan and Grant	Annual program budget	Must have agreements with Housing Services Must be non-profit or co-op Ranked on criteria including urgency, ability to fund	Number of affordable units maintained Amount of incentive per unit

Employment



Employment dropped about 15,000 and the labour force dropped by 10,000 in Niagara from 2016-20

Investment in industrial building construction experienced a significant decline of \$42.4 million or 40% from 2017-2020

Jobs in the targeted sectors are among the highest in economic impact in the Region

- ✓ Incentivize an average of 100 full time jobs per year in the next five years
- ✓ Attract five new businesses in the next five years
- ✓ Expand the range of employment TIGs while maintaining unique status of Gateway CIP

Employment

Attract jobs and businesses to Niagara



Program	Grant Type	Regional grant minimums/maximums	Key Parameters	Key Performance Indicators
Gateway CIP Tax Increment Grant	Tax Increment Grant (Local and Regional Gateway CIP)	Maximum 100% TIG for 10 years in Strategic Locations for Investment (five years outside SLIs)	Align Smart Growth criteria with industrial development in collaboration with Local Municipalities Review of Strategic Locations for Investment	Number of jobs created Amount of grant provided
Gateway CIP Regional DC Grant	Regional DC Grant (Local and Regional Gateway CIP)	Maximum \$1.5M per project	Local DC matching grant required	Number of jobs created Amount of grant provided
Niagara Business Attraction TIG	Tax Increment Grant (Local and Regional Gateway CIP)	Maximum of 75% of Gateway TIG calculation for five years	Local CIP grant required	Number of jobs created Number of Local Municipal matching programs
Employment Regional DC-based Grant	Regional Development Charge Grant	1-10 full time positions created = 50% of RDCs 11-20 full time positions created = 75% of RDCs 21+ full time positions created = 100% of RDCs	Eligible employment sectors are Manufacturing (NAICS 31-33) and Professional, Scientific and Technical Services (NAICS 54, with some exceptions)	Number of jobs created Employment sectors of new jobs
50% Industrial Expansion RDC Grant	Regional Development Charge Grant	100% of DCs on maximum of 50% of gross floor area prior to first enlargement	See maximum and minimums	Number of jobs created Square feet added

Brownfield Remediation

There are at least five brownfield sites in Niagara estimated to have \$15M or more in remediation costs

Just five key Niagara brownfield sites represent over 500 acres that could be remediated and redeveloped

The majority of Niagara brownfield sites are in the urban area → remediation supports employment, intensification, housing, reduced GHG emissions

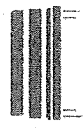
- ✓ Generate an average increase of 10 times the original assessment value on brownfield properties
- ✓ Approve two Tier 1 BTIGs in the next five years
- ✓ Provide funding for remediation of at least 200 acres in the next five years

Brownfield

Clean up contaminated sites to prepare for development

Program	Grant Type	Regional grant minimums/maximums	Key Parameters	Key Performance Indicators
Brownfield TIG Tier 1: Select Sites	Tax Increment Grant (Local CIP)	80% or 100% with affordable housing 10 Years - fixed calculation Annual grant no greater than \$10M Minimum \$5M in remediation costs	For remediation costs only Eligible sites identified in collaboration with local municipalities	Acres remediated in urban area Affordable housing units created Number of jobs created Increase in assessment value
Brownfield TIG Tier 2	Tax Increment Grant (Local CIP)	60% or 80% with affordable housing 10 Years - Fixed calculation Annual grant no greater than \$1M Minimum \$250k in remediation costs	For remediation costs only	Acres remediated in urban area Affordable housing units created Number of jobs created Increase in assessment value
Brownfield Regional DC Deferral	Regional Development Charge Deferral	100% of RDCs may be deferred until occupancy permit issued or five years from signing of agreement, whichever is first	Project may stack with BTIG	Acres remediated in urban area Affordable housing units created Number of jobs created Increase in assessment value

Public Realm



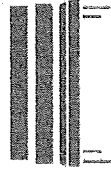
Provincial requirements to support walkable communities, active transportation, and promote universal accessibility

Lost opportunity costs without coordination on service delivery for major capital projects

Niagara has an estimated vegetative cover of 27%

- ✓ Improve public realm including road, bike paths, sidewalk, trails and accessibility amenities in an average of six projects annually
- ✓ Plant approximately 500 trees through PRIP in the next five years
- ✓ Achieve at least 10 of the following in the next five years: public plaza enhancements, placemaking and public art installations, gateway features

Public Realm



Improve accessibility, sustainability and attractiveness of public spaces on Regional roads in core areas

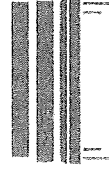
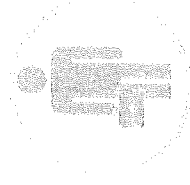
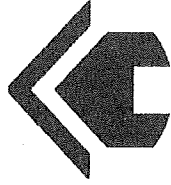
Program	Grant Type	Regional grant minimums/maximums	Key Parameters	Key Performance Indicators
Public Realm Investment Program	Regional Matching Grant to Local Area Municipality	Request \$25,000 - maximum \$150,000 per grant Annual program budget (current \$350K)	Within or directly adjacent to a Regional Road right-of-way and areas of significant Regional investment in urban and core areas	Kms of roads/trails created or improved Number of trees planted Accessibility components installed Amount of placemaking features and public art installed

Discontinued Regional Funding

- Smarter Niagara Incentive Program (SNIP): façade and building improvement, heritage restoration, planning grant
- Brownfield Tax Assistance Program
- Niagara Investment in Culture Program
- Waterfront Investment Program
- Heritage Tax Rebate Program
- Smart Growth Regional DC Program

Input and Collaboration

- Feedback form on proposed incentives
- Engagement with RDC bylaw
- Consultation on key program revisions
- Info sessions on newly aligned programs
- Coordination of CIPs, incentive programs
- Streamlined administration of Regional incentives
- Regional incentive program information online
- Shared program data, metrics and KPIs



Thank you

Feedback forms by July 8, 2021 to
marian.bannerman@niagararegion.ca

Questions?

MEMORANDUM

CL-C 67-2021

Subject: Rapid Housing Initiative Capital Funding (Report CSD 52-2021)

Date: August 26, 2021

To: Regional Council

From: Ann-Marie Norio, Regional Clerk

At its meeting held on August 11, 2021, the Corporate Services Committee approved the following recommendation:

That Report CSD 52-2021, dated August 11, 2021, respecting Rapid Housing Initiative Capital Funding, **BE RECEIVED** and the following recommendations **BE APPROVED**:

1. That, contingent on Federal Government approval of Niagara's Rapid Housing Initiative (RHI) submission, a gross capital budget adjustment in the amount of \$13,577,582 and \$0 net, **BE APPROVED** (and **INITIATED**) for the Welland Multi-Residential Intensification Project; and
2. That the project **BE FUNDED** as follows:
 - Federal RHI Grant - \$10,515,033
 - Development Charges – Social Housing - \$2,465,243
 - Municipal Contributions - \$597,306

Further to the above recommendation, staff require Council authority to execute any applicable agreements related to the submission. In order for Council to provide authority to staff, Minute Item 5.2 of the Corporate Services Committee Minutes CSC 8-2021 (Agenda Item 9.3) will be lifted at the appropriate time to amend the motion to add the following clause:

3. That Niagara Region **PREPARE** and **EXECUTE** such agreement or agreements with Niagara Regional Housing for construction, holding of legal title and on-going operation of the Project described in Report CSD 52-2021 as may be necessary to meet the requirements of Niagara Region's commitments arising from its application for RHI funding.

With the amendment to the original motion, staff will be able to move forward to execute any agreements as may be required.

Respectfully submitted and signed by

Ann-Marie Norio
Regional Clerk



PORT COLBORNE

Corporate Services Department
Clerk's Division

CL-C 68-2021

Municipal Offices: 66 Charlotte Street
Port Colborne, Ontario L3K 3C8 • www.portcolborne.ca

T 905.835.2900 ext 106 F 905.834.5746

E amber.lapointe@portcolborne.ca

August 25, 2021

Ann-Marie Norio
Office of the Regional Clerk,
Niagara Region
1815 Sir Isaac Brock Way, P.O. Box 1042
Thorold, ON L2V 4T7

Sent via E-mail: Ann-Marie.Norio@niagararegion.ca

Dear Ms. Norio:

Re: City of Welland Resolution – Request Niagara Region to Maintain Existing Grants and Incentive Programs

Please be advised that, at its meeting of August 23, 2021, the Council of The Corporation of the City of Port Colborne resolved as follows:

That correspondence from the City of Welland regarding the Request to the Niagara Region to Maintain Existing Grants and Incentive Programs, be supported.

A copy of the above noted resolution is enclosed for your reference. Your favourable consideration of this request is respectfully requested.

Sincerely,

Amber LaPointe
City Clerk

ec: Niagara Local Municipalities



City of Welland
Corporate Services
Office of the City Clerk
60 East Main Street, Welland, ON L3B 3X4
Phone: 905-735-1700 Ext. 2159 | **Fax:** 905-732-1919
Email: clerk@welland.ca | www.welland.ca

August 10, 2021

File No. 21-109

SENT VIA EMAIL

Niagara Region
1815 Sir Isaac Brock Way
P.O. Box 1042
Thorold, ON L2V 4T7

Attention: Ann-Marie Norio, Regional Clerk

Dear Ms. Norio:

Re: August 10, 2021 – WELLAND CITY COUNCIL

At its meeting of August 10, 2021, Welland City Council passed the following motion:

- “1) THAT THE COUNCIL OF THE CITY OF WELLAND receives for information Report P&B-2021-42; and further**
2) THAT Welland City Council requests Niagara Region Council to maintain the existing Grants and Incentives Programs as detailed in this Report; and further
3) THAT Welland City Council is supportive of adding additional financial incentives for affordable/rental housing; and further
4) THAT Welland City Council requests the City Clerk forward a copy of this Report to the Niagara Region, and all municipalities within the Niagara Region for information and support.”

Yours truly,

Tara Stephens
City Clerk

TS:bl

- c.c.: - Local Municipalities
- Grant Munday, Director of Planning & Development Services
- Steve Zorbas, CAO/Director of Corporate Services

Minute Item No. 5.1

PSD 31-2021

Niagara Region Incentives Policy

That Report PDS 31-2021, dated August 5, 2021, respecting Niagara Region Incentives Policy, **BE RECEIVED** and the following recommendations **BE APPROVED**:

1. That the Niagara Region Incentives Policy (Appendix 1 of Report PDS 31-2021) **BE APPROVED** with the following additions:
 - a. That the following existing program continue to be maintained:
 - i. SNIP – Smarter Niagara Incentive Program
2. That staff **PROVIDE** sunset clause policies with reasonable expiration dates;
3. That staff formally **REVIEW** and **REPORT** to Regional Council prior to October 2024 on the effectiveness, challenges and any recommended changes to the Region's Incentive Programs, after consulting with the local area municipalities;
4. That staff **BE DIRECTED** to explore the inclusion of the Niagara Investment in Culture Program as part of the updated policy; and
5. That Report PDS 31-2021 **BE CIRCULATED** to the Local Area Municipalities.

**THE REGIONAL MUNICIPALITY OF NIAGARA
COMMITTEE OF THE WHOLE
MINUTES**

COTW 3-2021

Thursday, August 5, 2021

**Council Chamber / Video Conference
Regional Headquarters, Campbell West
1815 Sir Isaac Brock Way, Thorold, ON**

Committee Members Present in the Council Chamber: Bradley (Regional Chair), Insinna

Committee Members Present via Video Conference: Bellows, Butters, Bylsma, Campion, Chiocchio, Darte, Diodati, Disero, Easton, Edgar, Fertich, Foster, Gale, Gibson, Greenwood, Heit, Huson, Ip, Jordan, Nicholson, Redekop, Rigby, Sendzik, Ugulini, Villella, Whalen, Witteveen, Zalepa

Absent/Regrets: Junkin, Steele

Staff Present in the Council Chamber: M. Bannerman, Program Manager, Grants and Incentives, H. Chamberlain, Director, Financial Management & Planning/Deputy Treasurer, C. Courteau, Associate Director, Water & Wastewater Integrated Systems, F. Fucile, Manager, Real Estate, S. Guglielmi, Technology Support Analyst, P. Hamilton, Program Financial Specialist, T. Harrison, Commissioner/Treasurer, Corporate Services, A.-M. Norio, Regional Clerk, M. Sergi, Commissioner, Planning and Development Services, R. Tripp, Acting Chief Administrative Officer, L. Vespi, Manager, Capital Projects, Water & Wastewater Engineering, B. Zvaniga, Interim Commissioner, Public Works

Staff Present via Video Conference: D. Barnhart, Executive Officer to the Regional Chair, D. Giles, Director, Community & Long Range Planning, Dr. M. M. Hirji, Acting Medical Officer of Health, L. Ferrell, Program Financial Specialist, R. Fleming, Senior Tax & Revenue Analyst, G. Spezza, Director, Economic Development

Others Present in the Council Chamber: Chris Hamel, Consultant Project Manager and President, GM BluePlan Engineering Ltd.

1. CALL TO ORDER

Regional Chair Bradley called the meeting to order at 6:31 p.m.

2. DISCLOSURES OF PECUNIARY INTEREST

There were no disclosures of pecuniary interest.

3. PRESENTATIONS

There were no presentations.

4. DELEGATIONS

4.1 Niagara Region Incentives Policy (Report PDS 31-2021 (Agenda Item 5.1))

4.1.1 David Jovanovic, Lundy's Lane BIA

David Jovanovic, appeared before Committee on behalf of the Lundy's Lane BIA as well as the BIAs of the Niagara Region, requesting Niagara Region reconsider the elimination of vital CIP incentive programs as they are the key driver to stimulate private sector investment that is vitally needed to make a destination vibrant and successful.

4.1.2 Eddy Pybus, Vice Chair of the Board & Chair, Economic Development, Niagara Falls Downtown Business Improvement Area

Eddy Pybus, Vice Chair of the Board & Chair, Economic Development, Niagara Falls Downtown Business Improvement Area, appeared before Committee requesting Niagara Region reconsider the elimination of CIP incentive programs.

4.1.3 Serge Carpino, Chair, Thorold BIA

The delegation request from Serge Carpino was withdrawn.

5. ITEMS FOR CONSIDERATION

5.1 PDS 31-2021

Niagara Region Incentives Policy

Marian Bannerman, Program Manager, Grants and Incentives, provided information respecting Incentive Review and Recommendations. Topics of the presentation included:

- Incentive Review Catalysts and Goals
- Regional Incentive Reviews
- Basis of Review and Recommendations
- Council Direction: Four Priority Areas
- Current Funding

- Incentive Funding Options
- Existing Incentives
- Affordable Housing
- Employment
- Brownfield Remediation
- Public Realm
- Programs Outside Review Direction
- Next Steps

Moved by Councillor Foster
Seconded by Councillor Diodati

That Report PDS 31-2021, dated August 5, 2021, respecting Niagara Region Incentives Policy, **BE RECEIVED** and the following recommendations **BE APPROVED**:

1. That the Niagara Region Incentives Policy (Appendix 1 of Report PDS 31-2021) **BE APPROVED**; and
2. That Report PDS 31-2021 **BE CIRCULATED** to the Local Area Municipalities.

Moved by Councillor Diodati
Seconded by Councillor Campion

That the motion **BE AMENDED** to read as follows:

1. That the Niagara Region Incentives Policy (Appendix 1 of Report PDS 31-2021) **BE APPROVED with the following additions:**
 - a. That the following existing programs continue to be maintained:*
 - i. SNIP - Smarter Niagara Incentive Program*
 - ii. Smart Growth Regional Development Charge Program*
 - iii. TIG - Tax Increment Grant*
2. That staff **PROVIDE** sunset clause policies with reasonable expiration dates;
3. That staff formally **REVIEW** and **REPORT** to Regional Council prior to October 2024 on the effectiveness, challenges and any recommended changes to the Region's Incentive Programs, after consulting with the local area municipalities; and

4. That Report PDS 31-2021 **BE CIRCULATED** to the Local Area Municipalities.

Moved by Councillor Sendzik
Seconded by Councillor Disero

That the amendment **BE FURTHER AMENDED** by adding the following clause:

That staff BE DIRECTED to explore the inclusion of the Niagara Investment in Culture Program as part of the updated policy.

Carried

The Regional Chair called the vote on the amendment as follows:

1. That the Niagara Region Incentives Policy (Appendix 1 of Report PDS 31-2021) **BE APPROVED with the following additions:**

a. That the following existing programs continue to be maintained:

i. SNIP - Smarter Niagara Incentive Program

ii. Smart Growth Regional Development Charge Program

iii. TIG - Tax Increment Grant

2. That staff PROVIDE sunset clause policies with reasonable expiration dates;

3. That staff formally REVIEW and REPORT to Regional Council prior to October 2024 on the effectiveness, challenges and any recommended changes to the Region's Incentive Programs, after consulting with the local area municipalities;

4. That staff BE DIRECTED to explore the inclusion of the Niagara Investment in Culture Program as part of the updated policy.

A request was made to vote on each clause of the amendment separately.

The Regional Chair called the vote on the amendment to clause 1 as follows:

That the Niagara Region Incentives Policy (Appendix 1 of Report PDS 31-2021) **BE APPROVED with the following additions.**

Carried

The Regional Chair called the vote on clause 1.a) i. as follows:

a. That the following existing programs continue to be maintained:

i. SNIP - Smarter Niagara Incentive Program

Recorded Vote:

Yes (16): Bellows, Champion, Chiocchio, Dart, Diodati, Easton, Fertich, Gale, Greenwood, Nicholson, Redekop, Rigby, Sendzik, Ugolini, Villella, Whalen.

No (11): Butters, Bylsma, Disero, Edgar, Foster, Gibson, Heit, Huson, Insinna, Witteveen, Zalepa.

Carried

The Regional Chair called the vote on clause 1.a) ii. as follows:

a. That the following existing programs continue to be maintained:

ii. Smart Growth Regional Development Charge Program

Recorded Vote:

Yes (13): Bellows, Champion, Chiocchio, Dart, Diodati, Fertich, Gale, Greenwood, Nicholson, Redekop, Ugolini, Villella, Whalen.

No (14): Butters, Bylsma, Disero, Easton, Edgar, Foster, Gibson, Heit, Huson, Insinna, Rigby, Sendzik, Witteveen, Zalepa.

Defeated

The Regional Chair called the vote on clause 1.a) iii. as follows:

a. That the following existing programs continue to be maintained:

iii. TIG - Tax Increment Grant

Recorded Vote:

Yes (12): Bellows, Campion, Chiocchio, Diodati, Fertich, Gale, Greenwood, Nicholson, Rigby, Ugulini, Villella, Whalen.

No (15): Butters, Bylsma, Darte, Disero, Easton, Edgar, Foster, Gibson, Heit, Huson, Insinna, Redekop, Sendzik, Witteveen, Zalepa.

Defeated

The Regional Chair called the vote on clause 2 as follows:

2. That staff PROVIDE sunset clause policies with reasonable expiration dates.

Carried

The Regional Chair called the vote on clause 3 as follows:

3. That staff formally REVIEW and REPORT to Regional Council prior to October 2024 on the effectiveness, challenges and any recommended changes to the Region's Incentive Programs, after consulting with the local area municipalities.

Recorded Vote:

Yes: (25): Bellows, Butters, Campion, Chiocchio, Darte, Diodati, Disero, Easton, Edgar, Fertich, Foster, Gale, Gibson, Greenwood, Heit, Huson, Nicholson, Redekop, Rigby, Sendzik, Ugulini, Villella, Whalen, Witteveen, Zalepa.

No (2): Bylsma, Insinna.

Carried

The Regional Chair called the vote on clause 4 as follows:

4. That staff *BE DIRECTED* to explore the inclusion of the Niagara Investment in Culture Program as part of the updated policy.

Carried

The Regional Chair called the vote on the motion as amended as follows:

That Report PDS 31-2021, dated August 5, 2021, respecting Niagara Region Incentives Policy, **BE RECEIVED** and the following recommendations **BE APPROVED**:

1. That the Niagara Region Incentives Policy (Appendix 1 of Report PDS 31-2021) **BE APPROVED** with the following additions:

a. That the following existing program continue to be maintained:

i. SNIP – Smarter Niagara Incentive Program

2. That staff **PROVIDE** sunset clause policies with reasonable expiration dates;

3. That staff formally **REVIEW** and **REPORT** to Regional Council prior to October 2024 on the effectiveness, challenges and any recommended changes to the Region's Incentive Programs, after consulting with the local area municipalities;

4. That staff **BE DIRECTED** to explore the inclusion of the Niagara Investment in Culture Program as part of the updated policy; and

5. That Report PDS 31-2021 **BE CIRCULATED** to the Local Area Municipalities.

A request was made to vote on clause 1.a) i. separately.

The Regional Chair called the vote on the balance of the motion.

Recorded Vote:

Yes (20): Bellows, Campion, Chiocchio, Dart, Diodati, Easton, Fertich, Foster, Gale, Greenwood, Heit, Nicholson, Redekop, Rigby, Sendzik, Ugolini, Villella, Whalen, Witteveen, Zalepa.

No (7): Butters, Bylsma, Disero, Edgar, Gibson, Huson, Insinna.

Carried

The Regional Chair called the vote on clause 1. a) i. as follows:

a. That the following existing program continue to be maintained:

i. SNIP – Smarter Niagara Incentive Program

Recorded Vote:

Yes (17): Bellows, Campion, Chiocchio, Dart, Diodati, Easton, Fertich, Gale, Greenwood, Nicholson, Redekop, Rigby, Sendzik, Ugolini, Villella, Whalen.

No (11): Butters, Bylsma, Disero, Edgar, Foster, Gibson, Heit, Huson, Insinna, Witteveen, Zalepa.

Carried

Councillor Information Request(s):

Investigate shoreline and flood mitigation programs. Councillor Sendzik.

Investigate options in consultation with the local area municipalities to rationalize the SNIP programs. Councillor Redekop.

Consider implementing a needs assessment for applicants to determine if the funding is actually required for a project or if the project would be completed regardless. Councillor Butters.

In consideration of the time, the Acting Chief Administrative Officer advised that the remaining agenda items could be brought forward to a future meeting.

Moved by Councillor Campion
Seconded by Councillor Witteveen

That this meeting **BE NOW ADJOURNED.**

Carried

8. NEXT MEETING

The next meeting is scheduled for Thursday, September 9, 2021 at 6:30 p.m.

9. **ADJOURNMENT**

The meeting adjourned at 11:35 p.m.

Jim Bradley
Regional Chair

Ann-Marie Norio
Regional Clerk

From: [PF-Mailbox-01](#)
To: [Norio, Ann-Marie](#); [Trennum, Matthew](#)
Subject: FW: Online Form - Request to Speak at a Standing Committee or Regional Council
Date: Thursday, July 29, 2021 2:51:36 PM

From: Niagara Region Website
Sent: Thursday, 29 July 2021 14:51:33 (UTC-05:00) Eastern Time (US & Canada)
To: Clerks
Subject: Online Form - Request to Speak at a Standing Committee or Regional Council

Request to Speak at a Standing Committee or Regional Council

To reply, copy the email address from below and put into 'To'. (if resident entered their email address)

Name

David Jovanovic

Address

[REDACTED]

City

Niagara Falls

Postal

L2E 2C3

Phone

9054018247

Email

david.jovanovic.llbia@gmail.com

Organization

Lundy's Lane BIA

standing committee

Committee of the Whole

Presentation Topic
Niagara Region Incentive Review

Presentation includes slides
No

Previously presented topic
No

Presentation Details
Reconsideration of elimination of Region's funding of several current CIP & Development Charges incentives. Files will be uploaded by August 3

Video Consent
Yes





August 3, 2021

Chair Jim Bradley & Members of Regional Council
1815 Sir Isaac Brock Way
PO Box 1042, Thorold, ON L2V 4T7
289-687-0799

Re: Niagara Region Incentive Review

Dear Chair Jim Bradley & Members of Regional Council,

It has come to our attention that the Niagara Region has undertaken a review of incentive programs, including various Community Improvement Plan (CIP) programs available to businesses within our Business Improvement Area (BIA).

The Lundy's Lane BIA is comprised of 250+ businesses and oversees the improvement, beautification, maintenance, marketing, promotion, and communication within our BIA boundary. Additionally, by working with local stakeholders, the LLBIA promotes the area as an attractive place for individuals to visit; and entrepreneurs to locate their businesses. Over the past six years, the Lundy's Lane BIA has rolled out several progressive initiatives including a comprehensive Streetscape Master Plan, Urban Design Guidelines, and the Lundy's Lane CIP which included a vital TIFF Incentive to spur new investment on the Lane. The LLBIA is also finalizing our exciting new rebranding campaign that will be rolled out in mid-September this year and will be integrated into the major public realm projects that will be occurring along the Lane in the 1-4 years. These projects will include the design of the much-needed Lundy's Lane OPG History Park at the hydro canal and Lundy's Lane (currently under review at the Region), the refurbishment of the OPG Canal Bridge and new trail heads which is slated for construction in 2022. In 2023 we are slated for the utility and complete road makeover of Lundy's Lane by the Region from Highland Ave to Montrose Rd, with the balance tentatively scheduled for 2024/25. When completed, the public realm on Lundy's Lane will be exciting, first class and this will all be through the joint efforts of the Lundy's Lane BIA, City of Niagara Falls and the Region of Niagara.

It is with great concern however, that we have learned about the potential elimination of the Region's participation in the CIP and DC incentive programs within our BIA. Programs such as the Smarter Niagara Incentive Program (SNIP), including façade and building

improvement and TIG programs; and the Smart Growth Regional DC Program are essential to the creation of a vibrant economic environment within the area. Having programs such as these creates an opportunity to stimulate additional private sector investment and redevelopment, ensuring Lundy's Lane, and Niagara in general, remains an attractive and competitive place to invest.

Council will remember that the Lundy's Lane CIP was brought to the Regional Council for final approval just as a moratorium was placed on regional participation in CIPs, even though the Region jointly financed the LLCIP viability study and supported the direction that our CIPs were going in. Since that time, the LLBIA has been proactive on enhancing our TIFF/TIG incentive package by adding a much-needed residential component to the LLBIA TIG. This amendment was made official by the Council of Niagara Falls on July 19, 2018. The driving force of our TIG program is not only commercial investment, but also to achieve our goal of significant residential intensification along the Lundy's Lane corridor. Much like other progressive communities, our Urban Design Guidelines are designed around adding retail and commercial at grade, to stimulate better pedestrian engagement at street level, with supporting residential development on top, and/or behind the retail component. All of this is designed to create a new sense of neighbourhood for Lundy's Lane. With deep properties, Lundy's Lane is the perfect location to achieve our goals, and the Region's goals, as Lundy's Lane is designated as an intensification corridor by the Province. The Lundy's Lane BIA has checked all the boxes of the Region's planning goals of creation of affordable housing, employment, and an engaging public realm.

The Lundy's Lane BIA strongly encourages the Niagara Region to reconsider the elimination of these vital CIP incentive programs as they are the key driver to stimulate private sector investment that is so vitally needed to make a destination vibrant and successful. Small business is the economic engine of Niagara, and with the hardships that this sector has had to endure during Covid, this is the time that the Region should be increasing CIP participation, not backing out of it.

The Lundy's Lane BIA thanks regional staff and council on all your assistance in supporting Lundy's Lane to become a shining beacon for Niagara, and a great place to live, work and do business. Collectively, we can make this work.

Sincerely,

David Jovanovic, Project Administrator
Lundy's Lane BIA
(905) 401-8247

Tish DiBellonia, Chair
Lundy's Lane BIA
(905)-371-8579



August 3, 2021

Chair Jim Bradley & Members of Regional Council
1815 Sir Isaac Brock Way
PO Box 1042, Thorold, ON L2V 4T7
289-687-0799

Re: Niagara Region Incentive Review

Dear Chair Jim Bradley & Members of Regional Council,

On behalf of the BIAs of the Niagara Region, we would like to commend Regional Staff and Council on your strong leadership during the pandemic. Small Business has been hit very hard and the guidance of Niagara Health, the Region, and our respective municipalities, has been critical in assisting our businesses and residents navigate these troubling and ever-changing times. Small Business is the heart and soul of our communities and is the key economic driver and employer of the Region and must be preserved.

Collectively, the 15+ BIAs of the Niagara Region represent several thousand businesses that oversee the improvement, beautification, maintenance, marketing, promotion, and communication within their respective BIA boundaries. Additionally, by working with local stakeholders, the BIAs promote their area as an attractive place for individuals to visit, live, work; and entrepreneurs to locate their businesses.

It is with great concern that we have learned about the potential elimination of the Region's participation in several of the CIP incentive programs within our respective BIA's. Programs such as the Smarter Niagara Incentive Program (SNIP), including façade and building improvement and TIG programs; and the Smart Growth Regional Development Charges DC) Program are **essential** to the creation of a vibrant economic environment within the area. Having programs such as these creates an opportunity to stimulate additional private sector investment and redevelopment, helping fulfil our mandate as a BIA, and ensure that Niagara remains an attractive and competitive place to invest.

While the BIAs applaud, champion, and fully support the need for new, creative 'Affordable Housing' and 'Public Realm' strategies and incentivization, **we can not lose sight of the fabric of our communities... our downtowns and business districts.**

We strongly encourage the Niagara Region (Council) to reconsider the elimination of our vital CIP and DC incentive programs as they are the key driver to stimulate the private sector investment that is so vitally needed to make a destination vibrant and successful. Small business is the economic engine of Niagara, and with the economic hardships that this sector has had to endure during the pandemic, this is the time that the Region should be increasing CIP participation and programming; not backing out of it. An example of this is the City of Toronto, through TABIA (Toronto Association of BIA's), has secured/pledged an additional \$12-18 million of CIP funding to further assist small businesses to weather the economic challenges of Covid-19 and keep their business districts alive and vibrant.

Upper-level government has a major role to play in sustaining and making small businesses more competitive. The Digital Main Street Initiative, that our BIA's have championed, operated through the Ontario BIA Association, has received a collective \$41 million in funding from the Provincial and Federal governments to assist small businesses to be more competitive in the digital realm of social media, websites, and online marketing. The benefits to small business when all levels of government are on board, with a common goal, is enormous. **Without your support, we will not achieve our potential.**

The BIAs of the Niagara Region look forward to working with Regional Staff and Council to maintain our current CIP's and develop incentivization programs that will promote affordable housing, residential intensification, beautification, and public realm enhancements. **Collectively, we can make Niagara a better place to live, work, do business, and attract new investment.**

Sincerely,

David Jovanovic, Project Administrator
Lundy's Lane BIA
(905) 401-8247

Rachel Braithwaite, Executive Director
Downtown St Catharine's BIA
(905) 685-8424

Stephanie Hicks, Executive Director
Downtown Bench Beamsville BIA
(905) 563-2799

Alexis Higgenbotham, Executive Director
Welland Downtown BIA
(905) 736-2884

Mary Lou Ambrose Little
Downtown Port Colborne & Stevensville BIA's
(905) 735-9245

Amanda Nicol-MacDonald, Executive Director
Downtown Niagara Falls BIA 289-251-9574.
(289) 251-9574

Rick Tisi, Chair
Main & Ferry – Historic Drummondville BIA
(905) 931-7046

Marsh Cappola,
Thorold BIA
(905) 680-7334

City of Niagara Falls		
	Downtown CIP	Downtown BIA
	<ul style="list-style-type: none"> - Residential Loan Program - Commercial Building and Façade Improvement Grant - Revitalization Grant Program (Tax Increment Grant) - Development Charges Exemption Program 	
	Historic Drummondville CIP	Historic Drummondville BIA
	<ul style="list-style-type: none"> - Residential Loan Program - Commercial Building and Façade Improvement Grant - Revitalization Grant Program (Tax Increment Grant) - Development Charges Exemption Program 	
	Lundy's Lane CIP	Lundy's Lane BIA
	<ul style="list-style-type: none"> - Commercial Façade, Landscaping, and Property Improvement Grant - Adaptive Reuse and Motel Revitalization Grant Program - Tax Increment Based Grant 	
City of St. Catharines		
	Community Improvement Plan (CIP2020) <i>Priority Areas Include: Downton, Queenston, Hartzel Road / Merriton, Western Hill, Oakdale-Moffat, Ontario-Carlton; plus additional intensification areas</i>	St. Catharines Downtown Association (priority area)
	<ul style="list-style-type: none"> - Tax Increment Finance Program (TIF) - Brownfield Tax Increment Finance Program (BTIF) - Brownfield Tax Assistance Program (BTA) - Façade Improvement Program (FIP) 	
Town of Fort Erie		
	Southend-Riverwalk CIP	-
	Stevensville CIP	-
	Ridgeway CIP	Ridgeway BIA
	Bridgeburg CIP	Bridgeburg Station BIA
City of Welland		
	Downtown and Health and Wellness Cluster CIP	Welland Downtown BIA
	<ul style="list-style-type: none"> - Urban Design Study Grant Program - Façade Improvement Grant - Building Improvement Grant - Residential Grant - Tax Increment Grant 	
City of Thorold		
	Downtown Thorold CIP	Thorold BIA
City of Port Colborne		
	Downtown Central Business District CIP <ul style="list-style-type: none"> - Urban Design Study Grant Program - Façade Improvement Grant - Residential Grant/Loan Program - Revitalization (Tax Increment) Grant - Planning and Building Fees Grant 	Downtown BIA
	Olde Humberstone CIP	Main Street BIA

Town of Lincoln		
	Beamsville Central Business District and The Ontario Street Commercial Area CIP	Downtown Bench Beamsville BIA
	Vineland Central Business District CIP	-
Town of Pelham		
	Downtown Fenwick CIP Downtown Fonthill CIP <ul style="list-style-type: none"> - Commercial Building Facade Improvement - Residential Intensification Grant - Revitalization Grant - Planning Fees Grant - Public Art Grant - Development Charge Exemption Program 	
Town of Grimsby		
	Downtown Grimsby Façade Improvement Grant	Grimsby Downtown Improvement Area

From: [PF-Mailbox-01](#)
To: [Norio, Ann-Marie](#); [Trennum, Matthew](#)
Subject: FW: Online Form - Request to Speak at a Standing Committee or Regional Council
Date: Tuesday, August 03, 2021 1:06:24 PM

From: Niagara Region Website
Sent: Tuesday, 03 August 2021 13:06:19 (UTC-05:00) Eastern Time (US & Canada)
To: Clerks
Subject: Online Form - Request to Speak at a Standing Committee or Regional Council

Request to Speak at a Standing Committee or Regional Council

To reply, copy the email address from below and put into 'To'. (if resident entered their email address)

Name

Eddy Pybus

Address

4605 Queen Street

City

Niagara Falls

Postal

L2E2L7

Phone

[REDACTED]

Email

vc@downtownniagarafalls.com

Organization

downtown niagara falls

standing committee

Regional Council

Presentation Topic
CIP Funding Recommendation

Presentation includes slides
No

Previously presented topic
No

Presentation Details
I would like to make some statements about the staff recommendation to cancel the Regional CIP funding

Video Consent
Yes



From: [PF-Mailbox-01](#)
To: [Norio, Ann-Marie](#); [Trennum, Matthew](#)
Subject: FW: Online Form - Request to Speak at a Standing Committee or Regional Council
Date: Tuesday, August 03, 2021 3:04:25 PM

From: Niagara Region Website
Sent: Tuesday, 03 August 2021 15:04:16 (UTC-05:00) Eastern Time (US & Canada)
To: Clerks
Subject: Online Form - Request to Speak at a Standing Committee or Regional Council

Request to Speak at a Standing Committee or Regional Council

To reply, copy the email address from below and put into 'To'. (if resident entered their email address)

Name

serge carpino

Address

12 Regent St

City

Thorold

Postal

L2V1T1

Phone

[REDACTED]

Email

serge.carpino@sympatico.ca

Organization

Thorold B.I.A.

standing committee

Regional Council

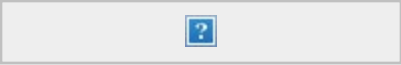
Presentation Topic
Regional Inventive Review

Presentation includes slides
No

Previously presented topic
No

Presentation Details
Supporting the maintaining of All Regional Incentives

Video Consent
Yes



Niagara Region **Incentive Review and Recommendations**

Regional Council Committee of the Whole

August 5, 2021

Incentive Review Catalysts and Goals

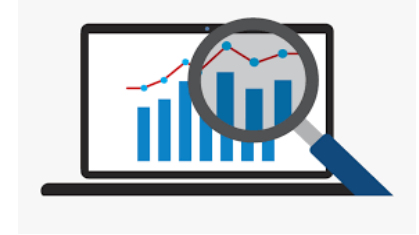
Increased Programs



Increased Cost



New Business Models



Incentive Review Goals

- Align with Regional priorities and responsibilities
- Address current and future needs
- Provide meaningful and measurable results
- Be sustainable, clear and accountable

Regional Incentive Review



Basis of Review and Recommendations

Council Direction

- Council Strategic Priorities
- Council direction on incentive reports

Research and Data

- Audits of Regional incentive programs – process and value-for-money
- Incentive program data and KPIs
- Review of comparator programs and best practices

Engagement

- Information: Meetings, presentations, webinar
- Feedback: Surveys of public, stakeholders, and local municipalities

Council Direction: Four Priority Areas



**Affordable
Housing**



Employment



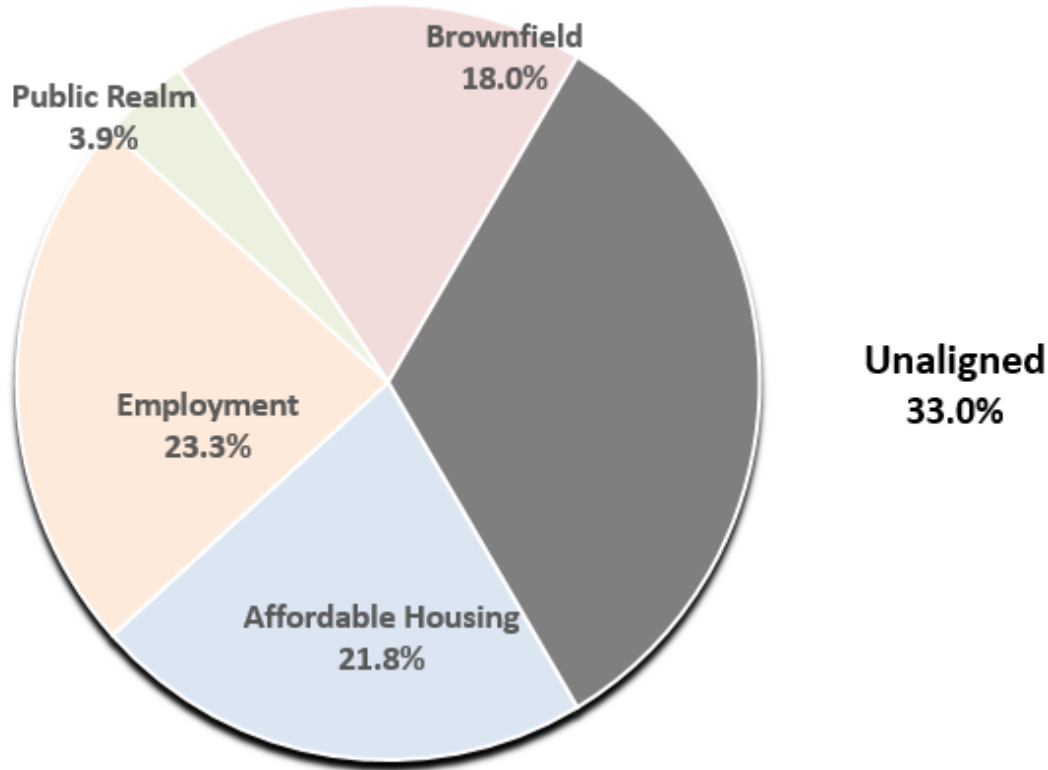
**Brownfield
Remediation**



Public Realm

Current Funding

2021 Incentive Budget (\$14M)



- Funding not fully aligned with Priority Areas or targeted distribution
- Budget pressures from existing programs/transitions and unlimited access to some incentive programs
- Future investment will be guided by:
 - Program performance over time
 - Key variables such as pandemic recovery, housing market, employment patterns
 - Provincial and federal funding

Incentive Funding Options

Repurpose Existing Grant Dollars	Federal/Provincial Governments	Increase Taxes
PROs		
<ul style="list-style-type: none"> no incremental tax impact 	<ul style="list-style-type: none"> minimizes incremental tax impact (often comes with cost sharing) 	<ul style="list-style-type: none"> funding available immediately
<ul style="list-style-type: none"> aligns discretionary budget dollars with Council Strategic Priorities 	<ul style="list-style-type: none"> offsets Provincial costs downloaded to Region (e.g., hospitals) 	<ul style="list-style-type: none"> can retain other program/grant spending
<ul style="list-style-type: none"> aligns our spending more with other municipalities' incentives 		<ul style="list-style-type: none"> can design sustainable programs targeted to priority areas
<ul style="list-style-type: none"> can create partnerships/leverage private sector investment 		<ul style="list-style-type: none"> can create partnerships/leverage private sector investment
CONs		
<ul style="list-style-type: none"> local priorities may continue to be uploaded to Region 	<ul style="list-style-type: none"> reactive, unpredictable, and tight time frames 	<ul style="list-style-type: none"> impact on residents including low income households
<ul style="list-style-type: none"> takes time to realize funding due to commitments and by-laws 	<ul style="list-style-type: none"> agenda may not align with Regional priorities 	<ul style="list-style-type: none"> tax increases further impact housing affordability

Existing Incentives are not **STRATEGIC**

They do not address Regional needs and priorities

- 80% of TIGs are for market residential development – ownership singles, townhouses, condos
- Less than half of 1% of TIG funding has been spent on affordable housing
- Almost half of Niagara renter households spend 30%+ of their income on shelter
- Niagara has a higher than average year-over-year increase in market rents and a lower than average turnover rate

Too many programs in too many areas

- Niagara Region has more incentive programs than others, yet fewer thresholds, caps, requirements
- 60% of residents do not support Regional spending on incentives outside areas of Regional responsibility, though the Region currently funds such programs
- 76% of residents do not want Region to fund enhancements to privately owned buildings

They have outgrown their original intent

- Growth means some incentives are no longer essential to secure development
- Smart Growth criteria are required, not incentivized, by other municipalities

Existing Incentives are not **SUSTAINABLE**

They are expensive and difficult to budget

- Forecast RDCs grants for 2022 is \$17 million, which may result in budget shortfall of \$10 million
- Regional costs of TIG incentives will double that of 2019 for the next 5-7 years
- In 2018 Regional DC grants were \$13 million, representing 27% of DC collections or almost 4% of the levy budget – and nearly 73% was unaligned with the priority areas
- Niagara provides a higher level of TIGs than those offered by most other municipalities

Their return on investment is not effective

- Individual projects resulted in payback periods in excess of 100 years
- Even if the full new construction assessment from 2018-20 was attributed to Regional incentives, the resulting tax revenues appear insufficient to offset their cost
- Regional DC grants are considered above standard based on annual expenditures compared to budget

Regional Incentives can be **SUCCESSFUL**

Niagara Region Incentives Policy will ...

- ✓ Ensure Regional incentives address Regional priorities
- ✓ Align incentive funding to identified needs and priority areas
- ✓ Relate grant amounts to policy and program goals
- ✓ Provide accountable and sustainable resourcing
- ✓ Enable a range of incentive types
- ✓ Create consistent, clear, coordinated policy and programs
- ✓ Measure results, monitor progress, report regularly

Affordable Housing



Over 26,000 households
in core housing need in
Niagara

Housing prices increased
26% in 2020, the largest
increase on record

Over 23,000 renters and
owners spend over 50% of
their income on housing

NRH waitlist for housing
for singles aged 16-54 is
7-18 years in Niagara

- ✓ Increase affordable and attainable rental supply
- ✓ Decrease NRH affordable housing wait times
- ✓ Maintain existing affordable housing stock

Affordable Housing

Affordable Housing is shelter that costs no more than 30% of before-tax household income

Income Level		Max/month
Low Income	LESS THAN \$19,200	\$480
	\$19,201 - \$29,400	\$735
Moderate Income	\$29,401 - \$39,600	\$990
	\$39,601 - \$52,500	\$1,313
Medium Income	\$52,501 - \$68,100	\$1,703
	\$68,101 - \$83,900	\$2,098

It would cost over \$6B to eliminate core housing need affecting 13% of Niagara households

Households in core need are diverse, including young adults, families, seniors -- 98% with one income

Affordable Housing



Encourage affordable and attainable purpose-built rental housing

Program	Regional grant minimums/maximums	Key Parameters
<u>Partnership Housing Program</u> Suite of Incentives (e.g., grants, deferrals)	Determined on a case by case basis depending on funding/contributions available	Scoring criteria weighted to projects increasing purpose-built rental and creating affordable units for waitlist tenants at lower cost than Regional construction
<u>Affordable and Supportive Housing</u> Regional Development Charge Deferral	Up to 100% of Regional DCs deferred for eligible units as long as they remain affordable	Some units which move households off wait list may have DCs granted after specified time period
<u>Intensification Grant</u> Regional Development Charge Grant	100% of Regional DCs granted for eligible projects	Includes interior and exterior secondary suites as defined by provincial DC Act
<u>Residential Rental Grant</u> Regional Project Grant	Maximum \$40k/unit for up to two units Annual budget	Must remain affordable rental units for a minimum of 10 years
<u>Small Building Rental Grant</u> Regional Project Grant	Maximum grant of \$15k/unit for up to five units Annual budget	Must remain affordable rental units for a minimum of 10 years

Key Success Measures: number and type of affordable units created; households removed from waitlist; amount of incentive per unit

Affordable Housing



Encourage affordable new ownership and maintain existing affordable housing stock

Program	Regional grant minimums/maximums	Key Parameters
<u>Non-Profit Grant</u> Regional Development Charge Grant	Up to 100% of Regional DCs Annual budget (current \$150k)	Scoring criteria for projects based on alignment with Regional priorities
<u>NRH Home Ownership Downpayment Assistance</u> Forgivable Loan	Up to 5% of down payment Provincial funding	Must meet age, renter household, income and asset requirements
<u>NRH Niagara Renovates Homeownership</u> Forgivable Loan	Up to \$22k for eligible projects and up to \$5k in accessibility renovations Provincial funding	Must meet certain income and ownership requirements
<u>NRH Niagara Renovates Multi-residential</u> Forgivable Loan	Maximum \$10k/unit, maximum per building of \$25k-\$90k depending on number of units Provincial funding	Must have over two units, units must be at or below average market rent for 15 years
<u>NRH Non-Profit and Co-op Capital Repair Costs</u> Forgivable Loan	Federal/provincial funding Grant maximums dependent on funding	Must have agreements with Housing Services Ranked on criteria including urgency, ability to fund
<u>NRH Housing Provider Capital Loan Program</u> Loan and Grant	Annual program budget Grant maximums dependent on funding	Must have agreements with Housing Services Must be non-profit or co-op Ranked on criteria including urgency, ability to fund

Key Success Measures: number of units purchased or maintained; households removed from waitlist; amount of incentive per unit

Employment



Employment dropped about 15,000 and the labour force dropped by 10,000 in Niagara from 2016-20

Investment in industrial building construction experienced a significant decline of \$42.4 million or 40% from 2017-2020

Jobs in the targeted sectors are among the highest in economic impact in the Region

- ✓ Attract new businesses to Niagara
- ✓ Incentivize an average of 100 new full time jobs in Niagara over the next five years
- ✓ Expand the range of employment incentives while maintaining unique status of Gateway CIP

Employment

Attract jobs and businesses to Niagara



Program	Regional grant minimums/maximums	Key Parameters
<u>Gateway CIP Tax Increment Grant</u> Local and Regional Gateway CIP matching grant	Maximum 100% TIG for 10 years in Strategic Locations for Investment (five years outside SLIs)	With Local Municipalities, align Smart Growth criteria with industrial development Review of Strategic Locations for Investment
<u>Gateway CIP Regional DC Grant</u> Local and Regional Gateway CIP matching grant	Maximum \$1.5M per project	Local DC matching grant required
<u>Niagara Business Attraction Tax Increment Grant</u> Local CIP matching grant	Maximum of 75% of Gateway TIG calculation for five years	Project must be approved by LAM under a CIP
<u>Regional Employment Grant</u> Regional Development Charge Grant	1-10 full time positions created = 50% of RDCs 11-20 full time positions created = 75% of RDCs 21+ full time positions created = 100% of RDCs	Eligible employment sectors are Manufacturing (NAICS 31-33) and Professional, Scientific and Technical Services (NAICS 54, with some exceptions)
<u>50% Industrial Expansion Grant</u> Regional Development Charge Grant	100% of DCs on maximum of 50% of gross floor area prior to first enlargement	See maximum and minimums

Key Success Measures: number of jobs created; amount of grant provided; number of local partners; square feet added

Brownfield Remediation



There are at least five brownfield sites in Niagara estimated to have \$15M or more in remediation costs

The majority of Niagara brownfield sites are in the urban area → remediation supports employment, intensification, housing, reduced GHG emissions

Just five key Niagara brownfield sites represent over 500 acres that could be remediated and redeveloped

- ✓ Generate an average increase of 10 times the original assessment value on brownfield properties
- ✓ Approve two high impact BTIGs in the next five years
- ✓ Provide funding for remediation of at least 200 acres in the next five years



Brownfield

Clean up contaminated sites to prepare for development

Program	Regional grant minimums/maximums	Key Parameters
<u>Brownfield Tax Increment Grant Tier 1:</u> <u>Select Sites</u> (Local CIP)	80% or 100% with affordable housing 10 Years - fixed calculation Annual grant no greater than \$10M Minimum \$5M in remediation costs	For remediation costs only Eligible sites identified in collaboration with local municipalities Project must be approved by LAM under a CIP
<u>Brownfield Tax Increment Grant Tier 2</u> (Local CIP)	60% or 80% with affordable housing 10 Years - Fixed calculation Annual grant no greater than \$1M Minimum \$250k in remediation costs	For remediation costs only Project must be approved by LAM under a CIP
<u>Brownfield RDC Deferral</u> Regional Development Charge Deferral	100% of RDCs may be deferred until occupancy permit issued or five years from signing of agreement, whichever is first	May stack with BTIG

Key Success Measures: number of acres remediated; affordable housing units created; jobs created; assessment increase

Public Realm



Provincial requirements to support walkable communities, active transportation, and promote universal accessibility

Lost opportunity costs without coordination on service delivery for major capital projects

Niagara has an estimated vegetative cover of 27%

- ✓ Improve public realm including road, bike paths, sidewalk, trails and accessibility amenities in an average of six projects annually
- ✓ Plant at least 500 trees through PRIP in the next five years
- ✓ Achieve at least 10 of the following: public plaza enhancements, place-making and public art installations, gateway features

Public Realm



Improve accessibility, sustainability and attractiveness of public spaces on Regional roads in core areas

Program	Regional grant minimums/maximums	Key Parameters
<u>Public Realm Investment Program</u> Regional Matching Grant	\$25,000 minimum to \$150,000 maximum per grant Annual program budget (current \$350K)	Within or directly adjacent to a Regional Road right-of-way and areas of significant Regional investment in urban and core areas

Key Success Measures: Kilometres of roads/trails created or improved; number of trees planted; accessibility components installed; place-making features installed; public art installed

Programs Outside Review Direction

- Niagara Investment in Culture Program
- Waterfront Investment Program
- Heritage Tax Rebate Program
- Smart Growth Regional DC Program
- Brownfield Tax Assistance Program
- Façade and building improvement
- Heritage restoration
- Planning grant

Next Steps



Fall 2021

- Incentive Procedures to CLT for approval
- Stakeholder information sessions
- Consultation, coordination with LAMs on key program components and alignment
- Regional administrative updates
- Incentive funding through 2022 Budget process



2022

- Implementation of Niagara Region Incentives Policy
- Continued work and engagement on Regional DC Bylaw



Niagara Region Incentive Policy:

Strategic Sustainable Successful

Subject: Niagara Region Incentives Policy

Report to: Committee of the Whole

Report date: Thursday, August 5, 2021

Recommendations

1. That the Niagara Region Incentives Policy (Appendix 1 of Report PDS 31-2021) **BE APPROVED**; and
2. That Report PDS 31-2021 **BE CIRCULATED** to the Local Area Municipalities.

Key Facts

- The purpose of this report is to present a Niagara Region Incentives Policy which outlines Regional incentive programs aligned into the four Priority Areas identified by Council.
- In 2018, Regional Council endorsed the review of Regional incentive programs with the goals of having incentives align with Regional priorities and responsibilities, address current and future needs, provide meaningful and measurable results, and be sustainable, clear and accountable.
- In 2019, Council further directed staff to align Regional incentives into four priority areas: Affordable Housing, Employment, Brownfield Remediation, and Public Realm.
- The Regional incentive review has included both process and value-for-money audits of incentive programs; public, stakeholder and local municipal partner engagement; and research into comparator programs and best practices. An interdepartmental team of Regional staff has worked to align Regional incentives into the priority areas and provide recommendations for program and administrative improvements.
- The proposed Niagara Region Incentives Policy (Appendix 1) updates, aligns and consolidates the majority of Regional incentives in a single document, providing greater clarity, consistency and flexibility.

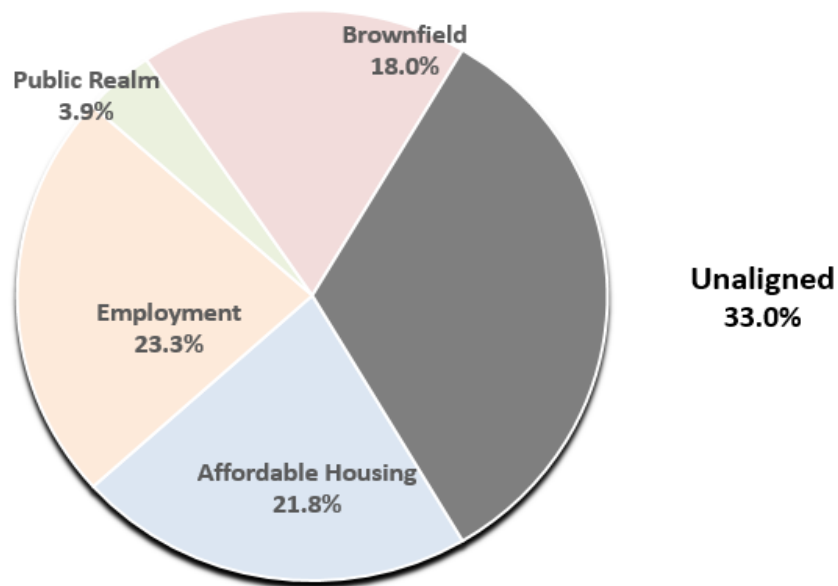
- If approved, it is recommended that the newly aligned incentive programs be implemented January 1, 2022, with the exception of incentive programs existing under the current Regional Development Charges Bylaw (98-2017), which will remain in effect until the expiration of that Bylaw on August 31, 2022.
- Additional improvements to incentive delivery include updating and expanding Regional incentive information online; instituting a one-window approach for applicants; improving collection of data and metrics; coordinating incentive reporting; and providing for regular incentive policy and procedure review.

Financial Considerations

Funding for Regional incentives will be addressed through the 2022 budget process. Though funding may be targeted differently, this review is not resulting in a request for an increase in total incentive funding levels in 2022. The 2022 budget will include a request to fund existing tax increment grant commitments through growth in alignment with the budget planning bylaw, and may require consideration of additional budget to address current Regional Development Charge (RDC) Bylaw grants including grants in 2017 brownfield transition agreements. A full leadership review of the staffing requirements to support grants and incentives is pending council endorsement of this report and a detailed review of individual program administration (occurring fall 2021). It is anticipated program support will be achieved through repurposing of existing roles and funding.

Incentives represent the largest discretionary item in the Niagara Region budget. As the KPMG Service Sustainability Review report notes, the other remaining discretionary programs in the Region's budget relate to community grants such hospital funding and Canada Summer Games, as well as Community Services grants and discretionary spending for social assistance grants and child care services. In 2021, Regional incentive spending was approximately \$14 million. The chart below illustrates Regional incentive spending in the 2021 budget.

Chart 1: Regional Incentive Spending by Priority Area in the 2021 Budget



Approximately 33% of current Regional incentive funding is not aligned in one of the four Priority Areas identified by Council. Furthermore, approximately one-third of the Region's incentive spending currently funds legacy commitments, such as tax increment grants and RDC grants. Spending for legacy commitments under existing programs is slated to increase in the next few years as grants which have Regional funding committed, particularly tax increment grants or grants provided under the RDC Bylaw expiring September 2022, are frequently not paid out until project completion several years after approval. The current suite of incentive programs are forecasted to create financial pressures in the coming years.

- Costs for Regional tax increment grant commitments will double 2019 levels over the next 5-7 years.
- There is an estimated \$17 million shortfall in the 2022 RDC grant budget as a result of legacy commitments through expiring programs and RDC transition agreements under the 2017 RDC by-law (see Appendix 3).

The recommendations of the incentive review would align Regional incentive spending into the four Priority Areas, ensuring investments drive the policy outcomes Council is trying to achieve. No increase in incentive spending is requested as a direct result of incentive program changes recommended in the attached policy; however, ongoing budget pressures relating to the current tax increment grant and RDC Bylaw commitments noted above will be addressed in the 2022 budget. It is important to note that there may be increasing budget pressures in future to sustain funding as some incentive programs have no caps, and fluctuate significantly in uptake year to year. Funding for incentive programs from provincial and federal governments may also vary considerably from year to year, which will continue to effect program budgets. It is requested that budget made available as legacy commitments expire be considered for reinvestment in the Priority Area programs and to support the costs of any program administration enhancements.

Future investment will be guided by program performance over time; key variables such as pandemic recovery, the housing market, and employment patterns; and provincial and federal funding opportunities.

Any additional funding for incentives would come through:

- Repurposing existing grant dollars, which has no incremental tax impact, enables alignment with Regional priorities but takes time to realize;
- Provincial or federal funding, which may minimize tax impact but is often unpredictable, reactive, unaligned with Regional priorities and time sensitive; and/or
- Increasing taxes, which makes funding available immediately and supports sustainable, targeted programs but has an impact on low income households and housing affordability.

Analysis

Catalysts, Goals and Direction of the Incentive Review

Times have changed, and Niagara has changed, significantly since the first Regional incentive programs began in 2002. The economic, social and growth climates are very different now, with the pandemic adding yet another layer of change. Incentive programs during this period have proliferated in number, variety and cost: Niagara Region now partners on over 150 different incentives programs. Regional incentives are the largest discretionary item in the Regional budget, amounting to \$14 million (3.5% of the tax levy) in 2021. Administrative and technological advances also mean

there are new ways to facilitate more efficient service and track program performance to better measure incentives' success.

In 2018 Regional Council endorsed a review of most incentive program delivered by Planning and Development Services, Corporate Services, and Economic Development. The goals of this review were to review current programs, and create Regional incentives that align with Regional priorities and responsibilities, address current and future needs, provide meaningful and measurable results, and ensure incentives are sustainable, clear and accountable. Further direction was provided by Council in 2019 when staff were directed to align Regional incentives into four Priority Areas: Affordable Housing, Employment in Key Sectors, Brownfield Remediation and Public Realm. Following this direction the review was expanded to include Regional incentives for affordable housing and related development charge incentives.

Key Review Components

(1) Audits and Research

In 2018 two audits of Regional incentives were undertaken: a process audit (Phase 1), which considered the efficiency and effectiveness of current incentive procedures, and a value-for-money audit (Phase 2), which evaluated performance, reviewed the working relationships between the Region and Local Municipalities, and benchmarked Regional incentive administration against similar municipalities. These audits produced interesting findings and identified the following opportunities for improvement:

Phase 1

- The Region has not developed an overall master agreement nor operating procedures/policies for the various grant and incentive programs
- Regional interests and priorities have not been sufficiently identified or communicated to support the evaluation and approval processes
- [There is] Inconsistent and insufficient post-award monitoring to validate application accuracy and measure overall program success

Phase 2

- The Region needs to consider program rationalization
- [There is a] Lack of master agreement or standard operating procedures

- [There are] Insufficient performance measures to report on program success and compliance
- The Region can provide greater value-added support to improve administrative efficiency and program success

The research and analysis included in the two audit reports has been supplemented by staff research and data analysis of incentive programs, and studies conducted by KPMG providing information on incentives in other municipalities and the performance and sustainability of Regional incentives. These data, coupled with input obtained through engagement, have shaped recommendations and Regional Incentive Policy.

(2) Engagement

Internal and external engagement has been conducted throughout the incentive review. Internally, Regional staff working with incentive programs were interviewed and program documents, data, processes and procedures were reviewed. There has also been communication and coordination with other Regional initiatives related to the identified Priority Areas, e.g., the Affordable Housing Steering Committee, the Regional Development Charge Task Force. In addition, several reports and presentations on incentives have come before Regional committees and Council since 2018, including most recently a Regional Council Information Session on incentives held July 22, 2021.

External engagement has included outreach to the public and program stakeholders, with a particular focus on Local Municipalities as the Region's largest incentive partners. These engagement milestones include:

2018: Interviews with each local municipality regarding incentive programs for the audits, and a written comment period following the second audit report

2019: Meeting with local municipal staff

2020: Meeting with local municipal staff and survey – programs and priority areas

2021: Public Webinar; Public (453 responses) and Stakeholder (73 responses) surveys; Meeting with local municipal staff; local municipal staff survey – proposed programs

Recommendations

Recommendations proposed through the Regional incentive review meet the goals of the incentive review, address the findings of the audits, and enhance incentive programs by:

- ✓ Communicating Regional priorities and aligning programs and policy with them
- ✓ Consolidating incentives into a single Niagara Region Incentives Policy to provide greater clarity around programs; flexibility to update policy and programs; consistency with other Regional policies and procedures; continuous improvement by ensuring regular program and policy review;
- ✓ Updating performance measures and maintaining databases and Council reporting tools to better measure and report program success;
- ✓ Improving customer service by instituting a one-window delivery system; and,
- ✓ Modernizing program information and processes by moving more incentive information and interaction online.

Information on the specific incentive programs recommended for each Priority Area is included in Appendix 2. Recommended programs meet Council's direction through:

- (1) Improving existing programs in the Priority Areas, e.g. the Affordable and Supportive Housing RDC Deferral (Affordable Housing), the Gateway Economic Zone and Centre Community Improvement Plan incentives (Employment), the Brownfield Tax Increment Grant program (Brownfield Remediation), and the Public Realm Improvement Program (Public Realm);
- (2) Targeting or repurposing existing programs to align with Council Priority Areas, e.g., the Non-profit RDC Grant, Residential Rental Grant and Small Building Rental Grant;
- (3) Updating programs to ensure their sustainability, e.g., the Employment RDC Grant and the Brownfield RDC Deferral; and,
- (4) Creating a program to ensure access by all Local Municipalities to Priority Area incentives, i.e. the Niagara Business Attraction Tax Increment Grant.

Implementation

If the Niagara Region Incentive Policy is approved, work will begin to implement aligned programs as of January 1, 2022. Exceptions to this implementation date are any RDC incentive programs currently included in the Regional Development Charge Bylaw (Bylaw 2017-98), which will expire on August 31, 2022. From January 1 – August 31,

2022, applicants will be able to apply under either the new Niagara Region Incentive Policy program or the existing RDC Bylaw program incentive program.

To support incentive partners and stakeholders, Regional staff will hold information sessions on the newly aligned Regional incentives (e.g., how they may coordinate with local programs, new processes and procedures) and consult with local municipalities on key program components to be updated for some incentive programs (e.g., employment incentives). Engagement for other initiatives such as the Regional Development Charge Bylaw will also continue in 2021-22 through the RDC Task Force.

Alternatives Reviewed

As this report provides recommendations requested by Council through the Regional incentive review no alternatives have been provided.

Relationship to Council Strategic Priorities

The recommendations in this report support the following 10 objectives in all four Council strategic priorities:

Priority 1: Supporting Businesses and Economic Growth

- Objective 1.1: Economic Growth and Development
- Objective 1.2: Support retention and development of skilled labour force
- Objective 1.3: Collaborative Approach to Business Growth and Retention
- Objective 1.4: Strategically Target Industry Sectors

Priority 2: Healthy and Vibrant Community

- Objective 2.1: Enhance Community Wellbeing
- Objective 2.3: Addressing Affordable Housing Needs

Priority 3: Responsible Growth and Infrastructure Planning

- Objective 3.2: Environmental sustainability and stewardship (14)

Priority 4: Sustainable and Engaging Government

- Objective 4.1: High quality, efficient and coordinated core services
- Objective 4.2: Enhanced Communication
- Objective 4.3: Fiscally Sustainable

Other Pertinent Reports

- PDS 42-2017 Overview of 2018 Incentive Review
- PDS-C 19-2018 ICOP Phase 1 Audit Report on Regional Incentive Review
- PDS-C 31-2018 ICOP Phase 2 Audit Report on Regional Incentive Review
- PDS-C 38-2018 Local Municipal Responses to Incentive Review Audit Report
- PDS 22-2019 Regional Incentives Financial Information
- PDS 34-2019 Grants and Incentives Review
- CSD 55-2020 Sustainability Review Final Report

Prepared by:

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Program Manager, Grants and
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Planning and Development Services

Recommended by:

Michelle Sergi, MCIP, RPP
Commissioner
Planning and Development Services

Submitted by:

Ron Tripp, P.Eng.

Acting Chief Administrative Officer

This report was prepared in consultation with the Regional Incentive Review team (Community Services: Donna Woiceshyn, Director, Niagara Housing Services, CEO of Niagara Regional Housing; Corporate Services: Todd Harrison, CPA, CMA, Commissioner of Corporate Services,/Treasurer; Helen Chamberlain, CPA, CA, Director, Financial Management and Planning/Deputy Treasurer; Robert Fleming, Senior Tax and Revenue Analyst; Lyndsey Ferrell, Program Financial Specialist; Economic Development: Valerie Kuhns, Associate Director; Ken Scholtens, Manager, Business Development and Expedited Services; Planning and Development Services: Doug Giles, BUS, MEP, Director, Community and Long-Term Planning; Marian Bannerman, Program Manager, Grants and Incentives), with input from Economic Development: George Spezza, Director; Planning and Development Services: Khaldoon Ahmad, Manager, Urban Design; Pat Busnello, Manager, Development Planning; Alex Tikky, Senior Planner.

Appendices

Appendix 1	Niagara Region Incentives Policy
Appendix 2	Realigned Niagara Region Incentive Programs
Appendix 3	RDCPT-C 7-2021 Development Charges Grant Expenditures under 2017 Regional Development Charges By-law

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Administrative	Niagara Region Incentives Policy

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Policy Owner	Planning and Development Services, Community and Long Range Planning, Director of Community and Long Range Planning
Approval Body	Regional Council
Approval Date	August 26, 2021
Effective Date	January 1, 2022
Review by Date	Within five years of effective date

1. Policy

This policy identifies Regional incentive programs aligning per Council direction with the Council Priority Areas of Affordable Housing, Employment, Brownfield Remediation and Public Realm, and outlines general objectives and parameters for these programs.

1.1. This policy pertains to the programs listed in [Appendix A: Regional Incentive Programs](#).

1.2. Incentives are provided in these priority areas with the following goals:

1.2.1. To increase the amount of affordable housing in Niagara, particularly the supply of purpose-built rental housing, and to maintain existing affordable rental housing stock;

1.2.2. To attract and retain new businesses and full-time jobs to Niagara;

1.2.3. To encourage the remediation of contaminated sites for better environmental, economic, health and safety and urban planning outcomes; and

1.2.4. To improve the accessibility, sustainability and attractiveness of public spaces on Regional roads in core areas, and coordinate investment and workplans for major capital projects in the public realm.

1.3. Eligibility, application, approval, documentation, reporting, tracking, monitoring and payment requirements and practices for these Regional incentive programs will be outlined in the Procedures related to this policy.

1.4. Incentives will be provided subject to budgetary availability.

1.5. For Regional incentive programs requiring applications, only complete, correct and conforming applications will be considered.

1.6. Payment of grant incentives is contingent on compliance with all program requirements.

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1.7. Key incentive program data and performance indicators will be collected, reviewed and reported on to demonstrate program effectiveness and accountability.

1.8. Clear, consistent information on Regional incentive programs will be provided to program partners and stakeholders.

2. Purpose

The purpose of this policy is to align Regional incentive programs with the four priority areas of Affordable Housing, Employment, Brownfield Remediation, and Public Realm identified by Regional Council, and to consolidate them under one policy.

3. Scope

Where incentives in this policy relate to mandatory Development Charge incentives, the incentives will continue until changed in the Development Charge Act. Where incentives in this policy relate to discretionary Regional Development Charge incentives, the incentives of Development Charge Bylaw 2017-98 will continue until the expiry of the bylaw on August 31, 2022.

No duplication of the following incentives is permitted:

- Affordable and Supportive Housing Regional Development Charge Deferral in this policy and the discretionary Affordable Housing Regional Development Charge Deferral, Section 11(f) of Bylaw 2017-98
- Employment Regional Development Charge Grant in this policy and the discretionary Industrial Regional Development Charge Grant, Section 17(c) of Bylaw 2017-98
- Brownfield Regional Development Charge Deferral in this policy and the discretionary Brownfield Regional Development Charge Grant, Section 14 of Bylaw 2017-98
- Intensification Regional Development Charge Grant in this policy and Intensification Regional Development Charge Grant, Section 16 of Bylaw 2017-98
- 50% Industrial Expansion Regional Development Charge Grant in this policy and 50% Industrial Expansion Regional Development Charge Grant, Section 17 (a) and (b) of Bylaw 2017-98

3.1. Roles and Responsibilities

3.1.1 Regional Council

Approves, by resolution, the Regional Incentives Policy and any updates as necessary every five years.

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Approves budget allocation to fund Regional incentive programs.

Approves in-year and year-end funding requirements of budget variances related to Regional incentive programs.

3.1.2 Corporate Leadership Team

Approves the Procedures related to this policy and any updates as necessary.

Provides budget recommendations to Council with respect to funding Regional incentive programs.

3.1.3 Commissioner, Planning and Development Services or Designate

Reviews and updates the Regional Incentives Policy as necessary every five years and submits any necessary changes for Council approval.

Creates necessary guiding strategies, supporting frameworks and procedures as required to administer this policy which may be amended from time to time.

Monitors compliance and adherence to this policy.

Develops and maintains appropriate tracking of Regional incentive programs covered under this policy and in related policies, programs or legislation, and reports on them annually to Regional Council.

Carries out the above tasks in coordination with Regional Commissioners, Directors, other Regional staff involved in administering these Regional incentive programs.

Provides recommendations to the Corporate Leadership Team with respect to incentive program funding.

3.1.4 Commissioner, Corporate Services or Designate

Coordinates with Commissioner of Planning and Development Services or designate in administration, tracking and reporting of incentive policies and programs outlined in this policy and in related policies, programs or legislation.

Oversees Regional Development Charge Bylaw updates and recommends revisions as required to Regional Incentives Policy and relevant programs should the Development Charges Act be revised.

Provides recommendations to the Corporate Leadership Team with respect to incentive program funding.

3.1.5 Director, Economic Development or Designate

Coordinates with Commissioner of Planning and Development Services or designate in administration, tracking and reporting of incentive policies and programs outlined in this policy and in related policies, programs or legislation.

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Provides recommendations to the Corporate Leadership Team with respect to incentive program funding.

3.1.6 Commissioner, Community Services or Designate

Coordinates with Commissioner of Planning and Development Services or designate in administration, tracking and reporting of incentive policies and programs outlined in this policy and in related policies, programs or legislation.

Provides recommendations to the Corporate Leadership Team with respect to incentive program funding.

3.1.7 Director, Housing Services/CEO, Niagara Regional Housing or Designate

Coordinates with Commissioner of Planning and Development Services or designate in administration, tracking and reporting of incentive policies and programs outlined in this policy and in related policies, programs or legislation.

Provides recommendations to the Corporate Leadership Team with respect to incentive program funding.

3.1.8 Director, Legal and Court Services or Designate

Ensures that all Regional incentive program agreements satisfy all legal requirements as outlined in appropriate legislation and appropriately mitigate legal exposure for Niagara Region.

4. References and Related Documents.

4.1. Legislation, By-Laws and/or Directives

- Planning Act, R.S.O. 1990, c. P.13
- Municipal Act, 2001, S.O. 2001, c. 25
- Development Charges Act, 1997, S.O. 1997
- Canada-Ontario Community Housing Initiative
- Ontario Priorities Housing Initiative
- ICP 97-2011
- ICP 33-2013
- ICP 118-2013
- PDS-C 3-2017
- By-law 2017-89
- By-law 2017-98
- CSD 34-2019
- COM-C 32-2020

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4.2. Procedures

Procedures for programs outlined in this policy organized by each of the four Priority Areas will be forthcoming.

5. Related Policies

- Regional Development Charges Deferral Payment Policy

6. Appendices

- [Appendix A: Regional Incentive Programs](#)

7. Document Control

The electronic version of this document is recognized as the only valid version.

Approval History

Approver(s)	Approved Date	Effective Date
Council		

Revision History

Revision No.	Date	Summary of Change(s)	Changed by

<i>Policy Category</i>	<i>Name of Policy</i>
<i>Administrative</i>	<i>Niagara Region Incentives Policy</i>

Appendix A: Regional Incentive Programs

Program	Program Description	Grant Type
AFFORDABLE HOUSING		
Partnership Housing Program	Partnerships with for- and non-profits to generate more purpose-built rental and move clients off the housing waitlist by using a suite of Regional incentives customized by project	Suite of Incentives (e.g., TIGs, DC grants and deferrals) for Affordable Housing Capital Development
Affordable and Supportive Housing RDC Deferral	A deferral of Regional DCs for affordable or supportive housing units in projects having an agreement with a Regional department or agency for as long as the units remain affordable	Regional Development Charge Deferral
Non-Profit RDC-based Grant	A grant for up to 100% of DCs payable for eligible non-profit developments	Regional Development Charge Grant
Intensification RDC Grant	A grant providing DC relief to secondary suites created within or on the property of residential dwellings as required in the DC Act and until no longer mandatory in the Act.	Regional Development Charge Grant
Residential Rental Grant	A grant for the creation of secondary suites within or on the property of a residence which remain at affordable rental levels for at least 10 years	Regional Project Grant
Small Building Rental Grant	A grant for the construction of up to five units, up to \$15k/unit, provided units remain at affordable rental levels for at least 10 years	Regional Project Grant

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NRH Welcome Home Niagara Home Ownership Program	A forgivable loan for downpayment assistance of 5% to a maximum of \$20,296 (purchase price not to exceed \$405,930), as amended from time to time, for renters at specific income levels purchasing a home	Forgivable Loan
NRH Niagara Renovates Homeownership	Forgivable loan over 10 years for repairs and accessibility modifications for low and moderate income households	Forgivable Loan
NRH Niagara Renovates Multi-residential	Forgivable loan over 15 years to fund repairs or provide accessibility for affordable units in multi-unit buildings	Forgivable Loan
NRH Non-Profit and Co-op Capital Repair Costs	Funding for capital repairs to non-profit and co-op housing providers having agreements with NRH	Forgivable Loan
NRH Housing Provider Capital Loan Program	Emergency loan program, with 25% forgivable over time, to support repairs to non-profit and co-op affordable housing providers having agreements with NRH	Loan and Grant
EMPLOYMENT		
Gateway CIP Tax Increment Grant	A matching tax increment grant for projects in the Gateway CIP area with eligible scores on economic and environmental criteria which result in increased assessment value	Tax Increment Grant (Local and Regional Gateway CIP)
Gateway CIP Regional DC Grant	A matching grant of Regional DCs payable for projects with exceptional scores (14+) on Gateway CIP criteria	Regional DC Grant (Local and Regional Gateway CIP)

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Niagara Employment Partnership TIG	A matching tax increment grant for projects approved under local CIPs with eligible scores on economic and environmental criteria resulting in increased assessment value	Tax Increment Grant (Local CIP)
Employment Regional DC-based Grant	A grant equal to a percentage of Regional DCs payable based on creation of full time jobs in manufacturing and professional, scientific and technical services sectors	Regional Development Charge Grant
50% Industrial Expansion RDC Grant	A grant equal to Regional DCs for enlargements to existing industrial buildings for up to 50% of original gross floor area as required in the DC Act and until no longer mandatory in the Act.	Regional Development Charge Grant
BROWNFIELD REMEDIATION		
Brownfield TIG Tier 1: Select Sites	A matching tax increment grant for remediation costs on major brownfield sites whose remediation will result in significant economic, environmental, social, and health benefits; increased benefit for projects with affordable housing	Tax Increment Grant (Local CIP)
Brownfield TIG Tier 2	A matching tax increment grant (for remediation costs of brownfield sites eligible through local CIPs; increased benefit for projects with affordable housing	Tax Increment Grant (Local CIP)
Brownfield Regional DC Deferral	A deferral of Regional DCs for eligible brownfield sites until an occupancy permit is issued or up to five years from signing of agreement	Regional Development Charge Deferral

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PUBLIC REALM		
Public Realm Investment Program	Matching grant for capital projects that provide public realm enhancements on Regional roads in core areas	Regional Matching Grant to Local Area Municipality

Appendix 2: Aligned Regional Incentive Programs

Program	Regional Program minimums/maximums	Key Parameters	Key Performance Indicators
AFFORDABLE HOUSING			
<u>Partnership Housing Program</u> Suite of Incentives (e.g., grants, deferrals)	Determined on a case by case basis depending on funding/contributions available	Scoring criteria weighted to projects increasing purpose-built rental and creating affordable units for waitlist tenants at lower cost than Regional construction	Number of affordable units created Number of households removed from NRH waitlist Amount of incentive per unit
<u>Affordable and Supportive Housing</u> Regional Development Charge Deferral	Up to 100% of Regional DCs deferred for eligible units as long as they remain affordable	Some units which move households off wait list may have DCs granted after specified time period	Number of affordable units created Number of households removed from NRH waitlist Amount of incentive per unit
<u>Non-Profit Grant</u> Regional Development Charge Grant	Up to 100% of Regional DCs Annual budget (current \$150k)	Scoring criteria for projects based on alignment with Regional priorities	Number of affordable units created Number of households removed from NRH waitlist Amount of incentive per unit
<u>Intensification Grant</u> Regional Development Charge Grant	100% of Regional DCs granted for eligible projects	Includes interior and exterior secondary suites as defined by provincial DC Act	Number and type of units rental created (affordable, attainable)
<u>Residential Rental Grant</u> Regional Project Grant	Maximum \$40k/unit for up to two units Annual budget	Must remain affordable rental units for a minimum of 10 years	Number and type of units rental created (affordable, attainable)
<u>Small Building Rental Grant</u> Regional Project Grant	Maximum grant of \$15k/unit for up to five units Annual budget	Must remain affordable rental units for a minimum of 10 years	Number and type of units rental created (affordable, attainable)
<u>NRH Home Ownership Downpayment Assistance</u> Forgivable Loan	Up to 5% of down payment Provincial funding	Must meet age, renter household, income and asset requirements	Number of affordable units purchased Number of households removed from NRH waitlist Amount of incentive per unit

<u>NRH Niagara Renovates Homeownership</u> Forgivable Loan	Up to \$22k for eligible projects and up to \$5k in accessibility renovations Provincial funding	Must meet certain income and ownership requirements	Number of affordable units maintained through repair, accessible accommodation Amount of incentive per unit
<u>NRH Niagara Renovates Multi-residential</u> Forgivable Loan	Maximum \$10k/unit, maximum per building of \$25k-\$90k depending on number of units Provincial funding	Must have over two units, units must be at or below average market rent for 15 years	Number of affordable units maintained through repair, accessible accommodation Amount of incentive per unit
<u>NRH Non-Profit and Co-op Capital Repair Costs</u> Forgivable Loan	Federal/provincial funding Grant maximums dependent on funding	Must have agreements with Housing Services Ranked on criteria including urgency, ability to fund	Number of affordable units maintained Amount of incentive per unit
<u>NRH Housing Provider Capital Loan Program</u> Loan and Grant	Annual program budget Grant maximums dependent on funding	Must have agreements with Housing Services Must be non-profit or co-op Ranked on criteria including urgency, ability to fund	Number of affordable units maintained Amount of incentive per unit
EMPLOYMENT			
<u>Gateway CIP Tax Increment Grant</u> Local and Regional Gateway CIP matching grant	Maximum 100% TIG for 10 years in Strategic Locations for Investment (five years outside SLIs)	With Local Municipalities, align Smart Growth criteria with industrial development Review of Strategic Locations for Investment	Number of jobs created Amount of grant provided
<u>Gateway CIP Regional DC Grant</u> Local and Regional Gateway CIP matching grant	Maximum \$1.5M per project	Local DC matching grant required	Number of jobs created Amount of grant provided

<u>Niagara Business Attraction Tax Increment Grant</u> Local CIP matching grant	Maximum of 75% of Gateway TIG calculation for five years	Project must be approved by LAM under a CIP	Number of jobs created Number of Local Municipal matching programs
<u>Regional Employment Grant</u> Regional Development Charge Grant	1-10 full time positions created = 50% of RDCs 11-20 full time positions created = 75% of RDCs 21+ full time positions created = 100% of RDCs	Eligible employment sectors are Manufacturing (NAICS 31-33) and Professional, Scientific and Technical Services (NAICS 54, with some exceptions)	Number of jobs created Employment sectors of new jobs
<u>50% Industrial Expansion Grant</u> Regional Development Charge Grant	100% of DCs on maximum of 50% of gross floor area prior to first enlargement	See maximum and minimums	Number of jobs created Square feet added
BROWNFIELD			
<u>Brownfield Tax Increment Grant Tier 1: Select Sites</u> (Local CIP)	80% or 100% with affordable housing 10 Years - fixed calculation Annual grant no greater than \$10M Minimum \$5M in remediation costs	For remediation costs only Eligible sites identified in collaboration with local municipalities Project must be approved by LAM under a CIP	Acres remediated in urban area Affordable housing units created Number of jobs created Increase in assessment value
<u>Brownfield Tax Increment Grant Tier 2</u> (Local CIP)	60% or 80% with affordable housing 10 Years - Fixed calculation Annual grant no greater than \$1M Minimum \$250k in remediation costs	For remediation costs only Project must be approved by LAM under a CIP	Acres remediated in urban area Affordable housing units created Number of jobs created Increase in assessment value
<u>Brownfield RDC Deferral</u> Regional Development Charge Deferral	100% of RDCs may be deferred until occupancy permit issued or five years from signing of agreement, whichever is first	May stack with BTIG	Acres remediated in urban area Affordable housing units created Number of jobs created Increase in assessment value

PUBLIC REALM			
<u>Public Realm Investment Program</u> Regional Matching Grant	\$25,000 minimum to \$150,000 maximum per grant Annual program budget (current \$350K)	Within or directly adjacent to a Regional Road right-of-way and areas of significant Regional investment in urban and core areas	Kms of roads/trails created or improved Number of trees planted Accessibility components installed Amount of place-making features and public art installed

MEMORANDUM

RDCPTF-C 7-2021

Subject: Development Charges Grant Expenditures under 2017 Regional Development Charges By-law

Date: July 29, 2021

To: Regional Development Charge Policy Task Force

From: Rob Fleming, Senior Tax & Revenue Analyst

The intent of this memo is to provide the task force with context regarding Regional development charge (DC) grants that are currently contained within the 2017 DC By-law. Included as Appendix 1 to this memo is a summary of DC grants provided each full year since the By-law's inception in 2017 forecasted out to year-end 2021. The 2018 to 2020 values represent actuals for that year while 2021 represents a forecast to year-end based on current trends.

As can be noted in the Appendix, DC grants represents a significant component of the annual DC collections and the Region's annual general tax levy. The DC Act specifies that DC collection deficits as a result of DC grants cannot be made up from future DC collections therefore the Region funds the DC grants from the annual tax levy in order to keep the DC reserves whole. As such, a percentage calculation has also been provided in the Appendix which compares the annual grants for the year to that year's annual general tax levy amount. Year 2018 represents the most significant grant year for the Region which resulted in \$13M in DC grant awards based on the provisions of the 2017 DC By-law. This \$13M represented nearly 30% of total DC collections and nearly 4% of the Region's general tax levy for the year.

On July 22, 2021, Region staff held a workshop with Regional Council to provide an overview of the Regional Incentive Review Team's recommendations on future incentive programs which included programs related to DCs. The Team's recommendations were based on the Council approved Incentive Pillars of: brownfield redevelopment, employment in key sectors, affordable housing and public realm. As can be noted in the Appendix, many of the Region current discretionary DC grant programs are not directly tied to the Council approved Incentive Pillars which is the primary reason for Incentive Review recommending that many of the current

discretionary grants not continue beyond the current DC By-law. In 2018, for example, 73% of the \$13M in awarded grants did not relate to an approved incentive pillar. The focus will be to create discretionary DC grant programs which are aligned with the previously established incentive pillars and that are outside of a DC By-law in separate policies in order to ensure that these future programs can be adaptable, flexible and more successful in advancing Council objectives.

Respectfully submitted and signed by

Rob Fleming, MBA
Senior Tax & Revenue Analyst

Appendix 1 - Regional Development Charge Grant Awarded under 2017 RDC By-law

Appendix 1 – Regional Development Charge Grant Awarded under 2017 RDC By-law (\$000)

Grant Program*	2018	2019	2020	2021 Forecast**
Phase-In Grant (D)	3,704	2,672	0	0
Brownfield (D)	324	1,766	0	63
Smart Growth (D)	366	23	174	137
Long-Term Care (D)	0	410	0	0
Affordable Housing (D)	1,142	0	706	0
Parking Garage (D)	0	0	188	0
Agricultural (D)	5,381	179	0	0
Place of Worship (D)	0	384	0	0
Non-Profit (D)	144	150	150	150
Industrial & Gateway (D)	1,054	782	317	1.163
Hotels/Motels (D)	275	1,582	7	3
Other (D)	42	169	102	0
50% Industrial Expansion (M)	486	218	279	0
Residential Intensification (M)	93	39	0	0
Board of Education	36	0	0	0
Forecast to Year-End				4,448
Total DC Grants	13,047	8,372	1,925	5,964
Annual Budget	4,238	5,289	6,868	7,868
Annual Variance	(8,809)	(3,083)	4,943	1,904
Total DC Grants as % of DC Collections	27%	18%	5%	15%
Total DC Grants as % of Tax Levy	3.8%	2.3%	0.5%	1.5%
% Unaligned with Council Grant Pillars	73%	41%	24%	

* RDC grants and collections based on actual results for 2018 to 2020. Data is not included for 2017 as the RDC By-law was only in effect from September 1 to December 31, 2017.

** Actual grants and collections to June 30, 2021 with forecast to December 31, 2021.

(D) – Discretionary DC Grants; (M) – Mandatory DC Grants

Minute Item No. 5.1

PW 37-2021

Expansion of the Walker Environmental Group Composting Facility

That Report PW 37-2021, dated August 10, 2021, respecting Expansion of the Walker Environmental Group Composting Facility, **BE RECEIVED** and the following recommendations **BE APPROVED**:

1. That Regional Council **APPROVE** a seven (7) year extension of the term of the existing agreement, dated April 30, 2008, with Integrated Municipal Services Inc. (since renamed Walker Environmental Group Inc.) at a processing rate of \$107.98 per tonne beginning in 2029, together with such other amendments to the existing agreement as may be required in order to provide for an expansion of the Source Separated Organic (SSO) Material processing facility at the Walker Organics Recovery Thorold site as described in Report PW 37-2021;
2. That Regional Council **APPROVE** entering into a contract with Miller Waste Systems to redirect, from time to time, up to approximately 2,500 tonnes of Source Separated Organics material from the west end municipalities during the months of December to March to the Miller Systems Digester facility in Grimsby at a rate of \$100 per tonne; and
3. That, following the successful negotiations of the final agreement terms and conditions, the Regional Chair and Regional Clerk **BE AUTHORIZED** to execute: (i) an amending agreement with Walker Environmental Group Inc. consistent with Recommendation 1; and, (ii) a new contract with Miller Waste Systems consistent with Recommendation 2; along with any other required documents, all in a form satisfactory to the Director of Legal and Court Services.

Minute Item No. 5.2

PW 43-2021

Approval of Public Works Single Source Purchase Order Requests and Purchase Change Order Requests Exceeding \$100,000

That Report PW 43-2021, dated August 10, 2021, respecting Approval of Public Works Single Source Purchase Order Requests and Purchase Change Order Requests Exceeding \$100,000, **BE RECEIVED** and the following recommendation **BE APPROVED**:

1. That the Single Source Purchase Order Requests identified in Appendix 1 of Report PW 43-2021 **BE APPROVED**.

Minute Item No. 5.3
PW 47-2021

Special Procurement Rules for Public Works Single Source Exceeding \$100,000

That Report PW 47-2021, dated August 10, 2021, respecting Special Procurement Rules for Public Works Single Source Exceeding \$100,000, **BE RECEIVED** and the following recommendations **BE APPROVED**:

1. That staff **BE DIRECTED** to discontinue the interim procurement approval procedures for Public Works Single Source purchases exceeding \$100,000 introduced July 30, 2020; and, to return to consistently applying the provisions of Niagara Region's Procurement By-law 02-2016 as amended February 28, 2019; and
2. That staff **BE DIRECTED** to provide information reports to the Corporate Services Committee each quarter identifying all corporate non-competitive procurement activities that exceeded \$100,000 in the intervening period.

Minute Item No. 5.4
PW 38-2021

Niagara Regional Transit (NRT) OnDemand - Port Colborne Inclusion

That Report PW 38-2021, dated July 13, 2021, respecting Niagara Regional Transit (NRT) OnDemand – Port Colborne Inclusion, **BE RECEIVED** and the following recommendations **BE APPROVED**:

1. That the report from the City of Port Colborne titled, "Transit Enhancement Opportunity" (Appendix 1 to Report PW 38-2021) **BE RECEIVED** for information;
2. That the Chief Administrative Officer **BE AUTHORIZED** to execute any amendments to the Agreement and/or Service Order between the Regional Municipality of Niagara and River North Transit, LLC (a.k.a. Via Mobility, LLC) in the amount of \$898,840 (excluding HST) to enable the inclusion of a turnkey, on-demand transit service pilot in Port Colborne to be branded and administered as part of the Niagara Regional Transit (NRT) OnDemand pilot;
3. That the Chief Administrative Officer **BE AUTHORIZED** to execute a Memorandum of Understanding (MOU) between Niagara Region and the City of Port Colborne to allow for Niagara Region to facilitate and administer the deployment of on-demand transit services within the City of Port Colborne as approved in the terms and value outlined in City of Port Colborne report 2021-15; and
4. That the Chief Administrative Officer **BE AUTHORIZED** to execute amendments and/or extensions to both the MOU and the Agreement/Service Order such that it facilitates the continuity of services as a result of the Niagara Transit Governance Study.

**THE REGIONAL MUNICIPALITY OF NIAGARA
PUBLIC WORKS COMMITTEE
MINUTES**

**PWC 8-2021
Tuesday, August 10, 2021
Council Chamber/Video Conference
Niagara Region Headquarters, Campbell West
1815 Sir Isaac Brock Way, Thorold, ON**

Committee Members Present in the Council Chamber: Fertich (Committee Vice Chair), Rigby (Committee Chair)

Committee Members Present via Video Conference: Bradley (Regional Chair), Diodati, Disero, Edgar, Foster, Gale, Heit, Insinna, Junkin, Nicholson, Steele, Ugulini, Witteveen

Absent/Regrets: Chiocchio, Sendzik, Zalepa

Staff Present in the Council Chamber: S. Fraser, Transportation Lead, GO Implementation Office, M. Lewis, Client & Support Advisor, A.-M. Norio, Regional Clerk, M. Robinson, Director, GO Implementation Office, H. Talbot, Financial & Special Projects Consultant, M. Trennum, Deputy Regional Clerk, C. Ventura, Legislative Coordinator, B. Zvaniga, Interim Commissioner, Public Works

Staff Present via Video Conference: D. Gibbs, Director, Legal & Court Services, C. Habermebl, Director, Waste Management Services, T. Harrison, Commissioner/Treasurer, Corporate Services, B. Menage, Director, Procurement & Strategic Acquisitions, E. Prpic, Associate Director, Waste Disposal Operations & Engineering, C. Ryall, Director, Transportation Services, M. Sergi, Commissioner, Planning & Development Services, J. Tonellato, Director, Water & Wastewater Services, S. Wood, Legal Counsel

1. CALL TO ORDER

Committee Chair Rigby called the meeting to order at 9:32 a.m.

2. DISCLOSURES OF PECUNIARY INTEREST

There were no disclosures of pecuniary interest.

3. **PRESENTATIONS**

3.1 **Niagara Transit Governance: Revised Strategies Reflecting Phase 1 Feedback**

Scott Fraser, Transportation Lead, GO Implementation Office, provided information respecting Niagara Transit Governance - Revised Strategies Reflecting Phase 1 Feedback. Topics of the presentation included:

- Overview
 - The Focus is on Effective Consultation
 - Working Timeline
- What We Heard
 - Phase 1 Themes/Focus Areas
- Revised Strategies
 - Theme 1: Financial Strategy
 - Theme 2: Board Composition
 - Theme 3: Service Standards Strategy
- Next Steps
 - Phase 2 Consultation and Triple-Majority

4. **DELEGATIONS**

There were no delegations.

5. **ITEMS FOR CONSIDERATION**

5.1 **PW 37-2021**

Expansion of the Walker Environmental Group Composting Facility

Moved by Councillor Insinna

Seconded by Councillor Edgar

That Report PW 37-2021, dated August 10, 2021, respecting Expansion of the Walker Environmental Group Composting Facility, **BE RECEIVED** and the following recommendations **BE APPROVED**:

1. That Regional Council **APPROVE** a seven (7) year extension of the term of the existing agreement, dated April 30, 2008, with Integrated Municipal Services Inc. (since renamed Walker Environmental Group Inc.) at a processing rate of \$107.98 per tonne beginning in 2029, together with such other amendments to the existing agreement as may be required in order to provide for an expansion of the Source Separated Organic (SSO) Material processing facility at the Walker Organics Recovery Thorold site as described in Report PW 37-2021;

2. That Regional Council **APPROVE** entering into a contract with Miller Waste Systems to redirect, from time to time, up to approximately 2,500 tonnes of Source Separated Organics material from the west end municipalities during the months of December to March to the Miller Systems Digester facility in Grimsby at a rate of \$100 per tonne; and
3. That, following the successful negotiations of the final agreement terms and conditions, the Regional Chair and Regional Clerk **BE AUTHORIZED** to execute: (i) an amending agreement with Walker Environmental Group Inc. consistent with Recommendation 1; and, (ii) a new contract with Miller Waste Systems consistent with Recommendation 2; along with any other required documents, all in a form satisfactory to the Director of Legal and Court Services.

Carried

5.2 PW 43-2021

Approval of Public Works Single Source Purchase Order Requests and Purchase Change Order Requests Exceeding \$100,000

Moved by Councillor Junkin
Seconded by Councillor Foster

That Report PW 43-2021, dated August 10, 2021, respecting Approval of Public Works Single Source Purchase Order Requests and Purchase Change Order Requests Exceeding \$100,000, **BE RECEIVED** and the following recommendation **BE APPROVED**:

1. That the Single Source Purchase Order Requests identified in Appendix 1 of Report PW 43-2021 **BE APPROVED**.

Carried

5.3 PW 47-2021

Special Procurement Rules for Public Works Single Source Exceeding \$100,000

Moved by Councillor Nicholson
Seconded by Councillor Insinna

That Report PW 47-2021, dated August 10, 2021, respecting Special Procurement Rules for Public Works Single Source Exceeding \$100,000, **BE RECEIVED** and the following recommendations **BE APPROVED**:

1. That staff **BE DIRECTED** to discontinue the interim procurement approval procedures for Public Works Single Source purchases exceeding \$100,000 introduced July 30, 2020; and, to return to consistently applying the provisions of Niagara Region's Procurement By-law 02-2016 as amended February 28, 2019; and
2. That staff **BE DIRECTED** to provide information reports to the Corporate Services Committee each quarter identifying all corporate non-competitive procurement activities that exceeded \$100,000 in the intervening period.

Carried

5.4 PW 38-2021

Niagara Regional Transit (NRT) OnDemand - Port Colborne Inclusion

Moved by Councillor Steele

Seconded by Councillor Ugolini

That Report PW 38-2021, dated July 13, 2021, respecting Niagara Regional Transit (NRT) OnDemand – Port Colborne Inclusion, **BE RECEIVED** and the following recommendations **BE APPROVED**:

1. That the report from the City of Port Colborne titled, "Transit Enhancement Opportunity" (Appendix 1 to Report PW 38-2021) **BE RECEIVED** for information;
2. That the Chief Administrative Officer **BE AUTHORIZED** to execute any amendments to the Agreement and/or Service Order between the Regional Municipality of Niagara and River North Transit, LLC (a.k.a. Via Mobility, LLC) in the amount of \$898,840 (excluding HST) to enable the inclusion of a turnkey, on-demand transit service pilot in Port Colborne to be branded and administered as part of the Niagara Regional Transit (NRT) OnDemand pilot;
3. That the Chief Administrative Officer **BE AUTHORIZED** to execute a Memorandum of Understanding (MOU) between Niagara Region and the City of Port Colborne to allow for Niagara Region to facilitate and administer the deployment of on-demand transit services within the City of Port Colborne as approved in the terms and value outlined in City of Port Colborne report 2021-15; and

4. That the Chief Administrative Officer **BE AUTHORIZED** to execute amendments and/or extensions to both the MOU and the Agreement/Service Order such that it facilitates the continuity of services as a result of the Niagara Transit Governance Study.

Carried

6. CONSENT ITEMS FOR INFORMATION

There were no consent items for information.

7. OTHER BUSINESS

7.1 Regional Road 116 Traffic Study, Town of Fort Erie

Councillor Insinna requested information respecting the most recent traffic study for Regional Road 116, and planned road improvements. Carolyn Ryall, Director, Transportation Services, advised that she would follow up on this request.

7.2 Roadwork Technology

Councillor Foster requested information respecting technology used by Public Works to support data driven roadwork improvements and maintenance. Carolyn Ryall, Director, Transportation Services, advised staff would bring a report to a future Public Works Committee meeting.

8. NEXT MEETING

The next meeting will be held on Tuesday, September 14 at 9:30 a.m.

9. ADJOURNMENT

There being no further business, the meeting adjourned at 10:47 a.m.

Councillor Rigby
Committee Chair

Chris Ventura
Legislative Coordinator

Ann-Marie Norio
Regional Clerk

Niagara Transit Governance: Revised Strategies Reflecting Phase 1 Feedback

Public Works Committee

Tuesday, August 10, 2021

Scott Fraser, Transportation Lead, GO Implementation Office

MOVING TRANSIT FORWARD

Niagara Transit Governance

Revised Strategies Reflecting
Phase 1 Feedback

Public Works Committee
August 10, 2021

Niagara Transit Governance

Overview

The Focus is on Effective Consultation

Demonstrating how Phase 1 feedback has been reflected and undertaking a second round of consultation to verify and determine any outstanding barriers, challenges or concerns to the governance model as revised.

**Revised Finance, Board
Composition, and Service
Strategies to support
consolidation**

**Consensus
recommendations of
Governance Steering
Committee**

**Significant updates to
directly address feedback
from LAMs**

Niagara Transit Governance Overview

Niagara Transit
Governance
Study



Q4 2020

Phase 1 LAM
Consultation



Q1 2021

Governance
Steering
Committee



Q2 2021

Workshop Series
and Project Teams

Revised
Strategies



Q2 2021

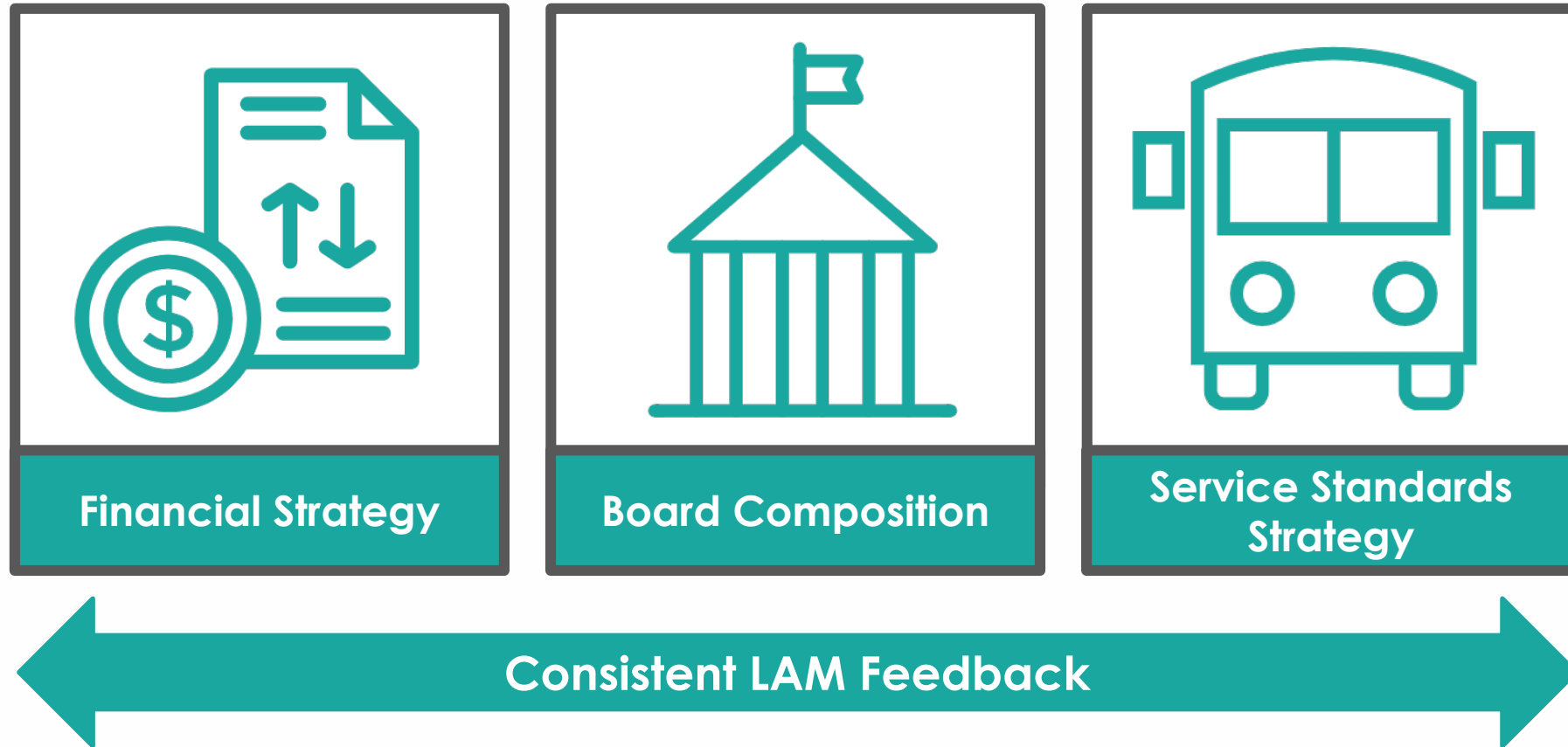
Phase 2 LAM
Consultation



Q3 2021

What We Heard

Phase 1 Themes / Focus Areas



Revised Strategies

Theme 1: Financial Strategy

Funding Strategy - 12 Special Levy Tax Rates

Existing Regional Transit Costs

Current state remains with costs allocated based on Region wide assessment

Local and Incremental Costs

Costs allocated to municipalities based on service hours

What Has Changed?

- ✓ Municipalities who realize services will be allocated costs of those services
- ✓ Service Based Principle
- ✓ Incorporates service standardization costs and accounts for future growth
- ✓ Introduces a capital reserve strategy to ensure future needs of the Commission are met

Revised Strategies

Theme 1: Financial Strategy

**Combination of Local +
Regional Levies**

2020 Residential Taxpayer
Transit Costs



**12 Special Levy Tax Rates
with principle of net-neutral
offsets for LAMs**

2023 Residential Taxpayer
Transit Costs

Revised Strategies

Theme 1: Financial Strategy

**Current
State**

2020



**\$44.2 M
Region-wide Transit
Operating Costs**

- ✓ \$27.8 M Local levies
- ✓ \$16.4 M Regional levy

**Opening
Day**

2023



**+ \$2.2 M
Region-wide Transit
Operating Costs**

- ✓ Local levy costs transitioned to Regional levy (Incl. inflation costs to 2023)
- + \$2.2M Capital Reserve strategy

**Phase 1 Service
Enhancement**

2025



**+ \$8.3 M
Region-wide Transit
Operating Costs**

- ✓ Implementation of expanded service hours, common fare strategy (incl. inflation costs to 2025)
- + \$4.3M Capital Reserve strategy

Revised Strategies

Theme 2: Board Composition



What Has Changed?

- ✓ Representation for all municipalities on transitional Commission Board
- ✓ Local councils recommend representatives to Commission and Advisory Board

** Reviewed after three (3) years by an external third-party to ensure that composition, size, and share of representation has resulted in an effective governing body that is achieving the strategic objectives of the Commission*

Revised Strategies

Theme 3: Service Standards Strategy

Service Standards Strategy outlines how transit in Niagara could be enhanced, should the combination of the existing transit services take place

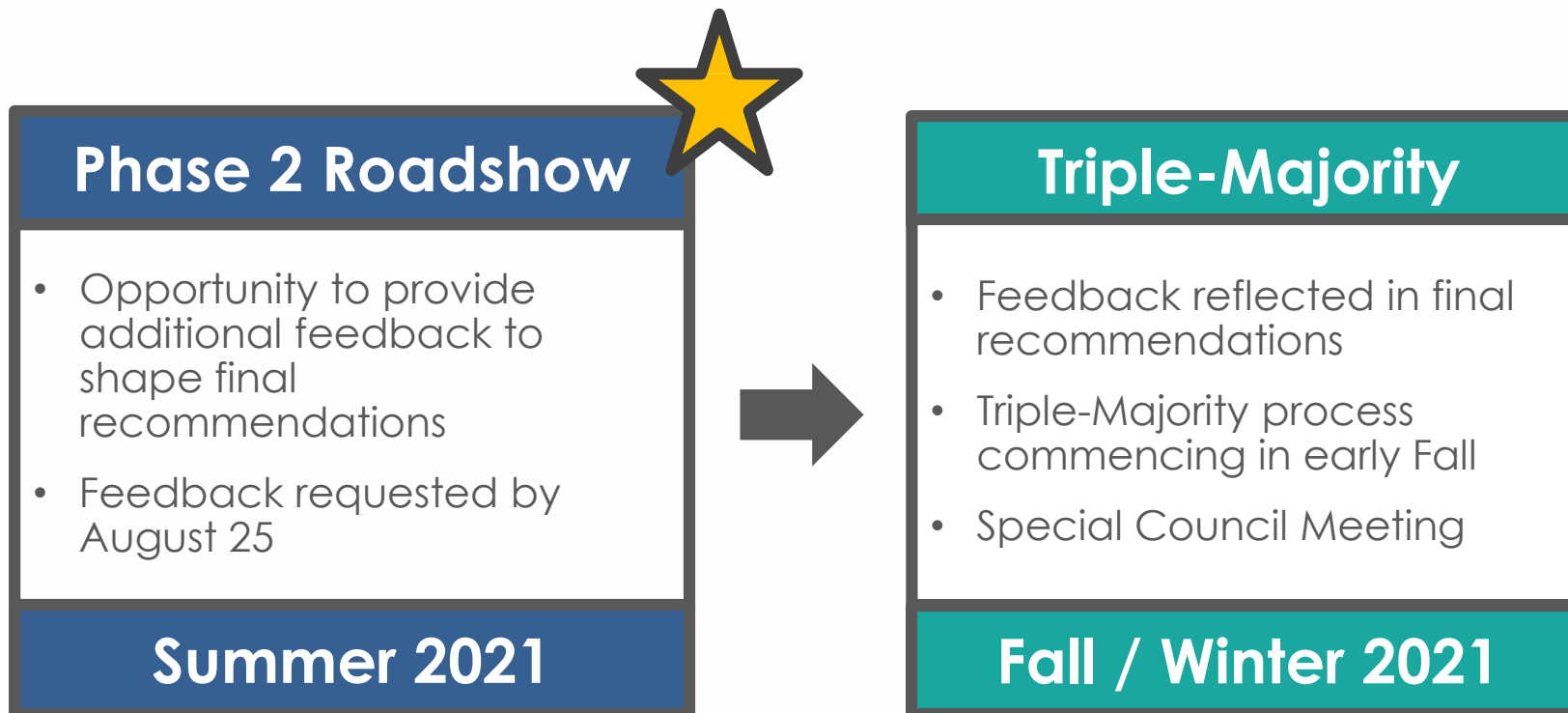


What Has Changed?

- ✓ Existing levels of service maintained and improved on
- ✓ Additional detail on where changes and growth may occur
- ✓ Three phases of improvements for Niagara residents
- ✓ Linked to Financial Strategy

Next Steps

Phase 2 Consultation and Triple-Majority



MOVING TRANSIT FORWARD

Discussion

Subject: Expansion of the Walker Environmental Group Composting Facility

Report to: Public Works Committee

Report date: Tuesday, August 10, 2021

Recommendations

1. That Regional Council **APPROVE** a seven (7) year extension of the term of the existing agreement, dated April 30, 2008, with Integrated Municipal Services Inc. (since renamed Walker Environmental Group Inc.) at a processing rate of \$107.98 per tonne beginning in 2029, together with such other amendments to the existing agreement as may be required in order to provide for an expansion of the Source Separated Organic (SSO) Material processing facility at the Walker Organics Recovery Thorold site as described in this report;
2. That Regional Council **APPROVE** entering into a contract with Miller Waste Systems to redirect, from time to time, up to approximately 2,500 tonnes of Source Separated Organics material from the west end Municipalities during the months of December to March to the Miller Systems Digester facility in Grimsby at a rate of \$100 per tonne;
3. That, following the successful negotiations of the final agreement terms and conditions, the Regional Chair and Regional Clerk **BE AUTHORIZED** to execute: (i) an amending agreement with Walker Environmental Group Inc. consistent with Recommendation 1; and, (ii) a new contract with Miller Waste Systems consistent with Recommendation 2; along with any other required documents, all in a form satisfactory to the Director of Legal and Court Services.

Key Facts

- This report is a follow-up of Report PW-20-2021 Processing of Source Separated Organics which authorized staff to negotiate with Walker Environmental Group Inc. (WEG) for additional processing capacity of Niagara Region Source Separated Organic (SSO) material.
- This report summarizes the results of negotiations with WEG for a seven (7) year extension.
- WEG would expand the processing facility by four (4) GORE cells which will provide an additional 8,000 tonnes of SSO processing capacity for a total of 48,000 tonnes of SSO, annually.

- As the Every Other Week (EOW) waste collection program matures, it is anticipated that approximately 44,000 tonnes of SSO will be generated annually by Niagara residents within the next ten (10) years.
- As part of the WEG agreement, Niagara Region will receive \$20 per tonne for any third party materials that are processed at the WEG facility if any extra capacity is available in the GORE system.
- As a contingency, Niagara Region has the option of redirecting a portion of SSO, up to approximately 2,500 tonnes, to the Miller Waste System facility (former Grimsby Digester) during winter months at a rate of \$100 per tonne.
- The amended WEG agreement will contain a clause allowing Niagara Region to renegotiate the agreement in order to explore and/or process SSO using alternate technologies in the future, should an opportunity present itself.

Financial Considerations

Niagara Region currently pays a total of \$96.84 per tonne which includes a capital repayment fee of \$31.95/tonne on 29,700 tonnes and SSO processing fees in the amount of \$64.89/tonne. Niagara Region is paying approximately 19% less than the industry average of \$115/tonne to process SSO. This equates to close to \$755,000 savings each year. If Niagara Region extends the contract with WEG and invests in the capital expansion, Niagara Region would continue to maintain one of the lowest processing rates in Ontario. For comparison, another Southern Ontario Regional municipality extended agreements with three different processors set to end in 2020 for two (2) additional years with the lowest cost being at \$131/tonne

Under the amended agreement with WEG, the GORE system's overall capacity would increase by 8,000 tonnes bringing the total available capacity for Niagara Region's SSO to 48,000 tonnes. The SSO fee rates under this new agreement are included in **Table 1**. The total SSO fee rate in 2022 of \$98.18/tonne is inclusive of capital repayment fees of \$31.95/tonne on 37,700 tonnes and SSO processing fees of \$66.23/tonne. On April 1, 2029, the new capital repayment fee for the additional 8,000 tonnes will be incorporated into the overall fee charged by WEG for an estimated total fee of \$107.98/tonne at that time. Annual inflation increases apply on the SSO processing fees until the end of the contract on March 31, 2036.

Table 1: WEG SSO Processing Fee Rates

Total SSO Fee Rate	2022	Starting on April 1, 2029
Total SSO Fee Rate – per tonne	\$ 98.18	\$107.98

Note: 2022 rate of \$98.18 subject to annual escalation of per tonne rate as required. This results in an estimated rate of \$107.98 on April 1, 2029 which will be subject to further annual escalation to the end of the contract term.

Should Niagara Region choose not to complete the contract to the proposed end date of March 31, 2036, terminating the contract would subsequently result in a buyout payable to WEG. If Niagara Region provides notice that it will be terminating the contract on March 31, 2029 (corresponds with the end date of the current contract) or March 31, 2033 the buyouts would be \$7,731,654 and \$3,445,182 respectively.

Niagara Region could also enter into a contract with Miller Waste to redirect SSO material from the west end Niagara Municipalities as needed during the months of December to March. This would result in material being diverted to the Miller Digester facility in Grimsby at a rate of \$100 per tonne. The redirection of material to Miller Waste would reduce tonnages processed at WEG therefore reducing processing fees paid. The budget impact of reduced processing fees at WEG would be offset by processing fees paid to Miller Waste. The budget impacts will be considered in preparation of the 2022 Waste Management operating budget.

Based on forecasted tonnages of SSO, and leaf and yard material, the estimated gross impact of the amended, restated and modernized WEG contract is approximately \$665,000 (or 1.64% of the Waste Management 2021 Requisition).

The gross cost impact of the contract will be partially offset by funds for any third party materials that are processed at the WEG facility if any extra capacity is available in the GORE system financed by Niagara Region. At this time, Niagara Region will receive \$20 per tonne for the processing of any third party materials that are processed at the WEG facility.

The 2021 budget for processing SSO, and leaf and yard material, is approximately \$3.9 million. It is anticipated that there will be an unfavourable variance for this budget item in the amount of approximately \$114,000 for 2021. This unfavourable variance will be

offset by the overall budget surplus in the Waste Management division for 2021, due to favourable revenue from the sale of recyclables.

It should be noted that tonnage rates referred to in this section of the report exclude 13% HST. In addition, annual escalation will be applied per tonne rate as required.

Analysis

Based on the recommendation in report PW 20-2021, staff began negotiations with WEG in late April on the expansion of their SSO processing (GORE system) facility. Discussions focused on both processing capacity and the capital cost of expanding the current GORE system.

Annual Tonnages

Niagara Region introduced a SSO collection program in 2003 / 2004. SSO is organic material that is comprised of food waste and leaf and yard material which is collected through the Region's Green Bin program. Since 2009, WEG has processed the Region's SSO at their Thorold composting facility which utilizes a GORE system to process SSO material. Under the terms of the current contract which expires on March 31, 2029, Niagara Region is obligated to compensate WEG for a minimum of 29,700 tonnes of SSO. WEG is required to process up to 39,700 tonnes of SSO which is comprised of no less than 5,700 tonnes of leaf and yard bulking material and up to 34,000 tonnes of SSO.

From 2017 – 2019, Niagara Region annually generated an average of 29,050 tonnes of SSO. In 2020, a total of 34,650 tonnes of SSO was generated by Niagara residents. The two main contributors for the 2020 tonnage increase were the COVID-19 pandemic and transitioning to EOW waste collection in mid-October. Projecting to the end of 2021, it is anticipated that 40,700 tonnes of SSO will be generated. Current estimates project that Niagara residents will annually generate 44,000 tonnes of SSO by 2031.

Contract Requirements

Under the current agreement with WEG, Niagara Region is responsible for any capital expansion of the GORE system once incoming tonnages exceed 39,700 tonnes. During negotiations WEG confirmed that they will be able process all of Niagara Region's SSO in 2021 and prior to the construction of an expanded GORE system.

Proposed Composting Facility Expansion

The proposed expansion of the composting facility would be comprised of constructing an additional four (4) cells to the existing sixteen (16) cell GORE system at WEG. Due to the current site layout, the WEG organic processing facility only has the physical space to accommodate an additional four (4) GORE cells and anything larger would require significant alterations to the entire site. The added GORE cells would increase the overall capacity by 8,000 tonnes bringing the total available capacity for Niagara Region's SSO to 47,700 (rounded to 48,000 by WEG) tonnes. Based on future tonnage projections, it is estimated that the expanded GORE system will be able to process Niagara Region's SSO tonnages over the next ten (10) years and potentially beyond based on current SSO composition and regulations. WEG is estimating that construction will take approximately six (6) months once approved resulting in the expansion being online by Q2 of 2022.

If required, Niagara Region will have the ability to redirect a portion of SSO to the Miller Waste Digester in Grimsby at a rate of \$100 per tonne. This flexibility to send a portion of the material (up to approximately 2,500 tonnes) to the Miller digester is only available during the winter time when there is no yard waste material in the SSO material.

As a further contingency, if required, WEG will be able to divert a portion of the incoming SSO in order to deal with any operational issues such as seasonal peaks, by redirecting the SSO material to one of their other processing facilities with rates to be confirmed with WEG upon finalization of the amended, restated and modernized agreement.

It should be noted that the Province is planning to introduce a Food and Organic Waste regulation. Building in processing contingency will help Niagara manage potential future tonnage increases as a result of a new regulation.

Negotiation Summary

A total of five (5) negotiation meetings were held between Niagara Region and WEG staff between the end of April and end of June. There were several focal areas during the discussions: processing capacity, capital and operating costs, amending, restating and modernizing the agreement.

WEG has indicated that a four (4) cell expansion of the GORE system will allow them to process up to 48,000 tonnes of SSO assuming the current mix of food waste and leaf

and yard materials remains unchanged. The expanded capacity will be solely for SSO materials and exclusive of any leaf and yard or bulking materials.

The capital cost of the GORE system expansion is \$3.5 million. Niagara Region staff have consulted with other municipalities and industry experts to validate that the capital price submitted by WEG is in line with current industry capital cost estimates for similar facilities. Construction of the added GORE cells will include the GORE technology itself, site works, construction, electrical and mechanical infrastructure, and auxiliary works.

A number of areas of the existing contract require clarification and / or updating as a result of the contract extension and new capacity created by GORE system expansion. These include, for example, the inclusion of a minimum amount of bulking material, total processing capacity, and operating to appropriate standards. Subject to Council approval of this report, Waste Management will finalize terms with WEG, and subsequently work with Legal Services Staff to amend the agreement accordingly.

Alternatives Reviewed

Two alternatives were described in report PW 20 – 2021, which included Niagara Region constructing their own SSO processing facility or Niagara Region procuring additional processing capacity through a formal procurement process. Based on the initial price per tonne processing rate from WEG earlier this year, Council authorized staff to negotiate with WEG for an expansion of the facility and report back. Based on subsequent negotiations, and comparing the new per tonne processing rate to the market, no additional alternatives were reviewed, and as such, staff are seeking approval to amend the current SSO processing agreement with WEG, and enter into an agreement with Miller for contingency SSO processing capacity.

Relationship to Council Strategic Priorities

This report supports Council's Strategic Priority of Responsible Growth and Infrastructure Planning.

Other Pertinent Reports

- PW 20-2021 - Processing of Source Separated Organics
- PW 21-2020 - Extension to Residential Waste and Recycling Drop-off Depot

Prepared by:

Emil Prpic
Associate Director, Waste Disposal
Operations & Engineering
Waste Management Services

Recommended by:

Bruce Zvaniga, P.Eng.
Commissioner of Public Works (Interim)
Public Works Department

Submitted by:

Ron Tripp, P.Eng.
Acting Chief Administrative Officer

This report was prepared in consultation with Blair Hutchings, Program Financial Analyst, Dan Ane, Manager of Program Financial Support, and Catherine Habermebl, Director of Waste Management Services.

Appendices

None

Subject: Approval of Public Works Single Source Purchase Order Requests and Purchase Change Order Requests Exceeding \$100,000

Report to: Public Works Committee

Report date: Tuesday, August 10, 2021

Recommendations

1. That the Single Source Purchase Order Requests identified in Appendix 1 of Report PW 43-2021 **BE APPROVED**.

Key Facts

- At the Special Council meeting on July 30, 2020, Regional Council instructed staff that, “If any single source [Public Works] procurement [over \$5000] is deemed essential there must be approval first received by the Public Works Committee.”
- On August 18, 2020, the CAO provided Confidential Memorandum CONF-C 6-2020 providing key information in response to the July 30, 2020 staff direction. The memo identified that pursuant to a formal competitive procurement process, a change to the resulting contract (via the Change PO process) is required for any additional goods and/or services, which were not part of that formal process (consider Single Source additions). This includes most (if not all) instances where the “work” is underway when a Change PO request initiates.
- At the Council meeting on September 17, 2020, Regional Council approved an increase in the limit to \$100,000 above which approval must first be received by the Public Works Committee.

Financial Considerations

The included Single Source requests have approved funding in place from either Capital or Operating budgets in the respective divisions in Public Works.

Analysis

Niagara Region’s Procurement By-law 02-2016 as amended February 28, 2019 provides controls and methods that ensure, among other things, that the procurement processes undertaken to procure Goods and/or Services achieves, “best value for the Corporation”.

Pursuant to the formal procurement process, which culminates in contract award, there are occasions, when new information identified after award, requires further consideration of how these unforeseen additional requirements will impact the final project deliverable.

When this happens, staff consider the following alternative approaches to addressing the scope change:

1. Is the original project objective still achievable or should it be abandoned?
2. Can the project proceed as originally planned and this new information be deferred to a later time without reducing the integrity of the design, construction, etc.?
3. Is the current work at a point where it can be terminated, and a new competitive procurement for the additional scope items be initiated without excessive costs or negative impacts to the community from the delays?
4. Does the addition of this new work to the current assignment still achieve best value if Staff can validate that it represents fair value?

Staff note, that where a construction project is underway, the Ontario Occupational Health and Safety Act dictates that, "When an owner undertakes a project by contracting with more than one employer (contractor), the owner is undertaking the project and is the constructor." As a result, if Niagara Region were to initiate additional work on a project site at the same time by two contractors, Niagara Region would assume significant additional liability risk for the safety of all workers on the site. Ideally, the work of first contractor must be completed prior second contractor commencing.

Alternatives Reviewed

Staff have considered the following alternatives for each of the change order requests appended as Appendix 1:

- Closing out the current work. Abandoning the previous approach and re-considering strategy;
- Proceeding as originally planned and addressing the new information/change in scope at a later time through a competitive process; and,
- Terminating the current contract where possible and conducting a competitive procurement process to complete the work with the additional scope items added.

Staff conclude that none of the aforementioned options achieves the desired best value outcome without significant risk to the Region in terms of cost, delay and unavailability of critical infrastructure. Staff have assessed the financial impact of these additionally scoped items, deemed them fair and reasonable and recommend them for approval as best value for the Corporation given the specific circumstances.

Relationship to Council Strategic Priorities

- Responsible Growth and Infrastructure Planning

Other Pertinent Reports

- CONF-C 6-2020, July 30, 2020 Closed Session - Update from Special Council Meeting
- PW 42-2020, September 8, 2020 - Approval of Various Single Source Public Works New Purchase Orders and Purchase Order Change Request
- PW 45-2020, October 13, 2020 - Approval of Public Works Single Source Purchase Requests Over \$100,000
- PW 47-2020, November 10, 2020 Approval of Public Works Single Source Purchase Requests Over \$100,000
- PW 3-2021, January 12, 2021 Approval of Public Works Single Source Purchase Requests Over \$100,000
- PW 7-2021, February 16, 2021 Approval of Public Works Single Source Purchase Requests Over \$100,000
- PW 13-2021, March 9, 2021 Approval of Public Works Single Source Purchase Requests Over \$100,000
- PW 17-2021, April 13, 2021 Approval of Public Works Single Source Purchase Requests Over \$100,000
- PW 25-2021, May 11, 2021 Approval of Public Works Single Source Purchase Requests Over \$100,000
- PW 27-2021, June 15, 2021 Approval of Public Works Single Source Purchase Requests Over \$100,000
- PW 41-2021, July 13, 2021 Approval of Public Works Single Source Purchase Requests Over \$100,000

Prepared and Recommended by:

Bruce Zvaniga, P.Eng.
Commissioner of Public Works (Interim)
Public Works Department

Submitted by:

Ron Tripp, P.Eng.
Acting Chief Administrative Officer

This report was prepared in consultation with Dan Ane, Manager Program Financial Support and Bart Menage, Director Procurement and Strategic Acquisitions

Appendices

Appendix 1 Single Source Purchase Order Requests

Appendix 1: Purchase Order Change Requests to Existing Contracts

1. Project Name: Lakeshore Road Sewage Pumping Station Upgrades and Enhanced Conceptual Design (2020-RFP-205)

Request: \$230,000.00

Consultant: GM BluePlan

Purchase Order Number: 0000090421

Increase original contract amount of \$154,531.00 (excl. HST) by \$230,000.00 for a new total of \$384,531.00

Rationale for Increase

The Region is conducting a Schedule B Municipal Class Environmental Assessment for the Lakeshore Road Sewage Pumping Station in accordance with the 2016 Master Servicing Plan. Due to the critical condition of this station the Region is recommending expediting the detailed design of the preferred alternative which will allow for construction to commence in 2022 and minimize the risk associated with the existing station operation.

The current Lakeshore Road Sewage Pumping Station is located at 14A Lakeshore Road in the Town of Fort Erie and was originally constructed in 1984, servicing approximately 929 residents. The most recent Water and Wastewater Master Servicing Plan has identified growth within the area by 2041 requiring an increase in capacity from 63 L/s to 70 L/s. The Pumping Station is currently in declining condition and has had two (2) reported forcemain failures since the start of this Project. The first incident was a break in the forcemain on March 18, 2021 and another on June 18, 2021. As a result of the aging equipment the station is also currently operating with only one pump and is in an overall state of deterioration. Given the age and condition of this station it poses an immediate threat to the environment due to the proximity of Lake Erie, a threat to the local resident's health and safety and property damage due to potential for basement flooding.

GM BluePlan was awarded 2020-RFP-205 through the competitive procurement bid process in April, 2021 for the Environmental Assessment and Enhanced Conceptual Design for the Project for a total of \$154,531.00. There have been no scope changes and GM BluePlan has maintained their schedule and are currently conducting the required field investigations.

The current request is for a single source award of \$230,000 to GM BluePlan to complete the detailed design and tendering needed to ensure Lakeshore Road Sewage Pumping Station is upgraded in a timely manner. Contract Administration and Inspection will also be required in the future during the construction phase of this Project, however those costs are not included in the current project funding request. Staff will be requesting approval of additional funding for engineering services for construction upon Construction award in the summer of 2022.

The detailed design will be based on the recommended alternative which was determined from the evaluation criteria of the Municipal Class Environmental Assessment and presented to Niagara Region, Niagara Parks and the Town of Fort Erie on June 22, 2021.

The scope of the detailed design will include;

- (i) A new wet well and concrete valve chamber within the existing property boundaries;
- (ii) New outdoor standby power generator system;
- (iii) Decommissioning of the existing wet well and forcemain;
- (iv) Demolition of the existing control building;
- (v) New 200mm forcemain up to CBSA Plaza;
- (vi) New process piping and equipment including two submersible pumps;
- (vii) New process instrumentation;
- (viii) New electrical equipment outdoor shelter and all required controls;
- (ix) All required interior finishes; and
- (x) Overall site restoration

Staff recommend that GM BluePlan be awarded this Single Source assignment in accordance with Purchasing By-law 02-2016 Section 18(a)(iv) as GM BluePlan is familiar with the immediate area and has an in-depth knowledge of the station as a result of the ongoing Municipal Class EA and can complete the detailed design assignment in a timely manner meeting the project constraints and challenges. As a situation of urgency exists it is in the best interest of the project to single source this assignment as a competitive procurement process will extend the project schedule which would cause project delays and increase the risk of station failure impacting local residents, maintenance staff and the surrounding environment. This work is critical and needs to be completed as soon as possible. The current proposed schedule has an expected detailed design completion and tendering in 2022 with construction planned for 2022.

Alternatives Reviewed

(i) Do nothing:

- This alternative does not address the needs of the project due to the deterioration and age of the station and resulting impacts of failure at the station;
- If the station were to fail there would be possible basement flooding of surrounding residents which could result in property damage;
- The current station has unsafe work conditions for Operations and Maintenance staff to complete repairs;
- The station poses serious environmental risks to Lake Erie as it is in close proximity;
- Additional operation and maintenance costs will be incurred for future repairs

(ii) Proceed with competitive RFP process:

- A competitive process will impact the expedited need for these services which would negate the efficiencies gained in the EA/design cost schedule through a streamlined design process;
- Forgoing the competitive bid process will allow the Project to progress to the preliminary design phase and skip the conceptual design. The conceptual design is included to aid in the proper scoping of the detailed design;
- Onboarding a different consultant will require additional cost, effort and time for them to become familiar with the project and requirements which will impact our ability to move into the next phase; and
- A competitive process will not allow for the start of the detailed design immediately upon successful completion of the Class EA resulting in Project delays

Funding Source

Original PO \$154,531.00

Change PO \$230,000.00 (no HST)

Total changed unit price **\$384,531.00**

Total Budget \$900,000

Expenditures including commitments \$165,447.19

Budget Remaining **\$734,552.81**

There is sufficient budget in the project budget to assign this change PO.

Subject: Special Procurement Rules for Public Works Single Source Exceeding \$100,000

Report to: Public Works Committee

Report date: Tuesday, August 10, 2021

Recommendations

1. That staff **BE DIRECTED** to discontinue the interim procurement approval procedures for Public Works Single Source purchases exceeding \$100,000 introduced July 30, 2020; and, to return to consistently applying the provisions of Niagara Region's Procurement By-law 02-2016 as amended February 28, 2019; and,
2. That staff **BE DIRECTED** to provide information reports to the Corporate Services Committee each quarter identifying all corporate non-competitive procurement activities that exceeded \$100,000 in the intervening period.

Key Facts

- Special procurement approval procedures for the Public Works Department were introduced July 30, 2020 as an interim control measure pending any applicable recommendations from the KPMG Audit of Non-competitive procurement and the investigation of Whistleblower Policy complaints. The final reports on these topics have been received by Regional Council and neither third-party report proposed special procurement procedures for Public Works.
- Procurement By-law 02-2016 contains criteria and approval procedures applicable to single source procurement activity by all Departments. Appendix 1 of this report (Schedule "B" of the By-law 02-2016) identifies the approval authorities required for any Single Source procurements meeting the appropriate criteria.
- As reported to the June 21, 2021 Procurement Advisory Committee in PAC-C 4-2021, staff are currently drafting revisions to By-law 02-2016 and will present a report to Corporate Services Committee in Q3/Q4 of 2021.

Financial Considerations

Single source procurement activities subject to the July 30, 2020 interim procedures have approved funding in place from either the Capital or Operating budgets in the respective divisions in Public Works.

Analysis

At the Special Council meeting on July 30, 2020, Regional Council instructed staff that, “If any single source [Public Works] procurement [over \$5000] is deemed essential there must be approval first received by the Public Works Committee.” On August 18, 2020, the CAO provided Confidential Memorandum CONF-C 6-2020 providing key information in response to the staff direction. At its meeting on September 17, 2020, Regional Council approved an increase in the limit from \$5000 to \$100,000.

This interim special procurement procedure was introduced as an interim control measure pending the results of the KPMG Audit of Non-Competitive Procurement and the completion of an investigation by Kroll LLP of Whistleblower Policy Complaints. At its meeting on December 7, 2020 Regional Council received reports AC-C 11-2020 and AC-C 15-2020 containing the final KPMG Audit of Non-Competitive Procurement Activity; and, at its meetings on January 21, 2021 and February 25, 2021 Regional Council received reports CL-C 4-2021, and CL-C 9-2021 concerning the Whistleblower Policy investigation. The reports by KPMG and Kroll did not propose any related changes to the Procurement By-law or identify a need for special measures to be applied to Public Works.

The intent of the Procurement By-law is to ensure the appropriate balance of effective approval control and efficient utilization of resources to ensure “best value for the Corporation”.

Quarterly reporting to the Corporate Services Committee of single source procurement awards exceeding \$100,000 will reduce delays in conducting the business of the organization while providing open transparent accounting of these activities.

Alternatives Reviewed

Alternatives reviewed:

- Retain the existing special procurement process applicable only to Public Works. This is not recommended due to the resources and process delay required to report monthly. In addition, it is inconsistent with the provisions of the Procurement By-law and the procedural rules applicable to all other Departments.
- Amend the Procurement By-law to adjust the Single Source Purchasing Authority to incorporate changes similar to the current special provisions. This is not recommended as it would further increase the resources required and extend the impact of process delay to other Departments.

Relationship to Council Strategic Priorities

This report aligns with Sustainable and Engaging Government, specifically objective 4.1: High Quality, Efficient and Coordinated Core Services.

Other Pertinent Reports

- AC-C 11-2020, December 7, 2020 Final Report on Non-Competitive Procurement Audit
- AC-C 15-2020, December 7, 2020 Supplemental Information Report to the KPMG Final Audit Report on Non-Competitive Procurement Audit (AC-C 11-2020)
- AC-C 1-2021, February 8, 2021 Further Analysis of KPMG Final Audit Report on Non-Competitive Procurement Audit
- Confidential CL-C 4-2021, January 21, 2021 A Matter concerning Personal Matters about identifiable individuals under s. 239(2) of the Municipal Act, 2001 - Update on Whistleblower Policy Complaints
- Confidential CL-C 9-2021, A Matter concerning Personal Matters about identifiable individuals under s. 239(2) of the Municipal Act, 2001 – Investigation of Whistleblowers' Complaints relating to the Water and Wastewater Division
- CONF-C 6-2020, July 30, 2020 Closed Session - Update from Special Council Meeting
- PW 42-2020, September 8, 2020 Approval of Various Single Source Public Works New Purchase Orders and Purchase Order Change Request

- PW 45-2020, October 13, 2020 Approval of Public Works Single Source Purchase Requests Over \$100,000
- PW 47-2020, November 10, 2020 Approval of Public Works Single Source Purchase Requests Over \$100,000
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- PW 27-2021, June 15, 2021 Approval of Public Works Single Source Purchase Requests Over \$100,000
- PW 41-2021, July 13, 2021 Approval of Public Works Single Source Purchase Requests Over \$100,000

Prepared and Recommended by:

Bruce Zvaniga, P.Eng.
Commissioner of Public Works (Interim)
Public Works Department

Submitted by:

Ron Tripp, P.Eng.
Acting Chief Administrative Officer

This report was prepared in consultation with Bart Menage, Director Procurement and Strategic Acquisitions and reviewed by Todd Harrison, Treasurer/Commissioner of Corporate Services

Appendices

Appendix 1 Schedule "B" Procurement By-Law The Regional Municipality of Niagara
Purchasing and Execution Authority

Schedule “B” Procurement By-Law The Regional Municipality of Niagara Purchasing and Execution Authority

Method of Purchasing	Dollar Value	Purchasing Authority*	Document Execution Authority	Payment Release Authority
Special Circumstance, Single Source and Negotiation	> \$10,000 to \$25,000	Department Director	Department Director	Department Director
	> \$25,000 to \$100,000	Department Director and the Manager of Procurement and Department Commissioner	Department Commissioner	Department Manager
	> \$100,000 to \$250,000	Department Director and the Manager of Procurement and Department Commissioner	Department Commissioner and Commissioner of Enterprise Resource Management Services/Treasurer	Department Manager
	>\$250,000 to \$1,000,000	Department Commissioner and the Director of Procurement and Strategic Acquisitions and Commissioner of Enterprise Resource Management Services/Treasurer	Department Commissioner and CAO	Department Director
	>\$1,000,000	Council	Regional Clerk and Regional Chair	Department Commissioner

* “Purchasing Authority” means those positions listed, and includes any position which is higher in the Corporation’s reporting structure.

Subject: NRT OnDemand – Port Colborne Inclusion

Report to: Public Works Committee

Report date: Tuesday, July 13, 2021

Recommendations

1. That the report from the City of Port Colborne titled, “Transit Enhancement Opportunity” (Appendix 1 to Report PW 38-2021) **BE RECEIVED** for information;
2. That the Chief Administrative Officer **BE AUTHORIZED** to execute any amendments to the Agreement and/or Service Order between the Regional Municipality of Niagara and River North Transit, LLC (a.k.a. Via Mobility, LLC) in the amount of \$898,840 (excluding HST) to enable the inclusion of a turnkey, on-demand transit service pilot in Port Colborne to be branded and administered as part of the Niagara Regional Transit (NRT) OnDemand pilot;
3. That the Chief Administrative Officer **BE AUTHORIZED** to execute a Memorandum of Understanding (MOU) between Niagara Region and the City of Port Colborne to allow for Niagara Region to facilitate and administer the deployment of on-demand transit services within the City of Port Colborne as approved in the terms and value outlined in City of Port Colborne report 2021-15; and
4. That the Chief Administrative Officer **BE AUTHORIZED** to execute amendments and/or extensions to both the MOU and the Agreement/Service Order such that it facilitates the continuity of services as a result of the Niagara Transit Governance Study.

Key Facts

- The purpose of this report is to seek Council’s approval to allow Port Colborne to integrate the City’s on-demand transit pilot into the Region’s existing NRT OnDemand pilot program, in order to capitalize on the Region’s preferred pricing, reduce administrative overhead, and facilitate ease of use for riders traveling between municipalities.
- PW 60-2019 and PW 41-2020 authorized the Chief Administrative Officer to execute agreements with Via Mobility for the deployment of on-demand transit in West

Niagara and Niagara-on-the-Lake, which successfully launched August 17, 2020 and November 23, 2020 respectively.

- In August 2020, the City of Port Colborne approached Niagara Region to revisit the potential for bringing NRT OnDemand to their municipality, much in the same manner that the service was expanded in Niagara-on-the-Lake.
- On January 11, 2021, Port Colborne's Council approved a pilot deployment for an \$898,840 (excluding HST) on-demand service to operate within its municipal boundaries (Appendix 1) from approximately June 2020 to the termination of Niagara Region's contract.
- That approval also included a request to Niagara Region to approve, prepare, manage, and integrate their service area with the existing NRT OnDemand service in addition to making a financial contribution of \$126,200 in 2021 and \$187,500 in 2022 to enable inter-municipal connections between Port Colborne and Fort Erie and Port Colborne and West Niagara.
- A new start date of January 2022 has been confirmed by Port Colborne staff. As a result, only the 2022 portions of the Agreement and funding are being requested. This will result in a total contract value of \$510,700 of which Niagara Region's portion would be \$187,500.
- On January 21, 2021 Niagara Region Council approved the renewal of the NRT OnDemand pilot for a second year.

Financial Considerations

The City of Port Colborne currently spends \$303,700 (\$135,700 levy, \$168,000 Provincial Gas Tax (PGT) revenue and fares) for transit services (all figures referenced exclude HST). In order to move to an on-demand service, the City requires \$375,000 more than their current expenditure in 2022. Port Colborne City Council has approved an increase of half of that amount (\$187,500 to cover January through August 2022). The City of Port Colborne is requesting that Niagara Region pool resources by contributing \$187,500 in 2022.

The purpose of this Regional contribution is to facilitate the fulfillment of Niagara Region's mandate to provide planned inter-municipal connections (per CAO 8-2017, LNTC C-21-2018), which in this case, includes a new connection to Fort Erie Transit via Crystal Beach, to West Niagara and the Port Colborne Link. This connectivity would be the final component in truly connecting all of Niagara's municipalities through public transit, which is an important milestone in the ongoing transit governance work. It is important to note that the fees above are estimates based on annualized costs and will

be finalized once the exact start and end dates are confirmed. It would be staff's intention to align the end date with the other service areas in West Niagara and Niagara-on-the-Lake where applicable.

Niagara Region's contribution for inter-municipal trips will be accommodated in the 2022 Operating Budget, as staff had previously identified connecting Port Colborne and Fort Erie by way of inter-municipal transit in the 2020 budget, and thus those funds are now part of the NRT existing base budget. As a backup, should 2022 provide financial challenges to transit relating to the ongoing fallout of COVID-19, staff has identified that it is able to cover this portion of the pilot funding for the inter-municipal expansion through the Region's PGT. For 2022, Port Colborne would use the remainder of its transit reserve and any additional funding would be from its stabilization reserve. Refer to Appendix 1 for further detail.

Additionally, a Memorandum of Understanding between Niagara Region and the City of Port Colborne should provide consideration for indirect costs to NRT staff relating to the Contract Administration of the project on the City's behalf within the existing NRT OnDemand envelope. Items such as customer service inquiries, community engagement, paid advertising, signage, etc. will need to be accounted for in the MOU, similar to what exists for the West Niagara and NOTL service areas.

Analysis

In 2019, staff brought forward report PW 60-2019 which outlined the on-demand simulation results for West Niagara. Based on a request from the Inter-municipal Working Group (IMTWG), and in alignment with the service area expansions outlined in CAO 8-2017 and LNTC-C 21/22/23-2018, those simulation results also contained a review of opportunities to bring on-demand services to Port Colborne and Fort Erie for the purposes of connecting the southern municipalities of Niagara. In addition, that report also referenced the need for additional discussions with Port Colborne and Fort Erie.

In August of 2020, City of Port Colborne staff asked Regional staff to assist the City in further investigating the feasibility of bringing on-demand transit (specifically NRT OnDemand) to Port Colborne. Between September and December, staff from the City, the Region and Via worked together to review existing ridership data, identify potential service options and quantify service parameters; a process that built off of the simulation results (PW 60-2019) done by the IMTWG.

The culmination of that work is the City of Port Colborne's report "2021-15 - Transit Enhancement Opportunity" (Appendix 1). That report outlines the difference between two options; (Option 1) maintaining the fixed-route community bus or (Option 2) fully integrating with NRT OnDemand that would service the entirety of the municipality and provide inter-municipal connections as identified above. City staff recommended their Council approve Option 2 – full integration with NRT OnDemand. Port Colborne Council unanimously approved that recommendation as well as one that requests Niagara Region to oversee the integration into the existing NRT OnDemand pilot, much in the same way as the Niagara-on-the-Lake expansion which launched in November 2020.

Staff at the City of Port Colborne have requested that, should Regional Council approve this service expansion, target launch date of January 1, 2022 be sought. This date is the result of the City desiring to have on-demand transit in place prior to the conclusion of the Niagara Transit Governance Study in recognition that a new entity will not have the capacity to change service models in the first few years after upload. The actual launch date will be finalized upon approval of this report and once a contract with the service provider can be established. Regardless of the start date, the end date will be set to align with the end date for the West Niagara service area. It is also worth reiterating that staff is requesting that the CAO be authorized to extend the length of the contract in order to maintain service continuity should the results of the governance work require a transition period.

Full integration with NRT OnDemand would require the City to have two dedicated vehicles in order to service the whole municipality and meet forecasted service demands. Additionally, this option would allow for ticket pricing continuity across the various Niagara Region Transit systems. Not only would integration with NRT OnDemand greatly enhance the rider experience in Port Colborne, it would also facilitate additional connectivity with the West Niagara municipalities, connection to the Welland Terminal, and to Fort Erie Transit through a connection in Crystal Beach.

Alternatives Reviewed

The alternative is to decline the City's request for funding, partnership and integration of services. This would default the City to continue running the fixed-route community bus that only services a portion of the City's urban area and by extension, a small portion of its residents. This would also impact the residents of the surrounding municipalities as they would not benefit from the enhanced connectivity. From a rider perspective, providing a single online app and transit brand makes the user experience much simpler and highly efficient. Moreover, combining multiple transit agencies into a single service

also highlights the collaborative feasibility of the work being undertaken more broadly as part of the larger ongoing transit governance review. It is for these reasons that staff does not recommend declining the request from the City of Port Colborne.

Relationship to Council Strategic Priorities

The IMT Service Implementation Strategy directly aligns with the Council Strategic Priority: Responsible Growth and Infrastructure Planning (Objectives 3.1 & 3.4) through advancing regional transit and facilitating the movement of people and goods.

Other Pertinent Reports

- PW 1-2021 Niagara Regional Transit (NRT) OnDemand Contract Renewal
- PW 41-2020 NRT On-Demand – Niagara-on-the-Lake Inclusion
- PW 60-2019 On-Demand Transit – Pilot Authorization (Simulation Results)
- CAO 8-2017 Niagara Region's Transit Service Delivery and Governance Strategy

Prepared by:
Robert Salewytch
Program Manager, Transit Services
Public Works Department

Recommended by:
Bruce Zvaniga, P. Eng.
Commissioner of Public Works (Interim)
Public Works Department

Submitted by:
Ron Tripp, P.Eng.
Acting Chief Administrative Officer

This report was prepared in consultation with Heather Talbot, Financial and Special Projects Consultant, and reviewed by Matt Robinson, Director, GO Implementation Office.

Appendices

Appendix 1 2021-15 – Transit Enhancement Opportunity



PORT COLBORNE

Corporate Services Department
Clerk's Division

Municipal Offices: 66 Charlotte Street
Port Colborne, Ontario L3K 3C8 • www.portcolborne.ca

T 905.835.2900 ext 106 F 905.834.5746
E amber.lapointe@portcolborne.ca

January 21, 2021

Ann-Marie Norio
Regional Clerk
Administration – Office of the Regional Clerk
Niagara Region

Via E-Mail

Dear Ms. Norio:

Re: Resolution – Transit Enhancement Opportunity

Please be advised that, at its meeting of January 11, 2021, the Council of The Corporation of the City of Port Colborne resolved as follows:

That Corporate Services Department Report 2021-15 be received;

That the City of Port Colborne request the Region of Niagara to submit a service order to Via Mobility LLC to amend its master terms agreement for the deployment of a turnkey, on-demand transit service to include the service area of Port Colborne and the integration and alignment of the Port Colborne service into the Niagara Regional Transit (NRT) OnDemand mobile application; and

That subject to approval by the Niagara Region's Public Works Committee and Council:

- Port Colborne Transit be integrated into the NRT OnDemand program (including related Provincial Gas Tax Funding) as outlined in this report;
- The City of Port Colborne provide funding to the Niagara Region as outlined in this report;
- The City of Port Colborne extend its appreciation to the City of Welland for their long-standing service as the City of Port Colborne Transit provider and for that contract to stop when the OnDemand service begins;
- The City of Port Colborne extend its warmest thank you to the Port Colborne Transit Advisory Committee for their previous service and for that committee to be dissolved;
- The Chief Administrative Officer and Director of Corporate Services / Treasurer be authorized to sign and execute the necessary documents to complete the approved recommendations in this report.

...2

Page 2
January 20, 2021

Resolution – Transit Enhancement Opportunity

A copy of the above-noted report is enclosed for your reference.

Sincerely,

A handwritten signature in black ink, appearing to read "Amber LaPointe".

Amber LaPointe
City Clerk

Encl.

ec: R. Salewytch, Program Manager – Transit Services, GO Implementation Office,
Niagara Region, Public Works Department
B. Boles, Director of Corporate Services / Treasurer, City of Port Colborne



Subject: Transit Enhancement Opportunity

To: Council

From: Corporate Services Department

Report Number: 2021-15

Meeting Date: January 11, 2021

Recommendation:

That Corporate Services Department Report 2021-15 be received;

That the City of Port Colborne request the Region of Niagara to submit a service order to Via Mobility LLC to amend its master terms agreement for the deployment of a turnkey, on-demand transit service to include the service area of Port Colborne and the integration and alignment of the Port Colborne service into the Niagara Regional Transit (NRT) OnDemand mobile application; and

That subject to approval by the Niagara Region's Public Works Committee and Council:

- Port Colborne Transit be integrated into the NRT OnDemand program (including related Provincial Gas Tax Funding) as outlined in this report;
 - The City of Port Colborne provide funding to the Niagara Region as outlined in this report;
 - The City of Port Colborne extend its appreciation to the City of Welland for their long-standing service as the City of Port Colborne Transit provider and for that contract to stop when the OnDemand service begins;
 - The City of Port Colborne extend its warmest thank you to the Port Colborne Transit Advisory Committee for their previous service and for that committee to be dissolved;
 - The Chief Administrative Officer and Director of Corporate Services / Treasurer be authorized to sign and execute the necessary documents to complete the approved recommendations in this report.
-

Purpose:

This report proposes service level enhancements to the current Port Colborne Transit program. It proposes moving from a fixed-route model to an on-demand model that

provides transit services to the whole City of Port Colborne (the “City”), increases the days of operation by one day per week, and the hours of service per day from 11 hours to 15 hours.

Background:

The City of Welland has been the long-standing service provider of a fixed route transit system in the City. The current route is identified in Appendix A. In 2019, the current service had approximately 35 individual riders per day (note 2019 numbers were used as COVID-19 impacted 2020 comparatives). At the time of writing this report the City is operating month to month with the City of Welland as the previous contract has expired.

On November 25, 2019 the Niagara Region presented a proposal for Niagara Region Transit (“NRT”) OnDemand to City Council. As an outcome of that meeting, staff were directed to review transit options.

The NRT OnDemand system has since been launched in the Town of Grimsby, Town of Lincoln, Town of Niagara-on-the-Lake, Town of Pelham, Township of Wainfleet, and the Township of West Lincoln.

Recent discussions with the Niagara Region identified they are currently in contract discussions with their service provider (VIA Mobility LLP) and, should the City wish to join, the City could do so in the June 2021 timeframe.

As Council is aware, Niagara Region and the local area municipalities have been engaged in a multi-year transit governance study to determine the feasibility and desirability of consolidating transit services under a single entity. A transition that, if approved, could happen between 2022 and 2023. Staff understand the Niagara Region will present the plan to the Councils of local area municipalities in the first half of 2021.

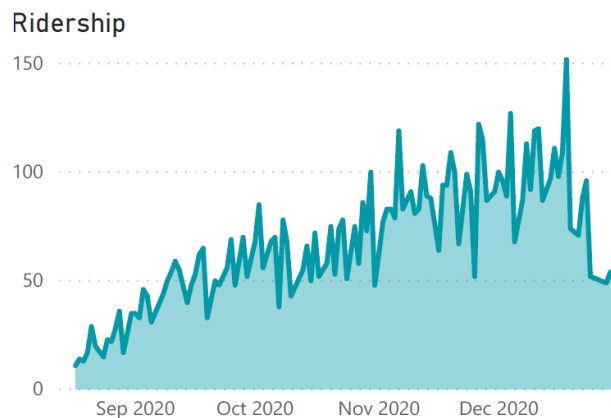
Salient to any amalgamation planning City Staff understand the service being offered at the time of consolidation will be the service that is continued with no new service additions being considered by the new transit entity for a number of years thereafter as it focuses on transitioning the operation of the service and seeks to undergo a network evaluation and design process.

Discussion:

In presenting this report City Staff identify that the City of Welland has been and continues to be a tremendous partner in providing transit to the City.

The NRT OnDemand system is currently in full operation in a number of municipalities in the Niagara Region as identified above. The website for the service is as follows: www.niagararegion.ca/transit/on-demand/default.aspx.

The following chart highlights the growth in usage of the current NRT OnDemand system in the other municipalities identified above. Staff highlight this growth has occurred despite the COVID-19 pandemic.



Key comparisons of the current and proposed NRT OnDemand options are provided in chart form below:

	Current	NRT OnDemand
Area Served	Appendix A – Limited / Fixed	Appendix B – All of Port Colborne (including Fort Erie Crystal Beach Area)
Number of Days	Monday - Friday (5 days)	Monday – Saturday (6 days)
Number of Hours	7am to 6pm (11 hours)	7am 10pm (15 hours)
Route adjustments^	Lead time required	Dynamic
Data	Limited	Significant
Boarding location	Bus stop or flag stop on route	Estimated average walk 55 to 80 m from location submitting pick-up request from (Wheelchair accessible trips will be door-to-door)
Pick-up time	Per pre-published schedule	Estimated 8 minutes or less from request pick-up time (assuming daily volume doubles from 2019 levels)
How to get a ride	Go to bus stop or flag a bus at pre-determined time	Use app or call phone number
Ride Sharing	Yes	Yes

^ The dynamic/full City coverage provided by the OnDemand system is something that ensures no matter how or where the City grows going forward the Transit system can accommodate.

The proposal from the Niagara Region is to manage the entire program, including Provincial Gas Tax reporting. Through their service provider, they proposed the use of

two vehicles for the City. As the City would be part of the larger network, should demand spike at certain times vehicles from other locations could be redirected to support those higher demand times.

Pricing of the current and OnDemand option are similar from the rider's perspective. The following table of fares enables trips that begin and end with the City of Port Colborne:

	Current (lasted updated 2018)			NRT OnDemand		
	Cash Fare	10-ride Card	Monthly Pass	Cash Fare	10-ride Card	Monthly Pass
Adults	\$3.00	\$25.00	\$85.00	\$3.00	\$27.00	\$85.00
Seniors (65+)	\$3.00	\$21.00	\$65.00	\$3.00	\$22.50	\$65.00
Elementary and High School	\$3.00	\$21.00	\$75.00	\$3.00	\$22.50	\$65.00
Children	\$1.50 (12 and under riding alone) Free (12 and under riding with paying adult)			5 and under free (Note: As of February 1 st , 2021 the child age for Regional service will change to 12 and under)		

Niagara Region also offer fares that permit intermunicipal travel using the existing fixed route network of Niagara Region Transit, such as Route 25 (Port Colborne Link). The fare table below permits riders to travel anywhere in Niagara.

	OnDemand		
	Cash Fare	10-ride Card	Monthly Pass
Adults	\$6.00	\$45.00	\$160.00
Seniors (65+)	\$5.00	\$40.00	\$130.00
Elementary and High School	\$5.00	\$40.00	\$130.00
Children	5 and under free (Note: As of February 1 st , 2021 the child age for Regional service will change to 12 and under)		

Financial Implications:

The financial implications of the current service level and the estimated financial impact of the new OnDemand service level are identified in the chart below:

	2021 – Current	2021 – OnDemand*	2022 – OnDemand*^
Current Net Levy Impact of Transit~	\$135,700	\$135,700	\$135,700
Increase cost for increase level of service with OnDemand	N/A	\$252,400	\$375,000
	\$135,700	\$388,140	\$510,700
City of Port Colborne	N/A	\$126,200	\$187,500
Niagara Region	N/A	\$126,200	\$187,500
	N/A	\$252,400	\$375,000

~ The gross cost before Provincial Gas Tax revenue and user fees is \$303,700. The net cost in the budget was \$165,700. The net cost above of \$135,700 reflects the projected revenue of approximately \$30,000 in a non-COVID period.

* The figures above assume no change in usage from the 2019 level and that Niagara Region through its Public Works Committee and Council, approve matching funding as part of their intermunicipal transit mandate since a connection to Fort Erie Transit would be established (anticipated in the Crystal Beach area). Through discussions with Niagara Region, staff understand the Niagara Region already has these funds budgeted and are financially involved with the NRT OnDemand programs in other local area municipalities. As noted the recommendation to this report is contingent on funding approval from the Niagara Region.

^ These figures are in present value dollars and may be subject to increases close to inflation. These will be dependent on negotiations between the Niagara Region and their service level provider.

These increased costs are not anticipated to have a permanent impact on the City's portion of the tax levy if the local area municipalities transit systems are consolidated into one transit entity.

For this reason, staff propose the following funding option:

- For 2021 the estimated funding requirement of \$126,200 be funded from the transit reserve that currently has a balance of \$150,000. Staff identified this

potential reserve usage in Report 2020-144, Reserve and Reserve Fund Policy dated October 13, 2020.

- For 2022, the remainder of the transit reserve would be used, and any additional funding would be internally funded from the stabilization reserve. These funds would be replenished/repaid by maintaining the current net transit levy budget up to \$135,700 in subsequent years after uploading the transit system to a regional transit entity. After the balance funded from the stabilization reserve is repaid, the net transit levy amount would be removed from the City's budget.

The risk to this funding model is the uploading process takes longer, does not happen or the City is asked to fund the regional transit entity on a go forward basis (which, at the time of writing this report, staff understand to not be the case). If the transition takes one year longer into 2023 staff propose the same funding strategy in 2022 be used (internally fund from reserves). If the transition takes longer than 2023 and/or does not gain approval staff will review other funding options and/or options to adjust service levels. The levy impact of \$187,500 (2022 estimated cost) is approximately 0.9%.

For greater clarity, staff identify the funding model identified above is based on estimates and are subject to change. If Council approves this report, Council is approving a 50/50 cost share of the increased cost of the OnDemand service with Niagara Region (which will offset the costs of the connection to Fort Erie Transit) and that the City's portion be paid first from the transit reserve and second from the stabilization reserve, to be repaid by maintaining the levy post consolidation until the stabilization reserve is repaid.

Conclusion:

The City has a unique opportunity at this time to set its level of service with the cooperation of the Niagara Region prior to the anticipated creation of a consolidated regional transit entity.

Appendices:

- Current Transit Route
- Proposed Service Map (Port Colborne going into Fort Erie Crystal Beach Area)

Respectfully submitted,

Bryan Boles

Director of Corporate Services / Treasurer

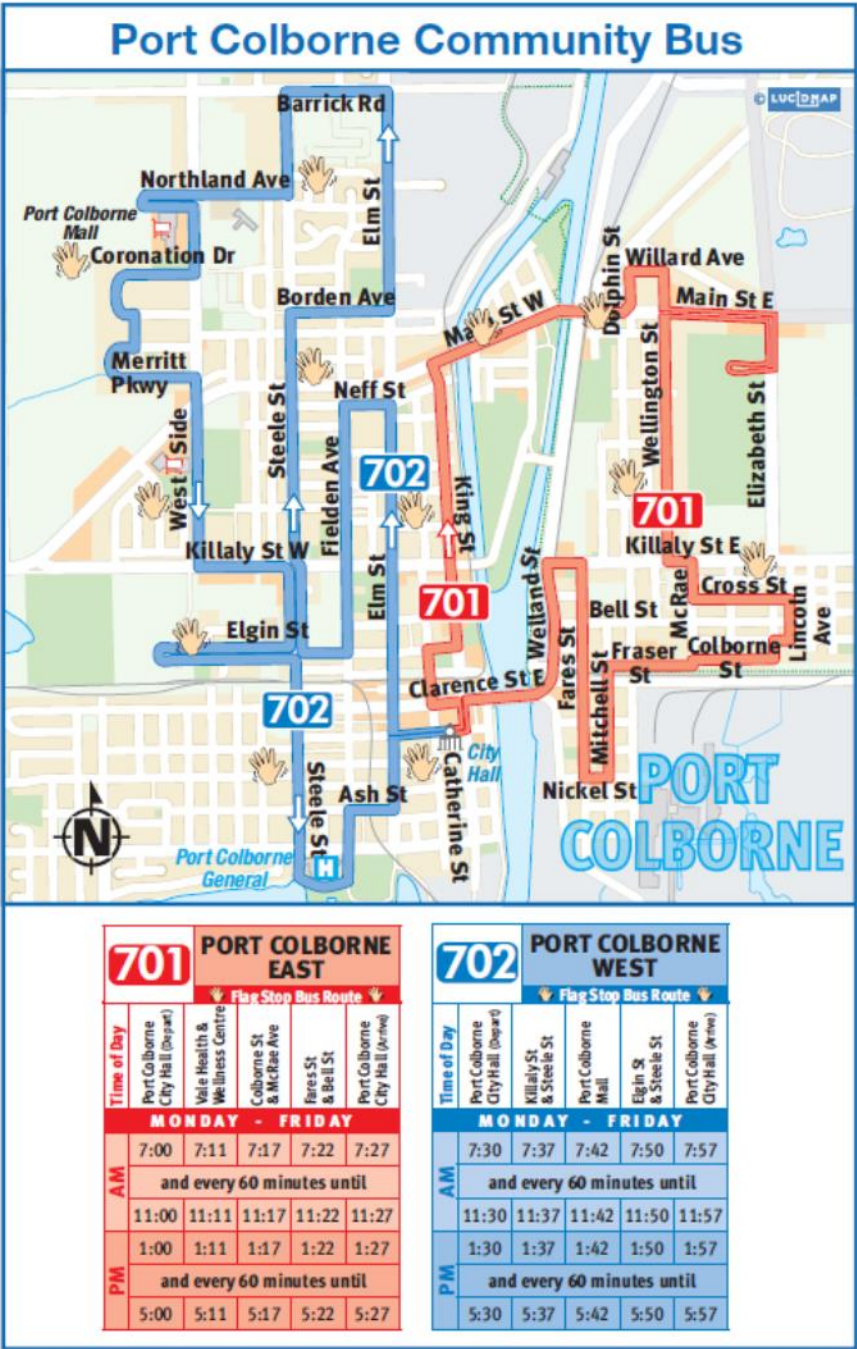
905-835-2900 ext. 105

Bryan.Boles@portcolborne.ca

Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final approval is by the Chief Administrative Officer.

Report 2021-15 Appendix A
Current Transit Route



Please see City of Port Colborne or Welland Transit web site for fare structure information for Port Colborne Community and Link bus services

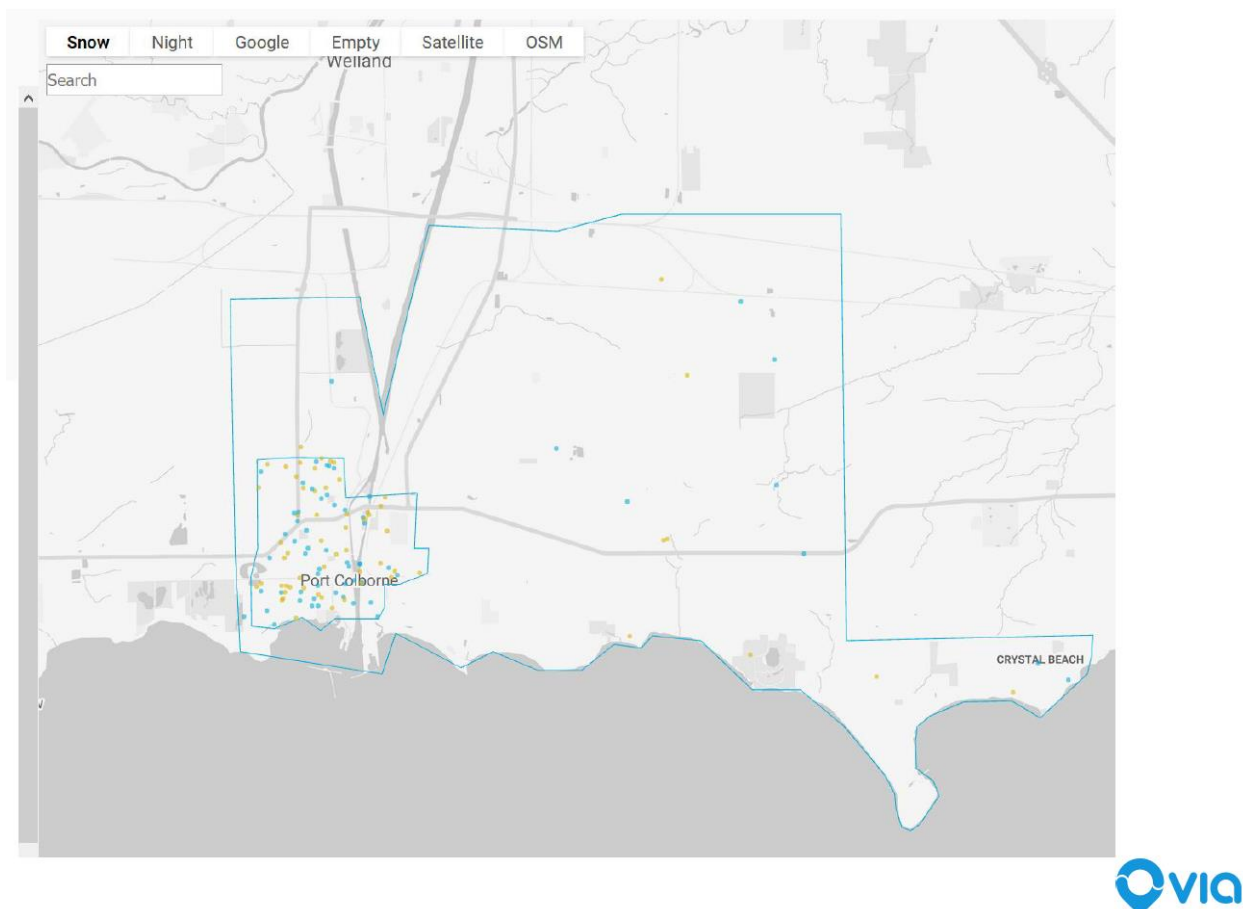


Flag Stop for Port Colborne only

You can board the bus by waving to the driver as the bus approaches. Look for the waving hand symbol on the maps, which highlights areas where Flag Stop is in effect.

Report 2021-15 Appendix B

Proposed Service Map (Port Colborne going into Fort Erie Crystal Beach Area)



Note the map above was created by the Niagara Region's service provider. The Service area is outlined by the blue line around the City. An additional blue line around the more densely populated area of the City highlights where the greater portion of rides are anticipated. The dots being blue and yellow indicate algorithmic pick-up and drop-off examples used to calculate the average wait time of 8 minutes and walking distance to a pick-up location of 55m to 80m.

Most importantly this map highlights this transit proposal would service all of the City and not just the central urban area.

Minute Item No. 5.1

CSD 11-2021

Business Licensing By-law Review

That Report CSD 11-2021, dated August 11, 2021, respecting Business Licensing By-law Review, **BE RECEIVED** and the following recommendations **BE APPROVED**:

1. That By-law No. 2018-75, being a by-law to licence, regulate and govern vehicles for hire (taxicabs, transportation network company vehicles, specialty vehicles, auxiliary services vehicles, shuttle buses, sightseeing vehicles, caleche, tow trucks) and businesses (second-hand good stores and dealers, salvage yards, auto-wrecking yards and taxicab brokers), **BE REPEALED**;
2. That the draft by-laws contained in Appendices 1 to 5 of Report CSD 11-2021 **BE APPROVED**;
3. That By-law No. 2021-03, being a by-law to establish fees and charges for services and activities provided by The Regional Municipality of Niagara and for the use of its property, **BE AMENDED** to reflect the proposed fees and charges contained in Appendix 7 of Report CSD 11-2021, subject to confirmation that the required notice has been given under the Region's Public Notice Policy (PC-RC-005); and
4. That the necessary by-laws **BE PREPARED** and **PRESENTED** to Council for consideration.

Minute Item No. 5.2

CSD 52-2021

Rapid Housing Initiative Capital Funding

That Report CSD 52-2021, dated August 11, 2021, respecting Rapid Housing Initiative Capital Funding, **BE RECEIVED** and the following recommendations **BE APPROVED**:

1. That, contingent on Federal Government approval of Niagara's Rapid Housing Initiative (RHI) submission, a gross capital budget adjustment in the amount of \$13,577,582 and \$0 net, **BE APPROVED** (and **INITIATED**) for the Welland Multi-Residential Intensification Project; and
2. That the project **BE FUNDED** as follows:
 - Federal RHI Grant - \$10,515,033
 - Development Charges – Social Housing - \$2,465,243
 - Municipal Contributions - \$597,306

Minute Item No. 5.4

CSC-C 22-2021

Recommendations from the Women's Advisory Committee meeting held on July 28, 2021

That Correspondence Item CSC-C 22-2021, being a memorandum from A.-M. Norio, Regional Clerk, dated August 11, 2021, respecting Recommendations from the Women's Advisory Committee meeting held on July 28, 2021, **BE RECEIVED** and the following recommendation **BE APPROVED**:

1. That the recommendations from the Women's Advisory Committee meeting held on July 28, 2021, respecting Economic Development, **BE REFERRED** to the Planning and Economic Development Committee meeting being held on September 15, 2021.

Minute Item No. 9.1

Confidential CSD 53-2021

A Matter Respecting Litigation or Potential Litigation under s. 239 (2) of the Municipal Act, 2001 – Outstanding Development Charge Collections – Grimsby

That Confidential Report CSD 53-2021, dated August 11, 2021, respecting A Matter Respecting Litigation or Potential Litigation under s. 239 (2) of the Municipal Act, 2001 – Outstanding Development Charge Collections – Grimsby, **BE RECEIVED**; and

That staff **PROCEED** as directed in closed session.

**THE REGIONAL MUNICIPALITY OF NIAGARA
CORPORATE SERVICES COMMITTEE
OPEN SESSION**

**CSC 8-2021
Wednesday, August 11, 2021
Council Chamber / Video Conference
Niagara Region Headquarters, Campbell West
1815 Sir Isaac Brock Way, Thorold, ON**

Committee Members Present in the Council Chamber: Foster (Committee Chair)

Committee Members Present via Video Conference: Bradley (Regional Chair), Butters, Campion, Diodati, Easton, Fertich, Gale, Heit, Ip, Redekop, Rigby, Whalen (Committee Vice-Chair)

Absent/Regrets: Edgar

Staff Present in the Council Chamber: A. Apfelbaum, Manager, Business Licensing, H. Chamberlain, Director, Financial Management & Planning/Deputy Treasurer, R. Fleming, Senior Tax & Revenue Analyst, T. Harrison, Commissioner/Treasurer, Corporate Services, A. Jugley, Acting Chief Administrative Officer/Commissioner, Community Services, M. Lewis, Client & Support Advisor, M. Murphy, Associate Director, Budget Planning & Strategy, A.-M. Norio, Regional Clerk, M. Trennum, Deputy Regional Clerk

Staff Present via Video Conference: F. Fucile, Manager, Real Estate, D. Gibbs, Director, Legal & Court Services, K. Lotimer, Legislative Coordinator, B. Menage, Director, Procurement & Strategic Acquisitions, C. Reid, Legal Counsel, M. Sergi, Commissioner, Planning & Development Services, G. Szaszi, Housing Development Project Manager

1. CALL TO ORDER

Committee Chair Foster called the meeting to order at 9:30 a.m.

2. DISCLOSURES OF PECUNIARY INTEREST

See Minute Item 9.

3. PRESENTATIONS

There were no presentations.

4. DELEGATIONS

- 4.1 Additional Information for CSD 37-2021, Respecting Development Charge Demolition Credit Extension Request - Brownfield Redevelopment, Grimsby (CSC-C 21-2021 (Agenda Item 5.3))

Moved by Councillor Fertich
Seconded by Councillor Butters

That Brandon Almeida, Project Manager & Planner, Land Development, Losani Homes Ltd., **BE PERMITTED** to appear before Committee as a delegate respecting Additional Information for CSD 37-2021, Respecting Development Charge Demolition Credit Extension Request - Brownfield Redevelopment, Grimsby (CSC-C 21-2021 (Agenda Item 5.3)).

Carried

Mr. Almeida, Project Manager & Planner, Losani Homes Ltd., appeared before Committee requesting consideration of a twelve month extension to the brownfield transition agreement associated with 2 Winston Road, Grimsby.

There being no objection, Correspondence Item CSC-C 21-2021 (Agenda Item 5.3), was considered at this time.

5. ITEMS FOR CONSIDERATION

- 5.3 CSC-C 21-2021
Additional Information for CSD 37-2021, Respecting Development Charge Demolition Credit Extension Request - Brownfield Redevelopment, Grimsby

Moved by Councillor Gale
Seconded by Councillor Whalen

That Correspondence Item CSC-C 21-2021, being a memorandum from, R. Fleming, Senior Tax & Revenue Analyst, dated August 11, 2021, Respecting Additional Information for CSD 37-2021, Respecting Development Charge Demolition Credit Extension Request – Brownfield Redevelopment, Grimsby, **BE RECEIVED** and the following recommendations **BE APPROVED**:

1. That the eligibility period extension request for the Regional Development Charge demolition credits associated with 2 Winston Road, Grimsby, **BE APPROVED**; and

2. That any extensions to brownfield grant agreements between the Regional Municipality of Niagara and Losani Homes (1998) Ltd. **BE APPROVED** if the extension aligns with the Town of Grimsby's Development Charges By-law.

Moved by Councillor Fertich
Seconded by Councillor Gale

That the motion **BE AMENDED** as follows:

- 2. That Losani Homes BE PROVIDED a 12 month extension to the Brownfield Transition agreement.**

Moved by Councillor Heit
Seconded by Councillor Ip

That the following amendment **BE DEFERRED** to a future Corporate Services Committee meeting to allow staff to provide additional information:

- 2. That Losani Homes BE PROVIDED a 12 month extension to the Brownfield Transition agreement.**

Carried

The Chair called on vote on the remainder of the motion as follows:

That Correspondence Item CSC-C 21-2021, being a memorandum from, R. Fleming, Senior Tax & Revenue Analyst, dated August 11, 2021, respecting Additional Information for CSD 37-2021, Respecting Development Charge Demolition Credit Extension Request – Brownfield Redevelopment, Grimsby, **BE RECEIVED** and the following recommendation **BE APPROVED**:

1. That the eligibility period extension request for the Regional Development Charge demolition credits associated with 2 Winston Road, Grimsby, **BE APPROVED**.

Recorded Vote:

Yes (4): Diodati, Fertich, Gale, Whalen.

No (9): Bradley, Butters, Campion, Easton, Foster, Heit, Ip, Redekop, Rigby.

Defeated

5.1 CSD 11-2021

Business Licensing By-law Review

Angelo Apfelbaum, Manager, Business Licensing, provided information respecting Business Licensing By-Law Review. Topics of the presentation included:

- Niagara Region Business Licensing: What do we License and Regulate?
- What By-law is Being Repealed and Replaced?
- Amendments to the 2021 Schedule of Fees and Charges
- Towing Rate and Taxi Rate Tariff and Vehicle for Hire Fees
- Licence Quotas, Standard Character Criteria, Vehicle Standards

Moved by Councillor Heit

Seconded by Councillor Diodati

That Report CSD 11-2021, dated August 11, 2021, respecting Business Licensing By-law Review, **BE RECEIVED** and the following recommendations **BE APPROVED**:

1. That By-law No. 2018-75, being a by-law to licence, regulate and govern vehicles for hire (taxicabs, transportation network company vehicles, specialty vehicles, auxiliary services vehicles, shuttle buses, sightseeing vehicles, caleche, tow trucks) and businesses (second-hand good stores and dealers, salvage yards, auto-wrecking yards and taxicab brokers), **BE REPEALED**;
2. That the draft by-laws contained in Appendices 1 to 5 of Report CSD 11-2021 **BE APPROVED**;
3. That By-law No. 2021-03, being a by-law to establish fees and charges for services and activities provided by The Regional Municipality of Niagara and for the use of its property, **BE AMENDED** to reflect the proposed fees and charges contained in Appendix 7 of Report CSD 11-2021, subject to confirmation that the required notice has been given under the Region's Public Notice Policy (PC-RC-005); and
4. That the necessary by-laws **BE PREPARED** and **PRESENTED** to Council for consideration.

Carried

5.2 CSD 52-2021

Rapid Housing Initiative Capital Funding

Moved by Councillor Ip

Seconded by Councillor Rigby

That Report CSD 52-2021, dated August 11, 2021, respecting Rapid Housing Initiative Capital Funding, **BE RECEIVED** and the following recommendations **BE APPROVED**:

1. That, contingent on Federal Government approval of Niagara's Rapid Housing Initiative (RHI) submission, a gross capital budget adjustment in the amount of \$13,577,582 and \$0 net, **BE APPROVED** (and **INITIATED**) for the Welland Multi-Residential Intensification Project; and
2. That the project **BE FUNDED** as follows:
 - Federal RHI Grant - \$10,515,033
 - Development Charges – Social Housing - \$2,465,243
 - Municipal Contributions - \$597,306

Carried

5.4 CSC-C 22-2021

Recommendations from the Women's Advisory Committee meeting held on July 28, 2021

Moved by Councillor Campion

Seconded by Councillor Redekop

That Correspondence Item CSC-C 22-2021, being a memorandum from A.-M. Norio, Regional Clerk, dated August 11, 2021, respecting Recommendations from the Women's Advisory Committee meeting held on July 28, 2021, **BE RECEIVED** and the following recommendation **BE APPROVED**:

1. That the recommendations from the Women's Advisory Committee meeting held on July 28, 2021, respecting Economic Development, **BE REFERRED** to the Planning and Economic Development Committee meeting being held on September 15, 2021.

Carried

6. **CONSENT ITEMS FOR INFORMATION**

There were no consent items for information.

7. OTHER BUSINESS

There were no items of other business.

8. CLOSED SESSION

Moved by Councillor Gale
Seconded by Councillor Fertich

That this committee **DO NOW MOVE** into closed session for the purpose of receiving information of a confidential nature respecting:

A Matter Respecting Litigation or Potential Litigation under s. 239 (2) of the Municipal Act, 2001 – Outstanding Development Charge Collections – Grimsby

Carried

Committee resolved into closed session at 10:48 a.m.

9. BUSINESS ARISING FROM CLOSED SESSION ITEMS

Committee reconvened in open session at 11:01 a.m. with the following individuals in attendance:

Committee Members Foster (Committee Chair)
Present in the Council
Chamber:

Committee Members Bradley (Regional Chair), Butters, Diodati, Fertich, Gale, Heit, Ip,
Present via Video Redekop, Rigby, Whalen (Committee Vice-Chair)
Conference:

Absent/Regrets: Easton, Edgar

Staff Present in the Council Chamber: H. Chamberlain, Director, Financial Management & Planning/Deputy Treasurer, T. Harrison, Commissioner/Treasurer, Corporate Services, A. Jugley, Acting Chief Administrative Officer/Commissioner, Community Services, A.-M. Norio, Regional Clerk, M. Trennum, Deputy Regional Clerk

Staff Present via Video Conference: D. Gibbs, Director, Legal & Court Services, K. Lotimer, Legislative Coordinator

Councillor Campion declared a conflict of interest during the closed session portion of the meeting regarding Confidential CSD 53-2021 and therefore did not take part in the discussion or vote on this matter.

9.1 Confidential CSD 53-2021

A Matter Respecting Litigation or Potential Litigation under s. 239 (2) of the Municipal Act, 2001 – Outstanding Development Charge Collections – Grimsby

Moved by Councillor Redekop
Seconded by Councillor Heit

That Confidential Report CSD 53-2021, dated August 11, 2021, respecting A Matter Respecting Litigation or Potential Litigation under s. 239 (2) of the Municipal Act, 2001 – Outstanding Development Charge Collections – Grimsby, **BE RECEIVED;** and

That staff **PROCEED** as directed in closed session.

Carried

10. **NEXT MEETING**

The next meeting will be held on Wednesday, September 15, 2021 at 9:30 a.m.

11. **ADJOURNMENT**

There being no further business, the meeting adjourned at 11:05 a.m.

Councillor Foster
Committee Chair

Kelly Lotimer
Legislative Coordinator

Ann-Marie Norio
Regional Clerk

From: [Webmaster](#)
To: [Brandon Almeida](#)
Subject: [External] Online Form - Request to Speak at a Standing Committee or Regional Council
Date: Monday, August 9, 2021 6:07:49 PM

Request to Speak at a Standing Committee or Regional Council

Below is a copy of your submission:

Name

Brandon Almeida

Address

430 McNeilly Road, Suite 203

City

Hamilton

Postal

L8E 5E3

Phone

[REDACTED]

Email

balmeida@losanihomes.com

Organization

Losani Homes

standing committee

Corporate Services Committee

Presentation Topic

CSC-C 21-2021 Additional Information for CSD 37-2021, Respecting Development Charge Demolition Credit Extension Request – Brownfield Redevelopment, Grimsby

Presentation includes slides

No

Previously presented topic

No

Presentation Details

Further to our ongoing requests for extension of the Development Charge Demolition Credits for 362 - 398 North Service Road & 2 Winston Road, Losani Homes would like to provide further information in response to the recommendations brought forward by Staff at the Corporate Services Committee on July 14, 2021, through report CSD 37-2021. Specifically, recommendations 2 and 3 of the report were amended and subsequently deferred to the August 11, 2021, Corporate Services Committee meeting pending additional information from staff. Considering the context of the site from a holistic development perspective, the entirety of the lands cannot proceed to issuance of building permits and application of available credits until remediation has been completed, with Record of Site Condition filed, and all development approvals in place. As such, we do not feel it is appropriate to consider portions of the site for extension as these requirements are in place for the entirety of the lands. Extension is required to 96 months after issuance of demolition permit issuance, inclusive of 2 Winston Road, which is in alignment with the Municipal and Regional By-law provisions for extensions of this nature. Although, this specific portion of the property did not require remediation and record of site condition as its previous use was residential, development cannot proceed until all lands are remediated and receive approvals accordingly. We hope committee proceed with bringing forward Recommendation 2 for approval and considers Losani Homes comments for extension related to recommendation 3 of report CSC C 21-2021.

Video Consent

Yes



VIA EMAIL

August 9, 2021

Niagara Region
1815 Sir Isaac Brock Way
Thorold, ON L2V 4T7
ATTN: Corporate Services Committee

**RE: Niagara Region DC Demolition Credit Extension Request (REPORT CSC-C 21-2021)
362 - 398 North Service Road & 2 Winston Road. – 26OP-16-1805, 26Z-16-1803, 26T-16-1801**

Dear Corporate Services Committee Members,

Further to our ongoing requests for extension of the Development Charge Demolition Credits for 362 - 398 North Service Road & 2 Winston Road, Losani Homes would like to provide further information in response to the recommendations brought forward by Staff at the Corporate Services Committee on July 14, 2021, through report CSD 37-2021. Specifically, recommendations 2 and 3 of the report were amended and subsequently deferred to the August 11, 2021, Corporate Services Committee meeting pending additional information from staff. The recommendations as amended and deferred are as follows:

Recommendation 2: That the eligibility period extension request for the Regional Development Charge demolition credits associated with 2 Winston Rd. Grimsby, **~~BE DENIED~~ BE APPROVED**; and

Recommendation 3: ~~That no additional extension for the Brownfield Transition agreement made under Schedule F of By-law 2017-98 between the Regional Municipality of Niagara and Losani Homes (1998) LTD. or other grants associated with the 5th Wheel development~~ **BE APPROVED**. That any extensions to brownfield grant agreements between the Regional Municipality of Niagara and Losani Homes (1998) LTD. **BE APPROVED** if the extension aligns with the Town of Grimsby's Development Charges By-law.

The scope of our request was the extension of the eligibility for the Demolition Credits pertaining to 362 – 398 North Service Road & 2 Winston Road. There was never any previous discussion or correspondence with staff on the status of the Brownfield Transitional Agreement made under Schedule F of By-law 2017-98 in advance of the recommendation that was brought forward through report CSD 37-2021. Losani Homes has maintained that redevelopment of these lands has not been able to proceed due to delays in completing the remediations works and development approvals. These delays were further compounded following the constraints imposed by the global pandemic, but this was not an item discussed in detail through our original request, and not in relation to the Brownfield Transitional Agreement with the Region. It is also noted that Losani Homes has filed a request for extension of applicable Municipal DC Demolition Credits to the Town of Grimsby in advance of our request to the Region.

Regional staff have noted through report CSC-C 21-2021 that they maintain their recommendation that 2 Winston Rd should not be considered for extension of the Regional Development Charge Demolition Credit. Town Staff's opinion on developable lands for the 5th Wheel property is cited, with specific reference to the fact that the new blocks as established through Draft Plan Approval will be comprised of Parkland, Open Space, and a portion of the Municipal Right-of-Way for the greater development. Town Staff's opinion is that due to this the lands are not brownfield, and the lot was never developable.

We fundamentally disagree with the above opinion as presented by regional staff. The historical use was residential, but the lands are and should be deemed developable in the context of the entire site. The credit would apply for the greater development and not specific construction on the historical boundary of the subject lot which has been altered through Draft Plan Approval. It is now part of a greater assembly for development, sharing the constraints and benefits that come from this. We further note that the designation of this small portion of the lands within the greater development as Parkland, Open Space and Municipal ROW do not define it as undevelopable in terms of developable acreage under the by-law. Consideration needs to be given to the benefit this piece brings to the holistic development, along with principal intent of demolition credits in regard to their application to development charges.

Demolition credits are derived on the principle that a given structure historically used services and paid for a portion of the initial costs for the infrastructure to facilitate development in that given area of the municipality through Development Charges. Considering this historical investment paid, demolition credits serve as the mechanism to ensure that initial investment is recognized and not double charged. To provide the opinion that because an approved redevelopment plan, consistent with municipal policy, deems a small portion of a larger assembly as non-developable from a building construction perspective, appears to contradict the intent of the demolition credits. The entire development, inclusive of 2 Winston Rd. is facilitating 1287 residential units and 70,000 m2 of employment space under a single development for all the lands.

It is unclear why the Region and Town is taking the position that this credit be forfeited when municipal policy and the approved plans designated this small portion of land for future municipal assets (Park/ROW), and the greater development is bringing substantial benefit and further infrastructure improvements for substantially more units and employment to the area. The intent of the credit should still apply considering proximity and contribution to the initial infrastructure in this area. Further, the focus should not be on whether the isolated piece is brownfield under explicit historical use, as the entirety of the lands are brownfield in terms of development constraints and remediation requirements. It is very reasonable and appropriate to have this credit applied to the greater development considering the above. This application for credit application across development sites is consistently applied in varying municipalities in Ontario, with some even allowing the transfer of credits to other developments within a given municipality.

Regional Staff are correct in noting that Losani Homes will not be receiving any Brownfield Development Charge grants from the Town of Grimsby, and that no additional agreements are in place with the Town that could align with the current regional agreement. Considering this, recommendation 3 as amended would not result in an extension of the Regional Brownfield Development Charge Transitional Agreement with Losani Homes. Losani Homes has no concern in recommendation 3 proceeding as amended considering this but hope the Committee would consider a further amendment that could foster productive discussion and review of the agreement. Although we did not initiate a request for extension of this agreement through our request for extension of the demolition credits, we would like to proceed to work with Regional Staff, Committee and Council to put forward a formal request for a one-year extension due to the unforeseen effects and substantial delays as imposed as a result of the global pandemic. We believe it is reasonable to bring forward this request now that staff have brought forward this item and believe that the effects that were experienced by the development and its approvals to date have been experienced by many others in the Region and Province as whole.

Considering the context of the site from a holistic development perspective, the entirety of the lands cannot proceed to issuance of building permits and application of available credits until remediation has been completed, with Record of Site Condition filed, and all development approvals in place. As such, we do not feel it is appropriate to consider portions of the site for extension as these requirements are in place for the entirety of the lands. Extension is required to 96 months after issuance of demolition permit issuance, inclusive of 2 Winston Road, which is in alignment with the Municipal and Regional By-law provisions for extensions of this nature. Although, this specific portion of the property did not require remediation and record of site condition as its previous use was residential, development cannot proceed until all lands are remediated and receive approvals accordingly. We hope committee proceed with bringing forward Recommendation 2 for approval and considers Losani Homes comments for extension related to recommendation 3 of report CSC C 21-2021.

We appreciate your continued review and consideration for extension of the DC Demolition Credits for this site. Should you have any questions or concerns, please do not hesitate to contact me.

Regards,
LOSANI HOMES (1998) LTD.
Per

A handwritten signature in black ink, appearing to read 'Brandon Almeida', is written over a light gray rectangular background.

Brandon Almeida, BES, MCIP, RPP
Project Manager & Planner
Land Development

MEMORANDUM

CSC-C 21-2021

Subject: Additional Information for CSD 37-2021, Respecting Development Charge Demolition Credit Extension Request – Brownfield Redevelopment, Grimsby

Date: August 11, 2021

To: Corporate Services Committee

From: Rob Fleming, Senior Tax & Revenue Analyst

At the Corporate Services Committee (CSC) on July 14, 2021, Committee members were in receipt of a staff report CSD 37-2021 Development Charge Demolition Credit Extension Request – Brownfield Redevelopment, Grimsby, which contained three recommendations on the subject property. The first recommendation as approved by Committee and subsequently Council the following week is as follows:

Recommendation 1: That the eligibility period extension request for the Regional Development Charge demolition credits associated with the brownfield redevelopment located at 362-398 North Service Rd., Grimsby (commonly referred to as “5th Wheel”) **BE APPROVED** as per Table 2 of Report CSD 37-2021, in accordance with section 18 (c) of By-law 2017-98;

Recommendations 2 and 3 of the report were amended and subsequently deferred to the August 11, 2021 CSC meeting pending further information from staff. The recommendations as amended and deferred are as follows:

Recommendation 2: That the eligibility period extension request for the Regional Development Charge demolition credits associated with 2 Winston Rd., Grimsby, **BE DENIED BE APPROVED**; and

Recommendation 3: That no additional extension for the Brownfield Transition agreement made under Schedule F of By-law 2017-98 between the Regional Municipality of Niagara and Losani Homes (1998) LTD. or other grants associated with the 5th Wheel development **BE APPROVED**. That any extensions to brownfield grant agreements between the Regional Municipality of

*Niagara and Losani Homes (1998) LTD. **BE APPROVED** if the extension aligns with the Town of Grimsby's Development Charges By-law.*

As mentioned, CSC deferred Recommendations 2 and 3 pending additional information from staff. Staff noted two areas of discussion that would have benefitted from further information. As such, staff have compiled the following:

Information Request 1: What is the Town of Grimsby's position on the extension of the demolition credits associated with 2 Winston Rd. property for an additional 3 years?

Town of Grimsby staff have indicated that they will not be recommending an extension to their Council for the Town's demolition credits associated with the 2 Winston property for the same reason as noted by Region staff through report CSD 37-2021. Town staff have also indicated that they believe that the residential lot in question is not a developable portion of the Fifth Wheel property. The residential portion will form part of the future park through parkland dedication and the land is designated parkland in their Official Plan, within the 30 metre required setback and identified as hazard land, therefore, the parcel in question was not developable to begin with. With that information in mind, Town staff are of the opinion the site does not qualify as a brownfield and the lot was never developable and therefore would not be eligible for an extension under the Development Charges By-law.

Information Request 2: Is the Town of Grimsby providing the property in question a Brownfield Development Charge grant similar to that of the Region's and if so, will they be extending their grant approvals?

Town of Grimsby staff have indicated that the properties will not be receiving a Brownfield Development Charge grant from the Town. They have also indicated that the property will not be receiving any Community Improvement Plan grants as those grants are limited to the downtown area only (for which these properties are not located). If recommendation 3 is approved as amended it will not result in an extension of the Region's Brownfield Development Charge Transition Agreement grant that is set to expire August 31, 2022, as the Town does not have a program for which the Region can align.

Based on the additional information provided in this memo staff recommend that the original Recommendations 2 and 3 as presented with Report CSD 37-2021 be approved.

Respectfully submitted and signed by

Rob Fleming, MBA
Senior Tax & Revenue Analyst

Business Licensing By-law Review

CSD 11-2021

Wednesday August 11, 2021

Niagara Region Business Licensing: What do we Licence and Regulate?

- 2018-75 – A by-law to licence and regulate vehicles for hire and businesses
- 2018-76 – A by-law to licence and regulate adult entertainment parlours
- St. Catharines – delegated authority to licence and regulate adult entertainment and body rub parlours
- Niagara Falls – delegated authority to licence and regulate adult entertainment and body rub parlours
- Thorold – delegated authority to licence and regulate adult entertainment parlours

What By-law is Being Repealed and Replaced?

- By-law 2018-75 that provides for licensing and regulation of vehicles for hire and businesses is being repealed and replaced with 5 industry specific by-laws.
- This was identified as a business improvement to modernize the regulatory by-laws.
- Adult Entertainment will not be reviewed this year but will be addressed in the future.

Amendments to the 2021 Schedule of Fees and Charges

- The only Licence Fee increase will be the Transportation Network Company Driver Licences. The fee for an initial licence increases from \$40 to \$60. This now puts the fee in line with other driver licences.
- The addition of a 1 month, 6 month or 12 month licence was added for Vehicles for Hire to address seasonal tourism operations.
- The remainder of the changes to the 2021 Schedule of Fees and Charges include changes and additions to licence names/types and class/subclass.

Towing Rate and Taxi Rate Tariff and Vehicle for Hire Fees

- The Towing Rate and Taxi Rate Tariffs are now included in each respective by-law.
- These are contained in Appendix 8 of the report.
- These are the maximum chargeable rates for service to customers.
- Fees in line with other municipalities and addresses increases in insurance, fuel, maintenance and equipment purchase.
- Minimum \$10.00 passenger fee rate is now in-place for Sightseeing, Shuttles and Specialty services and \$5.00 for Caleche services.

Licence Quotas, Standard Character Criteria, Vehicle Standards

- The Licensing Officer will have the ability to set licence quotas or freeze licences quotas.
- Ensure proper service levels, prevent market saturation and support and promote sustainable business and innovation.
- Work with the various industries, agencies and residents.
- Provide consumer protection, protect vulnerable persons and promote safe driving.
- Promote safe vehicles and safe businesses.

Questions?

Angelo Apfelbaum

Manager, Business Licensing

Niagara Region

905-980-6000 ext 6381

Angelo.Apfelbaum@niagararegion.ca

Subject: Business Licensing By-Law Review

Report to: Corporate Services Committee

Report date: Wednesday, August 11, 2021

Recommendations

1. That By-law No. 2018-75, being a by-law to licence, regulate and govern vehicles for hire (taxicabs, transportation network company vehicles, specialty vehicles, auxiliary services vehicles, shuttle buses, sightseeing vehicles, caleche, tow trucks) and businesses (second-hand good stores and dealers, salvage yards, auto-wrecking yards and taxicab brokers, **BE REPEALED**;
2. That the draft by-laws contained in Appendices 1 to 5 of Report CSD 11-2021 **BE APPROVED**;
3. That By-law No. 2021-03, being a by-law to establish fees and charges for services and activities provided by The Regional Municipality of Niagara and for the use of its property, **BE AMENDED** to reflect the proposed fees and charges contained in Appendix 7 of Report CSD 11-2021, subject to confirmation that the required notice has been given under the Region's Public Notice Policy (PC-RC-005); and
4. That the necessary by-laws **BE PREPARED** and **PRESENTED** to Council for consideration.

Key Facts

- The purpose of this report is to seek Council's approval to repeal the current Vehicles for Hire and Businesses By-Law and to approve, prepare and present the draft sector specific business licensing by-laws, attached as Appendices 1 to 5 of Report CSD 11-2021.
- The Regional Municipality of Niagara (the "Region") is authorized under Part II section 11 and Part IV of the *Municipal Act, 2001*, S.O. 2001 c.25, as amended, to pass by-laws for the licensing, regulating and governing of certain businesses. The Region's scope of authority as an upper-tier municipality is limited to certain types of businesses, such as tow trucks and taxicabs, as prescribed by the *Municipal Act, 2001*, whereas other types of businesses, such as restaurants, may be regulated by local area municipalities.
- Previously, Niagara Regional Police Services ("NRPS") had taken carriage of business licensing on behalf of the Region. On June 1, 2019, the Region assumed licensing responsibilities from NRPS, including the existing by-law structure with

limited housekeeping updates. After undertaking internal review and stakeholder engagement, staff recommend repealing the current by-law and replacing it with updated sector-specific by-laws reflective of stakeholder input, legislative changes (including the Towing and Storage Safety and Enforcement Act, 2021) and best practices based on a jurisdictional scan of other municipal business licensing by-laws.

- Governance and enforcement of the Adult Entertainment and Body Rub Parlour industries became the responsibility of Niagara Region as part of the transfer of business licensing from Niagara Regional Police.
- Subject to confirmation of the appropriate notice being given under the Region's Public Notice Policy (C-RC-005), it is proposed that the Fees and Charges by-law be amended to reflect changes in the new licensing by-laws.

Financial Considerations

Revenue received from the issuance of business licences offsets the direct costs of the Business Licensing Division.

Since March 2020, licensing revenues have been on the decline due to the on-going impacts of the COVID-19 pandemic, including the Provincial Orders, and the associated measures imposed on the various industries licensed by the Region. Throughout the COVID-19 pandemic, and in light of the Provincial Orders, several businesses have ceased to operate and closed their doors permanently. Others have experienced an extreme reduction in their business operations, and subsequently closed for the season or reduced their service levels.

In the initial analysis of the transfer of business licensing responsibilities to Niagara Region from Niagara Regional Police, it was suggested that the division could operate on 100% cost recovery through licensing fees. This has not been the case since the transition of the responsibilities and has been further impacted by the COVID-19 restrictions on the businesses licensed by the division.

As COVID-19 restrictions ease, deferrals of up to 60 days will be allowed at the discretion of the Manager of Business Licensing for the 2021 licence fee renewals. This will allow businesses to financially prepare for returning to normal business operations.

The Fees and Charges by-law also requires amendment to reflect the proposed business licensing by-law changes. Updates to the fees are indicated in Appendix 7 of Report CSD 11-2021, column J, under the header "Change". With one exception, all

changes are administrative to consolidate, rename, and bring consistency to the fees. Fee CS-206 (formerly CS-114) Transportation Network Company Driver License – Initial Application is increasing from \$40.00 to \$60.00 to bring it in alignment with other similar driver license fees on the schedule. The cost recovery status of all fees is reviewed in full by Finance staff during the Region’s annual budget process.

Analysis

The analysis section contains an overview for committee of activities since transition of responsibilities. In addition, the section provides industry information, on overview of the business licensing group and the public engagement processes undertaken to develop the by-laws.

History and COVID-19 Impacts

On June 1, 2019, licensing of vehicles for hire (such as taxis, Transportation Network Companies, shuttles, specialty and sight-seeing vehicles) and businesses (including salvage/auto wrecking yards, second-hand shops and tow trucks) was transferred from Niagara Regional Police Services (NRPS) to Niagara Region as described in Confidential Report CAO 11-2018: Business Licensing Transition Project Update.

In order to provide a “seamless” transition of services, existing business licensing operations, including the by-law, were essentially assumed from NRPS with only minor necessary housekeeping changes, with the intention that the by-law would be repealed, with new by-laws being created, to achieve updates and efficiencies at a later date following stakeholder engagement and internal review.

Stakeholder and public engagement was conducted in 2019 and 2020 however, due to the ongoing staffing pressures of the COVID-19 pandemic and Provincial legislative changes directly impacting licenced industries, namely the tow truck industry, the drafting and review of these new by-laws was delayed.

In 2020 and 2021 Licensing Enforcement Officers have been providing regulatory enforcement response for the Emergency Measures and Civil Protection Act and the Reopening Ontario Act as well as assisting at the Mass Immunization Centers throughout Niagara Region since March 2021.

Five (5) sector-specific draft by-laws have been prepared and are recommended for Council approval. Sector specific information is contained in Appendix 9 of Report CSD 11-2021, which outlines the number and types of licenses.

Public and Stakeholder Outreach and Engagement

As part of the process in drafting and reviewing new by-laws, public and industry stakeholder outreach and engagement has been paramount in gaining insight into the needs and wants of affected businesses and updates required to enhance consumer protection and public safety objectives.

Staff from Strategic Communications and Public Affairs, Corporate Strategy and Innovation and Business Licensing developed a formal outreach engagement plan in order to capture as many opinions and perspectives as possible. This strategy was employed for 5 months from December 2019 to April 2020. A Business Licensing By-law Update Workbook (Appendix 6 of Report CSD 11-2021) was provided on-line and in print copy to assist in the review and prompt discussion with the industries and the public.

1. On-Line Survey

On December 2, 2019, a public facing online video and public survey were posted on the Region's webpage. This was done in conjunction with a social media campaign through Twitter and radio advertisements directing listeners to the Region's webpage.

The webpage video provided information on the licensing by-law review process, including the link to the public survey and the upcoming Public Engagement session dates and locations. The online survey was open to the public until the end of April 2020.

The Region received 122 survey responses of which 38% were current business licence holders, the remaining 62% were members of the public or users of licensed industries.

The chart below outlines licensed industry response from the on-line survey broken down by sector:

Industry	Percent Participation
Vehicle for Hire Industry (Shuttle, Sight-Seeing, Specialty and Caleche)	30%
Taxi Industry	17%
Transportation Network Company Industry (TNC)	15%
Towing Industry	15%
Auto Wrecking Industry	9%
Salvage Yard Industry	9%
Second-Hand Shop Industry	2%
Adult Entertainment Industry (not part of current review)	2%

The respondents identified the following 5 key areas of interest:

1. Simplify the licence application process including an on-line option,
2. Clarify requirements for licencing,
3. Clarify inspection criteria for licence holders,
4. Review Licensing Fees,
5. Identify process to file a complaint about a licence holder.

2. Industry and Stakeholder Sessions

Stakeholder meetings were held on the following dates at Region HQ:

- February 24, 2020 – Local Area Municipalities, Towing, Taxi and TNC businesses
- February 25, 2020 – Salvage and Auto Wrecking businesses
- February 26, 2020 – Second-hand and Vehicle for Hire businesses

- February 27, 2020 – Internal Stakeholders and External Agencies (O.P.P., NRPS and MTO)

There was a high attendance rate for Taxi/TNC, Towing, Vehicles for Hire and Salvage industries with a lower attendance rate for the Second-Hand industry.

The stakeholder meetings echoed feedback received from the on-line survey results and also provided some industry specific discussion points below:

- Taxi/TNC – elimination of the taxi plate waiting list and market saturation,
- Vehicles for Hire – renting larger vehicles when needed and seasonal fees,
- Salvage/Auto Wrecking – record keeping, insurance and licence classes,
- Second-hand – record keeping, insurance and licence classes,
- Towing – tow rotation, enforcement, inspections and tariff fees.

3. Public Engagement Sessions

The Public Engagement sessions were held late afternoon on the following dates and locations:

- March 2, 2020 – Central Area, Thorold (Region HQ)
- March 3, 2020 – East Area, Niagara Falls (NRPS HQ)
- March 4, 2020 – Southwest Area, Welland (Public Health Building)

These sessions, although advertised and promoted, were not well attended with total attendance over the 3 day period being 19. The only attendees were existing licence holders that had already completed the on-line survey.

No new information was gathered at these sessions.

4. Draft By-law Review with Industry Stakeholders 2021

The draft by-laws were shared with, and reviewed by representatives of the licensed industries throughout May and June of 2021. These meetings provided an opportunity to present the draft by-laws to each industry and answer any questions or concerns.

5. Outreach and Information Review

Staff began the review of the public surveys and information gathered from all the industry and public outreach sessions and the current licensing by-law between March and December 2020.

From this information staff were able to ascertain that the current consolidated by-law was difficult for licence holders to interpret and required greater clarity on items such as:

- specific licence requirements;
- business requirements;
- specific insurance requirements;
- vehicle requirements;
- fees that could be charged for services they provide;
- other licences or approvals required from other agencies;
- enforcement provisions;
- appeal or hearing requirements.

Staff also noted the by-laws would benefit from enhancements related to enforcement and inspection provisions, authorities for the licensing officer and established criteria for licence approval, denial, suspension or revocation.

6. Jurisdictional Scan

Staff reviewed by-laws from Region of Waterloo, City of London, City of Toronto and City of Hamilton as these municipalities provide similar licencing governance and had recently amended or modernized their by-laws. No single by-law provided the “best fit” for Niagara Region. Staff adapted best practices from each by-law scan to the draft by-laws for Niagara Region.

Summary of Findings

Based on the review process, staff are recommending that the current licensing by-law No. 2018-75 be repealed and that five (5) new industry specific by-laws be approved and enacted by Regional Council:

1. Taxi and TNC By-law (Transportation Network Company)
2. Vehicles Used for Hire By-law (Shuttle, Specialty, Sight-Seeing and Caleche)
3. Salvage Yards By-law (includes provision for yards and shops)

4. Second Hand Shops By-law (includes provisions for shops and dealers)
5. Tow Trucks By-law (includes provisions for tow truck yards)

This expansion into five (5) by-laws allows for specific by-laws that address individual industry concerns. It allows for greater ease and responsiveness in making sector specific changes from time to time, and be more user friendly. The five (5) by-laws were also drafted to provide a consistent format with standardized provisions to the extent possible making it easier to navigate licence requirements.

Overall By-law Updating

In order to be responsive to feedback from the industry, each new draft by-law follows a similar format making it easier to read and follow and outlines the following main parts:

- Definitions;
- Licence Classes;
- Licence Class Requirements and Prohibitions;
- General Licence Requirements;
- Discrimination Prohibitions;
- Inspections;
- Powers of the Licensing Officer;
- Appeal Process;
- Orders;
- Administration and Enforcement.

A number of the changes specifically responded to requests made by stakeholders as part of the extensive consultation that took place. In addition to housekeeping amendments, some of the major changes to the by-laws are listed below:

- Adding the requirement to have a business address within Niagara Region;
- Adding a provision in the by-laws allowing the Licensing Officer to pro-rate licence renewals only. As an example this will allow licence holders to correlate Region issued licences to other agency licence renewal dates such as Ontario issued Driver Licences;
- Adding the requirement of a Business Licence for all businesses. Some businesses only had provisions for vehicles and drivers but not the business;
- Adding a new licence for a Salvage Shop and merging the Salvage Yard and Auto Wrecking Yard licence into one category of Salvage Yard Licence;

- Adding a Tow Yard licence;
- Providing delegated authority for the Manager of Business Licensing to establish a Towing Rate Fee Tariff and Taxi Meter Rate Tariff; the current proposed draft is attached to this report as *Appendix 8*;
- Adding the provision in the Vehicles Used for Hire draft by-law to allow for 1 month, 6 month or 12 month licences to better align with tourism operations. This will only be applicable to the vehicle and the driver licence not the business licence;
- Enhancing and clarifying specific insurance requirements for businesses and vehicles based on the specific industry;
- Adding specific language for vehicle age and mileage combined requiring annual or semi-annual vehicle safety inspections;
- Adding defined criteria for obtaining a licence, or having one revoked or denied;
- Adding language for age of Criminal Records and Judicial Matters Checks and Driver Abstracts to be no older than 60 days at the time of application;
- Adding provisions for proof of ability to work in Canada if not a Canadian Citizen, Landed Immigrant or Refugee;
- Updating the items deemed to be salvage and items deemed to be second-hand and modernize the list based on market trends;
- Allowing all licence holders to come into compliance with the new by-laws within 12 months from the date the draft by-laws are enacted or on their licence renewal date.
- Delegating Authority to the Licensing Officer (Manager of Business Licensing) to develop any forms and procedures required to implement the by-law.

In addition to the above noted changes and as a matter of procedure, staff will be eliminating the taxi plate waiting list and offering those on the list an option to either accept their plate or receive a refund of their initial fee less \$100.00. Many persons on the list have been there for over 10 years. There is funding available in the budget that was established as part of the transfer from NRPS to fund this.

Staff will be researching and establishing a new quota limit for taxi plates in future.

Staff will make an application for a Short Form Wording and Set Fine Order to the Ministry of the Attorney General and Chief Justice once the by-laws are approved. This will allow for tickets (Part I charges pursuant to the Provincial Offences Act) to be issued for contraventions of the by-laws.

Business Licensing and Legal Services staff have drafted the five (5) new by-laws and they are attached to this report as Appendices 1 to 5.

Alternatives Reviewed

A possible alternative to the creation of five (5) new sector-specific by-laws would be to retain the existing Business Licensing By-law No. 2018-75. Given Staff review and external stakeholder engagement identifying the need for updates, Staff do not recommend this alternative.

Relationship to Council Strategic Priorities

The Business Licensing Division provides the regulatory oversight and governance of various licenced industries within Niagara Region. A primary role for the Business Licensing Division is to provide consumer protection, safety and security within licensed industries, and for Niagara residents and users of these industries. The sector specific by-laws have been updated with consumer protection, safety and security at the forefront.

By modernizing and providing for industry specific licensing by-laws and an open dialogue between the Region and the licenced industries this supports the following Niagara Region Council 2019-2022 Strategic Priorities:

- Supporting Businesses and Economic Growth
- Healthy and Vibrant Community
- Sustainable and Engaging Government

Other Pertinent Reports

- Confidential CAO 21-2017 - Review of Contracted Services from the Region of Niagara to Niagara Regional Police Services
- Confidential CAO 11-2018 – Business Licensing Transition Project Update
- CSC-C 17-2018 – Memorandum: Next Steps for Business Licensing Unit Transition

- CSD 4-2020 – Appointments to the Licensing Appeals Committee

Prepared by:

Angelo Apfelbaum
Manager, Business Licensing

Recommended by:

Todd Harrison, CPA, CMA
Commissioner, Corporate Services/
Treasurer

Submitted by:

Ron Tripp, P.Eng.
Acting Chief Administrative Officer

This report was prepared in consultation with Adam Niece, Program Financial Specialist, and Caitlin Reid, Legal Counsel and reviewed by Donna Gibbs, Director Legal and Court Services.

Appendices

Appendix 1	Draft Taxi and TNC By-law
Appendix 2	Draft Vehicles Used for Hire By-law
Appendix 3	Draft Salvage Yards By-law
Appendix 4	Draft Second Hand Shops By-law
Appendix 5	Draft Tow Truck By-law
Appendix 6	Business Licensing By-law Update Workbook
Appendix 7	Draft Amendments to 2021 Schedule of Fees and Charges
Appendix 8	Towing and Taxi Rate Fees Tariff
Appendix 9	Industry Information

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. <>

A BY-LAW TO LICENCE, REGULATE AND GOVERN
OWNERS, DRIVERS AND BROKERS OF TAXICABS AND
TRANSPORTATION NETWORK COMPANY BUSINESSES

WHEREAS the Council of The Regional Municipality of Niagara considers it in the public interest to enact a by-law to licence, regulate and govern various classes of businesses and to repeal the existing Business Licensing By-law No. 2018-75, as amended;

AND WHEREAS Section 9 of the *Municipal Act*, S.O. 2001, c. 25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person;

AND WHEREAS Section 11 of the *Municipal Act*, 2001, S.O. 2001, Chap. 25, as amended, provides The Regional Municipality of Niagara with exclusive jurisdiction to enact by-laws for the licensing, regulating and governing of owners and drivers of taxicabs, taxicab brokers and vehicles used for hire within the Region;

AND WHEREAS Part IV LICENCES (more specifically sections 150 – 165) of the *Municipal Act*, 2001, S.O. 2001, Chap. 25, as amended, authorizes The Regional Municipality of Niagara to regulate and govern businesses, meaning any business wholly or partly carried on within the Region, even if the business is being carried on from a location outside the Region;

AND WHEREAS Section 151 of the *Municipal Act*, 2001, S.O. 2001, Chap. 25, as amended, provides The Regional Municipality of Niagara with the power to provide for a system of licences with respect to a business, and may prohibit the carrying on or engaging in the business without a licence; refuse to grant a licence or to revoke or suspend a licence; impose conditions as a requirement of obtaining, continuing to hold or renewing a licence; impose special conditions on a business in a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a licence; impose conditions, including special conditions, as a requirement of continuing to hold a licence at any time during the term of the licence; and licence, regulate or govern real and personal property used for the business and the persons carrying it on or engaged in it;

AND WHEREAS the Council of the Regional Municipality of Niagara has determined that it is appropriate and desirable to licence taxicabs, transportation network companies and taxicab brokers for the purposes of ensuring the health and safety of both passengers and drivers, for the protection of persons and property, to ensure

consumer protection, and to ensure that efficient taxicab and transportation vehicle network services are available to all persons within the Region;

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

PART I DEFINITIONS

1. In this By-law, unless context otherwise requires:

"Accessible Taxicab" means a passenger vehicle, other than a school bus, that is designed or modified to be used for the purpose of transporting Persons with disabilities and is used for that purpose, in accordance with Ontario Regulation 629 of the *Highway Traffic Act*, R.S.O. 1990, c. H. 8, as amended and the Standards Council of Canada Standard D409-M84, as amended, and is licenced as a Taxicab by a municipality;

"Accessible Taxicab Service" means the dispatching and use of an Accessible Taxicab for the conveyance of one (1) or more Passengers with disabilities;

"Applicant" means any Person who has applied for a Permit and/or Licence under this By-law;

"Broker" means any person who operates, controls or accepts calls in any manner for the dispatch of either Taxicab Services or TNC Services;

"Controlled Drugs and Substances Act" means the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, as amended, or any successor legislation;

"Council" means the Council of The Regional Municipality of Niagara;

"Criminal Code" means the *Criminal Code*, R.S.C. 1985, c. C-46, as amended, or any successor legislation;

"Dispatch" means the act or service of sending or directing a Taxicab or TNC Vehicle, by electronic or any other means, to a Person or Persons who have requested Taxicab Services or TNC Services, but does not include a request made directly to a Taxicab Driver, and "Dispatched" and "Dispatching" shall have corresponding meaning;

"Driver" means the Person licenced under this By-law who drives and has care and control of a Taxicab or TNC Vehicle licenced under this By-law;

"Fees and Charges By-law" means a by-law passed by Council of The Regional Municipality of Niagara pursuant to section 391 of the *Municipal Act, 2001* establishing fees and charges for services and activities provided by the Region and for the use of its property, as amended and replaced from time to time.

"GPS" or **"Global Positioning System"** means a global navigation system that provides the geographic location, velocity and time synchronization of a Person or thing using signals from satellites;

"Highway" means a highway as defined in the *Highway Traffic Act*, R.S.O. 1990, c. H. 8;

"Highway Traffic Act" means the *Highway Traffic Act*, R.S.O. 1990, c. H. 8, as amended, or any successor legislation;

"Holiday" means Saturday, Sunday, New Year's Day, Family Day, Good Friday, Easter Monday, Victoria Day, Canada Day, Civic Monday, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Eve, Christmas Day, Boxing Day, New Year's Eve, and any other day fixed as a public holiday by the Federal Government or Ontario Provincial Government;

"Human Rights Code" means the *Human Rights Code*, R.S.O. 1990, c. H-19, as amended, or any successor legislation;

"Licence" means an authorization issued under this By-law to carry on a business specified therein and the document, certificate or card issued shall provide evidence of such authority as the content may allow;

"Licensee" means a Person holding a Licence in accordance with this By-law;

"Licensing Appeals Committee" or **"Committee"** means the all citizen tribunal appointed by Council to conduct hearings under this by-law;

"Licensing Officer" means the Manager of Business Licensing for The Regional Municipality of Niagara or their designate;

"Ministry of Transportation" means the Ministry of Transportation of Ontario or any successor ministry, department or other government body;

"Motor Vehicle" means a motor vehicle as defined in the *Highway Traffic Act*;

"Municipal Act, 2001" means the *Municipal Act, 2001*, S.O.2001, c. 25, as amended from time to time;

"Municipal Law Enforcement Officer" means a municipal law enforcement officer appointed by Council, or an officer, employee or agent of the Region whose responsibilities include the enforcement of this By-law;

"Officer" means a Municipal Law Enforcement Officer, Licensing Officer, or Police Officer;

"Passenger" means any individual travelling in a Taxicab or TNC Vehicle other than the Driver;

“Permit” means a temporary authorization issued under this By-law to carry on a business specified therein and the document, certificate or card issued shall provide evidence of such authority as the content may allow;

“Person” includes an individual, partnership, or corporation;

“Police Officer” means a police officer as defined by the *Police Services Act*, R.S.O. 1990, c. P.15;

“Provincial Licence” means any form of licence or certification required to be held by the Licensee pursuant to applicable Provincial laws in order to carry on a business of a Taxicab Service or TNC Service;

“Public Vehicles Act” means the *Public Vehicles Act*, R.S.O. 1990, c. P. 54, as amended, or any successor legislation;

“Region” means The Regional Municipality of Niagara, as a municipal corporation and, where the context requires, its geographic area;

“Spare Vehicle” means a Motor Vehicle owned by a Licensee that has been authorized by the Licensing Officer for temporary use in the place of and instead of a Taxicab or TNC Vehicle licenced under this By-law;

“Taxicab” means a Motor Vehicle used for transportation of Passengers from place to place, that has a Taxicab Meter.

“Taxicab Meter” means a mechanical or electronic device used to measure time and distance for the purpose of calculating a fare;

“Taxicab Plate” means the Taxicab Licence Plate that is issued by the Licensing Officer under this By-law, and includes the following subclasses of Taxicab Plates: (1) Standard; (2) Accessible; and (3) Spare Vehicle;

“Taxicab Service” means the use or operation of a Taxicab licenced under this By-law for the conveyance of one or more Passengers in exchange for a fee or other consideration, and may include an Accessible Taxicab Service;

“Transportation Network Company” or **“TNC”** means any person who offers, operates, or facilitates pre-arranged transportation services for compensation using any software or application or telecommunications platform to communicate with Passengers, but does not include a Taxicab Owner;

“TNC Vehicle” means a Motor Vehicle that is used for the provision of a TNC Service;

“TNC Service” means the use of a Motor Vehicle licenced under this By-law for the conveyance of one or more Passengers in exchange for a fee or other consideration through a Transportation Network Company;

PART II LICENCE CLASSES

2. (1) The Licensing Officer shall issue Licences for the following classes:
 - i. Taxicab Broker;
 - ii. Taxicab Plate;
 - iii. Taxicab Vehicle;
 - iv. Taxicab Driver;
 - v. TNC Broker;
 - vi. TNC Vehicle; and,
 - vii. TNC Driver;
- (2) The Licensing Officer shall issue Licences for the following sub-classes:
 - i. Taxicab Spare Vehicle;
 - ii. Spare Vehicle Taxicab Plate;
 - iii. Standard Taxicab Plate; and,
 - iv. Accessible Taxicab Plate.
3. (1) No Person shall carry on or engage in the provision of a Taxicab or TNC Service in the Region unless that Person holds a valid and current Licence permitting them to do so.
- (2) All Licences are valid for a twelve (12) month period from the date of issuance. For Licence renewals only, if deemed necessary for administrative purposes by the Licensing Officer, the term of a Licence may be adjusted, for example, to align with the term of other Provincial Licences held by the Licensee for the Business, and the Licence fee may be pro-rated accordingly.
- (3) Unless otherwise provided for in this By-law, all Licences issued under this By-law are personal to the Licensee, are only transferrable upon approval by the Licensing Officer, and remain the property of the Region.

PART III TAXICAB BROKER LICENCE

Prohibitions

4. No Person shall dispatch a Taxicab for the provision of Taxicab Services without first having obtained a Taxicab Broker Licence in accordance with this By-law.

Taxicab Broker Licence Application

5. Every application for a Taxicab Broker Licence or renewal of such a Licence shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application shall include the following:
 - (1) the full legal name, municipal address, email address and telephone number of each Applicant;
 - (2) If the Applicant is a partnership, the full legal name, address, email address and telephone number of each partner;
 - (3) If the Applicant is a corporation, all current articles of incorporation for the corporation;
 - (4) All current legal documents showing the registered business name of the Applicant, if applicable;
 - (5) The full legal names, addresses and dates of birth for all officers and directors of the Applicant, if applicable;
 - (6) The full legal names and signatures of all Persons having signing authority for the Applicant corporation, if applicable, including a letter outlining the number of signatures required for financial and administrative functions;
 - (7) The full legal names of all Taxicab Vehicle Licensees and Taxicab Driver Licensees who currently use or will use the Applicant as their Taxicab Broker;
 - (8) A Certificate of Insurance (COI) identifying and confirming the following minimum insurance requirements:

Commercial General Liability Insurance ("CGL")

CGL insurance for all services and operations to a limit of not less than FIVE MILLION DOLLARS (\$5,000,000) per occurrence.

The policy will be extended to include:

- a. bodily injury, death and property damage;
- b. cross liability and severability of interest;
- c. blanket contractual;
- d. premises and operations;
- e. personal and advertising injury;
- f. products and completed operations;
- g. owner's and contractors protective;
- h. non-owned Automobile to a limit of not less than TWO MILLION DOLLARS (\$2,000,000);

The policy shall be endorsed to:

- a. include The Regional Municipality of Niagara as an additional insured; and,
- b. contain an undertaking by the insurers to give thirty (30) days prior written notice in the event that there is a material change in the foregoing policies or coverage affecting the Additional Insured(s) or cancellation of coverage before the expiration date of any of the foregoing policies.

Policy Requirements

All policies of insurance shall:

- a) be written with an insurer licensed to do business in Ontario;
- b) be non-contributing with, and will apply only as primary and not excess to any other insurance or self-insurance available to Niagara Region;

Certificates of Insurance

Certificates of insurance originally signed by authorized insurance representatives shall be delivered to the Region prior issuance of the Licence, on a form of Certificate of Insurance which is acceptable to the Region. The Certificate of Insurance must comply with these insurance requirements and must be on the Region's form of Certificate of Insurance, which can be found on the Region's website – www.niagararegion.ca/business/fpr/cert-insurance.aspx. If the Certificate of Insurance is provided in a non-original form (e.g. a facsimile, photocopy or scanned electronic copy), the Applicant acknowledges and agrees that the Region is fully entitled to treat any such Certificate as an original and that the Applicant will be responsible for the accuracy and validity of the information contained therein. All subsequent policy renewals and certificates of insurance thereafter, during the time that the Licence is in force, shall be forwarded to the Region within fifteen (15) days of their renewal date.

- (9) Information on whether the Applicant, or any officer or director of the Applicant, has had a licence in regard to the provision of Taxicab Services suspended or revoked in the Region or in any other municipality within Canada;
- (10) Information on whether the Applicant, or any officer or director of the Applicant, has been convicted of an offence under any previously repealed by-law of the Region or any other municipality within Canada governing the licensing of Taxicab Services;
- (11) A Criminal Record and Judicial Matters check for the Applicant or any officer or director of the Applicant, obtained within sixty (60) days from the date of application, which shall be reviewed in accordance with the criteria in Schedule "A" to this By-law; and,
- (12) Payment in full of the prescribed fee in accordance with the Fees and Charges By-law.

Taxicab Broker Licence Requirements

6. Every Taxicab Broker licenced under this By-law shall:
- (1) Have a physical business premises and telephone number associated with the Taxicab Broker for the benefit of customers who wish to make contact with the Taxicab Broker;
 - (2) Have a digital dispatch system and GPS that allows the Taxicab Broker to communicate with and locate a Taxicab that operates through the Taxicab Broker;
 - (3) Maintain a written or electronic record for a period of twelve (12) months for each Taxicab trip that is dispatched by the Taxicab Broker;
 - (4) Have a minimum of one (1) Taxicab licenced under this By-law, associated or affiliated exclusively with the Taxicab Broker;
 - (5) Ensure that each Person holding a Taxicab Vehicle Licence or Taxicab Driver Licence who operates in association with the Taxicab Broker Licensee is trained in regard to the proper operation of a Taxicab and the provisions of this By-law;
 - (6) Ensure that each Person holding a Taxicab Driver Licence who operates in association with the Taxicab Broker Licensee has completed driver and sensitivity training that includes the following topics:

- i. The safe operation of a Motor Vehicle including safe operation during inclement weather;
 - ii. The proper operation of Taxicab equipment and devices which may include a Taxicab meter, dispatch system and credit card/debit card machine, as applicable;
 - iii. The proper response to an emergency situation which includes passenger illness and Motor Vehicle accidents;
 - iv. The provision of Taxicab Services in a manner that respects the dignity and independence of persons with disabilities; and,
 - v. The provision of Taxicab Services in a manner that is free of discrimination and is in compliance with the *Human Rights Code*;
- (7) Ensure that each Taxicab Driver Licensee with an Accessible Taxicab Plate, who operates in association with the Taxicab Broker Licensee, has completed the accessibility training as designated by the Licensing Officer;
- (8) Take all reasonable steps to ensure that all Taxicab Vehicle Licensees and or Taxicab Driver Licensees who operate in association with the Taxicab Broker Licensee comply with the requirements of this By-law;
- (9) Give priority to persons with disabilities when dispatching Accessible Taxicabs;
- (10) Not charge a surcharge or charges exceeding those contained within the Taxicab Meter tariff rates, as established by the Licensing Officer from time to time to be posted on the Region's website, to Persons with disabilities;
- (11) Report to the Licensing Officer, within twenty-four (24) hours, any known contravention of this By-law by a Taxicab Vehicle Licensee or Taxicab Driver Licensee who is associated with the Taxicab Broker Licensee;
- (12) Report to the Licensing Officer, within twenty-four (24) hours, any known:
- i. Investigation, charge or conviction pursuant to the *Criminal Code*, *Controlled Drugs and Substances Act* or *Highway Traffic Act*; or
 - ii. Ontario driver's licence suspension;
 - iii. expiry, suspension, revocation or conditions imposed on a Provincial Licence;

of a Taxicab Driver Licensee who is associated with the Taxicab Broker Licensee;

(13) Report to the Licensing Officer, within twenty-four (24) hours:

- i. Any known motor vehicle accident that is reportable pursuant to section 199 of the *Highway Traffic Act* or any successor provision; or
- ii. Personal injury; or
- iii. Cancellation of insurance

involving a Taxicab that is associated with the Taxicab Broker Licensee;

(14) Report within twenty-four (24) hours, to the Licensing Officer if the Taxicab Broker has terminated any Taxicab Vehicle Licensees or Taxicab Driver Licensees that are associated with the Taxicab Broker Licensee; and

(15) Provide the Licensing Officer, by the fifteenth (15th) day of every month, the following statistical information for the preceding month in relation to Taxicab Services provided through the Taxicab Broker Licensee:

- i. The total number of Taxicab trips provided and Passengers conveyed;

The total number of Accessible Taxicab trips and Standard Taxicab trips for each Accessible Taxicab, if applicable; and,
- ii. For those Taxicab Brokers that provides a pre-arranged Taxicab Service through an on-line enabled application, website or telephone, a written or electronic record showing that the passenger accepted the fare or rate to be charged prior to the commencement of the pre-arranged Taxicab Service.

Taxicab Broker Licence Transfer

7. The Licensing Officer may approve the transfer of a Taxicab Broker Licence from one Person to another upon the parties providing to the Licensing Officer:

- (1) A completed transfer application;
- (2) The transfer application fee as prescribed in the Fees and Charges By-law; and,

- (3) Confirmation of that the new Applicant meets the application requirements for a Taxicab Broker Licence, as set out in Part III of this By-law.

PART IV TAXICAB VEHICLE LICENCE AND TAXICAB PLATE

Prohibition

8. (1) No Person shall provide Taxicab Services without first having obtained a:
 - i. Taxicab Vehicle Licence for the Motor Vehicle used for the provision of such services; and
 - ii. Taxicab Plate to be affixed to the Motor Vehicle used for the provision of such services;
- (2) No Person shall allow or permit another Person to provide or attempt to provide a Taxicab Service using a Motor Vehicle licenced as a Taxicab under this By-law unless such Person holds a valid Taxicab Driver Licence and the Taxicab Plate is affixed to the Motor Vehicle in compliance with this By-law.
9. No Licensee shall affix or permit any other Person to affix their Taxicab Plate to another Motor Vehicle other than the Taxicab for which the Taxicab Plate was issued under this By-Law.

Licence Application

10. Every application for a Taxicab Vehicle and/or Taxicab Plate Licence and renewal Licence shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application for a Taxicab Vehicle Licence and Taxicab Plate Licence, or a renewal of either Licence shall include the following:
 - (1) the full legal name, municipal address, email address and telephone number of each Applicant;
 - (2) If the Applicant is a partnership, the full legal name, address, email address and telephone number of each partner;
 - (3) If the Applicant is a corporation, all current articles of incorporation for the corporation;
 - (4) All current legal documents showing the registered business name of the Applicant, if applicable;

- (5) The full legal names, addresses and dates of birth for all officers and directors of the Applicant, if applicable;
- (6) The full legal names and signatures of all Persons having signing authority for the Applicant corporation, if applicable, including a letter outlining the number of signatures required for financial and administrative functions;
- (7) The make, model, fuel type, vehicle identification number, production year and Ontario licence plate number for the Applicant's Taxicab;
- (8) A valid Motor Vehicle permit in the Applicant's full legal name for the Taxicab as issued by the Ministry of Transportation;
- (9) If leased from a leasing company, a copy of the leasing agreement including an authorization for the leased Motor Vehicle to be used as a Taxicab;
- (10) Based on the year appearing on the Motor Vehicle permit or ownership as issued by the Ministry of transportation, if the Taxicab is:
 - i. less than two (2) years of age and has less than 20,000 kilometers on its odometer, a safety inspection is not required;
 - ii. Between two (2) and seven (7) years of age or has more than 20,000 kilometers on the odometer, a valid Motor Vehicle Inspection Certificate, issued not less than thirty-six (36) days from the date submitted to the Licensing Officer, confirming the Taxicab has passed the applicable safety inspection, is required annually; or,
 - iii. Greater than seven (7) years of age, or has more than 140,000 kilometers on the odometer, a valid Motor Vehicle Inspection Certificate, issued not less than thirty-six (36) days from the date submitted to the Licensing Officer, confirming the Taxicab has passed the applicable safety inspection, is required every six (6) months;
- (11) If the Taxicab operates with propane or natural gas as its primary or secondary fuel source, satisfactory evidence that is no older than thirty (30) days from date of the application that the Taxicab has passed all applicable propane and natural gas safety inspections;
- (12) Proof of automobile insurance in accordance with the requirements set out in section 12 of this By-law;

- (13) A declaration signed by a Taxicab Broker confirming the Applicant's affiliation or employment with that Taxicab Broker. A declaration is required from each Taxicab Broker that the Applicant is affiliated with or employed by;
 - (14) Confirmation that the Applicant, or any officer or director of the Applicant, has not had a licence in regard to the ownership of a Taxicab suspended or revoked by the Region or other municipality in Canada within three (3) years of the current application;
 - (15) Confirmation the Applicant, or any officer or director of the Applicant, has not been convicted of an offence under any Taxicab by-law of the Region or other municipality in Canada in regard to the ownership of a Taxicab in the three (3) year period prior to the date of the application;
 - (16) A Criminal Record and Judicial Matters check for the Applicant or any officer or director of the Applicant, obtained within sixty (60) days from the date of application, which shall be reviewed in accordance with the criteria in Schedule "A" to this By-law; and,
 - (17) Payment of the prescribed fee in accordance with the Fees and Charges By-law.
11. (1) The Licensing Officer may set a limit or quota on the number of Taxicab Plates that may be issued within the Region.
- (2) If a quota or limit as referenced in subsection (1) is put in place, there shall be no waiting list maintained. Any new Taxicab Plates to be issued by the Licensing Officer will be offered to Applicants who meet the application requirements for a Taxicab Vehicle Licence set out in section 10 of this By-law, in order of when completed Applications were received.
 - (3) Any quotas or limits that may be implemented shall remain in effect according to the time limit as determined by the Licensing Officer, not to exceed three (3) years, after which time the Licensing Officer shall conduct a review to determine whether these quotas or limits should be revised.

Taxicab Vehicle Licence and Plate Requirements

12. (1) Every Taxicab Vehicle Licensee shall maintain on file with the Region a certificate of insurance for each Taxicab licenced under this Bylaw, identifying and confirming a minimum limit of liability of TWO MILLION DOLLARS (\$2,000,000.00) per occurrence, exclusive of interest and costs, against liability resulting from bodily injury to or the death of one or more persons, and loss or damage to property.

- (2) Evidence of insurance shall be provided annually through a Certificate of Insurance and, in addition to the limits indicated in subsection (1), shall include evidence of an O.E.F. 6A—Permission to Carry Passengers for Compensation Endorsement.
13. Every Taxicab licenced under this By-law shall be equipped with an operational:
- (1) Taxicab Meter that meets the requirements of this By-law;
 - (2) Illuminated top sign on the roof of the Taxicab that is capable of illuminating when the Taxicab is unoccupied by a Passenger;
 - (3) GPS that sets out and records the location of the Taxicab; and,
 - (4) Dispatch system that allows communication between the Driver and Taxicab Broker.
14. Every Person that holds a Taxicab Plate shall display:
- (1) The Taxicab Plate on the rear of the licensed Taxicab; and
 - (2) Two (2) decals that are a minimum of 200 square centimeters each in area in visible locations on the exterior of the licensed Taxicab that visibly displays in large print the name or trademark of their Taxicab Broker.
15. Every Taxicab Vehicle Licensee shall ensure that their Licence is kept within the Taxicab and is available for inspection upon request by Passengers or Persons authorized to enforce this By-law.
16. A Taxicab Vehicle Licence is specific to the Taxicab for which it has been issued. When a Taxicab is replaced with another Taxicab, the Taxicab Plate that is associated with the previous Taxicab may be transferred to the replacement Taxicab, provided:
- (1) The Licensee applies to the Licensing Officer for a new Taxicab Vehicle Licence and meets the applicable requirements under this By-law for such a Licence;
 - (2) A Taxicab Vehicle Licence is issued for the replacement Taxicab; and,
 - (3) The Licensee pays the transfer fee in accordance with the Fees and Charges By-law.
17. A Taxicab Plate may be leased to another Taxicab Vehicle Licensee provided the Taxicab Plate-holder first provides the Licensing Officer with the details of the

lease arrangement including the term of the lease and confirmation that the Owner of the Taxicab Plate remains responsible for compliance with the requirements of this By-law, and that the lessee meets the requirements for a Taxicab Plate-holder as set out in this By-law.

18. The Licensing Officer may approve a transfer of ownership of a Taxicab Plate from one Person to another upon the parties providing to the Licensing Officer:
 - (1) A completed transfer application, in a form provided by the Licensing Officer;
 - (2) A transfer application fee as prescribed in the Fees and Charges By-law; and,
 - (3) Confirmation that the new Applicant meets all applicable requirements for the Taxicab Plate under this By-law.
19. (1) Notwithstanding any other provision of this By-law, a Licensing Officer may provide approval for the transfer of a Taxicab Plate in the event of the plate holder's death, subject to the completion and approval of the required transfer application within thirty (30) days, failing which, the Taxicab Licence Plate shall be surrendered.
20. A Taxicab Vehicle Licence and Taxicab Plate shall only be issued to an Applicant who is associated or affiliated with a Taxicab Broker that is licenced under this By-law. A Taxicab Vehicle Licence and Taxicab Plate may not be associated with multiple Taxicab Brokers.
21. A Licensee may hold multiple Taxicab Vehicle Licences and/or Taxicab Plates.
22. All Taxicab Plates that are expired are deemed revoked by the Licensing Officer and must be returned to the Licensing Officer. A replacement fee shall be charged to the Plate-holder if the Taxicab Plate is not returned.
23. (1) A Licensee may apply for a non-use status designation of a Taxicab Plate for a period of up to sixty (60) days in a calendar year. This application must be approved by the Licensing Officer and all appropriate fees, in accordance with the Fees and Charges By-law, must be paid.
 - (2) No Person shall operate, or permit to be operated, any Taxicab that bears a Taxicab Plate that is has been designated for non-use status.
 - (3) Taxicab Plates that have been designated for non-use status for more than sixty (60) days in a calendar year shall be returned to the Licensing Officer.

Spare Vehicle Licence and Spare Vehicle Plates

24. (1) A Taxicab Vehicle Licensee may apply to the Licensing Officer for a Licence for a Spare Vehicle to be used on a temporary basis in place of a Taxicab that is licenced under this By-law, when that Taxicab is, for any reason, unable to be operated.
- (2) No Taxicab Vehicle Licensee shall use a Spare Vehicle in place of a Taxicab licenced under this By-law unless a Spare Vehicle Licence and Spare Vehicle Plate have been issued by the Licensing Officer.
- (3) The Licensing Officer may approve a Motor Vehicle for temporary use as a Spare Vehicle upon the Licensee providing to the Licensing Officer:
- i. A completed Spare Vehicle application;
 - ii. The Spare Vehicle application fee as prescribed in the Fees and Charges By-law; and
 - iii. Confirmation the application requirements for a Taxicab Vehicle Licence, as set out in Part IV of this By-law, are met with respect to the proposed Spare Vehicle.
- (4) Upon approval of the application, a Spare Vehicle Licence and a Spare Vehicle Plate, to be affixed to the Spare Vehicle, will be issued to the Applicant.
- (5) The Licensing Officer may renew the Spare Vehicle Licence upon the Licensee submitting to the Licensing Officer all of the documentation and fees set out in subsection (3).
- (6) The Licensee shall notify the Licensing Officer by electronic mail or voicemail within twenty-four (24) hours of the use of the Spare Vehicle in the place of a Taxicab licenced under this By-law.
- (7) The Licensee shall notify the Licensing Officer by electronic mail or voicemail within twenty-four (24) hours of the resumption of the use of the regular licenced Taxicab and cessation of the use of the Spare Vehicle.
- (8) A Motor Vehicle used as a Spare Vehicle must comply with all requirements of a Taxicab licenced under this By-law.
25. Despite section 24, a Taxicab Vehicle Licensee may apply to the Licensing Officer for temporary use of a Spare Vehicle, in addition to the Licensee's other licenced Taxicabs, for a specified period of time in order to provide increased Taxicab Services, subject to the following conditions:

- (1) An application for temporary use of a Spare Vehicle shall be presented to the Licensing Officer at least five (5) business days prior to the proposed date for use;
 - (2) the Applicant has submitted the appropriate application and paid the appropriate fees in accordance with the Fees and Charges By-law;
 - (3) the Applicant has identified on the application the times and dates for which the Spare Vehicle will be used; and
 - (4) the Applicant has provided confirmation that all of the application requirements for a Taxicab Vehicle Licence, as set out in section 10 of this By-law, are met with respect to the proposed Spare Vehicle.
26. Upon approval of the request and registration of the Spare Vehicle, the Licensing Officer shall provide to the Licensee temporary approval to use both the main Taxicab Plate and the Spare Vehicle Plate for the approved period of time.

PART V TAXICAB DRIVER LICENCE

Prohibition

27. (1) No Person shall drive or operate a Taxicab for the purpose of providing a Taxicab Service unless that Person is the holder of a current Taxicab Driver Licence.
- (2) No Driver shall provide or attempt to provide a Taxicab Service unless they are affiliated with a Taxicab Broker.

Licence Application

28. Every application for a Taxicab Driver Licence and renewal Licence shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application for a Taxicab Driver Licence or a renewal shall include the following:
- (1) The Applicant's full legal name, address, telephone number, email address and date of birth;
 - (2) Proof of a valid, unrestricted, Class G driver's licence issued by the Province of Ontario with at least two (2) years driving experience;
 - (3) Two (2) pieces of government issued identification, one being photo identification;

- (4) Confirmation that the Applicant is legally eligible to work in Canada;
 - (5) Confirmation that the Applicant has not had a Taxicab Driver Licence revoked, suspended or denied within three (3) years of the date of application;
 - (6) A Criminal Record and Judicial Matters Check for the Applicant obtained within sixty (60) days from the date of application, which shall be reviewed in accordance with the criteria in Schedule "A" of this By-law;
 - (7) A Ministry of Transportation three (3) year driver's abstract;
 - (8) A declaration signed by the Applicant confirming they do not have any current outstanding police investigations, *Highway Traffic Act* or criminal charges or warrants pending before any courts;
 - (9) A declaration signed by a Taxicab Broker Licensee confirming the Applicant's affiliation or employment with that Taxicab Broker. A declaration is required from each Taxicab Broker that the Applicant is affiliated with or employed by; and,
 - (10) Confirmation from the Applicant's affiliated Taxicab Broker that the Applicant has successfully completed required driver training.
29. An Applicant for a Taxicab Driver Licence shall submit to a photograph being taken of them for use on the Taxicab Driver Licence.

General Licence Requirements

30. Every Taxicab Driver Licensee, while operating a Taxicab licenced under this By-law,
- (1) Shall display their Licence in a location that is clearly visible to all Passengers and shall verbally advise any Passenger of their Taxicab Driver Licence number upon request;
 - (2) Shall ensure the Taxicab Vehicle Licence is in the Taxicab at all times;
 - (3) Shall display the approved Taxicab Meter tariff rates, as established by the Licencing Officer from time to time and posted on the Region's website, in their Taxicab so that they are clearly visible to all Passengers;

- (4) Shall verbally advise a Passenger of the approved Taxicab Meter tariff rates, as established by the Licensing Officer from time to time and posted on the Region's website, upon request;
 - (5) Shall ensure the proof of Motor Vehicle insurance slip is in the Taxicab;
 - (6) Shall ensure all proof of Motor Vehicle ownership documentation is in the Taxicab; and,
 - (7) Shall ensure the Taxicab Plate is affixed to the Taxicab as prescribed in this By-law.
31. Every Taxicab Driver Licensee, while operating a Taxicab licenced under this By-law, shall ensure that the GPS and dispatch system for the Taxicab are operational.
32. No Taxicab Driver Licensee shall:
- (1) Verbally solicit any Person for the purposes of providing a Taxicab Service;
 - (2) Obstruct the use of any sidewalk, access way, street, roadway, driveway or highway with a Taxicab licenced under this By-law;
 - (3) Permit their Taxicab as licenced under this By-law to remain idling:
 - (i) For a period that exceeds ten (10) minutes when the outdoor temperature is between ten (10) degrees Celsius and twenty (20) degrees Celsius; or
 - (ii) When the Taxicab is not occupied by a Passenger;
 - (4) Permit their Taxicab, as licenced under this By-law, to remain standing on any sidewalk, access way, street, roadway, driveway or highway, other than in designated parking areas, unless for the immediate purpose of:
 - (i) Taking on a Passenger or Passengers who have already engaged the Taxicab; or
 - (ii) Discharging a Passenger or Passengers from the Taxicab;
 - (5) Carry a number of Passengers during a Taxicab trip that exceeds the manufacturer's rating of seating capacity and available seat belts for the Taxicab;
 - (6) Smoke tobacco or cannabis or permit tobacco or cannabis to be smoked in the Taxicab as licenced under this By-law;

- (7) Consume or be under the influence of any alcohol while operating a Taxicab licenced under this By-law;
 - (8) Consume, possess or be under the influence of any controlled substance as defined in the *Controlled Drugs and Substances Act* while operating a Taxicab licenced under this By-law;
 - (9) Use an electronic cigarette or permit the use of electronic cigarettes in the Taxicab as licenced under this By-law; Or,
 - (10) Operate a Taxicab that is not licensed under this By-law.
33. Every Taxicab Driver Licensee that is operating an Accessible Taxicab with an Accessible Taxicab Plate shall give priority to Persons with disabilities.
34. Every Taxicab Driver Licence-holder that is operating an Accessible Taxicab shall securely fasten all mobility devices of any Passengers while the Accessible Taxicab is in motion.
35. (1) Every Taxicab Driver Licence-holder shall notify the Licensing Officer within twenty-four (24) hours of any charge or conviction they have received that is in contravention of Schedule "A" criteria of this By-law or of any Motor Vehicle accident involving a Taxicab licenced under this By-law.
- (1) Every Taxicab Driver Licence-holder shall notify the Licensing Officer within twenty-four (24) hours of any police investigation, charge or conviction relating to the Licensee pursuant to the *Criminal Code*, *Highway Traffic Act*, or the *Controlled Drugs and Substances Act* with all particulars relating to the investigation, charge or conviction;
- (2) If the Licensing Officer has reasonable grounds to believe that any of the information that was provided in the Licensee's application for a Taxicab Driver Licence has changed without the Licensee advising of the change, the Licensing Officer may, upon demand, request the Licensee produce an updated:
- (i) Criminal Record and Judicial Matters check; or
 - (ii) A three (3) year Ontario Driver's Abstract.
36. Every Person who holds a Taxicab Driver Licence while operating a Taxicab shall turn off the illuminated top sign when the Taxicab is engaged in a Taxicab Service.

37. (1) Every Person who holds a Taxicab Driver Licence, while providing a Taxicab Service, shall ensure that:
- (i) Their Taxicab Meter is fully operational and accurate;
 - (ii) Their Taxicab Meter is sealed;
 - (iii) Their Taxicab Meter conforms to the maximum fees as prescribed in the approved Taxicab Meter tariff rates as established by the Licensing Officer from time to time and posted on the Region's website;
 - (iv) Their Taxicab Meter is located where it is visible to all Passengers; and,
 - (v) The fee charged to the Passenger or Passengers shall be no greater than the fee appearing on the Meter at the end of the Taxicab Service;
- (2) Subsection (1)(v) of the above section shall not apply where the Taxicab Service is being carried out pursuant to:
- (i) An ongoing written contract between the Taxicab Broker and the Passenger or a third party on behalf of the Passenger for repeated Taxicab Services or Accessible Taxicab Services; or
 - (ii) A pre-arranged Taxicab Service through an on-line enabled application, website or telephone number provided that a written or electronic record is maintained showing that the Passenger accepted the fare or rate prior to commencement of the pre-arranged Taxicab Service, and the Passenger is provided a written or electronic receipt at the conclusion of the pre-arranged Taxicab Service that sets out all rates, fees and surcharges charged, total amount paid, date and time of the Taxicab Service, location of the commencement and conclusion of the Taxicab Service, and the total time and distance of the Taxicab Service.
38. A Taxicab Driver Licensee shall immediately report to the Licensing Officer any malfunctioning Taxicab Meter or any tampering of the Taxicab Meter's seal, and shall cease to provide any Taxicab Service or Accessible Taxicab Service using that Taxicab.
39. The fee for the testing or retesting of a Taxicab Meter shall be in accordance with the Fees and Charges By-law and shall be payable by the Taxicab Plate-holder.

40. (1) A Taxicab Driver Licensee who is engaged in providing a Taxicab Service shall not start their Taxicab Meter until after a Passenger's personal property has been placed in the vehicle, if applicable, and the Passenger is seated in the Taxicab.
- (2) A Taxicab Driver Licensee, who is engaged in providing a Taxicab Service, shall deactivate their Taxicab Meter upon arrival at their Passenger's requested stop. The Taxicab Meter shall not be left running while the Passenger unloads their personal property from the vehicle once at the requested stop.
- (3) Notwithstanding subsection (1), if a Passenger has requested a Taxicab at a specific location, at a specific time, a Taxicab Driver Licensee may charge the applicable Waiting Time Rate, in accordance with the approved Taxicab Meter Tariff Rates as established by the Licensing Officer from time to time and posted on the Region's website, upon arriving at the requested location at the requested time. The Taxicab Meter may not be engaged until the Passenger is seated in the Taxicab.
- (4) No Taxicab Driver Licensee shall charge a surcharge or charges exceeding the approved Taxicab Meter Tariff Rates, as established by the Licensing Officer, from time to time, and posted on the Region's website, to a person with a disability.
- (5) Every Taxicab Driver Licensee shall use the most direct route reasonably possible to the Passenger's requested destination in the circumstances, and in the most efficient manner, unless otherwise directed by the Passenger.

PART VI TRANSPORTATION NETWORK COMPANY (TNC) BROKER LICENCE

Prohibition

41. No Person shall act as a TNC Broker without first having obtained a TNC Broker Licence in accordance with this By-law.

TNC Broker Licence Application

42. Every application for a TNC Broker Licence or renewal of such a Licence shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application shall include the following:
- (1) the full legal name, municipal address, email address and telephone number of each Applicant;

- (2) If the Applicant is a partnership, the name, address, email address and telephone number of each partner;
- (3) If the Applicant is a corporation, all current articles of incorporation for the corporation;
- (4) All current legal documents showing the registered business name of the Applicant, if applicable;
- (5) The full legal names, addresses and dates of birth for all officers and directors of the Applicant, if applicable;
- (6) The full legal names and signatures of all Persons having signing authority for the Applicant corporation, if applicable, including a letter outlining the number of signatures required for financial and administrative functions;
- (7) The full legal names, addresses, contact information and driver's licence numbers of all TNC Driver Licensees who currently use or will use the Applicant as their TNC Broker;
- (8) A Certificate of Insurance (COI) identifying and confirming the following minimum insurance requirements:

Commercial General Liability Insurance ("CGL")

CGL insurance for all services and operations to a limit of not less than FIVE MILLION DOLLARS (\$5,000,000) per occurrence.

The policy will be extended to include:

- i. bodily injury, death and property damage;
- j. cross liability and severability of interest;
- k. blanket contractual;
- l. premises and operations;
- m. personal and advertising injury;
- n. products and completed operations;
- o. owner's and contractors protective;
- p. non-owned Automobile to a limit of not less than TWO MILLION DOLLARS (\$2,000,000);

The policy shall be endorsed to:

- c. include The Regional Municipality of Niagara as an additional insured; and,
- d. contain an undertaking by the insurers to give thirty (30) days prior written notice in the event that there is a material change in the

foregoing policies or coverage affecting the Additional Insured(s) or cancellation of coverage before the expiration date of any of the foregoing policies.

Policy Requirements

All policies of insurance shall:

- c) be written with an insurer licensed to do business in Ontario;
- d) be non-contributing with, and will apply only as primary and not excess to any other insurance or self-insurance available to Niagara Region;

Certificates of Insurance

Certificates of insurance originally signed by authorized insurance representatives shall be delivered to the Region prior issuance of the Licence, on a form of Certificate of Insurance which is acceptable to the Region. The Certificate of Insurance must comply with these insurance requirements and must be on the Region's form of Certificate of Insurance, which can be found on the Region's website – www.niagararegion.ca/business/fpr/cert-insurance.aspx. If the Certificate of Insurance is provided in a non-original form (e.g. a facsimile, photocopy or scanned electronic copy), the Applicant acknowledges and agrees that the Region is fully entitled to treat any such Certificate as an original and that the Applicant will be responsible for the accuracy and validity of the information contained therein. All subsequent policy renewals and certificates of insurance thereafter, during the time that the Licence is in force, shall be forwarded to the Region within fifteen (15) days of their renewal date.

- (9) Information on whether the Applicant, or any officer or director of the Applicant, has had a licence in regard to the provision of a TNC Service suspended or revoked in the Region or in any other municipality within Canada;
- (10) Information on whether the Applicant, or any officer or director of the Applicant, has been convicted of an offence under any previously repealed by-law of the Region or other municipality within Canada governing the licensing of TNC Services;
- (11) A Criminal Record and Judicial Matters check for the Applicant or any officer or director of the Applicant, obtained within sixty (60) days from the date of application, reviewed in accordance with the criteria in Schedule "A"; and,

- (12) Payment in full of the prescribed fee in accordance with the Fees and Charges By-law.

TNC Broker Licence Requirements

43. Every TNC Broker licenced under this By-law shall:

- (1) Have a telephone number, email address or on-line enabled application associated with the TNC Broker for the benefit of customers who wish to make contact with the TNC Broker;
- (2) Have an application-based dispatch system which includes a GPS that allows the TNC Broker to communicate with and locate a TNC Vehicle Licensee that operates through the TNC Broker;
- (3) Have a minimum of one (1) TNC Vehicle licenced under this By-law that operates exclusively through the TNC Broker;
- (4) Maintain a written or electronic record for a period of twelve (12) months for each TNC trip that is dispatched by the TNC Broker;
- (5) Report to the Licensing Officer, by the fifteenth (15th) day of every month, the total number of all TNC trips provided in the previous month, broken down by trips per day. These reports will act as the official record to audit monthly payments as required under subsection (6) below;
- (6) Remit to the Licensing Officer, by the fifteenth (15th) day of every month, the per trip fee payment in accordance with the Fees and Charges By-law, for every trip provided within the Region as reported in subsection (5) above;
- (7) Submit an updated list of the full legal names, dates of birth, contact information, driver's licence numbers and TNC Driver Licence number of all TNC Driver Licensees who are affiliated with the TNC Broker;
- (8) Ensure that each TNC Vehicle Licensee or TNC Driver Licensee who operates through the TNC Broker is trained in regard to the proper operation of a TNC Vehicle and the provisions of this By-law;
- (9) Ensure that each TNC Driver Licensee who operates through the TNC Broker has completed driver and sensitivity training that includes the following topics:
 - i. The safe operation of a Motor Vehicle including safe operation during inclement weather;

- ii. The proper operation of TNC equipment and devices including an online application;
 - iii. The proper response to an emergency situation which includes Passenger illness and Motor Vehicle accidents;
 - iv. The provision of TNC Services in a manner that respects the dignity and independence of persons with disabilities; and,
 - v. The provision of TNC Services in a manner that is free of discrimination and is in compliance with the *Human Rights Code*;
- (10) Take all reasonable steps to ensure that each TNC Vehicle Licensee or TNC Driver Licensee who operates through the TNC Broker complies with the requirements of this By-law;
- (11) Report to the Licensing Officer, within twenty-four (24) hours, any known contravention of this By-law by a TNC Vehicle Licensee or TNC Driver Licensee who operates through the TNC Broker;
- (12) Report to the Licensing Officer, within twenty-four (24) hours, any known:
- i. Investigation, charge or conviction pursuant to the *Criminal Code*, *Controlled Drugs and Substances Act* or *Highway Traffic Act*; or
 - ii. Ontario driver's licence suspension;
 - iii. expiry, suspension, revocation or conditions imposed on a Provincial Licence;
- of a TNC Driver Licensee who operates through that TNC Broker;
- (13) Report to the Licensing Officer, within twenty-four (24) hours:
- i. Any known motor vehicle accident that is reportable pursuant to section 199 of the *Highway Traffic Act* or any successor provision; or
 - ii. Personal injury; or
 - iii. Cancellation of insurance
- involving a TNC Vehicle or TNC Driver licenced under this By-law that operates through that TNC Broker.

- (14) Report within twenty-four (24) hours, to the Licensing Officer if the TNC Broker has terminated any TNC Vehicle Licensee or TNC Driver Licensee that operates through the TNC Broker; and
 - (15) Provide the Licensing Officer, by the fifteenth (15th) day of every month, the following statistical information for the preceding month in relation to TNC Services provided through the TNC Broker:
 - i. The total number of Passengers conveyed; and,
 - ii. a written or electronic record confirming each Passenger accepted the fare or rate to be charged prior to the commencement of the pre-arranged TNC Service;
 - (16) Provide access to their online TNC Service application platform, at no cost, to the Licensing Officer and any Municipal Law Enforcement Officer for the purpose of enforcement of this By-law.
44. The Licensing Officer may approve the transfer of a TNC Broker Licence from one Person to another upon the parties providing to the Licensing Officer:
- (i) A completed transfer application;
 - (ii) The transfer application fee as prescribed in the Fees and Charges By-law; and,
 - (iii) Confirmation of that the new Applicant meets the application requirements for a TNC Broker Licence, as set out in Part VI.

PART VII TRANSPORTATION NETWORK COMPANY VEHICLE LICENCE

Prohibition

- 45. No Person shall cause or permit a Motor Vehicle to be used for the provision of a TNC Service without first having obtained a TNC Vehicle Licence for that Motor Vehicle.
- 46. No Person shall allow or permit another Person to provide or attempt to provide a TNC Service using a Motor Vehicle that has a TNC Vehicle Licence unless such Person holds a valid TNC Driver Licence.

TNC Vehicle Licence Application

- 47. Every application for a TNC Vehicle Licence and renewal Licence shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application for a TNC Vehicle Licence or a renewal of such a Licence shall include the following:

- (1) the full legal name, municipal address, email address and telephone number of each Applicant;
- (2) If the Applicant is a partnership, the name, address, email address and telephone number of each partner;
- (3) If the Applicant is a corporation, all current articles of incorporation for the corporation;
- (4) All current legal documents showing the registered business name of the Applicant, if applicable;
- (5) The full legal names, addresses and dates of birth for all officers and directors of the Applicant, if applicable;
- (6) The full legal names and signatures of all Persons having signing authority for the Applicant corporation, if applicable, including a letter outlining the number of signatures required for financial and administrative functions;
- (7) The make, model, fuel type, vehicle identification number, production year and Ontario licence plate number for the Motor Vehicle to be licenced;
- (8) A valid Motor Vehicle permit in the Applicant's full legal name for the Motor Vehicle to be licenced, as issued by the Ministry of Transportation;
- (9) If leased from a leasing company, a copy of the leasing agreement for the Motor Vehicle to be licenced, including an authorization for the leased Motor Vehicle to be used for the provision of a TNC Service;
- (10) If the Applicant is not the owner or Lessee of the Motor Vehicle to be used in the provision of TNC Services, written authorization from the Motor Vehicle's owner or Lessee allowing the Motor Vehicle to be used by the Applicant for the provision of TNC Services;
- (11) Based on the year appearing on the permit or ownership as issued by the Ministry of Transportation for the Motor Vehicle to be licenced, if the Motor Vehicle is:
 - i. less than two (2) years of age and has less than 20,000 kilometers on its odometer, a safety inspection is not required;
 - ii. Between two (2) and seven (7) years of age or has more than 20,000 kilometers on the odometer, a valid Motor Vehicle Inspection Certificate, issued not less than thirty-six (36) days from the date

submitted to the Licensing Officer, confirming the Motor Vehicle has passed the applicable safety inspection, is required annually; or,

- iii. Greater than seven (7) years of age, or has more than 140,000 kilometers on the odometer, a valid Motor Vehicle Inspection Certificate, issued not less than thirty-six (36) days from the date submitted to the Licensing Officer, confirming the Motor Vehicle has passed the applicable safety inspection, is required every six (6) months;
- (12) If the Applicant's Motor Vehicle operates with propane or natural gas as its primary or secondary fuel source, satisfactory evidence that is no older than thirty (30) days from date of the application that the Motor Vehicle has passed all applicable propane and natural gas safety inspections;
- (13) Proof of automobile insurance in accordance with the requirements set out in section 48 of this By-law;
- (14) A declaration signed by a TNC Broker Licensee confirming the Applicant operates through the TNC Broker Licensee. A declaration is required from each TNC Broker Licensee that the Applicant is affiliated with or employed by;
- (15) Confirmation that the Applicant, or any officer or director of the Applicant, has not had a licence in regard to the ownership of a TNC Vehicle suspended or revoked by the Region or other municipality in Canada within three (3) years of the current application;
- (16) Confirmation the Applicant, or any officer or director of the Applicant, has not been convicted of an offence under any TNC By-law of the Region or other municipality in Canada in regard to the ownership of a TNC Vehicle in the three (3) year period prior to the date of the application;
- (17) A Criminal Record and Judicial Matters check for the Applicant or any officer or director of the Applicant, obtained within sixty (60) days from the date of application, which shall be reviewed in accordance with the criteria in Schedule "A" to this By-law; and,
- (18) Payment of the prescribed fee in accordance with the Fees and Charges By-law.

TNC Vehicle Licence Requirements

- 48.(1) Every TNC Vehicle Licensee shall maintain on file with the Region a certificate of insurance for each TNC Vehicle licenced under this Bylaw, identifying and confirming a minimum limit of liability of TWO MILLION DOLLARS

(\$2,000,000.00) per occurrence, exclusive of interest and costs, against liability resulting from bodily injury to or the death of one or more persons, and loss or damage to property.

- (2) Evidence of insurance shall be provided annually through a Certificate of Insurance and, in addition to the limits indicated in subsection (1), shall include evidence of an O.E.F. 6A—Permission to Carry Passengers for Compensation Endorsement.

49. Every TNC Vehicle licenced under this By-law shall be equipped with an operational:
- (1) GPS or application that sets out and records the location of the Motor Vehicle; and,
 - (2) Dispatch system that allows communication between the TNC Driver and TNC Broker.
50. Every TNC Vehicle Licensee shall display a decal for each TNC Broker Licensee that the Licensee operates through, which is a minimum of 125 square centimeters in area, to be placed in the front right windshield to be visible from the exterior of the Motor Vehicle, which displays the logo and/or trademark of the TNC Broker Licensee.
51. A TNC Vehicle that is licenced under this By-law and is providing a TNC Service shall not have a top sign attached to the exterior of the TNC Vehicle, nor shall it have an illuminated sign inside, projecting outside the TNC Vehicle.
52. A TNC Vehicle that is licenced under this By-law shall not be parked or stopped at a Taxicab stand.
53. Every TNC Vehicle Licensee shall ensure that the TNC Vehicle Licence is kept within the TNC Vehicle and is available for inspection upon request by Passengers or Persons authorized to enforce this By-law.
54. A TNC Vehicle Licence is specific to the TNC Vehicle for which it has been issued. When a Licensee replaces a TNC Vehicle, the Licensee shall apply to the Licensing Officer for a new TNC Vehicle Licence. A TNC Vehicle Licence shall be issued for the replacement TNC Vehicle provided:
- (1) The replacement TNC Vehicle meets the applicable requirements for a TNC Vehicle Licence under this By-law; and,
 - (2) The Licensee pays the applicable fee in accordance with the Fees and Charges By-law.

55. A TNC Vehicle Licence shall only be issued to an Applicant who provides a TNC Service through a TNC Broker that is licenced under this By-law. A TNC Vehicle Licence may be affiliated with multiple TNC Brokers licenced under this By-law.
56. A Licensee may hold multiple TNC Vehicle Licences.

PART VIII TRANSPORTATION NETWORK COMPANY (TNC) DRIVER LICENCE

Prohibition

57. (1) No Person shall provide or attempt to provide a TNC Service unless that Person is the holder of a TNC Driver Licence.

(2) No Person shall provide or attempt to provide a TNC Service unless they are affiliated with a TNC Broker.

TNC Driver Licence Application

58. Every application for a TNC Driver Licence and renewal Licence shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application for a TNC Driver Licence or a renewal shall include the following:
 - (1) The Applicant's full legal name, address, telephone number, email address and date of birth;
 - (2) Proof of a valid, unrestricted, Class G Province of Ontario driver's licence and at least two (2) years driving experience;
 - (3) Two (2) pieces of government issued identification, one being photo identification;
 - (4) Confirmation that the Applicant is legally eligible to work in Canada;
 - (5) Confirmation that the Applicant has not had a TNC Driver Licence revoked, suspended or denied within three (3) years of the date of application;
 - (6) A Criminal Record and Judicial Matters check for the Applicant, obtained within sixty (60) days from the date of application, which shall be reviewed in accordance with the criteria in Schedule "A" to this By-law;
 - (7) A Ministry of Transportation three (3) year driver's abstract;

- (8) A declaration signed by the Applicant confirming they do not have any current outstanding police investigations, *Highway Traffic Act* or criminal charges or warrants pending before any courts;
 - (9) A declaration signed by a TNC Broker Licensee confirming the Applicant operates through that TNC Broker Licensee. A declaration is required from each TNC Broker Licensee that the Applicant is affiliated with or employed by; and,
 - (10) Confirmation from the Applicant's affiliated TNC Broker Licensee that the Applicant has successfully completed required driver training.
59. An Applicant for a TNC Driver Licence shall submit to a photograph being taken of them for use on the TNC Driver Licence.

General Licence Requirements

60. Every TNC Driver Licensee, while operating a TNC Vehicle licenced under this By-law for the provision of TNC Services:
- (1) Shall display their Licence in a location that is clearly visible to all Passengers and shall verbally advise any Passenger of their TNC Driver Licence number, upon request;
 - (2) Shall ensure the TNC Vehicle Licence is in the TNC Vehicle at all times;
 - (3) Shall ensure the proof of the required Motor Vehicle insurance is in the TNC Vehicle at all times;
 - (4) Shall ensure all proof of ownership documentation is in the TNC Vehicle; and,
 - (5) Shall ensure the TNC Broker decal, as required under section 50 of this By-law, is displayed in the front right windshield of the licenced TNC Vehicle.
61. Every TNC Driver Licensee, while operating a TNC Vehicle licenced under this By-law, shall ensure that the TNC Vehicle's GPS and dispatch system are operational.
62. No TNC Driver Licensee shall:
- (1) Verbally solicit any Person for the purposes of providing a TNC Service;
 - (2) Accept any Passengers who have not engaged the Licensee for pre-arranged TNC Services through an online application service operated by the associated TNC Broker;

- (3) Obstruct the use of any sidewalk, access way, street, roadway, driveway or highway with a TNC Vehicle licenced under this By-law while providing a TNC Service;
- (4) park, stop, or stand a TNC Vehicle in any Taxicab Stand while providing a TNC Service in accordance with this By-law;
- (5) charge a fee or attempt to charge a fee to a Passenger or any other Person unless it is the fee or is in accordance with the fee structure that was accepted or agreed to by the Passenger as part of the pre-arranged TNC Service;
- (6) Permit their TNC Vehicle, while providing a TNC Service, to remain idling:
 - (i) For a period that exceeds ten (10) minutes when the outdoor temperature is between ten (10) degrees Celsius and twenty (20) degrees Celsius; or
 - (ii) When the TNC Vehicle is not occupied by a Passenger;
- (4) Permit their TNC Vehicle, while providing TNC Services, to remain standing on any sidewalk, access way, street, roadway, driveway or highway, other than in designated parking areas, unless for the immediate purpose of:
 - (i) Taking on a Passenger or Passengers who have already engaged the TNC Service; or
 - (ii) Discharging a Passenger or Passengers from the TNC Vehicle;
- (5) Carry a number of Passengers that exceeds the manufacturer's rating of seating capacity and available seat belts for the TNC Vehicle licenced under this By-law that is being used to provide the TNC Service;
- (7) Smoke tobacco or cannabis or permit tobacco or cannabis to be smoked in the TNC Vehicle licenced under this By-law, while providing a TNC Service;
- (8) Consume or be under the influence of any alcohol while providing a TNC Service in accordance with this By-law;
- (9) Consume, possess or be under the influence of any controlled substance, as defined in the *Controlled Drugs and Substances Act*, while providing a TNC Service in accordance with this By-law; or
- (10) Use an electronic cigarette or permit the use of electronic cigarettes in a TNC Vehicle, while providing a TNC Service in accordance with this By-law.

69. (1) Every TNC Driver Licensee shall notify the Licensing Officer within twenty-four (24) hours of any charge or conviction they have received that is in contravention of the criteria set out in Schedule "A" to this By-law or of any Motor Vehicle accident involving a TNC Vehicle licenced under this By-law.
- (2) Every TNC Driver Licensee shall notify the Licensing Officer within twenty-four (24) hours of any police investigation, charge or conviction relating to the Licensee pursuant to the *Criminal Code* or the *Controlled Drugs and Substances Act* with all particulars relating to the investigation, charge or conviction;
- (3) If the Licensing Officer has reasonable grounds to believe that any of the information that was provided in the Licensee's application for a TNC Driver Licence has changed without the Licensee advising of the change, the Licensing Officer may, upon demand, request the Licensee produce an updated:
- (i) Criminal Record and Judicial Matters check; or
 - (iii) A three (3) year Ontario Driver's Abstract.
70. Every TNC Driver Licensee shall provide a written or electronic receipt to a Passenger at the conclusion of the TNC Service trip that sets out all rates, fees and surcharges charged, total amount paid, date and time of the TNC Service, location of the commencement and conclusion of the TNC Service, and the total time and distance of the TNC Service.
71. Every TNC Driver Licensee shall use the most direct route reasonably possible to the Passenger's requested destination in the circumstances, and in the most efficient manner, unless otherwise directed by the Passenger.

PART IX GENERAL LICENCE REQUIREMENTS

72. The Licensing Officer shall issue a Licence or a renewal of a Licence to an Applicant that has satisfied the requirements of this By-law, based on the appropriate Licence class and subclass, if applicable, as set out in subsection 2(2) of this By-law.
73. Every Applicant shall provide payment in full, at the time the Application is submitted, of the appropriate fee, as prescribed in accordance with the Fees and Charges Bylaw.
74. Every application for a renewal of a Licence must be received by the Licensing Officer, in full, within thirty (30) days of the expiry date of the Licence.
75. (1) No Applicant shall knowingly misstate or provide false information to the Licensing Officer.

- (2) All Applicants shall provide the Licensing Officer with such other information and documentation as requested by the Licensing Officer.
- (3) Every Applicant and Licensee shall report to the Licensing Officer within twenty-four (24) hours after the event, of any change in any information, including contact and address information and insurance, that was provided to the Licensing Officer pursuant to this By-law.
76. (1) Every Licensee shall hold such Licence subject to the requirements and criteria as imposed in this By-law, including compliance with the criteria set out in Schedule "A" to this By-law.
- (2) In the event a Licensee cannot meet the requirements as set out in subsection (1), the Licensee shall surrender the applicable Licence to the Licensing Officer within twenty four (24) hours of the non-compliance.
- (3) Any Licences that have been surrendered to the Licensing Officer pursuant to subsection (2) shall be returned to the Licensee upon the Licensee providing proof of compliance with the applicable requirements of the application for the Licence in issue.
77. Every Licensee shall comply with all applicable Federal laws, Provincial laws, and Municipal by-laws, while operating Taxicab or TNC Business.
78. (1) No Person shall alter, erase, or modify, or permit the alteration, erasure or modification of any Licence or any part thereof issued under this By-law.
- (2) If a Licence is defaced, destroyed, or lost, the Licensee shall apply to the Licensing Officer for a replacement and, on payment of the prescribed fee in accordance with the Fees and Charges By-law, may be issued a replacement Licence, as required.
79. Any report to the Licensing Officer that is required pursuant to this By-law may be made during a Holiday, before or after business hours by submitting the report via email or leaving a voicemail message for the Licensing Officer, to the email address or telephone number of the Licensing Officer posted on the Region's website from time to time.

PART X DISCRIMINATION

80. No Licensee shall discriminate against any Person because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability, or otherwise contravene the *Human Rights Code*, in relation to the provision of a Taxicab or TNC Service.
81. Without limiting section 80 of this By-law, no Licensee shall charge:

- (1) A higher fare or an additional fee for Persons with disabilities than for Persons without disabilities for the same trip; or
- (2) A fee for the storage of mobility aids or mobility assistive devices in relation to a Taxicab or TNC Service.

PART XI INSPECTIONS

- 82. Every Licensee shall allow the Licensing Officer, a Municipal By-Law Enforcement Officer or Police Officer, upon demand, to enter upon and inspect a Taxicab Broker premises and/ or a Motor Vehicle licenced under this By-law to ensure that all provision of this By-law have been satisfied.
- 83. Upon inspection, every Person shall produce all relevant Licences and permits, invoices, vouchers or like documents, trip records, Provincial Licences and all documents required to be kept and maintained under this By-law, which may be removed for the purpose of photocopying and returned to the Licensee within forty eight (48) hours of removal.
- 84. No Person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer from carrying out an inspection or withhold, destroy, conceal or refuse to furnish any information or thing required by the Officer inspecting for the purpose of this inspection.

PART XII POWERS OF THE LICENSING OFFICER

- 85. The power and authority to issue or renew a Licence, refuse to issue or refuse to renew a Licence, to revoke or suspend a Licence, to impose terms and conditions, including special conditions, on a Licence are delegated to the Licensing Officer.
- 86. When an application for a Licence or for a renewal of a Licence is made in accordance with the provisions of this By-law and the Applicant meets all the requirements of this By-law, the Licensing Officer shall issue a Licence.
- 87. The Licensing Officer may refuse to issue, refuse to renew, revoke or suspend a Licence, or impose a term or condition on a Licence on the following grounds:
 - (1) The conduct of the Applicant or Licensee, or where the Person is a corporation, the conduct of the corporation's officers, directors, employees or agents, affords reasonable cause to believe that the Person will not carry on or engage in the provision of Taxicab Services or TNC Services, as applicable, in accordance with any applicable Federal law, Provincial law or Municipal By-law, or with honesty and integrity;

- (2) The Licensing Officer has reasonable cause to believe that the granting, renewal or continuation of a Licence under this By-law would pose a danger to the health or safety of any Person or the public in general;
 - (3) The Applicant or Licensee is carrying on activities that are in contravention of this By-law;
 - (4) There are reasonable grounds to believe that an application or other documents provided to the Licensing Officer by or on behalf of the Applicant or Licensee contains a false statement;
 - (5) Any information contained in the original application form or any other information provided to the Licensing Officer has ceased to be accurate and the Licensee has not provided up-to-date accurate information to allow the Licensing Officer to conclude that the Licence should continue;
 - (6) An Applicant does not meet, at any time, one or more of the requirements of this By-law or any conditions imposed on a Licence;
 - (7) An Applicant or Licensee is not in compliance with any applicable Federal law, Provincial law or Municipal By-law, including but not limited to this By-law and any requirement to obtain and maintain a valid Provincial Licence; or
 - (8) The Applicant or Licensee has a police investigation or been charged or been convicted of a criminal or *Highway Traffic Act* offence which provides reasonable grounds for the Licensing Officer to believe it would not be in the interest of public health and safety and/or consumer protection to issue or maintain such a licence.
88. Notwithstanding any other provision of this By-law, the Licensing Officer may impose conditions, including special conditions, on any Licence at issuance, renewal or at any time during the term of the Licence, as are deemed reasonably necessary in the opinion of the Licensing Officer to give effect to this By-law.
89. Where the Licensing Officer has made a decision to deny, suspend, revoke or place conditions, including special conditions, on a licence, the Licensing Officer's written notice of that decision shall:
- (1) Set out the grounds for the decision;
 - (2) Give reasonable particulars of the grounds;
 - (3) Be signed by the Licensing Officer; and,
 - (4) State that the Applicant or Licensee is entitled to request a hearing before the Licensing Appeals Committee if the Applicant or Licensee delivers a request

for a hearing, in writing, accompanied by the applicable fee set out in the Fees and Charges By-law, to the Licensing Officer, within thirty (30) calendar days after the notice is served.

90. (1) Where notice to an Applicant or Licensee is required under this By-law, it is sufficiently given if delivered personally to the Applicant or Licensee, sent by electronic mail, or sent by registered mail to the address provided on the application or Licence, as applicable, of the Applicant or Licensee.
- (2) Where service is effected by registered mail under subsection (1), notice shall be deemed to have been made on the fifth (5th) day after the date of mailing. Service is deemed effective by email at the time it is sent. Personal Service is deemed effective at the time it is given.
91. Where no appeal is registered within the required time period, the decision of the Licensing Officer shall be final.
92. Where a Licence issued under this By-law has been suspended or revoked or special conditions have been placed on the Licence, the Licensee shall return the applicable Licence to the Licensing Officer within twenty four (24) hours of service of written notice.

Appeal

93. The power and authority to conduct hearings of appeals under this By-law are hereby delegated to the Licensing Appeals Committee.
94. The provisions of sections 5 to 15 and 21 to 24 of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S. 22, as amended, shall apply to all hearings conducted by the Committee under this By-law.
95. (1) When an Applicant is denied a Licence or has their Licence revoked or suspended, or has conditions, including special conditions, placed on their Licence, they may request an appeal hearing before the Licensing Appeals Committee, within thirty (30) calendar days of service of the notice described in section 90 of this By-law, for review of this decision. This request for an appeal shall be made in writing, be sent to the Licensing Officer, and set out the relief sought and the reasons for the appeal.
- (2) When a request for a hearing under subsection (1) and the applicable fee for filing an appeal, as set out in the Region's Fees and Charges By-law, have been received, a hearing shall be scheduled before the Licensing Appeals Committee and notice of the hearing date shall be given to the Applicant or Licensee.
- (3) A notice of hearing shall include:

- (i) A statement of the time, date, location, and purpose of the hearing; and,
 - (ii) A statement that if the Applicant or Licensee does not attend the hearing, the Licensing Appeals Committee may proceed in their absence without notice to them.
- (4) After conducting a hearing under subsection (2) above, the Committee may uphold or vary the decision of the Licensing Officer, or make any decision that the Licensing Officer was entitled to make in the first instance.
- (5) Notice of the Committee's decision, with reasons, shall be provided in writing and served in accordance with the service provisions contained in section 90 of this By-law.
- (6) The Licensing Appeal Committee's decision in respect of refusing, suspending, revoking or attaching conditions to a Licence is final.

PART XIII ORDERS

96. (1) If the Licensing Officer or a Municipal By-Law Enforcement Officer is satisfied that a contravention of this By-law has occurred, the Licensing Officer or Municipal By-Law Enforcement Officer may make an Order requiring the Person who contravened this By-law or who caused or permitted the contravention to discontinue the contravening activity.
- (2) An Order under subsection (1) shall set out:
- (i) reasonable particulars of the contravention adequate to identify the contravention; and,
 - (ii) the date by which there must be compliance with the Order.
- (3) An Order issued under this By-law shall be served in accordance with the service provisions contained in section 90 of this By-law.
97. Every Person shall comply with an Order issued under the authority of this By-law.

PART XIV ADMINISTRATION AND ENFORCEMENT

Penalty

98. Every Person who contravenes any provision of this By-law or an Order under this By-law is guilty of an offence and upon conviction is liable to a fine as provided for by the *Provincial Offences Act*, R.S.O. 1990, Chapter P. 33, as amended.

99. A director or officer of a corporation who knowingly concurs in the contravention of any provision of this By-law of an Order made under this By-law is guilty of an offence.
100. (1) Notwithstanding section 98 of this By-law, each day on which a Person contravenes any provision of this By-law shall be deemed to constitute a continuing offence under this By-law as provided for in section 429(2) of the *Municipal Act, 2001*. For clarity, in the case of an Order, a contravention continues for every day or part of a day past the date set out in the Order by which the work must be complete or action taken, as the case may be.
- (2) For each day or part of a day that the offence continues, the minimum fine shall be ONE HUNDRED DOLLARS (\$100.00) and the maximum fine shall be FIVE THOUSAND DOLLARS (\$5,000.00), and the total of all daily fines for the offence is not limited to ONE HUNDRED THOUSAND DOLLARS (\$100,000.00).
101. If any section of this By-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the By-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted or may impose conditions.

Administration and Enforcement

102. (1) The Licensing Officer shall have all necessary authority to carry out the administration and enforcement of this By-law.
- (2) Without limiting subsection (1) of this section, the Licensing Officer shall, at their sole discretion, have the authority to:
- (i) prescribe administrative forms, registers and electronic data software required under this By-law;
 - (ii) establish policies, procedures, operational protocols, inspection criteria and frequency, Licence criteria, and operational hours;
 - (iii) receive and process all applications for all Licences and renewals of licences under this by-law;
 - (iv) pro-rate any licensing or administrative fees that may be charged under this By-law;
 - (v) issue any Licence where the Applicant meets criteria and conditions under this By- law;

- (vi) renew, deny, suspend, revoke, restrict or place special conditions on any Licence issued pursuant to this By-law;
 - (vii) designate any accessibility training or other required training pursuant to this By-law;
 - (viii) verify any information provided by an Applicant or Licensee;
 - (ix) demand from a Licensee any records, information, documentation, licences or any other thing pursuant to the administration and enforcement of this By-law and,
 - (x) Establish Taxicab Meter tariff rates under this By-law.
103. Any Licensee that refuses or otherwise does not supply records, information or any other thing as demanded by the Licensing Officer shall have their Licence suspended. The Licensing Officer may re-instate a Licence if the Licensee supplies the information, record or other thing as demanded.
104. This By-law may be enforced by the Licensing Officer, a Municipal By-Law Enforcement Officer appointed by Council to enforce this By-law, or any Police Officer.
105. Any Person who obstructs or interferes with an Officer in the discharge of their duties under this By-law shall be considered in violation of this By-law.
106. Any Person who provides false information to an Officer shall be deemed to have obstructed or interfered with that Officer in the execution of their duties, and shall be considered in violation of this By-law.

Survival

107. If any section or part of this By-law is found by any court of competent jurisdiction to be illegal or beyond the power of Council to enact, such section or part shall be deemed to be severable and all other sections or parts of this By-law shall be deemed to be separate and independent therefrom and shall continue in full force and effect unless and until similarly found illegal.

Citation

108. This By-law may be cited as the "Taxicab and TNC By-law".

By-law Commencement / Transition

109. (1) By-Law No. 2018-75, being a by-law to licence, regulate and govern vehicles for hire (Taxi's, Transportation Network Company Vehicles, Specialty

Vehicles, Auxiliary Services Vehicles, Shuttle Buses, Sightseeing Vehicles, Caleche, Tow Trucks) and Businesses (Second-Hand Good Stores and Dealers, Salvage Yards, Auto-Wrecking Yards and Taxicab Brokers) and all amendments thereto, is hereby repealed.

(2) Notwithstanding subsection (1), By-law No. 2018-75, as amended, shall continue to apply to proceedings in respect of offences that occurred before its repeal date.

(3) Notwithstanding subsection (1) , all Taxicab and TNC Service-related Licences issued under By-law No. 2018-75, including any suspensions, revocations, denials, renewals or special conditions imposed on Licensees, that are in effect at the time said by-law is repealed, shall be deemed to be Licences as issued under this By-law, together with any such suspensions, revocations, denials, renewals or special conditions, and all the rules, requirements and regulations of this By-law shall apply with necessary modification.

(4) All Persons holding Taxicab and TNC Service-related licences issued under the provisions of By-law No. 2018-75 must come into compliance with all provisions of this By-law upon the renewal date of their Licence or within twelve (12) months from the date this By-law comes into force, whichever date is later.

(5) A Licensee that fails to come into compliance with all provisions of this by-law upon the renewal date of their Licence shall have their Licence revoked.

110. This by-law shall come into force and effect on the date that it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

James Bradley, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: <date>

Schedule "A"

Standard Character Criteria

An application for or renewal of a Licence under this By-law shall be denied where the Applicant:

(Parts 1 to 7 apply to all applicants)

1. Has an undertaking, recognizance, peace bond, probation order or other court or police issued document where the conditions prohibit the applicant from performing the functions of the licence being applied for;
2. Has been convicted of a criminal offence which provides reasonable grounds for the Licensing Officer to believe it would not be in the interest of public health and safety and/or consumer protection to issue or maintain such a Licence. Such offences include, but are not limited to: sexual-based offences, child pornography, trafficking in persons, kidnapping, hostage taking, abduction, crimes against persons under 18 years of age, assault with a weapon, assault causing bodily harm, and, aggravated assault any assault against a Peace Officer;
3. Has been found guilty and convicted of any criminal offence, in the preceding twenty (20) years from the date of the application, where the term of incarceration imposed exceeded ten (10) years;
4. Has been found guilty and convicted of any criminal offence, in the preceding ten (10) years from the date of the application, where the term of incarceration imposed was between two (2) and ten (10) years;
5. Has been found guilty and convicted of any criminal offence, in the preceding five (5) years from the date of the application, where the term of incarceration imposed was less than two (2) years;
6. Has outstanding criminal charges before the courts and is awaiting trial and sentencing; or
7. Is the subject of a current police criminal investigation.

(Parts 8, 9 and 10 shall only apply to Driver Licence applicants)

8. Has been found guilty of any of the following *Highway Traffic Act* offences, in the preceding five (5) years from the date of the application:
 - a. Careless Driving;

- b. Racing or Stunt Driving; or
 - c. Exceeding the Speed Limit by 50 km/hour or more;
9. Has accumulated nine (9) or more demerit points or six (6) or more convictions under the *Highway Traffic Act* on their driving record abstract within three (3) years from the date of the application; or
10. Has had their driver's licence, issued in any province or territory, suspended under the *Highway Traffic Act* or Criminal Code within three (3) years of the date of application.

Paragraphs 2, 3, 4 and 5 shall not apply if the Applicant or Licensee has received a Record Suspension or Pardon for the offence by the Parole Board of Canada.

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THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. <>

A BY-LAW TO LICENCE, REGULATE AND GOVERN
VEHICLES USED FOR HIRE (SPECIALTY VEHICLES,
SHUTTLE BUSES, SIGHTSEEING VEHICLES, CALECHE)

WHEREAS the Council of The Regional Municipality of Niagara considers it in the public interest to enact a by-law to licence, regulate and govern various classes of businesses and to repeal the existing Business Licensing By-law No. 2018-75, as amended;

AND WHEREAS Section 9 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person;

AND WHEREAS Section 11 of the *Municipal Act, 2001*, S.O. 2001, Chap. 25, as amended, provides The Regional Municipality of Niagara with exclusive jurisdiction to enact by-laws for the licensing, regulating and governing of owners and drivers of vehicles used for hire within the Region;

AND WHEREAS Part IV LICENCES (more specifically sections 150 – 165) of the *Municipal Act, 2001*, S.O. 2001, Chap. 25, as amended, authorizes The Regional Municipality of Niagara to regulate and govern businesses, meaning any business wholly or partly carried on within the Region, even if the business is being carried on from a location outside the Region;

AND WHEREAS Section 151 of the *Municipal Act, 2001*, S.O. 2001, Chap. 25, as amended, provides The Regional Municipality of Niagara with the power to provide for a system of licences with respect to a business, and may prohibit the carrying on or engaging in the business without a licence; refuse to grant a licence or to revoke or suspend a licence; impose conditions as a requirement of obtaining, continuing to hold or renewing a licence; impose special conditions on a business in a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a licence; impose conditions, including special conditions, as a requirement of

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continuing to hold a licence at any time during the term of the licence; and licence, regulate or govern real and personal property used for the business and the persons carrying it on or engaged in it;

AND WHEREAS the Council of The Regional Municipality of Niagara has determined that it is appropriate and desirable to licence vehicles used for hire, including specialty vehicles, shuttle buses, sightseeing vehicles and caleches, for the purposes of ensuring the health and safety of both passengers and drivers, for the protection of persons and property and to ensure consumer protection, and to ensure that efficient vehicle-for-hire services are available to all persons within the Region;

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

PART I DEFINITIONS

1. In this By-law, unless context otherwise requires:

“Accessible Vehicle for Hire” means a motor vehicle which is equipped and used to transport persons with physical, emotional or mental disabilities, as well as their equipment, in exchange for a fee or other consideration and which is in compliance with Ontario Regulation 629 of the *Highway Traffic Act*, R.S.O. 1990, c. H. 8, as amended and the Standards Council of Canada Standard D409-M84, as amended;

“Applicant” means a Person applying for a Licence or a renewal of a Licence under this By-law;

“Area Municipality” means any one of the municipalities or corporations 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/or Township of West Lincoln;

“Caleche” means a horse-drawn vehicle used on sightseeing trips or otherwise for hire;

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“Controlled Drugs and Substances Act” means the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, as amended, or any successor legislation;

“Council” means the Council of The Regional Municipality of Niagara;

“Criminal Code” means the *Criminal Code*, R.S.C. 1985, c. C-46, as amended, or any successor legislation;

“Driver” means the person licenced under this By-law who drives and has care and control of a Vehicle for Hire licenced under this By-law;

“Fees and Charges By-law” means a by-law passed by Council of the Regional Municipality of Niagara pursuant to section 391 of the *Municipal Act, 2001* establishing fees and charges for services and activities provided by the Region and for the use of its property, as amended and replaced from time to time;

“GPS” means a global positioning system that allows a person to determine the exact geographic location of a vehicle licenced under this by-law;

“Highway Traffic Act” means the *Highway Traffic Act*, R.S.O. 1990, c. H. 8, as amended, or any successor legislation;

“Holiday” means Saturday, Sunday, New Year’s Day, Family Day, Good Friday, Easter Monday, Victoria Day, Canada Day, Civic Holiday, Labour Day, Thanksgiving Day, Christmas Eve, Christmas Day, Boxing Day, New Year’s Eve, and any other day fixed as a public holiday by the federal or Ontario provincial government;

“Human Rights Code” means the *Human Rights Code*, R.S.O. 1990, c. H-19, as amended, or any successor legislation;

“Licence” means an authorization issued under this By-law to carry on a business specified therein and the document, certificate or card issued shall provide evidence of such authority as the content may allow;

“Licensee” means a Person holding a Licence in accordance with this By-law;

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“Licensing Appeals Committee” or “Committee” means the all citizen tribunal appointed by Council to conduct hearings under this By-law;

“Licensing Officer” means the Manager of Business Licensing for The Regional Municipality of Niagara or their designate;

"Ministry of Transportation" means the Ministry of Transportation of Ontario or any successor ministry, department or other government body;

"Motor Vehicle" means a motor vehicle as defined in the *Highway Traffic Act*;

"Municipal By-Law Enforcement Officer" means a municipal law enforcement officer appointed by Council, or an officer, employee or agent of the Region whose responsibilities include the enforcement of this By-law;

“Officer” means Municipal Law Enforcement Officer, Licensing Officer, or Police Officer;

"Passenger" means any individual travelling in a Vehicle for Hire other than the Driver;

"Person" includes an individual, a corporation, and a partnership;

"Police Officer" means a police officer as defined by the *Police Services Act*, R.S.O. 1990, c. P.15;

“Private Ambulance/Medical Transport” means a motor vehicle, licenced as a Vehicle for Hire, which has the job of transporting patients to, from or between places of medical treatment, such as hospital or dialysis center, for non-urgent care;

“Provincial Licence” means any form of Licence or certification required to be held by the Licensee pursuant to applicable Provincial laws;

“Region” means The Regional Municipality of Niagara as a municipal corporation and, where the context requires, its geographic area;

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“Shuttle Vehicle” means a motor vehicle for hire for the transportation of passengers from place to place. A Shuttle Vehicle may include a Private Ambulance/Medical Transport and an Accessible Vehicle for Hire. A Shuttle Vehicle does not include a vehicle operated and controlled by a Municipality or the Province of Ontario and used as public transit.

“Sightseeing Vehicle” means a motor vehicle which is hired for the purpose of sightseeing to pick up and discharge its passengers and which has a route of travel that is not controlled by the passenger;

“Spare Vehicle” means a Vehicle owned by a Licensee that has been authorized by the Licensing Officer for temporary use in the place of and instead of a Vehicle for Hire licenced under this By-law;

“Specialty Vehicle” means a Vehicle for Hire including, but not limited to a limousine, a historical vehicle, a rickshaw or any other Vehicle which is approved by the Licensing Officer as a Specialty Vehicle;

“Taxicab” means a motor vehicle for hire for transportation of passengers from place to place and includes a Transportation Network Company Vehicle, but does not include a Vehicle for Hire;

“Transportation Network Company” or “TNC” means any person who offers, operates, or facilitates prearranged transportation services for compensation using any software or application or telecommunications platform or a digital network to connect passengers with TNC drivers, but does not include a licenced Taxicab

“Vehicle” means a vehicle as defined in the *Highway Traffic Act*;

“Vehicle for Hire” means a Motor Vehicle or non-motor assisted Vehicle that is used by a Person to offer, facilitate or operate a transportation service for one or more Passengers in exchange for a fee or other consideration, but does not include a Taxicab or Transportation Network Company;

“Vehicle for Hire Driver Licence” means a Vehicle for Hire Driver Licence as issued by the Licensing Officer under this By-law;

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“Vehicle for Hire Business Licence” means a Vehicle for Hire Business Licence as issued by the Licensing Officer under this By-law;

“Vehicle for Hire Service” means the use of a Vehicle, either motorized or non-motor assisted, that is licenced as a Vehicle for Hire under this By-law, for the transportation of Passengers in exchange for a fee or other consideration;

“Vehicle for Hire Vehicle Licence” means a Vehicle for Hire Vehicle Licence as issued by the Licensing Officer under this By-law; and,

“Vehicle for Hire Vehicle Plate” or “Vehicle Plate” means a numbered metal plate that is issued by the Licensing Officer under this By-law, to be attached to a licenced Vehicle for Hire.

PART II LICENCE CLASSES

2. (1) The Licensing Officer shall issue Licences for the following classes:
 - (a) Vehicle for Hire Business;
 - (b) Vehicle for Hire Driver (covers all classes of Vehicles under this By-law);
 - (c) Vehicle for Hire Vehicle; and,
 - (d) Vehicle for Hire Vehicle Plate.
- (2) The Licensing Officer shall issue Licences for the following sub-classes:
 - (a) Sightseeing Business;
 - (b) Sightseeing Vehicle;
 - (c) Sightseeing Vehicle Plate;
 - (d) Specialty Business;
 - (e) Specialty Vehicle;

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- (f) Specialty Vehicle Plate;
- (g) Shuttle Business;
- (h) Shuttle Vehicle;
- (i) Shuttle Vehicle Plate;
- (j) Caleche Business;
- (k) Caleche Coach Operator;
- (l) Caleche Carriage Plate; and,
- (m) Caleche Horse.

3. (1) No Person shall carry on or engage in the provision of a Vehicle for Hire Service or business in the Region unless that Person holds a valid and current Licence permitting them to do so.
- (2) All Licences are valid for a twelve (12) month period from the date of issue, unless otherwise stated in this By-law. For Licence renewals, if deemed necessary for administrative purposes by the Licensing Officer, the term of a Licence may be adjusted, for example, to align with the term of other Provincial Licences held by the Licensee for the Business, and the Licence fee may be pro-rated accordingly.
- (3) Unless otherwise provided for in this By-law, all Licences issued under this By-law are personal to the Licensee, are only transferable upon approval by the Licensing Officer, and remain the property of the Region.

PART III VEHICLE FOR HIRE BUSINESS LICENCE

Prohibition

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4. No Person shall operate as a Vehicle for Hire Business without first having obtained a Vehicle for Hire Business Licence in accordance with this By-law.

Licence Application

5. Every application for a Vehicle for Hire Business Licence and renewal Licence shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application for a Vehicle for Hire Business Licence or a renewal shall include the following:
 - (1) the full legal name, municipal address, email address and telephone number of each Applicant;
 - (2) If the Applicant is a partnership, the full legal name, address, email address and telephone number of each partner;
 - (3) If the Applicant is a corporation, all current articles of incorporation for the corporation;
 - (4) All current legal documents showing the registered business name of the Applicant, if applicable;
 - (5) The full legal names dates of birth, and addresses for all officers and directors of the Applicant, if applicable;
 - (6) The full legal names and signatures of all Persons having signing authority for the Applicant corporation, if applicable, including a letter outlining the number of signatures required for financial and administrative functions;
 - (7) The full legal names of all Persons who hold a Vehicle for Hire Vehicle Licence and Vehicle for Hire Driver Licence who currently use or will use the Applicant as their Vehicle for Hire Business;
 - (8) A Certificate of Insurance (COI) identifying and confirming the following minimum insurance requirements:

Commercial General Liability Insurance ("CGL")

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CGL insurance for all services and operations to a limit of not less than FIVE MILLION DOLLARS (\$5,000,000) per occurrence.

The policy will be extended to include:

- a. bodily injury, death and property damage;
- b. cross liability and severability of interest;
- c. blanket contractual;
- d. premises and operations;
- e. personal and advertising injury;
- f. products and completed operations;
- g. owner's and contractors protective;
- h. non-owned Automobile to a limit of not less than TWO MILLION DOLLARS (\$2,000,000);

The policy shall be endorsed to:

- a. include The Regional Municipality of Niagara as an additional insured; and,
- b. contain an undertaking by the insurers to give thirty (30) days prior written notice in the event that there is a material change in the foregoing policies or coverage affecting the Additional Insured(s) or cancellation of coverage before the expiration date of any of the foregoing policies.

Policy Requirements

All policies of insurance shall:

- a) be written with an insurer licensed to do business in Ontario;
- b) be non-contributing with, and will apply only as primary and not excess to any other insurance or self-insurance available to Niagara Region;

Certificates of Insurance

Certificates of insurance originally signed by authorized insurance representatives shall be delivered to the Region prior issuance of the Licence, on a form of Certificate of Insurance which is acceptable to the Region. The Certificate of Insurance must comply with these insurance requirements and

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must be on the Region's form of Certificate of Insurance, which can be found on the Region's website – www.niagararegion.ca/business/fpr/cert-insurance.aspx. If the Certificate of Insurance is provided in a non-original form (e.g. a facsimile, photocopy or scanned electronic copy), the Applicant acknowledges and agrees that the Region is fully entitled to treat any such Certificate as an original and that the Applicant will be responsible for the accuracy and validity of the information contained therein. All subsequent policy renewals and certificates of insurance thereafter, during the time that the Licence is in force, shall be forwarded to the Region within fifteen (15) days of their renewal date.

- (9) Information on whether the Applicant, or any officer or director of the Applicant, has had a licence in regard to a Vehicle for Hire Business suspended or revoked in the Region or any other municipality in Canada;
 - (10) Information on whether the Applicant, or any officer or director of the Applicant, has been convicted of an offence under any previously repealed Vehicle for Hire by-law of the Region or other municipality in Canada in regard to a Vehicle for Hire Business;
 - (11) A Criminal Record and Judicial Matters check for the Applicant or any officer or director of the Applicant, obtained within sixty (60) days from the date of application, which shall be reviewed in accordance with the criteria in Schedule "A".
 - (12) Payment in full of the prescribed fee in accordance with the Fees and Charges By-law.
6. The Licensing Officer shall issue a Vehicle for Hire Business Licence to an Applicant that has satisfied the requirements of this By-law, based on the appropriate Business Licence subclass as set out in subsection 2 (2).

General Licence Requirements

7. Every Vehicle for Hire Business licenced under this By-law shall:

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- (1) Have a physical business premises and telephone number associated with the Vehicle for Hire Business, for the benefit of customers who wish to make contact with the Vehicle for Hire Business;
- (2) Have a digital dispatch system and automated vehicle locator system (GPS) that allows the Vehicle for Hire Business to communicate with and locate a Vehicle for Hire that operates through the Vehicle for Hire Business;
- (3) Maintain a written or electronic record for a period of twelve (12) months for each Vehicle for Hire trip that is dispatched by the Vehicle for Hire Business;
- (4) Ensure that each Person holding a Vehicle for Hire Vehicle Licence or Vehicle for Hire Driver Licence who operates through the Vehicle for Hire Business is trained in regard to the proper operation of a Vehicle for Hire and the provisions of this By-law;
- (5) Ensure that each Person holding a Vehicle for Hire Driver Licence who operates through the Vehicle for Hire Business has completed driver and sensitivity training that includes the following topics:
 - (a) The safe operation of a Motor Vehicle including safe operation during inclement weather;
 - (b) The proper operation of Vehicle for Hire equipment and devices which may include a, PA system, dispatch system and credit card/debit card machine, as applicable;
 - (c) The proper response to an emergency situation which includes a passenger illness and Motor Vehicle accident;
 - (d) The provision of Vehicle for Hire Services in a manner that respects the dignity and independence of persons with disabilities; and,
 - (e) The provision of Vehicle for Hire Services in a manner that is free from discrimination and is in compliance with the *Human Rights Code*;

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- (6) Ensure that each Person holding a Vehicle for Hire Driver Licence who operates through the Vehicle for Hire Business and provides an Accessible Vehicle for Hire Service has completed the accessibility training as designated by the Licensing Officer;
- (7) Take all reasonable steps to ensure that each Vehicle for Hire Vehicle Licensee or Vehicle for Hire Driver Licensee who operates through the Vehicle for Hire Business complies with the requirements of this By-law;
- (8) Report to the Licensing Officer, within twenty-four (24) hours, any known contravention of this By-law by a Person holding a Vehicle for Hire Vehicle Licence or Vehicle for Hire Driver Licence who operates through the Vehicle for Hire Business;
- (9) Report to the Licensing Officer, within twenty-four (24) hours, any known:
 - (a) charge or conviction pursuant to the Criminal Code, *Controlled Drugs and Substances Act* or *Highway Traffic Act*; or
 - (b) Ontario driver's licence suspension;
 - (c) expiry, suspension, revocation or conditions imposed on a Provincial Licence;of any Vehicle for Hire Driver Licensee who operates through that Vehicle for Hire Business;
- (10) Report to the Licensing Officer, within twenty-four (24) hours:
 - (a) Any known motor vehicle accident that is reportable pursuant to section 199 of the *Highway Traffic Act*, or any successor provision; or
 - (b) Personal injury; or,
 - (c) cancellation of insurance;

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involving a Vehicle for Hire that operates through the Vehicle for Hire Business;

- (11) Report within twenty-four (24) hours, to the Licensing Officer if the Vehicle for Hire Business has terminated any Person who holds a Vehicle for Hire Vehicle Licence or Vehicle for Hire Driver Licence and is affiliated with the Vehicle for Hire Business; and
- (12) Provide the Licensing Officer, by the fifteenth (15th) day of every month, the following statistical information for the preceding month in relation to Vehicle for Hire Services provided through the Vehicle for Hire Business:
 - (a) The total number of Vehicle for Hire trips provided and Passengers conveyed;
 - (b) The total number of Accessible Vehicle for Hire trips and non-accessible Vehicle for Hire trips for each Accessible Vehicle for Hire, if applicable; and,
 - (c) For those Vehicle for Hire Businesses that provides a pre-arranged Vehicle for Hire Service through an on-line enabled application, website or telephone, a written or electronic record showing that the Passenger accepted the fare or rate to be charged prior to the commencement of the Pre-arranged Vehicle for Hire Service;

Vehicle for Hire Business Licence Transfer

- 8. The Licensing Officer may approve the transfer of a Vehicle for Hire Business Licence from one Person to another upon the parties providing to the Licensing Officer:
 - (1) A completed application for transfer of a business in a form provided by the Licensing Officer;
 - (2) The transfer application fee as prescribed in the Fees and Charges By-law; and,

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- (3) Confirmation of that the new Applicant meets the application requirements for a Vehicle for Hire Business Licence, as set out in Part III of this By-law.

PART IV VEHICLE FOR HIRE VEHICLE LICENCE AND VEHICLE FOR HIRE VEHICLE PLATES

Prohibition

9. (1) No Person shall cause or permit a Vehicle to be used as a Vehicle for Hire without first having obtained a:
 - (a) Vehicle for Hire Vehicle Licence for the Vehicle; and
 - (b) Vehicle for Hire Vehicle Plate to be affixed to the Vehicle.
- (2) No Person shall allow or permit another Person to provide or attempt to provide a Vehicle for Hire Service using a Vehicle licenced as a Vehicle for Hire unless:
 - (a) such Person holds a valid Vehicle for Hire Driver Licence; and
 - (b) the Vehicle for Hire Vehicle Plate is affixed to the Vehicle.
10. No Licensee shall affix or permit any other Person to affix a Vehicle Plate to any Vehicle other than the Vehicle for Hire for which the Vehicle Plate was issued under this By-Law.

Licence Application

11. Every application for a Vehicle for Hire Vehicle and/or Vehicle Plate Licence and renewal Licence shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application for a Vehicle for Hire Vehicle Licence, Vehicle for Hire Vehicle Plate Licence, or a renewal of either Licence shall include the following:
 - (1) the full legal name, municipal address, email address and telephone number of each Applicant;

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- (2) If the Applicant is a partnership, the full legal name, address, email address and telephone number of each partner;
- (3) If the Applicant is a corporation, all current articles of incorporation for the corporation;
- (4) All current legal documents showing the registered business name of the Applicant, if applicable;
- (5) The full legal names, dates of birth and addresses for all officers and directors of the Applicant, if applicable;
- (6) The full legal names and signatures of all Persons having signing authority for the Applicant corporation, if applicable, including a letter outlining the number of signatures required for financial and administrative functions;
- (7) The make, model, fuel type, vehicle identification number, production year and Ontario licence plate number for the Applicant's Vehicle for Hire;
- (8) A valid vehicle permit in the Applicant's full legal name for the Vehicle for Hire as issued by the Ministry of Transportation;
- (9) If leased from a leasing company, a copy of the leasing agreement including an authorization for the leased vehicle to be used as a Vehicle for Hire;
- (10) For vehicles holding seven (7) passengers or less, exclusive of the driver, and based on the year appearing on the vehicle permit, if the Vehicle for Hire is:
 - (i) Between zero and three (3) years of age with less than 40,000 kilometres, a safety inspection is not required;
 - (ii) Between three (3) and seven (7) years of age or has more than 75,000 kilometres, a valid Ontario Motor Vehicle Inspection Certificate, issued not less than 36 days from the date submitted to the Licensing Officer, showing that the Vehicle for Hire has passed the applicable safety inspection, is required; and,

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- (iii) Greater than seven (7) years of age, a valid Ontario Motor Vehicle Inspection Certificate, issued not less than 36 days from the date submitted to the Licensing Officer, showing that the Vehicle for Hire has passed the applicable safety inspection, is required every six (6) months.
- (11) For vehicles holding eight (8) or more passengers, either a six (6) month or twelve (12) month Ontario Motor Vehicle Inspection Certificate is required. The Vehicle can only operate if the inspection certificate dates are valid while the Vehicle is operating;
- (12) If the Vehicle for Hire operates with propane or natural gas as its primary or secondary fuel source, satisfactory evidence that is no older than thirty (30) days from date of issue that the Vehicle for Hire has passed all applicable propane and natural gas safety inspections;
- (13) Proof of automobile insurance in accordance with the requirements set out in section 14 of this By-law;
- (14) A declaration signed by a Vehicle for Hire Business Licensee confirming the Applicant's affiliation or employment with the Vehicle for Hire Business. A declaration is required from each Vehicle for Hire Business that the Applicant is affiliated with or employed by;
- (15) Confirmation that the Applicant, or any officer or director of the Applicant, has not had a licence in regard to the ownership of a Vehicle for Hire of any class suspended or revoked by the Region or other municipality in Canada within three (3) years of the current application;
- (16) Confirmation the Applicant, or any officer or director of the Applicant, has not been convicted of an offence under any Vehicle for Hire by-law of the Region or other municipality in Canada in regard to the ownership of a Vehicle for Hire of any class in the three (3) year period prior to the date of the application;
- (17) A Criminal Record and Judicial Matters check for the Applicant or any officer or director of the Applicant, obtained within sixty (60) days from the

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date of application, which shall be reviewed in accordance with the criteria in Schedule "A";

- (18) Payment in full of the prescribed fee in accordance with the Fees and Charges By-law.
12. (1) The Licensing Officer shall issue a Vehicle for Hire Vehicle Licence and Vehicle Plate to an Applicant that has satisfied the requirements of this By-law, based on the appropriate Licence subclasses as set out in subsection 2 (2) of this By-law.
- (2) A Vehicle for Hire Vehicle Licence and Vehicle Plate Licence may be issued for a term of one (1) month; six (6) months; or twelve (12) months.
13. (1) The Licensing Officer may set a limit or quota on the number of Vehicle for Hire Plates that may be issued within the Region.
- (2) If a quota or limit as referenced in subsection (1) is put in place, there shall be no waiting list maintained. Any new Vehicle for Hire Plates to be issued by the Licensing Officer will be offered to Applicants who meet the application requirements for a Vehicle for Hire Vehicle Licence set out in section 11 of this By-law, in order of when completed applications are received.
- (3) Any quotas or limits that may be implemented shall remain in effect according to the time limit as determined by the Licensing Officer not to exceed three (3) years, after which time the Licensing Officer shall conduct a review to determine whether these quotas or limits should be revised.

General Licence and Plate Requirements

14. (1) Every Vehicle for Hire Vehicle Licensee shall maintain on file with the Region a Certificate of Insurance (COI) for each Vehicle for Hire identifying and confirming the following minimum insurance requirements:
- (a) Up to seven (7) passengers requires a minimum limit of liability of TWO MILLION DOLLARS (\$2,000,000.00) per occurrence;

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(b) Eight (8) to twelve (12) passengers requires FIVE MILLION DOLLARS (\$5,000,000.00) per occurrence; and,

(c) Thirteen (13) or more passengers requires EIGHT MILLION DOLLARS (\$8,000,000.00) per occurrence;

- (2) The amounts listed in subsection (1) are exclusive of interest and costs, against liability resulting from bodily injury to or the death of one or more persons, and loss or damage to property.
- (3) Evidence of insurance shall be provided annually through a Certificate of Insurance and, in addition to the limits indicated in subsection (1), shall include evidence of an O.E.F. 6A—Permission to Carry Passengers for Compensation Endorsement.

15. Every Vehicle for Hire licenced under this By-law shall be equipped with an operational:

- (1) GPS that sets out and records the location of the Vehicle for Hire;
- (2) Dispatch system that allows communication between the Driver and Vehicle for Hire Business; and,
- (3) Fire extinguisher and first aid kit to be stored within the Vehicle at all times.

16. Every Person that holds a Vehicle for Hire Vehicle Plate shall display:

- (1) The Vehicle for Hire Vehicle Plate on the rear of the Vehicle for Hire with the exception of limousines, historic vehicles, and vehicles approved by the Licensing Officer. For these Vehicles, the Plate must be kept in the Vehicle and made readily available for inspection on demand by a Passenger or an Officer; and
- (2) Two (2) decals that are a minimum of 200 square centimeters each in area in visible locations on the exterior of the Vehicle for Hire that visibly displays in large print the name or trademark of their Vehicle for Hire Business.

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17. Every Person that holds a Vehicle for Hire Vehicle Licence shall ensure that their Licence is kept within the Vehicle for Hire and is available for inspection upon request by Passengers or an Officer.
18. A Vehicle for Hire Vehicle Licence is specific to the Vehicle for Hire for which it has been issued. When a Vehicle for Hire Vehicle is replaced with another Vehicle, the Vehicle Plate that is associated with that Vehicle for Hire may be transferred to the replacement vehicle, provided:
 - (1) The Licensee applies to the Licensing Officer for a new Vehicle for Hire Vehicle Licence and meets the applicable requirements for a Vehicle for Hire Vehicle Licence under this By-law;
 - (2) A Vehicle for Hire Vehicle Licence is issued for the replacement vehicle; and,
 - (3) The Licensee pays the transfer fee in accordance with the Fees and Charges By-law.
19. The Licensing Officer may approve a transfer of ownership of the Vehicle for Hire Vehicle Licence and/or Vehicle for Hire Plate from one Person to another upon the parties providing to the Licensing Officer:
 - (1) A completed application for transfer of a business in a form provided by the Licensing Officer;
 - (2) A transfer application fee as prescribed in the Fees and Charges By-law; and
 - (3) Confirmation that the new Applicant meets the applicable requirements for Vehicle for Hire Vehicle Licence and/or Vehicle for Hire Plate under this By-law.
20. Notwithstanding any other provision of this By-law, a Licensing Officer may provide approval for the transfer of a Vehicle for Hire Plate in the event of the plate holder's death, subject to completion and approval of the required transfer

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application within thirty (30) days, failing which, the Vehicle for Hire Plate shall be surrendered.

21. A Vehicle for Hire Vehicle Licence and Vehicle for Hire Plate shall only be issued to an Applicant who has the use of or is affiliated with a Vehicle for Hire Business that is licenced under this By-law.
22. A Vehicle for Hire Vehicle Licence and Vehicle for Hire Plate may be associated, loaned, leased or rented to one or more Vehicle for Hire Businesses licenced under this By-law.
23. A Licensee may hold multiple Vehicle for Hire Vehicle Licences and Vehicle for Hire Plates.
24. All Vehicle for Hire Vehicle Plates that are expired are deemed revoked by the Licensing Officer and must be returned to the Licensing Officer. A replacement fee shall be charged to the Plate-holder if the Vehicle for Hire Plate is not returned.

Special Licence Requirements

25. (1) A Licensee may apply for a non-use status designation of a Vehicle for Hire Vehicle Plate for a period of up to sixty (60) days in a calendar year. This application must be approved by the Licensing Officer and all appropriate fees, in accordance with the Fees and Charges By-law, must be paid.
 - (2) No Person shall operate, or permit to be operated, any Vehicle for Hire that bears a Vehicle for Hire Vehicle Plate that is has been designated for non-use status.
 - (3) Vehicle for Hire Vehicle Plates that have been designated for non-use status for more than sixty (60) days in a calendar year shall be returned to the Licensing Officer.
26. A Vehicle for Hire operating with as a Sightseeing Vehicle must have an operating PA system.

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27. In order to be granted a Licence under subsections 2(2)(j),(k), and (m) of this By-law and be permitted operate a Caleche business; the Applicant/Licensee shall demonstrate and ensure that every horse utilized in the Caleche business is:
- (a) free of any disease or sores, in good health, and fit to pull a Caleche in an urban setting without posing a danger to the public or itself as certified by a veterinarian;
 - (b) clean;
 - (c) shod on all four (4) hooves;
 - (d) readily identifiable/distinguishable from other horses by an appropriate marker in a manner that does not wound or harm the horse;
 - (e) properly fed and provided with adequate clean drinking water;
 - (f) allowed to rest after each ride to preserve its health and passengers' safety;
 - (g) properly hitched up, namely to ensure that the horse can move breathe freely;
 - (h) equipped with a leather harness free from cracks or rough patches that could cause injury;
 - (i) hitched up at most 9 hours starting from the time the horse was taken out. The maximum duration prescribed includes the time required to get to and from the stable and the site of the Caleche operations;
 - (j) protected with a blanket while at a stand, from November 1 to April 30; and,
 - (k) equipped with a bag for droppings, affixed to the harness in such a way that the horse is neither injured, nor hindered in its movements, and that the content is out of passengers' sight.
28. Every Licensee under subsections 2(2)(j),(k), and (m) of this By-law must submit, by April 1 and September 1 of every year, a certificate signed by a veterinarian, for each horse utilized in the Caleche business, stating that the horse is free of any disease or sores, is in good health and that it is fit to pull a Caleche in an urban setting without posing a danger to the public or itself. The veterinarian examination must take place within the two weeks prior to the date of the certificate being submitted.
29. Every Licensee under subsections 2(2)(j),(k), and (m) of this By-law must ensure that when the outside temperature reaches -20°C or below, excluding wind chill,

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or when it reaches 28°C or above, excluding humidex, the Caleche operations are immediately halted and all horses are returned to their stables . Should it be impossible to obtain the recorded temperature in accordance with the first paragraph, the temperature must be obtained from Environment Canada.

30. The Licensing Officer may order a Licensee to immediately cease Caleche operations and that the horses utilized in the Caleche operations be returned to the stable in the following cases:
 - (a) The horse harnessed to it does not meet the requirements of this By-law;
 - (b) The Caleche does not meet the requirements of this By-law;
 - (c) The outside temperatures listed in section 29 of this By-law are reached.
31. The Licensing Officer may order a Licensee to have a horse utilized in Caleche operations examined by a veterinarian at the Licensee's expense and refrain from using the horse in Caleche operations until a veterinarian certificate indicating that the horse is fit for work to the satisfaction of the Licensing Officer is received.
32. A Caleche that is being used as a Vehicle for Hire and that is associated with a Caleche Carriage Plate must be in good service and have all necessary operating and safety equipment, including a brake and a slow moving vehicle sign.
33. No person shall cause or permit the operation of a Caleche that does not meet the requirements of this By-law.

Spare Vehicle Registration

34. (1) A Vehicle for Hire Vehicle Licensee may apply to the Licensing Officer for a Spare Vehicle to be used on a temporary basis in place of a Vehicle for Hire that is licenced under this By-law, when that Vehicle for Hire is, for any reason, unable to be operated.
- (2) No Vehicle for Hire Vehicle Licensee shall use a Spare Vehicle in place of a Vehicle for Hire licenced under this By-law unless the a Spare Vehicle Licence and Spare Vehicle Plate have been issued by the Licensing Officer.

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- (3) The Licensing Officer may approve a Vehicle for temporary use as a Spare Vehicle upon the Licensee providing to the Licensing Officer:
 - (a) A completed Spare Vehicle application;
 - (b) The Spare Vehicle application fee as prescribed in the Fees and Charges By-law; and
 - (c) Confirmation the application requirements for a Vehicle for Hire Vehicle Licence, as set out in Part IV of this By-law, are met with respect to the proposed Spare Vehicle;
 - (4) Upon approval of the application, a Spare Vehicle Plate will be issued to the Applicant, to be affixed to the Spare Vehicle, will be issued to the Applicant.
 - (5) The Licensing Officer may renew the Spare Vehicle Licence upon the Licensee submitting to the Licensing Officer all of the documentation and fees set out in subsection (3).
 - (6) The Licensee shall notify the Licensing Officer by electronic mail or voicemail within twenty-four (24) hours of the use of the Spare Vehicle as a licenced Vehicle for Hire.
 - (7) The Licensee shall notify the Licensing Officer by electronic mail or voicemail within twenty-four (24) hours of the resumption of the use of the regular licenced Vehicle for Hire and cessation of the use of the Spare Vehicle.
 - (8) A Vehicle used as a Spare Vehicle must comply with all requirements of this By-law relating to the operation of Vehicles for Hire.
35. (1) Despite section 34 of this By-law, a Vehicle for Hire Business Licensee may apply to the Licensing Officer for temporary use of a Spare Vehicle, in addition to the Licensee's other licenced Vehicles for Hire, for a specified period of time in order to provide increased Vehicle for Hire Services, subject to the following conditions:

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- (a) An application for temporary use of a Spare Vehicle shall be presented to the Licensing Officer at least five (5) business days prior to the proposed date for use;
 - (b) the Applicant has submitted the appropriate application and paid the appropriate fees in accordance with the Fees and Charges By-law;
 - (c) the Applicant has identified on the application the times and dates for which the Spare Vehicle will be used; and
 - (d) the Applicant has provided confirmation that all of the Application requirements for a Vehicle for Hire Vehicle Licence, as set out in section 11 of this By-law, are met with respect to the proposed Spare Vehicle.
- (2) Upon approval of the application set out in subsection (1) and registration of the Spare Vehicle, the Licensing Officer shall provide to the Licensee a temporary approval to use the main Vehicle for Hire Plate in addition to the Spare Plate for the approved period of time.

PART V VEHICLE FOR HIRE DRIVER LICENCE

Prohibition

36. (1) No Person shall provide or attempt to provide a Vehicle for Hire Service unless that Person is the holder of a Vehicle for Hire Driver Licence.
- (2) No Driver shall provide or attempt to provide a Vehicle for Hire Services unless they are affiliated with a Vehicle for Hire Business.

Licence Application

37. A Vehicle for Hire Driver Licence is valid for all classes of Vehicles licenced under this By-law.
38. Every application for a Vehicle for Hire Driver Licence and renewal Licence shall be made to the Licensing Officer in a format provided by the Licensing Officer.

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Without limitation, every application for a Vehicle for Hire Driver Licence or a renewal shall include the following:

- (1) The Applicant's full legal name, address, telephone number, email address and date of birth;
- (2) For those Vehicles that require a valid driver's licence for operation, proof of a valid, unrestricted, Class G driver's licence issued by the Province of Ontario with at least two (2) years driving experience and proof the Person has the proper class of licence to drive the class of Vehicle for Hire being operated under this By-law;
- (3) Two (2) pieces of government issued identification, one (1) being photo identification;
- (4) Confirmation that the Applicant is legally eligible to work in Canada;
- (5) Confirmation that the Applicant has not had a Vehicle For Hire Driver Licence revoked, suspended or denied within three (3) years of the date of application;
- (6) A Criminal Record and Judicial Matters check for the Applicant, obtained within sixty (60) days from the date of application, which shall be reviewed in accordance with the criteria in Schedule "A";
- (7) Ontario Ministry of Transportation three (3) year driver's abstract, if applicable;
- (8) A declaration signed by the Applicant confirming that he or she does not have any current outstanding police investigations, charges or warrants pending before any courts pursuant to the *Criminal Code*, *Controlled Drugs and Substances Act* or the *Highway Traffic Act*;
- (9) A declaration signed by a Vehicle for Hire Business Licensee confirming the Applicant's affiliation or employment with the Vehicle for Hire Business. A declaration is required from each Vehicle for Hire Business that the Applicant is affiliated with or employed by; and,

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- (10) Confirmation from the Applicant's affiliated Vehicle for Hire Business that the Applicant has successfully completed required driver training.
- 39. An Applicant for a Vehicle for Hire Driver Licence shall submit to a photograph being taken of them for use on the Vehicle for Hire Driver Licence.
- 40. (1) The Licensing Officer shall issue a Vehicle for Hire Driver Licence to an Applicant that has satisfied the requirements of this By-law, based on the appropriate Driver Licence subclass as set out in subsection 2(2) above.
(2) A Vehicle for Hire Vehicle Licence and Vehicle Plate Licence may be issued for a term of one (1) month; six (6) months; or twelve (12) months.

General Licence Requirements

- 41. Every Vehicle for Hire Driver Licensee, while operating a Vehicle for Hire licenced under this By-law:
 - (1) Shall display their Licence in a location that is clearly visible to all Passengers and shall verbally advise any Passenger of their Vehicle for Hire Driver Licence number upon request;
 - (2) Shall ensure the Vehicle for Hire Vehicle Licence is in the Vehicle at all times;
 - (3) Shall ensure the Vehicle proof of insurance slip is in the Vehicle;
 - (4) Shall ensure the Vehicle ownership is in the Vehicle, if applicable;
 - (5) Shall ensure the Vehicle for Hire Plate is affixed to the Vehicle as prescribed in this By-law; and,
 - (6) Shall ensure an operational fire extinguisher and a first aid kit are both stored within the vehicle.

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42. Every Vehicle for Hire Driver Licensee, while operating a Vehicle for Hire licenced under this By-law, shall ensure that the GPS, PA system and dispatch system for the Vehicle for Hire is operational, if applicable.
43. No Vehicle for Hire Driver Licensee shall:
- (1) Verbally solicit any Person for the purposes of providing a Vehicle for Hire Service;
 - (2) Obstruct the use of any sidewalk, access way, street, roadway, driveway or highway with a Vehicle for Hire licenced under this By-law;
 - (3) Permit their Vehicle for Hire as licenced under this By-law to remain idling:
 - (a) For a period that exceeds ten (10) minutes when the outdoor temperature is between ten (10) degrees Celsius and twenty (20) degrees Celsius; or
 - (b) When the Vehicle for Hire is not occupied by a Passenger;
 - (4) Permit their Vehicle for Hire as licenced under this By-law to remain standing on any sidewalk, access way, street, roadway, driveway or highway, other than in designated parking areas, unless for the immediate purpose of:
 - (a) Taking on a Passenger or Passengers who have already engaged the Vehicle for Hire; or
 - (b) Discharging a Passenger or Passengers from the Vehicle for Hire;
 - (5) Carry a number of Passengers during a Vehicle for Hire trip that exceeds the manufacturer's rating of seating capacity and available seat belts, if equipped, for the Vehicle for Hire;
 - (6) Smoke tobacco or cannabis or permit tobacco or cannabis to be smoked in the Vehicle for Hire licenced under this By-law;
 - (7) Consume or be under the influence of any alcohol while operating a Vehicle for Hire licenced under this By-law;

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- (8) Consume, possess or be under the influence of any controlled substance as defined in the *Controlled Drugs and Substances Act* while operating a Vehicle for Hire licenced under this By-law;
 - (9) Permit the consumption of any alcohol in the Vehicle for Hire licenced under this By-law.
 - (10) Use an electronic cigarette or permit the use of an electronic cigarette in the Vehicle for Hire licenced under this By-law.
 - (11) Operate a Vehicle for Hire that is not licensed under this By-law.
44. Every Vehicle for Hire Driver Licensee that is operating an Accessible Vehicle for Hire shall give priority to Persons with disabilities.
45. Every Vehicle for Hire Driver Licensee providing an Accessible Vehicle for Hire Service shall securely fasten all mobility devices while the Accessible Vehicle for Hire is in motion.
46. (1) Every Vehicle for Hire Driver Licensee shall notify the Licensing Officer within twenty-four (24) hours of any charge or conviction they have received that is in contravention of Schedule "A" criteria of this By-law or of any Motor Vehicle accident involving a Vehicle for Hire licenced under this By-law.
- (2) Every Vehicle for Hire Driver Licensee shall notify the Licensing Officer within twenty-four (24) hours of any police investigation, charge or conviction relating to the Licensee pursuant to the *Criminal Code* or the *Controlled Drugs and Substances Act* or the *Highway Traffic Act* with all particulars relating to the investigation, charge or conviction;
- (3) If the Licensing Officer has reasonable grounds to believe that any of the information that was provided in the Licensee's application for a Vehicle for Hire Driver Licence has changed without the Licensee advising of the change, the Licensing Officer may, upon demand, request the Licensee produce an updated:
- (i) Criminal Record and Judicial Matters check; or

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- (ii) A three (3) year Ontario Drivers Abstract.

Special Licence Requirements

47. No Vehicle for Hire Driver shall provide a Vehicle for Hire Service unless the service provided is for a minimum rate of charge, exclusive of HST, of not less than:
- (1) Ten dollars (\$10.00) for Sightseeing, Shuttle or Specialty Vehicle for Hire Services; and,
 - (2) Five dollars (\$5.00) for Caleche Vehicle for Hire Services.

PART VI GENERAL

Prohibitions

48. No Person shall:
- (1) Hinder or obstruct, or attempt to hinder or obstruct the driver or the operation of a Vehicle for Hire licenced under this By-law;
 - (2) Molest, startle or otherwise interfere with a horse being used for a Caleche licenced under this By-law;
 - (3) Evade payment for a Vehicle for Hire Service once provided;
 - (4) Obstruct a pick-up or drop off location for a Vehicle for Hire;
 - (5) Give false or incorrect information for the purposes of obtaining or renewing a Licence;

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- (6) Hinder or obstruct, or attempt to hinder or obstruct, either directly or indirectly, any Person who is exercising a power or performing a duty under this By-law, including carrying out an inspection;
- (7) Charge a higher fare or an additional fee for Persons with disabilities than for Persons without disabilities for the same trip; and,
- (8) Charge a fee for the storage of mobility aids or mobility assistive devices in relation to a Vehicle for Hire Service.

Licence Application Process

- 49. Every Applicant shall provide payment in full, at the time the application is submitted, of the applicable fee prescribed in accordance with the Fees and Charges By-law.
- 50. All Applicants shall provide the Licensing Officer with such other information and documentation as requested by the Licensing Officer.
- 51. Every Applicant and Licensee shall report to the Licensing Officer within twenty-four (24) hours after the event, of any change in any information, including contact, address and insurance information, that was provided to the Licensing Officer pursuant to this By-law.

Licence Requirements

- 52. (1) Every Licensee shall hold such Licence subject to the requirements and criteria as imposed in this By-law, including the compliance with criteria imposed in order to be licensed under Parts III, IV and V.
- (2) In the event a Licensee cannot comply with the requirements as set out in subsection (1) above, the Licensee shall cease to provide Vehicle for Hire Services immediately and surrender the applicable Licence to the Licensing Officer within twenty-four (24) hours of the non-compliance.

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- (3) Any Licences that have been surrendered to the Licensing Officer pursuant to subsection (2) above, shall be deemed suspended; but may be reinstated and returned to the Licensee upon the Licensee providing satisfactory proof of compliance with all applicable requirements of the application for the Licence in issue.
53. If a Licence is defaced, destroyed, or lost, the Licensee shall apply to the Licensing Officer for a replacement and, on payment of the prescribed fee in accordance with the Fees and Charges By-law, may be issued a replacement Licence, as required.

Reporting

54. Any report to the Licensing Officer that is required pursuant to this By-law may be made during a Holiday, before or after business hours by submitting the report via electronic mail or leaving a voicemail message to the email address or telephone number for the Licensing Officer, as publicly posted on the Region's website from time to time.

PART VII INSPECTIONS

55. Every Licensee shall allow the Licensing Officer, a Municipal By-Law Enforcement Officer or Police Officer, upon demand, to enter upon and inspect a Vehicle for Hire Business premises and/ or a Vehicle for Hire to ensure that all provisions of this By-law have been satisfied.
56. Upon inspection, every Person shall produce all relevant Licences and permits, invoices, vouchers or like documents, trip records, and all documents required to be kept and maintained under this By-law, which may be removed for the purpose of photocopying and returned to the Licensee within forty eight (48) hours of removal.
57. No Person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer from carrying out an inspection or withhold, destroy, conceal or refuse to furnish any information or thing required by the Officer inspecting for the purpose of this inspection.

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PART VIII POWERS OF THE LICENSING OFFICER

58. The power and authority to issue or renew a Licence, refuse to issue or refuse to renew a Licence, to revoke or suspend a Licence, to impose terms and conditions, including special conditions, on a Licence are delegated to the Licensing Officer.
59. When an application for a Licence or for a renewal of a Licence is made in accordance with the provisions of this By-law and the Applicant meets all the requirements of this By-law, the Licensing Officer shall issue a Licence.
60. The Licensing Officer may refuse to issue, refuse to renew, revoke or suspend a Licence, or impose a term or condition on a Licence on the following grounds:
- (1) The conduct of the Applicant or Licensee, or where the Person is a corporation, that the conduct of the corporation's officers, directors, employees or agents, affords reasonable cause to believe that the Person will not carry on or engage in the operation of the business in accordance with any applicable Federal law, Provincial law, or Municipal by-law, or with honesty and integrity;
 - (2) The Licensing Officer has reasonable cause to believe that the granting, renewal or continuation of a Licence under this By-law would pose a danger to the health or safety of any Person or the public in general;
 - (3) The Applicant or Licensee is carrying on activities that are in contravention of this By-law;
 - (4) There are reasonable grounds to believe that an application or other documents provided to the Licensing Officer by or on behalf of the Applicant or Licensee contains a false statement;
 - (5) Any information contained in the original application form or any other information provided to the Licensing Officer has ceased to be accurate and the Licensee has not provided up-to-date accurate information to allow the Licensing Officer to conclude that the Licence should continue;

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- (6) An Applicant does not meet, at any time, one or more of the requirements of this By-law or any conditions imposed on a Licence;
 - (7) An Applicant or Licensee is not in compliance with any applicable Federal law, Provincial law or Municipal by-law, including but not limited to this By-law, and any requirement to obtain and maintain a valid Provincial Licence; or
 - (8) The Applicant or Licensee has been convicted of a criminal offence which causes the Licensing Officer to believe it would not be in the interest of public safety and/or consumer protection to issue or maintain such a Licence.
61. Notwithstanding any other provision of this By-law, the Licensing Officer may impose conditions, including special conditions, on any Licence at issuance, renewal or at any time during the term of the Licence, as are necessary in the opinion of the Licensing Officer to give effect to this By-law.
62. Where the Licensing Officer has made a decision to deny, suspend, revoke or place conditions, including special conditions, on a Licence, the Licensing Officer's written notice of that decision shall:
- (1) Set out the grounds for the decision;
 - (2) Give reasonable particulars of the grounds;
 - (3) Be signed by the Licensing Officer; and,
 - (4) State that the Applicant or Licensee is entitled to request a hearing before the Licensing Appeals Committee if the Applicant or Licensee delivers a request for a hearing, in writing, accompanied by the applicable fee set out in the Fees and Charges By-law, to the Licensing Officer, within thirty (30) calendar days after the notice is served.
63. (1) Where notice to an Applicant or Licensee is required under this By-law, it is sufficiently given if delivered personally to the Applicant or Licensee, sent by electronic mail, or sent by registered mail to the address provided on the application or Licence, as applicable, of the Applicant or Licensee.

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- (2) Where service is effected by registered mail under subsection (1), notice shall be deemed to have been made on the fifth (5th) day after the date of mailing. Service is deemed effective by email at the time it is sent. Personal Service is deemed effective at the time it is given.

- 64. Where no appeal is registered within the required time period, the decision of the Licensing Officer shall be final.
- 65. Where a licence issued under this By-law has been suspended or revoked or special conditions have been placed on the licence, the Person shall return the applicable licence to the Licensing Officer within twenty four (24) hours of service of written notice.

Appeal

- 66. The power and authority to conduct hearings of appeals under this By-law are hereby delegated to the Licensing Appeals Committee (the "Committee").
- 67. The provisions of sections 5 to 15 and 21 to 24 of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S. 22, as amended, shall apply to all hearings conducted by the Committee under this By-law.
- 68. (1) When an Applicant is denied a Licence or has their Licence revoked or suspended, or has conditions, including special conditions, placed on their Licence, they may request an appeal hearing before the Licensing Appeals Committee, within thirty (30) calendar days of service of the notice described in section 63 of this By-law, for review of this decision. This request for an appeal shall be made in writing, be sent to the Licensing Officer, and set out the relief sought and the reasons for the appeal.
 - (2) When a request for a hearing under subsection (1) and the applicable fee for filing an appeal, as set out in the Fees and Charges By-law, have been received, a hearing shall be scheduled before the Licensing Appeals Committee and notice of the hearing date shall be given to the Applicant.
 - (3) A notice of hearing shall include:

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- (a) A statement of the time, date, location, and purpose of the hearing;
and,
 - (b) A statement that if the Applicant or Licensee does not attend the hearing, the Licensing Appeals Committee may proceed in their absence without notice to them.
- (4) After conducting a hearing under subsection (2), the Committee may uphold or vary the decision of the Licensing Officer, or make any decision that the Licensing Officer was entitled to make in the first instance.
- (5) Notice of the Committee's decision, with reasons, shall be provided in writing served in accordance with the service provisions contained in section 63 of this By-law.
- (6) The Licensing Appeal Committee's decision in respect of refusing, suspending, revoking or attaching conditions to a Licence is final.

PART IX ORDERS

69. (1) If the Licensing Officer or a Municipal By-Law Enforcement Officer is satisfied that a contravention of this By-law has occurred, the Licensing Officer or Municipal By-Law Enforcement Officer may make an Order requiring the Person who contravened this By-law or who caused or permitted the contravention to discontinue the contravening activity.
- (7) An Order under subsection (1) shall set out:
- (a) reasonable particulars of the contravention adequate to identify the contravention; and,
 - (b) the date by which there must be compliance with the Order.
- (8) An Order issued under this By-law shall be served in accordance with the service provisions contained in section 63 of this By-law.

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70. Every Person shall comply with an Order issued under the authority of this By-law.

PART X PENALTY

71. Every Person who contravenes any provision of this By-law or an Order under this By-law is guilty of an offence and upon conviction is liable to the appropriate penalty, as provided for by the *Provincial Offences Act*, R.S.O. 1990, Chapter P. 33, as amended.
72. A director or officer of a corporation who knowingly concurs in the contravention of any provision of this By-law or an Order made under this By-law is guilty of an offence.
73. (1) Notwithstanding section 71 of this By-law, each day on which a Person contravenes any provision of this By-law shall be deemed to constitute a continuing offence under this By-law as provided for in section 429(2) of the *Municipal Act, 2001*. For clarity, in the case of an Order, a contravention continues for every day or part of a day past the date set out in the Order by which the work must be complete or action taken, as the case may be.
- (2) For each day or part of a day that the offence continues, the minimum fine shall be ONE HUNDRED DOLLARS (\$100.00) and the maximum fine shall be FIVE THOUSAND DOLLARS (\$5,000.00), and the total of all daily fines for the offence is not limited to ONE HUNDRED THOUSAND DOLLARS (\$100,000.00).
74. If any section of this By-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the By-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted or impose conditions.

PART XI ADMINISTRATION AND ENFORCEMENT

75. (1) The Licensing Officer shall have all necessary authority to carry out the administration and enforcement of this By-law.

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- (2) Without limiting subsection (1) of this section, the Licensing Officer shall have the authority, at their sole discretion, to:
- (a) prescribe administrative forms, registers and electronic data software required under this By-law;
 - (b) establish policies, procedures, operational protocols, inspection criteria and frequency, Licence criteria, and operational hours;
 - (c) receive and process all applications for all Licences and renewals of Licences under this By-law;
 - (d) pro-rate any licensing or administrative fees that may be charged under this By-law;
 - (e) issue any Licence where the Applicant meets criteria and conditions under this By-law;
 - (f) renew, deny, suspend, revoke, restrict or place special conditions on any Licence issued pursuant to this By-law;
 - (g) designate any accessibility training or other required training pursuant to this By-law;
 - (h) verify any information provided by an Applicant or Licensee; and,
 - (i) demand from a Licensee any records, information, documentation, licences or any other thing pursuant to the administration and enforcement of this By-law.

76. Any Licensee that refuses or otherwise does not supply records, information or any other thing as demanded by the Licensing Officer shall have their licence suspended. The Licensing Officer may re-instate a Licence if the Licensee supplies the information, record or other thing as demanded.

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77. This By-law may be enforced by the Licensing Officer, a Municipal By-Law Enforcement Officer appointed by Council to enforce this By-law, or any Police Officer.
78. Any Person who obstructs or interferes with an Officer in the discharge of their duties shall be considered in violation of this By-law.
79. Any Person who provides false information to an Officer shall be deemed to have obstructed or interfered with that Person in the execution of their duties.

Survival

80. If any section or part of this By-law is found by any court of competent jurisdiction to be illegal or beyond the power of Council to enact, such section or part shall be deemed to be severable and all other sections or parts of this By-law shall be deemed to be separate and independent therefrom and shall continue in full force and effect unless and until similarly found illegal.

Citation

81. This By-law may be cited as the "Vehicle for Hire By-law".

By-law Commencement / Transition

82. (1) By-Law No. 2018-75, being a by-law to licence, regulate and govern vehicles for hire (Taxi's, Transportation Network Company Vehicles, Specialty Vehicles, Auxiliary Services Vehicles, Shuttle Buses, Sightseeing Vehicles, Caleche, Tow Trucks) and Businesses (Second-Hand Good Stores and Dealers, Salvage Yards, Auto-Wrecking Yards and Taxicab Brokers) and all amendments thereto, is hereby repealed.
- (2) Notwithstanding subsection (1), By-law No. 2018-75, as amended, shall continue to apply to proceedings in respect of offences that occurred before its repeal.
- (3) Notwithstanding subsection (1), all Licences issued under No. By-law 2018-75, including any suspensions, revocations, denials, renewals or special conditions imposed on such Persons holding licences by the

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Region, that are in effect at the time said by-law is repealed, shall be deemed to be Licences as issued under this By-law, together with any such suspensions, revocations, denials, renewals or special conditions, and all the rules, requirements and regulations of this By-law shall apply with necessary modification.

- (4) All Persons holding Licences issued under the provisions of By-law o. 2018-75 must come into compliance with all provisions of this by-law upon the renewal date of their Licence, or twelve (12) months from the date this By-law comes into force, which length of time is greater.
- (5) Notwithstanding subsection (4) of this section, a Person holding a licence that fails to come into compliance with all provisions of this by-law upon the renewal date of their licence shall have their Licence revoked.

83. This by-law shall come into force and effect on the date that it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

< >, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: <date>

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Schedule "A"

Standard Character and Driving Record Criteria

An application for or renewal of a Licence under this By-law shall be denied where the Applicant:

(Parts 1 to 7 apply to all applicants)

1. Has an undertaking, recognizance, peace bond, probation order or other court or police issued document where the conditions prohibit the applicant from performing the functions of the licence being applied for;
2. Has been convicted of a criminal offence for which, in the opinion of the Licensing Officer, it would not be in the interest of public safety to issue or maintain such a licence. Such offences include, but are not limited to: sexual-based offences, child pornography, trafficking in persons, kidnapping, hostage taking, abduction, crimes against persons under 18 years of age, assault with a weapon, assault causing bodily harm, and, aggravated assault any assault against a Peace Officer;
3. Has been found guilty and convicted of any criminal offence, in the preceding twenty (20) years from the date of the application, where the term of incarceration imposed exceeded ten (10) years;
4. Has been found guilty and convicted of any criminal offence, in the preceding ten (10) years from the date of the application, where the term of incarceration imposed was between two (2) and ten (10) years;
5. Has been found guilty and convicted of any criminal offence, in the preceding five (5) years from the date of the application, where the term of incarceration imposed was less than two (2) years;
6. Has outstanding criminal charges before the courts and is awaiting trial and sentencing; or
7. Is the subject of a current police criminal investigation.

(Parts 8, 9 and 10 shall only apply to Driver Licence applicants)

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8. Has been found guilty of any of the following *Highway Traffic Act* offences, in the preceding five (5) years from the date of the application:

- i) Careless Driving;
- ii) Racing or Stunt Driving; or
- iii) Exceeding the Speed Limit by 50 km/hour or more;

9. Has accumulated nine (9) or more demerit points or six (6) or more convictions under the *Highway Traffic Act* on their driving record abstract within three (3) years from the date of the application; or

10. Has had their driver's licence, issued in any province or territory, suspended under the *Highway Traffic Act* or Criminal Code within three (3) years of the date of application.

Paragraphs 2, 3, 4 and 5 shall not apply if the Applicant has received a Record Suspension or Pardon for the offence by the Parole Board of Canada.

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. < >

A BY-LAW TO LICENCE, REGULATE AND GOVERN
SALVAGE SHOPS AND SALVAGE YARDS

WHEREAS the Council of The Regional Municipality of Niagara considers it in the public interest to enact a by-law to licence, regulate and govern various classes of businesses and to repeal the existing Business Licensing By-law No. 2018-75, as amended;

AND WHEREAS Section 9 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person;

AND WHEREAS Section 11 of the *Municipal Act, 2001*, S.O. 2001, Chap. 25, as amended, provides The Regional Municipality of Niagara with exclusive jurisdiction to enact by-laws for the licensing, regulating and governing of salvage businesses (meaning salvage shops and salvage yards, including automobile wrecking yards or premises) within the Region;

AND WHEREAS Part IV LICENCES (more specifically sections 150 – 165) of the *Municipal Act, 2001*, S.O. 2001, Chap. 25, as amended, authorizes The Regional Municipality of Niagara to regulate and govern businesses, meaning any business wholly or partly carried on within the Region, even if the business is being carried on from a location outside the Region;

AND WHEREAS Section 151 of the *Municipal Act, 2001*, S.O. 2001, Chap. 25, as amended, provides The Regional Municipality of Niagara with the power to provide for a system of licences with respect to a business, and may prohibit the carrying on or engaging in the business without a licence; refuse to grant a licence or to revoke or suspend a licence; impose conditions as a requirement of obtaining, continuing to hold or renewing a licence; impose special conditions on a business in a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a licence; impose conditions, including special conditions, as a requirement of continuing to hold a licence at any time during the term of the licence; and licence, regulate or govern real and personal property used for the business and the persons carrying it on or engaged in it;

AND WHEREAS the Council of The Regional Municipality of Niagara has determined that it is appropriate and desirable to licence salvage shops and salvage yard dealers

as a means of protecting consumers and enhancing the safety of residents and their personal property by preventing the sale of salvage that is taken from stolen goods and regulating and controlling any visual, noise, environmental, fire, safety, health and property standard nuisance or hazard caused by salvage shops and salvage yards, including automobile wrecking yards or premises;

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

PART I DEFINITIONS

1. In this By-law, unless context otherwise requires,:

“Applicant” means any Person applying for a Licence or renewal of a Licence under this By-law;

“Area Municipality” means any one of the municipalities or corporations 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/or Township of West Lincoln;

“Controlled Drugs and Substances Act” means the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, as amended, or any successor legislation;

“Council” means the Council of The Regional Municipality of Niagara;

“Criminal Code” means the *Criminal Code*, R.S.C. 1985, c. C-46, as amended, or any successor legislation;

“Fees and Charges By-law” means a by-law passed by Council pursuant to section 391 of the *Municipal Act, 2001* establishing fees and charges for services and activities provided by the Region and for the use of its property, as amended and replaced from time to time.

“Highway Traffic Act” means the *Highway Traffic Act*, R.S.O. 1990, c. H.8, as amended, and its regulations, or any successor legislation;

“Human Rights Code” means the *Human Rights Code*, R.S.O. 1990, c. H-19, as amended, or any successor legislation;

“Licence” means an authorization issued under this By-law to carry on a business specified therein and the document, certificate or card issued shall provide evidence of such authority as the content may allow;

“Licensee” means a Person holding a Licence in accordance with this By-law;

“Licensing Appeals Committee” or **“Committee”** means the all citizen tribunal appointed by Council to conduct hearings under this By-law;

“Licensing Officer” means the Manager of Business Licensing for The Regional Municipality of Niagara or their designate;

“Ministry of the Environment” means the Ontario Ministry of the Environment, and Climate Change Resources, or any successor ministry;

“Motor Vehicle” means a motor vehicle as defined in the *Highway Traffic Act*, R.S.O. 1990, c.H.8;

“Motor Vehicle Dealers Act, 2002” means the *Motor Vehicle Dealers Act, 2002* S.O. 2002, c. 30, Sched. B, as amended, or any successor legislation;

“Municipal Act, 2001” means the *Municipal Act, 2001*, S.O.2001, c. 25, as amended from time to time;

“Municipal Law Enforcement Officer” means a municipal law enforcement officer appointed by Council, or an officer, employee or agent of the Region whose responsibilities include the enforcement of this By-law;

“Officer” means Municipal Law Enforcement Officer, Licensing Officer, or Police Officer;

“Person” includes an individual, a corporation, or a partnership;

“Police Officer” means a police officer as defined by the *Police Services Act*, R.S.O. 1990, c. P.15;

“Provincial Licence” means any form of Licence or certification required to be held by the Licensee pursuant to applicable Provincial laws, including but not limited to an EASR Licence;

“Region” means The Regional Municipality of Niagara as a municipal corporation and, where the context requires, its geographic area;

“Register” means the register as required under Part VIII of this By-law;

“Salvage” means, but is not limited, to:

- (1) Dismantled or wrecked motor vehicles or any parts thereof including tires;
- (2) Dismantled or scrap residential, commercial or industrial machines, appliances, or any part thereof, including e-waste; or
- (3) Scrap aluminium, brass, copper, steel, or any other metal;

“Salvage Business” means Salvage Shops and Salvage Yards, including an automobile wrecking yard or premises;

“Salvage Shop” means any building, or any part thereof, within the Region, that does not have an outdoor yard, where Salvage is received, collected, sorted, processed, handled, dismantled, crushed, recycled, demolished, displayed, stored, sold or purchased;

“Salvage Shop Licence” means a Salvage Shop Licence issued by the Licensing Officer under this By-law;

“Salvage Yard” means:

- (1) An outdoor yard;
- (2) A building or buildings with an outdoor yard; or
- (3) A fenced compound that may include a mix of outdoor storage and buildings;

within the Region where Salvage is received, collected, sorted, processed, handled, dismantled, crushed, recycled, demolished, displayed, stored, sold or purchased, and includes an automobile wrecking yard;

“Salvage Yard Licence” means a Salvage Yard Licence issued by the Licensing Officer under this By-law;

“Statutory Holiday” means New Year’s Day, Family Day, Good Friday, Victoria Day, Canada Day, Labour Day, Thanksgiving Day, Christmas Day and Boxing Day; and,

“Vehicle” means a vehicle as defined in the *Highway Traffic Act*, R.S.O. 1990, c.H.8.

PART II LICENCE CLASSES

2. (1) The Licensing Officer shall issue Licences for the following classes:
 - (i) Salvage Shop Licence; and
 - (ii) Salvage Yard Licence.
- (2) All Licences are valid for a twelve (12) month period from the date of issuance. For Licence renewals only, if deemed necessary for administrative purposes by the Licensing Officer, the term of a Licence may be adjusted, for example, to align with the term of other Provincial Licences held by the Licensee for the Business, and the Licence fee may be pro-rated accordingly.
- (3) Unless otherwise provided for in this By-law, all Licences issued under this By-law are personal to the Licensee, are only transferable upon approval by the Licensing Officer, and remain the property of the Region.

PART III PROHIBITIONS

3. No Person shall own or operate a Salvage Shop within the Region unless that Person holds a Salvage Shop Licence.
4. No Person shall own or operate a Salvage Yard within the Region unless that Person holds a Salvage Yard Licence.

PART IV LICENCE APPLICATION PROCESS

5. Every application for a Licence or renewal of a Licence issued under this By-law shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application shall include the following:
 - (1) The full legal name, municipal address, email address and telephone number of each Applicant;
 - (2) If the Applicant is a partnership, the full legal name, address, email address and telephone number of each partner;
 - (3) If the Applicant is a corporation, all current articles of incorporation for the corporation;
 - (4) All current legal documents showing the registered business name of the Applicant, if applicable;

- (5) The full legal names, addresses and dates of birth for all officers and directors of the Applicant, if applicable;
- (6) The full legal names and signatures of all Persons having signing authority for the Applicant partnership and/or corporation, if applicable, including a letter outlining the number of signatures required for financial and administrative functions;
- (7) A Certificate of Insurance (COI) identifying and confirming the following minimum insurance requirements:

Commercial General Liability Insurance ("CGL")

CGL insurance for all services and operations to a limit of not less than FIVE MILLION DOLLARS (\$5,000,000) per occurrence.

The policy will be extended to include:

- a. bodily injury, death and property damage;
- b. cross liability and severability of interest;
- c. blanket contractual;
- d. premises and operations;
- e. personal and advertising injury;
- f. products and completed operations;
- g. owner's and contractors protective;
- h. non-owned Automobile to a limit of not less than TWO MILLION DOLLARS (\$2,000,000);

The policy shall be endorsed to:

- a. include The Regional Municipality of Niagara as an additional insured; and,
- b. contain an undertaking by the insurers to give thirty (30) days prior written notice in the event that there is a material change in the foregoing policies or coverage affecting the Additional Insured(s) or cancellation of coverage before the expiration date of any of the foregoing policies.

Environmental / Pollution

Pollution Legal Liability insurance in an amount of not less than \$5,000,000 any one claim and in the aggregate, and name The Regional Municipality of Niagara as an additional insured.

Policy Requirements

All policies of insurance shall:

- a) be written with an insurer licensed to do business in Ontario;
- b) be non-contributing with, and will apply only as primary and not excess to any other insurance or self-insurance available to Niagara Region;

Certificates of Insurance

Certificates of insurance originally signed by authorized insurance representatives shall be delivered to the Region prior issuance of the Licence, on a form of Certificate of Insurance which is acceptable to the Region. The Certificate of Insurance must comply with these insurance requirements and must be on the Region's form of Certificate of Insurance, which can be found on the Region's website – www.niagararegion.ca/business/fpr/cert-insurance.aspx. If the Certificate of Insurance is provided in a non-original form (e.g. a facsimile, photocopy or scanned electronic copy), the Applicant acknowledges and agrees that the Region is fully entitled to treat any such Certificate as an original and that the Applicant will be responsible for the accuracy and validity of the information contained therein. All subsequent policy renewals and certificates of insurance thereafter, during the time that the Licence is in force, shall be forwarded to the Region within fifteen (15) days of their renewal date.

- (8) Information on whether the Applicant, or any officer or director of the Applicant, has had a licence in regard to a Salvage Business suspended or revoked in the Region or in any other municipality within Canada;
- (9) Information on whether the Applicant, or any officer or director of the Applicant, has been convicted of an offence under any previously repealed by-law of the Region or in any other municipality within Canada governing the licensing of Salvage Businesses;
- (10) A Criminal Record and Judicial Matters check for the Applicant or any officer or director of the Applicant, obtained within sixty (60) days from the date of application, which shall be reviewed in accordance with the criteria in Schedule "A";
- (11) Confirmation the proposed Salvage Business is in compliance with all applicable environmental regulations and standards set by the Ministry of

the Environment, including but not limited to, registration with the Environmental Activity and Sector Registry for prescribed activities engaged in at an end-of-life vehicle waste disposal site, if applicable;

- (12) A letter from the applicable Area Municipality confirming zoning compliance for the location of the Salvage Business; if zoned “legal non-conforming”, the applicable Area Municipality must confirm this zoning status;
 - (13) Information on whether the Applicant, or any officer or director of the Applicant, has been convicted of an offence or had an order issued against them relating to the protection of the environment, fire safety, health, property standards, or zoning violations within the previous twelve (12) month period;
 - (14) For Salvage Yard Licence applications only, the additional information as required under section 6 of this By-law; and,
 - (15) Payment in full of the prescribed fee in accordance with the Fees and Charges By-law.
6. In addition to the information and documentation listed in section 5 of this By-law, an application for a Salvage Yard Licence must also including the following:
- (1) Photographs confirming that the proposed Salvage Yard is fully enclosed by a fence as required pursuant to section 22 of this By-law;
 - (2) A fire inspection report prepared by the applicable Area Municipality fire department, dated within two (2) months of the date of the application, confirming compliance with all applicable provisions under the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c. 4, as amended;
 - (3) A letter from the Region’s Planning and Development Services Department confirming that the Salvage Yard Business location conforms to the Region’s Official Plan;
 - (4) A letter from the Niagara Escarpment Commission confirming the operation of the Salvage Yard Business in the specific location does not violate the Niagara Escarpment Plan, if applicable; and,
 - (5) A site plan for the Salvage Yard that shows:

- (i) the legal boundaries for the Salvage Yard, which must include only those lands that are under the exclusive control of the Applicant;
 - (ii) the location of all existing and proposed buildings, roads, driveways, parking areas, storage areas and operating areas;
 - (iii) the location of any fence and/or gate as required under this By-law.
- 7. Every Applicant for a Salvage Yard Licence shall allow the Licensing Officer or a Municipal Law Enforcement Officer to enter onto the Salvage Yard premises to verify the site plan requirements as set out under subsection 6(5) of this By-law.
- 8. The Licensing Officer shall issue a Licence or a renewal of a Licence to an Applicant that has satisfied the requirements of this By-law, based on the appropriate class as set out in subsection 2 (1) of this By-law.
- 9. No Applicant shall knowingly misstate or provide false information to the Licensing Officer.
- 10. All Applicants shall provide the Licensing Officer with such other information and documentation as requested by the Licensing Officer to verify compliance with the requirements of this By-law. The Licensor reserves the right to verify the requirements with a subsequent site inspection.
- 11. Every Applicant and Licensee shall report to the Licensing Officer within twenty-four (24) hours after the event, of any change in any information, including full legal name, contact, address and insurance information, that was provided to the Licensing Officer pursuant to this By-law.

PART V LICENCE REQUIREMENTS

- 12. The fees for each Licence issued or renewed under this By-law shall be in accordance with the Fees and Charges By-law.
- 13.
 - (1) Every Licensee shall hold such Licence subject to the requirements and criteria as imposed in this By-law, including compliance with criteria imposed in order to be licenced under Part IV.
 - (2) In the event a Licensee cannot meet the requirements as set out in subsection (1) above, the Licensee shall cease to operate the Salvage Business immediately, and surrender the applicable Licence to the Licensing Officer within twenty four (24) hours of the non-compliance.

- (3) Any Licences that have been surrendered to the Licensing Officer pursuant to subsection (2) above, shall be deemed suspended, but may be reinstated and returned to the Licensee upon the Licensee providing proof of compliance with all requirements of the application for the Licence in issue.
14. Every Licensee shall notify the Licensing Officer within twenty-four (24) hours of any order or conviction pursuant to any environmental, fire safety, health hazard, property standards, or zoning legislation, regulation or by-law that relates to the Person or the Salvage Shop or Salvage Yard that is licenced under this By-law.
15. No Licensee shall alter, erase or modify, or permit the alteration, erasure or modification of their Licence or any part thereof.
16. If a Licence is defaced, destroyed, or lost, the Licensee shall apply to the Licensing Officer for a replacement and, on payment of the prescribed fee in accordance with the Fees and Charges By-law, may be issued a replacement Licence, as required.
17. Every Person required to obtain a Licence under this By-law shall obtain a separate Licence for each Salvage Business being operated within the Region.
18. A Licence issued under this By-law may be transferred, pursuant to the sale of a Salvage Business, upon the parties providing to the Licensing Officer:
- (1) A completed application for transfer of a business in a form provided by the Licensing Officer;
- (2) The applicable transfer application fee, as prescribed in the Fees and Charges By-law; and,
- (3) Confirmation that the successor Salvage Business meets the application requirements set out in Part IV of this By-law.
19. All Licences issued under this By-law shall terminate upon the death of the Licensee or dissolution of the corporate Licensee unless, in the case of the dissolution of a corporate Licensee, the Business is transferred to a successor corporation in accordance with section 18.
20. Prior to any expansion of the operational footprint of a Salvage Business licenced under this By-law, the Applicant must provide confirmation the expanded Salvage Business continues to meet the application requirements set out in Part IV.

PART VI SPECIAL LICENCE REQUIREMENTS**Salvage Shop Licence**

21. (1) No Salvage Shop Licensee shall allow Salvage to be sorted, processed, dismantled, crushed, recycled, demolished, displayed, collected or stored outdoors.
- (2) Subsection (1) shall not apply to a Motor Vehicle that is operational as a mode of transportation and which is being displayed for sale by a Salvage Shop Licensee that is a registered dealer under the *Motor Vehicle Dealers Act, 2002*.

Salvage Yard Licence

22. (1) Every Person who holds a Salvage Yard Licence shall maintain a fence that fully encloses any outdoor area of the Salvage Yard.
- (2) Every fence, as required under subsection (1), shall be:
- (i) Installed and maintained at a height in compliance with the Area Local Municipality By-laws; or, if none exist, the following standards shall be followed – the fence shall be not less than 1.83 metres and no greater than 2.44 metres in height;
 - (ii) Constructed of a solid uniform material, with a uniform colour, providing a full visual and entry barrier; and
 - (iii) Kept in good repair at all times.
- (3) If an opening in any fence as required under subsection (1) is necessary for ingress or egress, then the opening shall be covered by a gate that:
- (i) Includes a locking mechanism;
 - (ii) Opens to a width of at least 3.5 metres;
 - (iii) Is of the same height as the fence;
 - (iv) Is kept in good repair at all times;

- (iv) Does not open over the travelled portion of a public road allowance or sidewalk; and
 - (v) Is kept clear of obstructions so that it may be opened fully at all times.
 - (4) No person shall erect or relocate a fence or a gate as required under this section without the prior written approval of the Licensing Officer.
23. Every Licensee who holds a Salvage Yard Licence shall ensure that:
- (1) The outdoor area of the Salvage Yard is kept in a clean, neat, orderly and sanitary condition;
 - (2) All storage containers and other materials belonging to the Licensee or used for the Salvage Yard operation on-site are kept within:
 - (i) The enclosed area as required under section 22 of this By-law; or
 - (ii) An enclosed building;
 - (3) All Vehicles and equipment belonging to the Licensee or used for the Salvage Yard operation that do not have a current licence plate as issued by the Ministry of Transportation, or any successor Ministry, are parked within:
 - (i) The enclosed area, as required under section 22 of this By-law; or
 - (ii) An enclosed building;
 - (4) No Salvage is loaded, unloaded, sorted, processed, dismantled, crushed, recycled, demolished, displayed, stored, collected or placed outside of:
 - (i) The enclosed area as required under section 22 of this By-law; or
 - (ii) An enclosed building;
 - (5) No Salvage is placed against or within two (2) metres of the fence as required under section 22 of this By-law;
 - (6) No Salvage, storage container or other material within the Salvage Yard is placed on the roof of any building within the Salvage Yard;

- (7) No gasoline, vehicle fluids or other chemicals from the Salvage Yard enter or escape onto any adjoining lands or into any aquifer, lake, pond, river, stream, drainage pond, drainage ditch or other body of water;
 - (8) All outdoor lighting for the Salvage Yard is arranged so as to divert light away from adjoining lands, inclusive of any public road allowances;
 - (9) All parking areas and roadways within the Salvage Yard are paved or are treated in a manner to reduce dust;
 - (10) All Vehicle batteries within the Salvage Yard are stored within an enclosed building, and in accordance with any standards required by the Ministry of the Environment, or any successor Ministry; and
 - (11) Salvage may not be piled or stored higher than permitted by the applicable zoning by-laws of Area Municipalities. Where the zoning by-laws of Area Municipalities are silent, Salvage shall not be piled or stored higher than 4.57 metres.
 - (12) All outdoor lighting for the Salvage Yard shall be arranged as to divert light away from adjoining lands, inclusive of any public road allowances.
24. (1) No Licensee who holds a Salvage Yard Licence for a Salvage Business that is adjacent to or within two (2) kilometres of a residential property shall operate or permit the operation of a crusher, loader, forklift, crane, truck or other equipment at the Salvage Yard except:
- (i) Between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday; and
 - (ii) Between the hours of 9:00 a.m. and 5:00 p.m. on weekends.
- (2) Notwithstanding subsection (1) of this section, no Licensee who holds a Salvage Yard Licence for a business that is adjacent to or within two (2) kilometres of a residential property shall operate or permit the operation of a crusher, loader, forklift, crane, truck or other equipment on a Statutory Holiday.
25. No Salvage Yard shall exceed size restrictions imposed in zoning by-laws of Area Municipalities, and if none exist, five (5) Hectares in area, unless the Salvage Yard exceeded five (5) Hectares in area on the date that this By-law came into force and effect.

PART VII OPERATIONS

26. Every Licensee shall ensure that the Licensee and their employees, contractors, and agents abide by the requirements of this By-law.
27. Every Licensee shall comply with all applicable Federal laws, Provincial laws, and Municipal by-laws, while operating a Salvage Business.
28. No tires shall be stored in an area of a Salvage Business licenced under this By-law where there is the potential for them to come into contact with a spark, flame or a heat source.
29. Every Licensee shall store and dispose of gasoline, oils, and other fluids from recycled Vehicles in approved containers, pursuant to standards imposed by the Ministry of the Environment or any successor Ministry. Licensees must keep records, to be produced upon demand by the Licensing Officer, documenting the means of disposal of these various Vehicle fluids.
30. Every Salvage Business licenced under this By-law that is also a registered Vehicle dealer pursuant to the *Motor Vehicle Dealers Act*, shall prominently display their proof of registration as a motor vehicle dealer in a visible area within the Salvage Business premises.
31. Every Licensee shall display their Licence in a conspicuous location that is visible to all Persons upon entering the licenced Salvage Business location.

Reporting

32. Any report to the Licensing Officer that is required pursuant to this By-law may be made outside of business hours by submitting the report via electronic mail or voicemail message to the email address or telephone number of the Licensing Officer, as publicly posted on the Region's external website from time to time.

PART VIII REGISTER

33.
 - (1) Every Licensee shall maintain a Register recording all transactions, namely sales and purchases, made pursuant to the Salvage Business in accordance with this section.
 - (2) A copy of the Register entries, including photographs that may be required under subsection (5), documenting the previous day's transactions, shall be delivered to the Licensing Officer, via electronic mail, daily by 10:00

am, save and except those days that the Business is not operating, in which case the entries shall be submitted the following operating day.

- (3) The Licensee shall maintain a separate Register for each Salvage Business licenced under this By-law that the Licensee operates.
- (4) A Register, as required under this By-law, shall be in the form of either:
 - (i) A paper booklet or electronic version Register supplied by the Licensing Officer; or,
 - (ii) A computer software program that has been approved for use by the Licensing Officer.
- (5) Every Licensee who acquires any Salvage, with the exception of Vehicles or Vehicle parts, from another Person, either personally or through an employee or agent, shall immediately record, in English, in their Register:
 - (i) The full legal name, address and telephone number including the type of identification provided and the plate number of the Vehicle of the Person from whom they received the Salvage item(s);
 - (ii) The date and time of the transaction;
 - (iii) The value paid or consideration given for the Salvage item(s);
 - (iv) a detailed description of the Salvage item(s);
 - (v) the name of the employee or agent of the Licensee who accepted the Salvage item(s);
 - (vi) the value paid or consideration given for the Salvage item(s);
 - (vii) The serial number of the Salvage item(s), if available; and
 - (viii) A photograph of any Salvage items that were purchased for more than ONE HUNDRED DOLLARS (\$100.00);
- (6) Every Licensee who acquires a Vehicle or Vehicle parts from another Person for the purpose of dismantling or selling such at their Salvage Business, either personally or through an employee or agent, shall immediately record, in English, in the Register:

- (i) the full legal name, address and telephone number including the type of identification provided to verify this information and the plate number of the Vehicle of the Person from whom they received the Vehicle or Vehicle parts;
 - (ii) the date of the transaction;
 - (iii) proof of legal ownership;
 - (iv) The vehicle information number (VIN) of the Vehicle;
 - (v) the make and model of the Vehicle;
 - (vi) the plate number of the Vehicle delivering the Salvage Vehicle or Vehicle parts;
 - (vii) the name of the employee or agent of the Licensee who accepted the Vehicle or Vehicle parts;
 - (viii) the value paid or consideration given for the Vehicle or Vehicle parts; and
 - (ix) a detailed description of the Vehicle or Vehicle parts including the serial number, if applicable.
- (x) A photograph of any Vehicle or Vehicle parts that were purchased for more than ONE HUNDRED DOLLARS (\$100.00);
- (7) Every Licensee who sells Salvage to another Person shall ensure that a copy of a receipt for the sale is maintained for a period of one (1) year after the date of the sale, and a corresponding entry is made in the Register.
- (8) Every Licensee shall make the Register and the receipts required under subsection (7) available for inspection upon demand by an Officer.
- (9) Every Licensee who maintains the Register through an approved computer software program shall, upon demand by an Officer:
- (i) Allow the Officer to review the onscreen information for the Register; and,
 - (ii) Print out or otherwise copy the Register or any part thereof and provide such to the requesting Officer.

- (10) The Register must be maintained for a period of one (1) year in a neat and legible condition, with no pages or computer data removed, destroyed, or altered.
 - (11) A Licensee may not remove or allow any other Person, with the exception of an Officer, to remove the Register from the licenced Salvage Business premises.
- 34. No Licensee shall purchase or acquire any Vehicle or Vehicle part without being provided proof that the Person offering the Vehicle or Vehicle part is the lawful owner of, or in is lawful possession of, the Vehicle or Vehicle part, which proof shall be retained for a minimum of one (1) year.
 - 35. No Licensee shall acquire, purchase or offer to sell any Vehicle that has a serial number that is altered, destroyed, removed or concealed without first having given notice to a Police Officer and the Licensing Officer twenty-four (24) hours prior to the intended purchase, acquisition or sale.
 - 36. A Licensee, upon suspicion that any Salvage offered to the Licensee may be stolen property, shall not purchase said Salvage and shall forthwith report the incident to a Police Officer and the Licensing Officer.
 - 37. Any Salvage purchased or received for any other consideration by a Licensee that is found to be stolen property shall be reported to the Police and the Licensing Officer. If the legal owner of the stolen property has been identified, the stolen property shall be returned to the legal owner without any fees, charges or any financial burden to the legal owner and no compensation given to the Licensee. If the legal owner of the stolen property cannot be identified by Police, the Licensee shall follow the direction of the Police with regards to ownership, and shall notify the Licensing Officer.

PART IX INSPECTIONS

- 38. Every Licensee shall allow an Officer, upon demand, to enter upon and inspect a Salvage Business premises to ensure compliance with all provisions of this By-law.
- 39. Upon inspection, every Person shall produce all relevant Licences and permits, invoices, Provincial Licences and all documents required to be kept and maintained under this By-law, which may be removed by an Officer for the purpose of photocopying and returned to the Licensee within forty-eight (48) hours of removal.

40. No Person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer from carrying out an inspection or withhold, destroy, conceal or refuse to furnish any information or thing required by the Officer inspecting for the purpose of this inspection.

PART X POWERS OF THE LICENSING OFFICER

41. The power and authority to issue or renew a Licence, refuse to issue or refuse to renew a Licence, to revoke or suspend a Licence, to impose terms and conditions, including special conditions, on a Licence are delegated to the Licensing Officer.
42. When an application for a Licence or for a renewal of a Licence is made in accordance with the provisions of this By-law and the Applicant meets all the requirements of this By-law, the Licensing Officer shall issue a Licence.
43. The Licensing Officer may refuse to issue, refuse to renew, revoke or suspend a Licence, or impose a term or condition on a Licence on the following grounds:
 - (1) The conduct of the Applicant or Licensee, or where the Person is a partnership or corporation, the conduct of the partnership's or corporation's officers, directors, employees or agents, affords reasonable cause to believe that the Person will not carry on or engage in the operation of the Salvage Business in accordance with any applicable Federal law, Provincial law, or Municipal by-law, or with honesty and integrity;
 - (2) The Licensing Officer has reasonable cause to believe that the granting, renewal or continuation of a Licence under this By-law would pose a danger to the health or safety of any Person or the public in general;
 - (3) The Applicant or Licensee is carrying on activities that are in contravention of this By-law;
 - (4) There are reasonable grounds to believe that an application or other documents provided to the Licensing Officer by or on behalf of the Applicant or Licensee contains a false statement;
 - (5) Any information contained in the original application form or any other information provided to the Licensing Officer has ceased to be accurate and the Licensee has not provided up-to-date accurate information to allow the Licensing Officer to conclude that the Licence should continue;

- (6) An Applicant or Licensee does not meet, at any time, one or more of the requirements of this By-law or any conditions imposed on a Licence;
 - (7) An Applicant or Licensee is not in compliance with any applicable Federal law, Provincial law or Municipal by-law, including but not limited to this By-law and any requirement to obtain and maintain a valid Provincial Licence; or
 - (8) The Applicant or Licensee has been convicted of a criminal offence which provides reasonable grounds for the Licensing Officer to believe it would not be in the interest of public health and safety and/or consumer protection to issue or maintain such a Licence.
44. Notwithstanding any other provision of this By-law, the Licensing Officer may impose conditions, including special conditions, on any Licence at issuance, renewal or at any time during the term of the Licence, as are deemed reasonably necessary in the opinion of the Licensing Officer to give effect to this By-law.
45. Where the Licensing Officer has made a decision to deny, suspend, revoke or place conditions, including special conditions, on a Licence, the Licensing Officer's written notice of that decision shall:
- (1) Set out the grounds for the decision;
 - (2) Give reasonable particulars of the grounds;
 - (3) Be signed by the Licensing Officer; and,
 - (4) State that the Applicant or Licensee is entitled to request a hearing before the Licensing Appeals Committee if the Applicant or Licensee delivers a request for a hearing, in writing, accompanied by the applicable fee set out in the Fees and Charges By-law, to the Licensing Officer, within thirty (30) calendar days after the notice is served.
46. (1) Where notice to an Applicant or Licensee is required under this By-law, it is sufficiently given if delivered personally to the Applicant or Licensee, sent by electronic mail, or sent by registered mail to the address provided on the application or Licence, as applicable, of the Applicant or Licensee.
- (2) Where service is effected by registered mail under subsection (1), notice shall be deemed to have been made on the fifth (5th) day after the date of mailing. Service is deemed effective by electronic mail at the time it is sent. Personal service is deemed effective at the time it is given.

47. Where no appeal is registered within the required time period, the decision of the Licensing Officer shall be final.
48. Where a Licence issued under this By-law has been suspended or revoked or special conditions have been placed on the Licence, the Licensee shall return the applicable Licence to the Licensing Officer within twenty-four (24) hours of service of written notice.

Appeal

49. The power and authority to conduct hearings of appeals under this By-law are hereby delegated to the Licensing Appeals Committee.
50. The provisions of sections 5 to 15 and 21 to 24 of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S. 22, as amended, shall apply to all hearings conducted by the Committee under this By-law.
51.
 - (1) When an Applicant is denied a Licence or has their Licence revoked or suspended, or has conditions, including special conditions, placed on their Licence, they may request an appeal hearing before the Licensing Appeals Committee, within thirty (30) calendar days of service of the notice described in section 46, for review of this decision. This request for an appeal shall be made in writing, be sent to the Licensing Officer, and set out the relief sought and the reasons for the appeal.
 - (2) When a request for a hearing under subsection (1) and the applicable fee for filing an appeal, as set out in the Fees and Charges By-law, have been received, a hearing shall be scheduled before the Licensing Appeals Committee and notice of the hearing date shall be given to the Applicant or Licensee.
 - (3) A notice of hearing shall include:
 - (i) A statement of the time, date, location, and purpose of the hearing; and,
 - (ii) A statement that if the Applicant or Licensee does not attend the hearing, the Licensing Appeals Committee may proceed in their absence without notice to them.
 - (4) After conducting a hearing under subsection (2), the Committee may uphold or vary the decision of the Licensing Officer, or make any decision that the Licensing Officer was entitled to make in the first instance.

- (5) Notice of the Committee's decision, with reasons, shall be provided in writing and served in accordance with the service provisions contained in section 46.
- (6) The Licensing Appeal Committee's decision in respect of refusing, suspending, revoking or attaching conditions to a Licence is final.

PART XI ORDERS

- 52.(1) If the Licensing Officer or a Municipal By-Law Enforcement Officer is satisfied that a contravention of this By-law has occurred, the Licensing Officer or Municipal By-Law Enforcement Officer may make an Order requiring the Person who contravened this By-law or who caused or permitted the contravention to discontinue the contravening activity.
 - (2) An Order under subsection (1) shall set out:
 - (i) reasonable particulars of the contravention adequate to identify the contravention and the location of the property on which the contravention occurred; and,
 - (ii) the date by which there must be compliance with the Order.
 - (3) An Order issued under this By-law shall be served in accordance with the service provisions contained in section 46.
53. Every Person shall comply with an Order issued under the authority of this By-law.

PART XII ADMINISTRATION AND ENFORCEMENT

Penalty

- 54. Every Person who contravenes any provision of this By-law or an Order under this By-law is guilty of an offence and upon conviction is liable to the appropriate penalty as provided for by the *Provincial Offences Act*, R.S.O. 1990, Chapter P. 33, as amended.
- 55. A director or officer of a corporation who knowingly concurs in the contravention of any provision of this By-law or an Order made under this By-law, is guilty of an offence.

56. (1) Notwithstanding section 54 of this By-law, each day on which a Person contravenes any provision of this By-law shall be deemed to constitute a continuing offence under this By-law, as provided for in subsection 429(2) of the *Municipal Act, 2001*. For clarity, in the case of an Order, a contravention continues for every day or part of a day past the date set out in the Order by which the work must be complete or action taken, as the case may be.
- (2) For each day or part of a day that the offence continues, the minimum fine shall be ONE HUNDRED DOLLARS (\$100.00) and the maximum fine shall be FIVE THOUSAND DOLLARS (\$5,000.00), and the total of all daily fines for the offence is not limited to ONE HUNDRED THOUSAND DOLLARS (\$100,000.00).
57. If any section of this By-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the By-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted, or may impose conditions.

Administration and Enforcement

58. (1) The Licensing Officer shall have all necessary authority to carry out the administration and enforcement of this By-law.
- (2) Without limiting subsection (1) of this section, the Licensing Officer shall have the authority, at their sole discretion, to:
- (i) prescribe administrative forms, registers and electronic data software required under this By-law;
 - (ii) establish policies, procedures, operational protocols, inspection criteria and frequency, Licence criteria, and operational hours;
 - (iii) receive and process all applications for all Licences and renewals of Licences under this By-law;
 - (iv) pro-rate any licensing or administrative fees that may be charged under this By-law;
 - (v) issue any Licence where the Applicant meets criteria and conditions under this By-law;

- (vi) renew, deny, suspend, revoke, restrict or place special conditions on any Licence issued pursuant to this By-law;
 - (vii) designate any accessibility training or other required training pursuant to this By-law;
 - (viii) verify any information provided by an Applicant or Licensee; and,
 - (ix) demand from a Licensee any records, information, documentation, licences or any other thing pursuant to the administration and enforcement of this By-law.
59. Any Licensee that refuses or otherwise does not supply records, information or any other thing as demanded by the Licensing Officer shall have their Licence suspended. The Licensing Officer may re-instate a Licence if the Licensee supplies the information, record or other thing as demanded.
60. This By-law may be enforced by the Licensing Officer, a Municipal By-Law Enforcement Officer appointed by Council to enforce this By-law, or any Police Officer.
61. Any Person who obstructs or interferes with an Officer in the discharge of their duties under this By-law, shall be considered in violation of this By-law.
62. Any Person who provides false information to an Officer shall be deemed to have obstructed or interfered with that Person in the execution of their duties, and shall be considered in violation of this By-law.

Survival

63. If any section or part of this By-law is found by any court of competent jurisdiction to be illegal or beyond the power of Council to enact, such section or part shall be deemed to be severable and all other sections or parts of this By-law shall be deemed to be separate and independent therefrom and shall continue in full force and effect unless and until similarly found illegal.

Citation

64. This By-law may be cited as the "Salvage Business By-law".

By-law Commencement / Transition

65. (1) By-Law No. 2018-75, being a by-law to licence, regulate and govern vehicles for hire (Taxi's, Transportation Network Company Vehicles, Specialty

Vehicles, Auxiliary Services Vehicles, Shuttle Buses, Sightseeing Vehicles, Caleche, Tow Trucks) and Businesses (Second-Hand Good Stores and Dealers, Salvage Yards, Auto-Wrecking Yards and Taxicab Brokers) and all amendments thereto, is hereby repealed.

- (2) Notwithstanding subsection (1), By-law No. 2018-75, as amended, shall continue to apply to proceedings in respect of offences that occurred before its repeal date.
 - (3) Notwithstanding subsection (1), all Salvage Business-related licences issued under By-law No. 2018-75, including any suspensions, revocations, denials, renewals or special conditions imposed on Licensees, that are in effect at the time said by-law is repealed, shall be deemed to be Licences as issued under this By-law, together with any such suspensions, revocations, denials, renewals or special conditions, and all the rules, requirements and regulations of this By-law shall apply with necessary modification.
 - (4) All Persons holding Salvage Business-related licences issued under By-law No. 2018-75 must come into compliance with all provisions of this By-law upon the renewal date of their Licence or within twelve (12) months from the date this By-law comes into force, whichever date is later.
 - (5) A Licensee that fails to come into compliance with all provisions of this By-law upon the renewal date of their Licence shall have their Licence revoked.
66. This By-law shall come into force and effect on the date that it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

James Bradley, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: <date>

Schedule "A"
Standard Character Criteria

An application for, or renewal of, a Licence under this By-law shall be denied where the Applicant:

(Parts 1 to 7 apply to all applicants)

1. Has an undertaking, recognizance, peace bond, probation order or other court or police issued document where the conditions prohibit the Applicant or Licensee from performing the functions of the Licence being applied for;
2. Has been convicted of a criminal offence which provides reasonable grounds for the Licensing Officer to believe it would not be in the interest of public health and safety and/or consumer protection to issue or maintain such a Licence. Such offences include, but are not limited to: sexual-based offences, child pornography, trafficking in persons, kidnapping, hostage taking, abduction, crimes against persons under 18 years of age, assault with a weapon, assault causing bodily harm, and, aggravated assault any assault against a Peace Officer;
3. Has been found guilty and convicted of any criminal offence, in the preceding twenty (20) years from the date of the application, where the term of incarceration imposed exceeded ten (10) years;
4. Has been found guilty and convicted of any criminal offence, in the preceding ten (10) years from the date of the application, where the term of incarceration imposed was between two (2) and ten (10) years;
5. Has been found guilty and convicted of any criminal offence, in the preceding five (5) years from the date of the application, where the term of incarceration imposed was less than two (2) years;
6. Has outstanding criminal charges before the courts and is awaiting trial and sentencing; or
7. Is the subject of a current police criminal investigation.

Paragraphs 2, 3, 4 and 5 shall not apply if the Applicant or Licensee has received a Record Suspension or Pardon for the offence by the Parole Board of Canada.

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. <>

A BY-LAW TO LICENCE, REGULATE AND GOVERN
SECOND-HAND GOOD SHOPS AND DEALERS IN
SECOND-HAND GOODS

WHEREAS the Council of The Regional Municipality of Niagara considers it in the public interest to enact a by-law to licence, regulate and govern various classes of businesses and to repeal the existing Business Licensing By-law No. 2018-75, as amended;

AND WHEREAS Section 9 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person;

AND WHEREAS Section 11 of the *Municipal Act, 2001*, S.O. 2001, Chap. 25, as amended, provides The Regional Municipality of Niagara with exclusive jurisdiction to enact by-laws for the licensing, regulating and governing of second-hand goods businesses within the Region;

AND WHEREAS Part IV of the *Municipal Act, 2001*, S.O. 2001, Chap. 25, as amended, authorizes The Regional Municipality of Niagara to regulate and govern businesses, meaning any business wholly or partly carried on within the Region, even if the business is being carried on from a location outside the Region;

AND WHEREAS Section 151 of the *Municipal Act, 2001*, S.O. 2001, Chap. 25, as amended, provides The Regional Municipality of Niagara with the power to provide for a system of licences with respect to a business, and may prohibit the carrying on or engaging in the business without a licence; refuse to grant a licence or to revoke or suspend a licence; impose conditions as a requirement of obtaining, continuing to hold or renewing a licence; impose special conditions on a business in a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a licence; impose conditions, including special conditions, as a requirement of continuing to hold a licence at any time during the term of the licence; and licence, regulate or govern real and personal property used for the business and the persons carrying it on or engaged in it;

AND WHEREAS the Council of The Regional Municipality of Niagara has determined that it is appropriate and desirable to licence second-hand good shops and second-

hand good dealers as a means of deterring the sale of stolen goods to second-hand shops and second-hand good dealers and deterring thefts overall within the Region;

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

PART I DEFINITIONS

1. In this By-law, unless context otherwise requires:

“Applicant” means any Person applying for a Licence or renewal of a Licence under this By-law;

“Area Municipality” means any one of the municipalities or corporations 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/or Township of West Lincoln;

“Controlled Drugs and Substances Act” means the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, as amended, or any successor legislation;

“Council” means the Council of The Regional Municipality of Niagara;

“Criminal Code” means the *Criminal Code*, R.S.C. 1985, c. C-46, as amended, or any successor legislation;

“Fees and Charges By-law” means a by-law passed by Council pursuant to section 391 of the *Municipal Act, 2001* establishing fees and charges for services and activities provided by the Region and for the use of its property, as amended and replaced from time to time.

“Licence” means an authorization issued under this By-law to carry on a business specified therein and the document, certificate or card issued shall provide evidence of such authority as the content may allow;

“Licensee” means a Person holding a Licence in accordance with this By-law;

“Licensing Appeals Committee” or **“Committee”** means the all citizen tribunal appointed by Council to conduct hearings under this by-law;

“Licensing Officer” means the Manager of Business Licensing for The Regional Municipality of Niagara or their designate;

“Municipal Act, 2001” means the *Municipal Act, 2001*, S.O.2001, c. 25, as amended from time to time;

“Municipal Law Enforcement Officer” means a municipal law enforcement officer appointed by Council, or an officer, employee or agent of the Region whose responsibilities include the enforcement of this By-law;

“Officer” means Municipal Law Enforcement Officer, Licensing Officer, or Police Officer;

“Pawnbroker” means a Person who exercises the trade of receiving or taking, by way of pawn or pledge, any goods for the repayment of money lent thereon;

“Person” includes an individual, a partnership, or a corporation;

“Police Officer” means a police officer as defined by the *Police Services Act*, R.S.O. 1990, c. P.15;

“Provincial Licence” means any form of Licence or certification required to be held by the Licensee pursuant to applicable Provincial laws;

“Region” means The Regional Municipality of Niagara as a municipal corporation and, where the context requires, its geographic area;

“Register” means the Register as required under Part VII of this By-law;

“Second-Hand Good Business” includes Second-Hand Shops and Second-Hand Good Dealers;

“Second-Hand Good Dealer” means a Person that does not have a fixed location at a building, booth, stall or other place but who goes from house to house or along highways, within the boundaries of the Region, to collect, purchase, sell or obtain Second-Hand Goods;

“Second-Hand Good Dealer Licence” means a Second-Hand Good Dealer Licence as issued by the Licensing Officer under this By-law;

“Second-Hand Good” means any item listed in Schedule “A” of this By-law, whether in new or used condition, that has been sold, traded, exchanged, consigned or otherwise disposed of by its original owner, and does not include books (hard cover or softcover), magazines, comics books, or clothing;

“Second-Hand Shop” means a building, booth, stall or other place, or any part thereof, that is a permanent or semi-permanent location, within the geographic boundaries of the Region, where:

- (1) A Second-Hand Good is offered for sale; or
- (2) There is an offer to acquire, consign or exchange a Second-Hand Good;

“Second-Hand Shop Licence” means a Second-Hand Shop Licence as issued by the Licensing Officer under this By-law; and

PART II LICENCE CLASSES

2. (1) The Licensing Officer shall issue Licences for the following classes:
 - (i) Second-Hand Goods Dealer; and
 - (ii) Second-Hand Shop.
- (2) All Licences are valid for a twelve (12) month period from the date of issuance. For Licence renewals only, if deemed necessary for administrative purposes by the Licensing Officer, the term of a Licence may be adjusted, for example, to align with the term of other Provincial Licences held by the Licensee for the Business, and the Licence fee may be pro-rated accordingly.
- (3) Unless otherwise provided for in this By-law, all Licences issued under this By-law are personal to the Licensee, are only transferable upon approval by the Licensing Officer, and remain the property of the Region

PART III PROHIBITIONS

3. No Person shall carry on or engage in the provision of a Second-Hand Good Business within the Region unless that Person holds a valid and current Licence permitting them to do so.
4. No Person shall own or operate a Second-Hand Shop within the Region unless that Person holds a Second-Hand Shop Licence.
5. No Person shall act as a Second-Hand Good Dealer within the Region unless that Person holds a Second-Hand Good Dealer Licence.

6. Notwithstanding sections 3, 4 and 5 above, no Second-Hand Shop Licence or Second-Hand Good Dealer Licence is required where the Second-Hand Good:
- (1) Is being offered for sale at a Person's residence or in a Person's residential neighbourhood as part of a garage or yard sale; or
 - (2) Is being offered for sale at a premises that is owned or operated by a not-for-profit or charitable organization.

PART IV LICENCE APPLICATION PROCESS

7. Every application for a Licence or renewal of a Licence issued under this By-law shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application shall include the following:
- (1) the full legal name, municipal address, email address and telephone number of each Applicant;
 - (2) If the Applicant is a partnership, the full legal name, address, email address and telephone number of each partner;
 - (3) If the Applicant is a corporation, all current articles of incorporation for the corporation;
 - (4) All current legal documents showing the registered business name of the Applicant, if applicable;
 - (5) The full legal names, dates of birth and addresses for all officers and directors of the Applicant, if applicable;
 - (6) The full legal names and signatures of all Persons having signing authority for the Applicant partnership and/or corporation, if applicable, including a letter outlining the number of signatures required for financial and administrative functions;
 - (7) A Certificate of Insurance (COI) identifying and confirming the following minimum insurance requirements:

Commercial General Liability Insurance ("CGL")

CGL insurance for all services, operations, products and work to a limit of not less than FIVE MILLION DOLLARS (\$5,000,000) per occurrence.

The policy will be extended to include:

- a. bodily injury, death and property damage;
- b. cross liability and severability of interest;
- c. blanket contractual;
- d. premises and operations;
- e. personal and advertising injury;
- f. products and completed operations;
- g. owner's and contractors protective;
- h. non-owned Automobile to a limit of not less than TWO MILLION DOLLARS (\$2,000,000);

The policy shall be endorsed to:

- a. include The Regional Municipality of Niagara as an additional insured; and,
- b. contain an undertaking by the insurers to give thirty (30) days prior written notice in the event that there is a material change in the foregoing policies or coverage affecting the Additional Insured(s) or cancellation of coverage before the expiration date of any of the foregoing policies.

Policy Requirements

All policies of insurance shall:

- a) be written with an insurer licensed to do business in Ontario;
- b) be non-contributing with, and will apply only as primary and not excess to any other insurance or self-insurance available to Niagara Region;

Certificates of Insurance

Certificates of insurance originally signed by authorized insurance representatives shall be delivered to the Region prior issuance of the Licence, on a form of Certificate of Insurance which is acceptable to the Region. The Certificate of Insurance must comply with these insurance requirements and must be on the Region's form of Certificate of Insurance, which can be found on the Region's website – www.niagararegion.ca/business/fpr/cert-insurance.aspx. If the Certificate of Insurance is provided in a non-original form (e.g. a facsimile, photocopy or scanned electronic copy), the Applicant acknowledges and agrees that the Region is fully entitled to treat any such Certificate as an original and that the Applicant will be responsible for the accuracy and validity of the information contained therein. All subsequent policy renewals and certificates of insurance thereafter, during the time that the Licence is in force, shall be forwarded to the Region within fifteen (15) days of their renewal date.

- (8) Information on whether the Applicant, or any officer or director of the Applicant, has had a licence in regard to a Second-Hand Good Business suspended or revoked in the Region or in any other municipality within Canada;
 - (9) Information on whether the Applicant, or any officer or director of the Applicant, has been convicted of an offence under any previously repealed by-law of the Region or in any other municipality within Canada governing the licensing of a Second-Hand Good Business;
 - (10) A Criminal Record and Judicial Matters check for the Applicant or any officer or director of the Applicant, obtained within sixty (60) days from the date of application, which shall be reviewed in accordance with Schedule "B".
 - (11) For an application for a Second-Hand Shop Licence only:
 - (i) A letter from the applicable Area Municipality confirming zoning compliance for the location of the Second-Hand Shop; if zoned "legal non-conforming", the applicable Area Municipality must confirm this zoning status; and,
 - (ii) Information on whether the Applicant, or any officer or director of the Applicant, has been convicted of an offence, or has had an order issued against them, relating to the protection of the environment, fire safety, health standards, property standards, Building Code standards or zoning violations of a Second-Hand Goods Business within the previous twelve (12) month period; and,
 - (12) Payment in full of the prescribed fee in accordance with the Fees and Charges By-law.
8. The Licensing Officer shall issue a Licence or a renewal of a Licence to an Applicant that has satisfied the requirements of this By-law, based on the appropriate class as set out in subsection 2 (1) of this By-law.
9. No Applicant shall knowingly misstate or provide false information to the Licensing Officer.
10. All Applicants shall provide the Licensing Officer with such other information and documentation as requested by the Licensing Officer to verify compliance with the requirements of this By-law.

11. Every Applicant and Licensee shall report to the Licensing Officer within twenty-four (24) hours after the event, of any change in any information, including full legal name, contact and address information and insurance, that was provided to the Licensing Officer pursuant to this By-law.

PART V LICENCE REQUIREMENTS

12. The fees for each Licence issued or renewed under this By-law shall be in accordance with the Fees and Charges By-law.
13.
 - (1) Every Licensee shall hold such Licence subject to the requirements and criteria as imposed in this By-law, including compliance with criteria imposed in order to be licenced under Part IV.
 - (2) In the event a Licensee cannot meet the requirements as set out in subsection (1) above, the Licensee shall cease to operate the Second Hand Shop immediately, and surrender the applicable Licence to the Licensing Officer within twenty-four (24) hours of the non-compliance.
 - (3) Any Licences that have been surrendered to the Licensing Officer pursuant to subsection (2) above, shall be deemed suspended, but may be reinstated and returned to the Licensee upon the Licensee providing satisfactory proof of compliance with all requirements of the application for the Licence in issue.
14. If a Licence is defaced, destroyed, or lost, the Licensee shall apply to the Licensing Officer for a replacement and, on payment of the prescribed fee in accordance with the Fees and Charges By-law, may be issued a replacement Licence, as required.
15. No Licensee shall alter, erase, or modify, or permit the alteration, erasure or modification of that Licence or any part thereof.
16. Every Person required to obtain a Licence under this By-law shall obtain a separate Licence for each Second-Hand Good Business location, as applicable.
17. The Licensing Officer may approve the transfer of a Second-Hand Shop Licence from one Person to another, pursuant to the sale of a business, upon the parties providing to the Licensing Officer:
 - (i) A completed application for transfer of a business in a form provided by the Licensing Officer;

- (ii) The transfer application fee as prescribed in the Fees and Charges By-law; and,
 - (iii) Confirmation of that the new Applicant meets the application requirements for a Second-Hand Shop Licence, as set out in Part IV of this By-law.
18. All Licences issued under this By-law shall terminate upon the death of the Licensee or dissolution of the corporate Licensee unless, in the case of the dissolution of a corporate Licensee, the Business is transferred to a successor corporation in accordance with Section 17.

PART VI OPERATIONS

19. Every Licensee shall ensure that the Licensee and their employees and agents abide by the requirements of this By-law.
20. Every Licensee shall comply with all applicable Federal laws, Provincial laws, and Municipal by-laws, while operating a Second-Hand Goods Business.
21. Every Licensee shall report to the Licensing Officer within five (5) calendar days after the event, of any change in any information that was provided to the Licensing Officer pursuant to this By-law.
22. Every Person who holds a Second-Hand Shop Licence shall display their Licence in a conspicuous location so that it is visible to all persons in their Second-Hand Shop.
23. Every Person who holds a Second-Hand Goods Dealer Licence, when acting as a Second-Hand Dealer, shall display their Licence in a position where it may be readily seen and read by Persons, and shall produce it, upon request.
24. No Licensee shall acquire, hold or offer to sell a Second-Hand Good that has a serial number or name altered, destroyed, removed or concealed, unless that serial number or name has been altered, removed or concealed by the manufacturer of the Second-Hand Good.
25. No Licensee shall obtain a Second-Hand Good from a Person who is under the age of eighteen (18) years.
26. (1) No Licensee shall obtain a Second-Hand Good from a Person without first obtaining two (2) pieces of identification, at least one being a government-issued photo identification card.

- (2) Subsection (1) does not apply where the Licensee obtains the Second-Hand Good from an auction.
27. (1) No Licensee shall sell or otherwise dispose of a Second-Hand Good within twenty-one (21) calendar days of the date that the Second-Hand Good was acquired from another Person.
- (2) No Licensee shall remove, or allow another person to remove, the Second-Hand Good from the Licensee's Second-Hand Shop or the Second-Hand Good Dealer's inventory during the twenty-one (21) calendar days as required under subsection (1) above.
 - (3) A Licensee, upon demand by an Officer, shall make available for inspection a Second-Hand Good that is required to be held under subsections (1) and (2) above.
 - (4) For Licensees that also act as Pawnbrokers, if a Second-Hand Good was acquired as part of a default in payment of a short-term loan, pawn or pledge, the item must be held for twenty-one (21) days from the date of default in payment.
 - (5) This section does not apply to Second-Hand Goods that are obtained by a Licensee from an auction.

Reporting

28. Any report to the Licensing Officer that is required pursuant to this By-law may be made outside of the Region's business hours by submitting the report via electronic mail or voicemail message to the email address or telephone number for the Licensing Officer, as publicly posted on the Region's website from time to time.

PART VII REGISTER

29. (1) Every Licensee shall maintain a Register recording all transactions, namely sales and purchases, made pursuant to the Second-Hand Shop Business in accordance with this section.
- (2) A copy of the Register entries, including photographs that may be required under subsection (5) below, documenting the previous day's transactions shall be delivered to the Licensing Officer, via email, daily by 10:00 am, save and except those days that the Business is not operating, in which case, the entries shall be submitted the following operating day.

- (3) Where the Licensee owns or operates more than one Second-Hand Good Shop, the Licensee shall maintain a separate Register for each licenced Second-Hand Good Shop.
- (4) A Register, as required under this By-law, shall be in the form of either:
 - (ii) A paper booklet or electronic version Register supplied by the Licensing Officer; or,
 - (iii) A computer software program that has been approved for use by the Licensing Officer.
- (5) Every Licensee who acquires a Second Hand Good from another Person, either personally or through an employee or agent, shall immediately record, in English, in their Register:
 - (ii) The full legal name, and date of birth of the Person from whom they received the Second-Hand Good;
 - (iii) The type of identification, and any serial number thereon, that is shown pursuant to the requirements of this By-law;
 - (iv) The date and time of the transaction;
 - (v) The full legal name of the Licensee's or agent that accepted the Second-Hand Good;
 - (vi) A unique receipt number for every item sold;
 - (vii) The consideration given for the Second-Hand Good;
 - (viii) A general description of the Second-Hand Good, including, where applicable, the serial number, make, and model; and
 - (ix) A photograph of each item received, whether the item was acquired pursuant to a default in payment of a short-term loan or pawn, or not.
- (6) Where a Second-Hand Good is acquired from an auction, the Licensee, in substitute for the requirements under subsections (5)(i) and (5)(ii) above, shall record the full legal name and address of the auctioneer, and auction, if different.

- (7) Every Licensee who sells a Second-Hand Good to another Person shall ensure that a copy of a receipt for the sale is maintained for a period of one (1) year after the date of the sale, and a corresponding entry is made in the Register.
 - (8) Every Licensee shall make the Register and receipts available for inspection upon demand by an Officer.
 - (9) Every Licensee who maintains the Register through an approved computer software program shall, upon demand by an Officer:
 - (i) Allow the Officer to review the onscreen information for the Register; and,
 - (ii) Print out or otherwise copy the Register or any part thereof and provide such to the requesting Officer.
 - (10) The Register must be maintained for a period of one (1) year in a neat and legible condition, with no pages or computer data removed, destroyed, or altered.
 - (11) A Second-Hand Shop Licensee may not remove or allow any other Person, with the exception of an Officer, to remove the Register from their Second-Hand Shop.
30. A Licensee, upon suspicion that any Second-Hand Goods offered to the Licensee may be stolen property, shall not purchase said Second-Hand Goods and shall forthwith report the incident to a Police Officer and the Licensing Officer.
31. Any Second-Hand Good purchased or received for any other consideration by a Licensee that is found to be stolen property shall be reported to the Police and the Licensing Officer. If the legal owner of the stolen property has been identified, the stolen property shall be returned to the legal owner without any fees, charges or any financial burden to the legal owner or any financial compensation given to the Licensee. If the legal owner of the stolen property cannot be identified by Police, the Licensee shall follow the direction of the Police with regard to the property, and shall notify the Licensing Officer.

PART VIII INSPECTIONS

32. Every Licensee shall allow an Officer, upon demand, to enter upon and inspect a Second-Hands Good Business premises to ensure compliance with all provisions of this By-law.
33. Upon inspection, every Person shall produce all relevant Licences and permits, invoices, Provincial Licences, and all documents required to be kept and maintained under this By-law, which may be removed by an Officer for the purpose of photocopying, and returned to the Licensee within forty eight (48) hours of removal.
34. No Person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer from carrying out an inspection or withhold, destroy, conceal or refuse to furnish any information or thing required by the Officer inspecting for the purpose of this inspection.

PART VIII POWERS OF THE LICENSING OFFICER

35. The power and authority to issue or renew a Licence, refuse to issue or refuse to renew a Licence, to revoke or suspend a Licence, to impose terms and conditions, including special conditions, on a Licence are delegated to the Licensing Officer.
36. When an application for a Licence or for a renewal of a Licence is made in accordance with the provisions of this By-law, and the Applicant meets all the requirements of this By-law, the Licensing Officer shall issue a Licence.
37. The Licensing Officer may refuse to issue, refuse to renew, revoke or suspend a Licence, or impose a term or condition on a Licence on the following grounds:
 - (1) The conduct of the Applicant or Licensee, or where the Person is a partnership and/or corporation, the conduct of the partnership's or corporation's officers, directors, employees or agents, affords reasonable cause to believe that the Person will not carry on or engage in the operation of the Second Hand Goods Business in accordance with any applicable Federal law, Provincial law, or Municipal by-law, or with honesty and integrity;
 - (2) The Licensing Officer has reasonable cause to believe that the granting, renewal or continuation of a Licence under this By-law would pose a danger to the health or safety of any Person or the public in general;
 - (3) The Applicant or Licensee is carrying on activities that are in contravention of this By-law;

- (4) There are reasonable grounds to believe that an application or other documents provided to the Licensing Officer by or on behalf of the Applicant or Licensee contains a false statement;
 - (5) Any information contained in the original application form or any other information provided to the Licensing Officer has ceased to be accurate and the Licensee has not provided up-to-date accurate information to allow the Licensing Officer to conclude that the Licence should continue;
 - (6) An Applicant does not meet, at any time, one or more of the requirements of this By-law or any conditions imposed on a Licence;
 - (7) An Applicant or Licensee is not in compliance with any applicable Federal law, Provincial law or Municipal by-law, including but not limited to this By-law and any requirement to obtain and maintain a valid Provincial Licence; or
 - (8) The Applicant or Licensee has been convicted of a criminal offence which provides reasonable grounds for the Licensing Officer to believe it would not be in the interest of public health and safety and/or consumer protection to issue or maintain such a Licence.
38. Notwithstanding any other provision of this By-law, the Licensing Officer may impose conditions, including special conditions, on any Licence at issuance, renewal or at any time during the term of the Licence, as are deemed reasonably necessary in the opinion of the Licensing Officer to give effect to this By-law.
39. Where the Licensing Officer has made a decision to deny, suspend, revoke or place conditions, including special conditions, on a licence, the Licensing Officer's written notice of that decision shall:
- (1) Set out the grounds for the decision;
 - (2) Give reasonable particulars of the grounds;
 - (3) Be signed by the Licensing Officer; and,
 - (4) State that the Applicant or Licensee is entitled to request a hearing before the Licensing Appeals Committee if the Applicant or Licensee delivers a request for a hearing, in writing, accompanied by the applicable fee set out in the Fees and Charges By-law, to the Licensing Officer, within thirty (30) calendar days after the notice is served.

40. (1) Where notice to an Applicant or Licensee is required under this By-law, it is sufficiently given if delivered personally to the Applicant or Licensee, sent by electronic mail, or sent by registered mail to the address provided on the application or Licence, as applicable, of the Applicant or Licensee.
- (2) Where service is effected by registered mail under subsection (1), notice shall be deemed to have been made on the fifth (5th) day after the date of mailing. Service is deemed effective by electronic mail at the time it is sent. Personal service is deemed effective at the time it is given.
41. Where no appeal is registered within the required time period, the decision of the Licensing Officer shall be final.
42. Where a Licence issued under this By-law has been suspended or revoked or special conditions have been placed on the Licence, the Licensee shall return the applicable Licence to the Licensing Officer within twenty four (24) hours of service of written notice.

Appeal

43. The power and authority to conduct hearings of appeals under this By-law are hereby delegated to the Licensing Appeals Committee.
44. The provisions of sections 5 to 15 and 21 to 24 of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S. 22, as amended, shall apply to all hearings conducted by the Committee under this By-law.
45. (1) When an Applicant is denied a Licence or has their Licence revoked or suspended, or has conditions, including special conditions, placed on their Licence, they may request an appeal hearing before the Licensing Appeals Committee, within thirty (30) calendar days of service of the notice described in section 40, for review of this decision. This request for an appeal shall be made in writing, be sent to the Licensing Officer, and set out the relief sought and the reasons for the appeal.
- (2) When a request for a hearing under subsection (1) above and the applicable fee for filing an appeal, as set out in the Fees and Charges By-law, have been received, a hearing shall be scheduled before the Licensing Appeals Committee and notice of the hearing date shall be given to the Applicant or Licensee.
- (3) A notice of hearing shall include:

- (i) A statement of the time, date, location, and purpose of the hearing; and,
 - (ii) A statement that if the Applicant or Licensee does not attend the hearing, the Licensing Appeals Committee may proceed in their absence without notice to them.
- (4) After conducting a hearing under subsection (2) above, the Committee may uphold or vary the decision of the Licensing Officer, or make any decision that the Licensing Officer was entitled to make in the first instance.
 - (5) Notice of the Committee's decision, with reasons, shall be provided in writing and served in accordance with the service provisions contained in section 40 of this By-law.
 - (6) The Licensing Appeal Committee's decision in respect of refusing, suspending, revoking or attaching conditions to a Licence is final.

PART IX ORDERS

- 46. (1) If the Licensing Officer or a Municipal By-Law Enforcement Officer is satisfied that a contravention of this By-law has occurred, the Licensing Officer or Municipal By-Law Enforcement Officer may make an Order requiring the Person who contravened this By-law or who caused or permitted the contravention to discontinue the contravening activity.
 - (2) An Order under subsection (1) shall set out:
 - (i) reasonable particulars of the contravention adequate to identify the contravention and the location of the property on which the contravention occurred; and,
 - (ii) the date by which there must be compliance with the Order.
 - (3) An Order issued under this By-law shall be served in accordance with the service provisions contained in section 40.
47. Every Person shall comply with an Order issued under the authority of this By-law.

PART X ADMINISTRATION AND ENFORCEMENT

Penalty

48. Every Person who contravenes any provision of this By-law or an Order under this By-law is guilty of an offence and upon conviction is liable to the appropriate penalty, as provided for by the *Provincial Offences Act*, R.S.O. 1990, Chapter P. 33, as amended.
49. A director or officer of a corporation who knowingly concurs in the contravention of any provision of this By-law or an Order made under this By-law is guilty of an offence.
50. (1) Notwithstanding section 48 of this By-law, each day on which a Person contravenes any provision of this By-law shall be deemed to constitute a continuing offence under this By-law as provided for in subsection 429(2) of the *Municipal Act, 2001*. For clarity, in the case of an Order, a contravention continues for every day or part of a day past the date set out in the Order by which the work must be complete or action taken, as the case may be.
- (2) For each day or part of a day that the offence continues, the minimum fine shall be ONE HUNDRED DOLLARS (\$100.00) and the maximum fine shall be FIVE THOUSAND DOLLARS (\$5,000.00), and the total of all daily fines for the offence is not limited to ONE HUNDRED THOUSAND DOLLARS (\$100,000.00).
51. If any section of this By-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the By-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted, or may impose conditions.

Administration and Enforcement

52. (1) The Licensing Officer shall have all necessary authority to carry out the administration and enforcement of this By-law.
- (2) Without limiting subsection (1) of this section, the Licensing Officer shall have the authority, at their sole discretion, to:
- (i) prescribe administrative forms, registers and electronic data software required under this By-law;

- (ii) establish policies, procedures, operational protocols, inspection criteria and frequency, Licence criteria, and operational hours;
 - (iii) receive and process all applications for all Licences and renewals of Licences under this by-law;
 - (iv) pro-rate any licensing or administrative fees that may be charged under this By-law;
 - (v) issue any Licence where the Applicant meets criteria and conditions under this By- law;
 - (vi) renew, deny, suspend, revoke, restrict or place special conditions on any Licence issued pursuant to this By-law;
 - (vii) designate any accessibility training or other required training pursuant to this By-law;
 - (viii) verify any information provided by an Applicant or Licensee; and,
 - (ix) demand from a Licensee any records, information, documentation, licences or any other thing pursuant to the administration and enforcement of this By-law.
53. Any Licensee that refuses or otherwise does not supply records, information or any other thing as demanded by the Licensing Officer shall have their Licence suspended. The Licensing Officer may re-instate a Licence if the Licensee supplies the information, record or other thing as demanded.
54. This By-law may be enforced by the Licensing Officer, a Municipal By-Law Enforcement Officer appointed by Council to enforce this By-law, or any Police Officer.
55. Any Person who obstructs or interferes with an Officer in the discharge of their duties under this By-law shall be considered in violation of this By-law.
56. Any Person who provides false information to an Officer shall be deemed to have obstructed or interfered with an Officer in the execution of their duties, and shall be considered in violation of this By-law.

Survival

57. If any section or part of this By-law is found by any court of competent jurisdiction to be illegal or beyond the power of Council to enact, such section or part shall be deemed to be severable and all other sections or parts of this By-law shall be deemed to be separate and independent therefrom and shall continue in full force and effect unless and until similarly found illegal.

Citation

58. This By-law may be cited as the "Second-Hand Goods Business By-law".

By-law Commencement / Transition

59. (1) By-Law No. 2018-75, being a by-law to licence, regulate and govern vehicles for hire (Taxi's, Transportation Network Company Vehicles, Specialty Vehicles, Auxiliary Services Vehicles, Shuttle Buses, Sightseeing Vehicles, Caleche, Tow Trucks) and Businesses (Second-Hand Good Stores and Dealers, Salvage Yards, Auto-Wrecking Yards and Taxicab Brokers) and all amendments thereto, is hereby repealed.
- (2) Notwithstanding subsection (1), By-law No. 2018-75, as amended, shall continue to apply to proceedings in respect of offences that occurred before its repeal date.
- (3) Notwithstanding subsection (1) , all Second Hand Good-related licences issued under By-law No. 2018-75, including any suspensions, revocations, denials, renewals or special conditions imposed on Licensees, that are in effect at the time said by-law is repealed, shall be deemed to be Licences as issued under this By-law, together with any such suspensions, revocations, denials, renewals or special conditions, and all the rules, requirements and regulations of this By-law shall apply with necessary modification.
- (4) All Persons holding Second-Hand Good-related licences issued under the provisions of By-law No. 2018-75 must come into compliance with all provisions of this By-law upon the renewal date of their Licence or within twelve (12) months from the date this By-law comes into force, whichever date is later.
- (5) A Licensee that fails to come into compliance with all provisions of this by-law upon the renewal date of their Licence shall have their Licence revoked.

60. This by-law shall come into force and effect on the date that it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

James Bradley, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: <date>

DRAFT

Schedule "A"

Second Hand Goods

The following items, whether in new or used condition, are considered "Second Hand Goods" for the purposes of this By-law:

1. Paper currency, coins and stamps from Canada or any other country;
2. Gold, silver or other precious metals;
3. Gemstones, jewelry, including costume, and watches or any parts thereof;
4. Paintings, photographs, sculptures or any other work of art;
5. Antiques and collectables including, but not limited to, photographs, figurines, furniture, glassware, steins, vases and pottery;
6. Musical instruments and electronic amplifiers or any part thereof;
7. Photographic equipment and peripherals including, but not limited to, cameras and lenses;
8. Military and police articles including, but not limited to, uniforms, medals, crests, insignias;
9. Swords, knives, axes or antique firearms that do not require a Possession Acquisition Licence, as issued by the Chief Fire Arms Officer of Ontario or other Province or Territory within Canada, to purchase or resell;
10. Binoculars, monoculars, telescopes, scopes, rangefinders and microscopes;
11. Computers and peripherals or any part thereof;
12. Computer software;
13. Video game consoles and peripherals or any part thereof;
14. Video games including console and computer games and any peripherals or part thereof;
15. Personal electronics, including but not limited, to cellular phones, tablets, notebooks, pagers and any other device or part thereof;
16. Handheld recording devices or any part thereof;

Schedule "A"

Second Hand Goods

17. Home electronics including, but not limited to, lamps, televisions, radios, stereos (including car stereos), speakers, vacuum cleaners, air purifiers, humidifiers, de-humidifiers or any part thereof;
18. Home appliances including, but not limited to, microwaves, refrigerators, freezers, stoves, washers, dryers, dishwashers, toasters, coffee makers or any part thereof;
19. Home and car alarms, remote starters and security cameras, security systems and peripherals or any part thereof;
20. Sports equipment including, but not limited to, hunting gear, bicycles, golf clubs, skis, hockey equipment, football equipment, basketball equipment or any part thereof;
21. Sports memorabilia and collectibles, including but not limited, to trading cards, figurines, autographs, photographs;
22. Toys and toy collectibles including, but not limited to, model trains, model cars, radio controlled vehicles;
23. Automobile equipment including, but not limited to, carburetors, intakes, wheels, fuel injection systems, gauges, headers or performance equipment;
24. Scooters, skateboards, e-bikes;
25. Hand tools and power tools, including but not limited to, wrenches, air compressors, welders, drills, sanders or any part thereof;

The following items, whether in new or used condition, are considered Second Hand Goods but are excluded from the requirement of having to be documented in a Licensee's Register pursuant to Part VII of this By-law:

1. Vinyl records, cassette tapes, compact discs, DVDs, and Blu-ray discs .

Schedule "B"

Standard Character Criteria

An application for a Licence or for renewal of a Licence under this By-law shall be denied where the Applicant:

(Parts 1 to 7 apply to all applicants)

1. Has an undertaking, recognizance, peace bond, probation order or other court or police issued document where the conditions prohibit the Applicant or Licensee from performing the functions of the Licence being applied for;
2. Has been convicted of a criminal offence which provides reasonable grounds for the Licensing Officer to believe it would not be in the interest of public health and safety and/or consumer protection to issue or maintain such a Licence. Such offences include, but are not limited to: sexual-based offences, child pornography, trafficking in persons, kidnapping, hostage taking, abduction, crimes against persons under 18 years of age, assault with a weapon, assault causing bodily harm, and, aggravated assault any assault against a Peace Officer;
3. Has been found guilty and convicted of any criminal offence, in the preceding twenty (20) years from the date of the application, where the term of incarceration imposed exceeded ten (10) years;
4. Has been found guilty and convicted of any criminal offence, in the preceding ten (10) years from the date of the application, where the term of incarceration imposed was between two (2) and ten (10) years;
5. Has been found guilty and convicted of any criminal offence, in the preceding five (5) years from the date of the application, where the term of incarceration imposed was less than two (2) years;
6. Has outstanding criminal charges before the courts and is awaiting trial and sentencing; or
7. Is the subject of a current police criminal investigation.

Paragraphs 2, 3, 4 and 5 shall not apply if the Applicant or Licensee has received a Record Suspension or Pardon for the offence by the Parole Board of Canada.

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. <>

A BY-LAW TO LICENCE, REGULATE AND GOVERN TOW TRUCKS, AND
OWNERS, DRIVERS AND BROKERS OF TOWING BUSINESSES

WHEREAS the Council of The Regional Municipality of Niagara considers it in the public interest to enact a by-law to licence, regulate and govern various classes of businesses and to repeal the existing Business Licensing By-law No. 2018-75, as amended;

AND WHEREAS Section 9 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person;

AND WHEREAS Section 11 of the *Municipal Act, 2001*, S.O. 2001, Chap. 25, as amended, provides The Regional Municipality of Niagara with exclusive jurisdiction to enact by-laws for the licensing, regulating and governing of business within the Region;

AND WHEREAS Part IV LICENCES (more specifically sections 150 – 165) of the *Municipal Act, 2001*, S.O. 2001, Chap. 25, as amended, authorizes The Regional Municipality of Niagara to enact by-laws to licence, regulate and govern businesses, and to impose conditions on the obtaining, holding and keeping of licences to carry on such businesses; regulate and govern businesses, meaning any business wholly or partly carried on within the Region, even if the business is being carried on from a location outside the Region;

AND WHEREAS Section 151 of the *Municipal Act, 2001*, S.O. 2001, Chap. 25, as amended, provides The Regional Municipality of Niagara with the power to provide for a system of licences with respect to a business, and may prohibit the carrying on or engaging in the business without a licence; refuse to grant a licence or to revoke or suspend a licence; impose conditions as a requirement of obtaining, continuing to hold or renewing a licence; impose special conditions on a business in a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a licence; impose conditions, including special conditions, as a requirement of continuing to hold a licence at any time during the term of the licence; and licence, regulate or govern real and personal property used for the business and the persons carrying it on or engaged in it;

AND WHEREAS the Council for The Regional Municipality of Niagara has determined that it is appropriate and desirable to licence Tow Trucks and Towing Businesses as a means of protecting consumers, enhancing the safety of residents, nuisance control, and crime reduction within the Region;

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

PART I DEFINITIONS

1. In this By-law, unless context otherwise requires:

“Applicant” means any Person applying for a Licence or renewal of a Licence under this By-law;

“Area Municipality” means any one of the municipalities or corporations 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, or Township of West Lincoln;

“Broker” means a Person who, in pursuance of a trade, business, or occupation, arranges for the provision of Towing Service not operated by such Person to a Hirer;

“Controlled Drugs and Substances Act” means the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, as amended, or any successor legislation;

“Council” means the Council of The Regional Municipality of Niagara;

“Criminal Code” means the Criminal Code, R.S.C. 1985, c. C-46, as amended, or any successor legislation;

“CVOR Certificate” means a Commercial Vehicle Operator’s Registration Certificate as issued by the Ministry of Transportation, pursuant to the *Highway Traffic Act*;

“Dispatch” means the act or service of sending or directing a Tow Truck, by electronic or any other means, to a Person or Persons who have requested Tow, but does not include a request made directly to a Driver, and “Dispatched” and “Dispatching” shall have corresponding meanings;

“Driver” means the person who holds a Tow Truck Driver Licence and drives, uses or

operates a Tow Truck as licensed under this By-law;

“Fees and Charges By-law” means a by-law passed by Council pursuant to section 391 of the *Municipal Act, 2001* establishing fees and charges for services and activities provided by the Region and for the use of its property, as amended and replaced from time to time.

“GPS” or **“Global Positioning System”** means a global navigation system that provides geographic location, velocity and time synchronization of a person or thing using signals from satellites;

“Gross Axel Weight Rating (GAWR)” means the specific weight determined by the manufacturer to be the maximum allowable weight that can be placed on an individual axle;

“Gross Vehicle Weight Rating (GVWR)” means the maximum total vehicle rated capacity, as rated by the manufacturer specification stamp on the vehicle, which includes the weight of the vehicle's chassis, body, engine, engine fluids, fuel, accessories, driver, passengers and cargo;

“Heavy Tow Truck” means a Tow Truck with a GVWR over 11,819 kg;

“Hirer” means the owner of a Motor Vehicle, motorhome, trailer or other vehicle that is Towed; or, in the absence of such owner:

- (1) An agent of the owner, duly authorized by such owner to exercise control over the Towed Motor Vehicle, motorhome, trailer, or other vehicle on the owner's behalf; or
- (2) Any person having lawful custody or the legal right to possession of a Towed Motor Vehicle, motorhome, trailer, or other vehicle.

“Highway Traffic Act” means the *Highway Traffic Act*, R.S.O. 1990, c. H. 8, as amended, or any successor legislation;

“Holiday” means Saturday, Sunday, New Year's Day, Family Day, Good Friday, Easter Monday, Victoria Day, Canada Day, Civic Holiday, Labour Day, Thanksgiving Day, Christmas Eve, Christmas Day, Boxing Day, New Year's Eve, and any other day fixed as a public holiday by the federal or Ontario provincial government;

“Human Rights Code” means the *Human Rights Code*, R.S.O. 1990, c. H-19, as

amended, or any successor legislation;

“Licence” means an authorization issued under this By-law to carry on a business specified therein and the document, certificate or card issued shall provide evidence of such authority as the content may allow;

“Licensee” means a Person holding a Licence in accordance with this By-law;

“Licensing Appeals Committee” means the all-citizen tribunal appointed by Council to conduct hearings under this By-law;

“Licensing Officer” means the Manager of Business Licensing for the Regional Municipality of Niagara and includes their designates;

“Medium Tow Truck” means a Tow Truck with a GVWR between 4,501 kg and 11,819 kg;

“Ministry of Transportation” means the Ministry of Transportation for the Province of Ontario or any successor ministry, department or other government body;

“Motor Vehicle” means a motor vehicle as defined in the *Highway Traffic Act*, R.S.O. 1990, c.H.8;

“Municipal Act, 2001” means the *Municipal Act, 2001*, S.O.2001, c. 25, as amended from time to time;

“Municipal By-Law Enforcement Officer” means a municipal by-law enforcement officer as appointed by Council, or an officer, employee or agent of the Region whose responsibilities include the enforcement of this By-law;

“Officer” means a Municipal Law Enforcement Officer, Licensing Officer, or Police Officer;

“Person” includes an individual, a sole proprietorship, a partnership, and a corporation;

“Police Officer” means a police officer as defined by the *Police Services Act*, R.S.O. 1990, c. P.15;

“Provincial Licence” means any form of Licence or certification required to be held by the Licensee pursuant to applicable Provincial laws, including but not limited to the TSSEA;

“Recovery Service” means a service carried out to relocate or reposition a Motor Vehicle, motorhome, trailer, or other similar vehicle; that involves the use of a winch or a specialized extraction device; and that must be performed to prepare it for attachment or Towing;

“Region” means The Regional Municipality of Niagara as a municipal corporation and, where the context requires, its geographic area;

“Standard Tow Truck” means a light duty Tow Truck, with a GVWR of 4,500 kg or less;

“Statutory Holiday” means New Year’s Day, Family Day, Good Friday, Easter Sunday, Victoria Day, Canada Day, August Civic Holiday, Labour Day, Thanksgiving Day, Christmas Day and Boxing Day;

“Tariff Schedule” means the schedule setting out the maximum fees permitted to be charged to all Hirers of a Tow Truck for the towing of a Motor Vehicle and other services performed by any Licensee in relation to such Tow Truck, as set by the Licensing Officer and publicly posted from time to time on the Region’s website;

“Towed Vehicle” means a Motor Vehicle, motorhome, trailer or other similar vehicle:

- a) Towed or otherwise conveyed by a Tow Truck;
- b) In respect of which an agreement is made or intended to be made for the Towing of such Motor Vehicle, motorhome, trailer, or other vehicle; or for the provision of other related services thereto, by a Hirer.

“Tow” means to transport another Motor Vehicle, motorhome, trailer or other similar vehicle; including a Motor Vehicle that is damaged, incomplete or inoperable, using a Tow Truck, including any ancillary activity such as lifting a Motor Vehicle for purposes of loading, towing or transporting it or placing it onto a truck or trailer for the purpose of towing or transporting it by means of a boom, hook, hoist, pulley stinger, sling, belt, form or other similar device that elevates part or all of the drawn Motor Vehicle, with or without the use of a dolly or other similar device, and “Towing” and “Towed” shall have corresponding meanings;

“Towing and Storage Safety and Enforcement Act” or “TSSEA” means the *Towing and Storage Safety and Enforcement Act*, 2001 S.O.2021, c.26, Sched.3, as amended, or any successor legislation;

“Towing Services” means the provision or offer of provision of a Tow Truck for

compensation and includes

- a) Towing or Recovery Services in respect of Motor Vehicles, motorhomes, trailers, and other similar vehicles, that are disabled, abandoned, impounded, seized, damaged, incomplete or inoperable or that require removal from a location for any other reason,
- b) Clearing debris from collisions on highways and roads, and
- c) Conveying the Hirer, owner or driver of the Motor Vehicle or other Towed vehicle in a Tow Truck;

“Tow Truck” means

- a) A Motor Vehicle registered and commonly known as a tow truck that is equipped with a boom and a retractable wheel lift, or is a flatbed equipped with the retractable wheel lift,
- b) A commercial Motor Vehicle, as defined in subsection 1(1) of the *Highway Traffic Act*, used exclusively to tow or transport other Motor Vehicles, motorhomes, trailers and other similar vehicles, and
- c) a Motor Vehicle that is designed, modified, configured or equipped so that it is capable of towing other Motor Vehicles, motorhomes, trailers, and other similar vehicles;

“Tow Truck Broker” means a Person who, in pursuance of a trade, business, or occupation, arranges for the provision of Towing Services to a Hirer;

“Tow Truck Business” and **“Towing Business”** means a business engaged in Towing Services, which may include the operation of a Tow Truck Yard, if applicable;

“Tow Truck Business Licence” means a Licence issued by The Regional Municipality of Niagara;

“Tow Truck Plate” means a sign to be affixed to a Tow Truck displaying a series of letters and numbers that is issued by the Licensing Officer pursuant to this By-law, as evidence that the Tow Truck is authorized to operate within the Region;

“Tow Truck Yard” means a pound, yard, shop, public garage, or any other type of premises used for the storage, impounding, repair, or servicing of Motor Vehicles;

PART II LICENCE CLASSES

2. The Licensing Officer shall issue Licences for the following classes:

- (1) Tow Truck Broker;
- (2) Tow Truck Yard;
- (3) Tow Truck Vehicle;
- (4) Tow Truck Driver; and,
- (5) Tow Truck Licence Plate.

3. (1) No Person shall carry on or engage in the Tow Truck Business unless the Person has a valid and current Licence permitting that Person to do so in The Regional Municipality of Niagara as required in accordance with this By-law.

(2) All Licences are valid for a twelve (12) month period from the date of issue. For Licence renewals only, if deemed necessary for administrative purposes by the Licensing Officer, the term of a Licence may be adjusted, for example to align with the term of other Provincial Licences held by the Licensee for the Towing Business, and the Licence fee may be pro-rated accordingly.

(3) Unless otherwise provided for in this By-law, all Licences issued under this By-law are personal to the Licensee, are only transferable upon approval by the Licensing Officer, and remain the property of the Region.

(4) This By-law shall apply to all Towing Services provided on both public and private property within the Region.

PART III TOW TRUCK BROKER LICENCE

Prohibition

4. No Person shall act as a Broker without first having obtained a Tow Truck Broker Licence in accordance with this By-law.

Licence Application

5. Every application for a Tow Truck Broker Licence or renewal of such a Licence shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application shall include the following:

- (1) the full legal name, municipal address, email address and telephone number of each Applicant;

- (2) If the Applicant is a partnership, the full legal name, address, email address and telephone number of each partner;
- (3) If the Applicant is a corporation, all current articles of incorporation for the corporation;
- (4) All current legal documents showing the registered business name of the Applicant, if applicable;
- (5) The full legal names, dates of birth and addresses for all officers and directors of the Applicant, if applicable;
- (6) The full legal names and signatures of all Persons having signing authority for the Applicant corporation, if applicable, including a letter outlining the number of signatures required for financial and administrative functions;
- (7) The full legal names of all Drivers who are currently affiliated, or will be affiliated, with the Applicant as their Broker;
- (8) A Certificate of Insurance (COI) identifying and confirming the following minimum insurance requirements:

Commercial General Liability Insurance ("CGL")

CGL insurance for all services, operations, and work to a limit of not less than FIVE MILLION DOLLARS (\$5,000,000) per occurrence.

The policy will be extended to include:

- a. bodily injury, death and property damage;
- b. cross liability and severability of interest;
- c. blanket contractual;
- d. premises and operations;
- e. personal and advertising injury;
- f. products and completed operations;
- g. owner's and contractors protective;
- h. non-owned Automobile to a limit of not less than TWO MILLION DOLLARS (\$2,000,000);

The policy shall be endorsed to:

- a. include The Regional Municipality of Niagara as an additional insured; and,
- b. contain an undertaking by the insurers to give thirty (30) days prior written notice in the event that there is a material change in the foregoing policies or coverage affecting the Additional Insured(s) or cancellation of coverage before the expiration date of any of the foregoing policies.

Policy Requirements

All policies of insurance shall:

- a) be written with an insurer licensed to do business in Ontario;
- b) be non-contributing with, and will apply only as primary and not excess to any other insurance or self-insurance available to Niagara Region;

Certificates of Insurance

Certificates of insurance originally signed by authorized insurance representatives shall be delivered to the Region prior issuance of the Licence, on a form of Certificate of Insurance which is acceptable to the Region. The Certificate of Insurance must comply with these insurance requirements and must be on the Region's form of Certificate of Insurance, which can be found on the Region's website –

www.niagararegion.ca/business/fpr/cert-insurance.aspx. If the Certificate of Insurance is provided in a non-original form (e.g. a facsimile, photocopy or scanned electronic copy), the Applicant acknowledges and agrees that the Region is fully entitled to treat any such Certificate as an original and that the Applicant will be responsible for the accuracy and validity of the information contained therein. All subsequent policy renewals and certificates of insurance thereafter, during the time that the Licence is in force, shall be forwarded to the Region within fifteen (15) days of their renewal date.

- (9) Proof of a current and valid CVOR Certificate issued to the Applicant;
- (10) Proof of certification under the TSSEA as required;
- (11) Information on whether the Applicant, or any officer or director of the Applicant, has had a licence in regard to the provision of Towing Services

suspended or revoked in the Region or in any other municipality within Canada;

- (12) Information on whether the Applicant, or any officer or director of the Applicant, has been convicted of an offence under any previously repealed by-law of the Region or other municipality within Canada governing the licencing of a Towing Business;
- (13) A Criminal Record and Judicial Matters check for the Applicant or any officer or director of the Applicant, obtained within sixty (60) days from the date of application, which shall be reviewed in accordance with the criteria in Schedule "A";
- (14) Payment in full of the prescribed fee in accordance with the Fees and Charges By-law;
- (15) A description and picture of any name, logo and/or trademark the Broker intends to use for any advertising or for display on any Tow Trucks affiliated with the Broker.

General Licence Requirements

6. Every Broker licensed under this By-law shall:

- (1) Have a physical business premises located within the Region;
- (2) Have a telephone number or email address that is solely associated with the Broker, to be used by customers who wish to make contact with the Broker;
- (3) Have a digital Dispatch system and GPS that allows the Broker to communicate with and locate all Tow Trucks that are affiliated with the Broker;
- (4) Have a minimum of one (1) Tow Truck, licensed under this By-law, affiliated exclusively with the Broker;
- (5) Maintain a daily record (the "Register") of all transactions and services performed by the Broker and any affiliated Drivers, in a form satisfactory to the Licensing Officer, which includes the full legal name and address of

every Hirer, a description of any Motor Vehicles Towed including the Vehicle Identification Number and Provincially issued licence plate number, the location of any Towed Vehicle, the fees charged, and the total fees collected, to be maintained for a period of twelve (12) months;

- (6) Send an electronic copy of the Register entries of the previous day's transactions to the Licensing Officer, via email, daily by 10:00 a.m., save and except those days that the business is not operating due to a Holiday or Statutory Holiday or some other closure, in which case, the entries shall be submitted the following operating day;
- (7) Ensure that each Driver who operates through the Broker has completed annual driver training that includes the following topics:
 - (i) The safe and proper operation of a Tow Truck, including Standard, Medium, and Heavy Tow Trucks as well as flatbed or float vehicles, Towing equipment and devices and safe operation during inclement weather;
 - (ii) Vehicle recovery training, including winching, chocking, and other methods required for performing a Recovery Service;
 - (iii) Ontario Traffic Manual Book 7 (Temporary Conditions) Training, as may be updated from time to time;
 - (iv) Workplace Hazardous Materials Information System (WHMIS) Training;
 - (v) Road safety training and safety requirements under the *Highway Traffic Act*;
 - (vi) The proper response to an emergency situation including medical emergency, fire and Motor Vehicle accidents;
 - (vii) The provision of Towing Service in a manner that is free of discrimination and is in compliance with the *Human Rights Code*;
 - (viii) Health and safety awareness training; and

- (ix) Bill 168, the *Occupational Health and Safety Amendment Act (Violence and Harassment in the Workplace)*, 2009, training.
- (8) Ensure that the name, logo and/or trademark used for any advertising or for display on any Tow Trucks affiliated with the Broker, corresponds exactly with what was submitted to the Licensing Officer as part of the Licence application;
- (9) Have the ability to accept debit, credit and/or cash for roadside payments;
- (10) Not request or be paid a rate for Towing Services which is greater than the rates listed on the Tariff Schedule as established by the Licensing Officer;
- (11) Ensure that any Driver who operates through the Broker keeps a legible copy of the Tariff Schedule in their Tow Truck while the Tow Truck is being operated and produces it upon request of any Person;
- (12) Ensure that any Tow Truck Dispatched does not Tow a Motor Vehicle or trailer that exceeds the Tow Truck's Gross Vehicle Weight Rating (GVWR); and not to exceed the Gross Axle Weight Rating (GAWR) front and rear tire road range and Tow Truck wheel lift rating;
- (13) Take all reasonable steps to ensure that each Driver that is affiliated with the Broker complies with the requirements of this By-law;
- (14) Report within twenty-four (24) hours, to the Licensing Officer any known contravention of this By-law by a Driver affiliated with the Broker;
- (15) Report within twenty-four (24) hours to the Licensing Officer any known:
- (i) Investigation, charge or conviction pursuant to the *Criminal Code*, *Controlled Drugs and Substances Act* or *Highway Traffic Act*; or
 - (ii) Ontario driver's licence suspension; or,
 - (iii) expiry, suspension, revocation or conditions imposed on a Provincial Licence
- of a Driver who is affiliated with the Broker;

- (16) Report within twenty-four (24) hours to the Licensing Officer:
- (i) Any known Motor Vehicle accident that is reportable pursuant to section 199 of the *Highway Traffic Act*, or any successor provision; or,
 - (ii) Personal injury; or,
 - (iii) cancellation of insurance
- involving a Tow Truck that is affiliated with the Broker;
- (17) Report within twenty-four (24) hours, to the Licensing Officer if the Broker has terminated any Tow Truck Vehicle Licensee or Tow Truck Driver Licensee that is affiliated with the Broker;
- (18) Provide run sheets, as referred to in section 29 of this By-law, made in duplicate, and in a form approved by the Licensing Officer, to any Driver affiliated with the Broker;
- (19) Keep original copies of all run sheets referred to section 29 of this By-law, for at least one (1) year after the services recorded in them are provided, and make them available for inspection by the Licensing Officer; and,
- (20) Provide the Licensing Officer, by the fifteenth (15th) day of every month, the following documentation for the preceding month in relation to the Broker's operations:
- (i) A compilation of all run sheets, as described in section 29 of this By-law, recording every Towing Service provided by Drivers affiliated with that Broker; and,
 - (ii) Upon request, a copy of every itemized receipt issued for any Towing Service provided.

Broker Licence Transfer

7. The Licensing Officer may approve the transfer of a Tow Truck Broker Licence from one Person to another upon the parties providing to the Licensing Officer:

- (1) A completed transfer application;
- (2) The transfer application fee as prescribed in the Fees and Charges By-law; and,
- (3) Confirmation of that the new Applicant meets the application requirements for a Tow Truck Broker Licence, as set out in Part III of this By-law.

Part IV TOW TRUCK VEHICLE LICENCE AND TOW TRUCK LICENCE PLATES

Prohibition

8. (1) No Person shall cause or permit a Motor Vehicle to be used as a Tow Truck without first having obtained a:
 - (i) Tow Truck Vehicle Licence for the Motor Vehicle; and,
 - (ii) Tow Truck Plate to be affixed to the Motor Vehicle in accordance with the requirements of this By-law.
9. No Person shall allow or permit another Person to provide or attempt to provide to a Hirer a Towing Service using a Motor Vehicle licensed under this By-law unless such Person holds a valid Tow Truck Driver Licence and a valid Tow Truck Plate is affixed to the Motor Vehicle in accordance with this By-law.
10. No Licensee shall affix, or permit any other Person to affix, a Tow Truck Plate to a Motor Vehicle other than the Tow Truck for which the Tow Truck Plate was issued under this By-law.

Licence Application

11. Every application for a Tow Truck Vehicle Licence and/or Tow Truck Plate Licence and renewal Licence shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application for a Tow Truck Vehicle Licence and Tow Truck Plate Licence, or application for renewal of either Licence shall include:

- (1) the full legal name, municipal address, email address and telephone number of each Applicant;
- (2) If the Applicant is a partnership, the full legal name, address, email address and telephone number of each partner;
- (3) If the Applicant is a corporation, all current articles of incorporation for the corporation;
- (4) All current legal documents showing the registered business name of the Applicant, if applicable;
- (5) The full legal names, dates of birth and addresses for all officers and directors of the Applicant, if applicable;
- (6) The full legal names and signatures of all Persons having signing authority for the Applicant corporation, if applicable, including a letter outlining the number of signatures required for financial and administrative functions;
- (7) The make, model, fuel type, VIN, production year, Ministry of Transportation issued licence plate number and valid Motor Vehicle permit for the Applicant's Tow Truck, confirming a valid "Tow Truck" designation;
- (8) Copies of any safety standards certificates, annual inspection certificates and semi-annual inspection certificates issued in respect of the Motor Vehicle, as may be required for the issuance of a CVOR;
- (9) If leased from a leasing company, a copy of the leasing agreement including an authorization for the leased Motor Vehicle to be used as a Tow Truck;
- (10) Proof of automobile insurance in accordance with the requirements set out in section 13 of this By-law;
- (11) A declaration signed by a Broker confirming the Applicant's affiliation or employment with that Tow Truck Broker.
- (12) Confirmation that the Applicant, or any officer or director of the Applicant, has not had a licence in regard to the ownership of a Tow Truck suspended or revoked by the Region or other municipality in Canada within three (3) years of the current application;

- (13) Confirmation that the Applicant, or any officer or director of the Applicant, has not been convicted of an offence under any Towing business by-law of the Region or other municipality in Canada in regard to the ownership of a Tow Truck in the three (3) year period prior to the date of the application;
 - (14) A Criminal Record and Judicial Matters check for the Applicant or any officer or director of the Applicant, obtained within 60 days from the date of application, which shall be reviewed in accordance with the criteria in Schedule "A" to this By-law.
 - (15) Payment of the prescribed fee in accordance with the Fees and Charges By-law; and
 - (16) Proof of certification under the TSSEA as required.
12. (1) The Licensing Officer may set a limit or quota on the number of Tow Truck Plates that may be issued within the Region.
- (2) If a quota or limit as referenced in subsection (1) is put in place, there shall be no waiting list maintained. Any new Tow Truck Plates to be issued by the Licensing Officer will be offered to Applicants who meet the application requirements for a Tow Truck Vehicle Licence set out in section 11 of this By-law, in order of when completed applications are received.
- (3) Any quotas or limits that may be implemented shall remain in effect according to the time limit as determined by the Licensing Officer not to exceed three (3) years, after which time the Licensing Officer shall conduct a review to determine whether these quotas or limits should be revised.

Tow Truck Vehicle and Plate Requirements

13. (1) Every Tow Truck Vehicle Licensee shall maintain on file with the Region a Certificate of Insurance for each Tow Truck licensed under this By-law, identifying and confirming:
- (i) a minimum limit of liability of TWO MILLION DOLLARS (\$2,000,000.00) per occurrence, exclusive of interest and costs, against liability resulting from bodily injury to or the death of one or more persons, and loss or damage to property;

- (ii) a minimum limit of liability of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) per occurrence, exclusive of interest and costs, for damage to customers' vehicles while in the care, custody, or control of the Licensee; and,
 - (iii) a minimum limit of liability of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) per occurrence, exclusive of interest and costs, against liability resulting from direct physical loss or damage to cargo including Motor Vehicles and goods accepted by the Licensee for Towing.
 - (2) Proof of insurance shall be provided annually through a Certificate of Insurance that confirms the required coverage. The Licensee shall provide the Licensing Officer with renewal replacements on or before the expiry of any such insurance.
14. Every Tow Truck licensed under this By-law shall be equipped with the following equipment, which shall be kept in good working order at all times:
- (1) A fire extinguisher, securely mounted in a place and readily accessible by the Driver near the entrance of the Tow Truck, tagged and inspected monthly;
 - (2) A GPS that sets out and records the location of the Tow Truck;
 - (3) A Dispatch system that allows communication between the Tow Truck Driver and Broker;
 - (4) A hoisting device of sufficient capacity to safely lift the Motor Vehicle to be Towed, and a tow cradle, tow bar, or tow sling equipped and maintained to ensure the safe lifting and conveying of Towed Motor Vehicles, not to exceed the GVWR (Gross Vehicle Weight Rating), the GAWR (Gross Axel Weight Rating) front and rear, tire load range and tow truck lift ratings for boom and wheel lift;
 - (5) Four (4) devices for securing the steering wheel, trunk, hood, or doors of a Motor Vehicle;
 - (6) at least two (2) safety chains having a minimum length of 3 metres, each comprised of links of at least 8 millimetres steel and must have legible rating tags;

- (7) an audible warning system connected to the Tow Truck's backup lamps that is automatically activated when the tow Truck is in reverse gear;
- (8) a bar light that produces intermittent flashes of amber light visible from 360 degrees and from a distance of 200 yards;
- (9) a digital camera or camera-enabled mobile phone;
- (10) a high-visibility, fluorescent safety vest and CSA steel toed safety boots for use by the Driver with a class rating of 3 level 2;
- (11) One (1) push broom, a scoop shovel, absorbent material to absorb vehicle fluids, and a receptacle to collect absorbent material; and,
- (12) road triangles or pylons, pry bar, hammer, wheel chocks, winch hooks, tie downs, and extended magnetic turn signal and brake indicators, and any other tools and safety equipment as may be required by the Licensing Officer.

15. Every Person that holds a Tow Truck Plate shall display:

- (1) The Tow Truck Plate on the frame of the Tow Truck's roof light in order to be seen from the rear of the vehicle;
- (2) the number of the Tow Truck Licence Plate issued by the Licensing Officer, in contrasting colours on both sides of the Tow Truck; and
- (3) Two (2) decals that are a minimum of 200 square centimeters each in area in visible locations on the exterior of the Tow Truck that displays in large print the name or trademark of the affiliated Broker, which shall correspond exactly with the information submitted and approved as a part of the Licence application.

16. Every Tow Truck Vehicle Licensee shall ensure that their Licence is kept within the Tow Truck and is available for inspection upon request by Hirers, Officers, and Persons authorized to enforce this By-law.

17. A Tow Truck Vehicle Licence is specific to the Tow Truck for which it has been issued. When a Tow Truck is replaced with another Tow Truck, the Tow Truck

Plate that is affiliated with the previous Tow Truck may be transferred to the replacement Tow Truck, provided:

(1) The Licensee applies to the Licensing Officer for a new Tow Truck Vehicle Licence in a form provided by the Licensing Officer and meets the applicable requirements under this By-law for such a Licence;

(2) A Tow Truck Vehicle Licence is issued for the replacement Tow Truck; and,

(3) The Licensee pays the transfer fee in accordance with the Fees and Charges By-law.

18. A Tow Truck Plate may be leased to another Tow Truck Vehicle Licensee provided the Tow Truck Plate Licensee first provides the Licensing Officer with the details of the lease arrangement including the term of the lease and confirmation that the Owner of the Tow Truck Plate remains responsible for compliance with the requirements of this By-law, and that the Lessee meets the requirements for a Tow Truck Plate-holder as set out in this By-law.

19. The Licensing Officer may approve the transfer of ownership of a Tow Truck Plate Licence from one Person to another upon the parties providing to the Licensing Officer:

(1) A completed transfer application, in a form provided by the Licensing Officer;

(2) A transfer application fee as prescribed in the Fees and Charges By-law; and

(3) Confirmation that the new Applicant meets all application requirements and conditions for a Tow Truck Plate Licence under this By-law.

20. Notwithstanding any other provision of this By-law, a Licensing Officer may provide approval for the transfer of a Tow Truck Plate in the event of the plate holder's death, subject to completion and approval of the required transfer application within thirty (30) days, failing which, the Licence plate shall be surrendered.

21. A Tow Truck Vehicle Licence and Tow Truck Plate shall only be issued to an Applicant who is affiliated with a single Tow Truck Broker that is licensed under this By-law. A Tow Truck Vehicle Licensee and the Tow Truck Plate assigned to

that Licensee may not be affiliated with multiple Tow Truck Brokers at the same time.

22. A Licensee may hold multiple Tow Truck Vehicle Licences and/ or Tow Truck Plates.
23. All Tow Truck Plates that are expired are deemed revoked by the Licensing Officer and must be returned to the Licensing Officer. A replacement fee shall be charged to the Tow Truck Plate Licensee if the Tow Truck Plate is not returned.
24. (1) A Licensee may apply for a non-use status designation of a Tow Truck Plate for a period of up to sixty (60) days in a calendar year. This application must be approved by the Licensing Officer and all appropriate fees, in accordance with the Fees and Charges By-law, must be paid.
- (2) No Person shall operate, or permit to be operated, any Tow Truck that bears a Tow Truck Plate that is has been designated for non-use status.
- (3) Tow Truck Plates that have been designated for non-use status for more than sixty (60) days in a calendar year shall be returned to the Licensing Officer.

PART V TOW TRUCK DRIVER LICENCE

Prohibition

25. (1) No Person shall drive or operate a Tow Truck for the purposes of providing a Towing Service unless that Person is the holder of a Tow Truck Driver Licence as issued under this By-law.
- (2) No Driver shall provide or attempt to provide to a Hirer Towing Services unless they are affiliated with a Broker.
- (3) No Driver shall use or attempt to use a Motor Vehicle as Tow Truck unless the Motor Vehicle has been issued a Tow Truck Vehicle Licence and Tow Truck Plate under this By-law which is affixed to the Motor Vehicle.

Licence Application

26. Every application for a Tow Truck Driver Licence and/or renewal of such a Licence shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application for a Tow Truck Driver Licence or a renewal shall include the following:

- (1) The Applicant's full legal name, address, telephone number, email address and date of birth;
- (2) Proof of a valid, unrestricted, Class G driver's licence issued by the Ministry of Transportation, and a class of driver's licence required to drive a Tow Truck, meeting the vehicle towing weight requirements, and at least two (2) years of driving experience;
- (3) Two (2) pieces of government issued identification, one being photo identification;
- (4) Confirmation that the Applicant is legally eligible to work in Canada;
- (5) Confirmation that the Applicant has not had a Tow Truck Driver Licence revoked, suspended or denied within three (3) years of the date of application;
- (6) A Criminal Record and Judicial Matters check for the Applicant or any officer or director of the Applicant, obtained within sixty (60) days from the date of application, which shall be reviewed in accordance with the criteria in Schedule "A";
- (7) A Ministry of Transportation three (3) year driver's abstract;
- (8) A declaration signed by the Applicant confirming they do not have any current outstanding police investigations, *Highway Traffic Act* charges or criminal charges or warrants pending before any courts;
- (9) a declaration signed by a Broker confirming the Applicant's affiliation or employment with that Broker;
- (10) Confirmation from the Applicant's affiliated Broker that the Applicant has successfully completed all required driver training; and
- (11) Proof of certification under the TSSEA as required.

27. An Applicant for a Tow Truck Driver Licence shall submit to a photograph being taken of them for use on the Tow Truck Driver Licence.

General Licence Requirements

28. Every Driver, while operating a Tow Truck licensed under this By-law, shall:

- (1) Display their Licence in a location that is clearly visible within the Tow Truck and make it available for review by any Person, upon request;
- (2) Ensure their Tow Truck Vehicle Licence is in the Tow Truck;
- (3) Display a copy of the Tariff Schedule in their Tow Truck so that it is clearly visible to all Hirers;
- (4) Verbally advise a Hirer of the rates for Towing and related services set out in the Tariff Schedule, upon request;
- (5) Not charge fees for any Towing Service provided to a Hirer in excess of the rates for such services set out in the Tariff Schedule;
- (6) Ensure the proof of Motor Vehicle insurance slip is in the Tow Truck;
- (7) Ensure all proof of Motor Vehicle ownership is in the Tow Truck;
- (8) Ensure the Tow Truck Plate is affixed to the Tow Truck as prescribed in this By-law;
- (9) Ensure that the GPS and Dispatch systems in the Tow Truck are operational;
- (10) Provide an itemized receipt to Hirers for all Towing Services performed, which includes the date, a description of all services provided, the total cost of the Services provided, and the Driver's Tow Truck Plate number and Driver's Tow Truck Driver licence number;
- (11) Take due care of all Motor Vehicles, motorhomes, trailers, or other vehicle or other vehicles and property delivered or entrusted to them for Towing or

storage to prevent loss of or from or damage to such Motor Vehicles motorhomes, trailers, or other vehicles and property;

- (12) Ensure that the Motor Vehicle motorhome, trailer, or other vehicle being Towed does not exceed the Gross Vehicle Weight Rating (GVWR) and Gross Axle Weight Rating (GAWR) and boom, lift weight restrictions of their Tow Truck;
 - (13) Keep the hoisting device on their Tow Truck lowered at all times when the Tow Truck is in motion, unless it is Towing a Motor Vehicle, motorhome, trailer, or other vehicle;
 - (14) Ensure that any dolly affixed to their Tow Truck is affixed in a manner that does not obstruct the Driver's view to the rear of the Tow Truck;
 - (15) Ensure their Tow Truck and its equipment are in good repair and free from mechanical defects;
 - (16) Examine the licensed Tow Truck they intend to operate at the commencement of each work shift for any mechanical defects or operational issues and at the conclusion of each work shift; and,
 - (17) Report any mechanical defects or operational issues which are disclosed during the inspections referenced in subsection (16) forthwith to the owner of the Tow Truck, and refrain from operating it until such defects or issues are rectified.
29. (1) Every Driver shall maintain a run sheet in a form satisfactory to the Licensing Officer to be kept in the Tow Truck at all times, to be completed immediately upon the conclusion of a Towing Service, with the following information:
- (i) The Tow Truck Licence Plate number and Tow Truck Driver licence number;
 - (ii) The full legal name and address of the Hirer;
 - (iii) A description including the condition of the Motor Vehicle motorhome, trailer, or other vehicle being Towed, including the Provincially issued licence plate number and Vehicle Information Number (VIN);
 - (iv) A description of the Towing Service provided;
 - (v) The date and time the Driver arrives at the location;
 - (vi) The date and time of drop-off and the location, if applicable;

- (vii) The time the Towing Service provided to the Hirer is concluded; and,
- (viii) The amount charged and collected for the Towing Service provided;

(2) Original copies of all run sheets in a form satisfactory to the Licensing Officer referenced in subsection (1) shall be submitted to the Driver's affiliate Broker for retention in accordance with the Broker's duties under subsection 6 (19) of this By-law.

30. No Driver shall:

- (1) Verbally solicit any Person for the purposes of providing a Towing Service;
- (2) Operate a Tow Truck licensed under this By-law in a dangerous, careless, or reckless manner;
- (3) Operate a Tow Truck licensed under this By-law in excess of posted speed limits;
- (4) Obstruct the use of any sidewalk, access way, street, roadway, driveway or highway with a Tow Truck licensed under this By-law;
- (5) Permit their Tow Truck, as licensed under this By-law, to remain standing on any sidewalk, access way, street, roadway, driveway or highway, unless for the immediate purpose of:
 - (i) performing a Recovery Service; or
 - (ii) Towing a Motor Vehicle;
- (6) Smoke tobacco or cannabis or permit tobacco or cannabis to be smoked in a Tow Truck licensed under this By-law;
- (7) Consume or be under the influence of any alcohol while operating a Tow Truck licensed under this By-law;
- (8) Consume, possess or be under the influence of any controlled substance as defined in the *Controlled Drugs and Substances Act* while operating a Tow Truck licensed under this By-law; or
- (9) Use an electronic cigarette or permit the use of an electronic cigarette in a

Tow Truck licensed under this By-law.

31. (1) Every Driver shall notify the Licensing Officer within twenty-four (24) hours of any charge or conviction they have received that is in contravention of the criteria set out in Schedule "A" of this By-law or of any Motor Vehicle accident involving a Tow Truck licensed under this By-law.
- (2) Every Driver shall notify the Licensing Officer within twenty-four (24) hours of any police investigation, charge or conviction relating to the Driver pursuant to the *Criminal Code*, the *Highway Traffic Act* or the *Controlled Drugs and Substances Act* with all particulars relating to the investigation, charge or conviction;
- (3) If the Licensing Officer has reasonable grounds to believe that any of the information that was provided in the Licensee's application for a Tow Truck Driver Licence has changed without the Licensee advising of the change, the Licensing Officer may, upon demand, request the Licensee produce an updated:
- (i) Criminal Record and Judicial Matters check; or
 - (iii) A three (3) year Ontario Driver's Abstract.
32. A Tow Truck Driver, while operating a Tow Truck licensed under this By-law, shall turn on the amber emergency lighting of the Tow Truck when stopped on a road allowance, when providing a roadside Towing Services.
33. (1) Every Tow Truck Driver shall Tow a Motor Vehicle motorhome, trailer, or other vehicle by the most direct route reasonably possible in the circumstances and in the most efficient manner, unless otherwise directed by the Hirer.
- (2) No Tow Truck Driver shall make any intermediate stop when Towing a Motor Vehicle motorhome, trailer, or other vehicle to a collision reporting centre as directed by a Police Officer or to a destination specified by a Hirer.
- (3) No Tow Truck Driver shall Tow any Motor Vehicle, motorhome, trailer, or other vehicle or hook, lift, or connect the Motor Vehicle motorhome, trailer, or other vehicle to a Tow Truck, or perform any related Towing Services, unless first requested to do so by one of the following:

- (i) A Hirer;
 - (ii) An Officer;
 - (iii) Any member of an Area Municipality fire department; or,
 - (iv) Any Person authorized by law to direct the removal of the Motor Vehicle motorhome, trailer, or other vehicle from public or private property;
- (4) No Tow Truck Driver shall suggest or recommend to any Hirer or other Person requesting the Towing Service that the Motor Vehicle motorhome, trailer, or other vehicle be Towed, driven or delivered to any particular Tow Truck Yard, body shop, storage yard, or any other public garage, building or place.
- (5) Every Tow Truck Driver shall, where the final destination specified by a Hirer is unable to accept the Hirer's Motor Vehicle, motorhome, trailer, or other vehicle, contact the Hirer and obtain the Hirer's consent to Tow the Motor Vehicle motorhome, trailer, or other vehicle to an alternate destination.
34. No Tow Truck Driver shall remove a Motor Vehicle motorhome, trailer, or other vehicle from private property unless:
- (1) The Hirer has care and control of the Motor Vehicle motorhome, trailer, or other vehicle; or,
 - (2) The following conditions are met:
 - (i) The private property owner has entered into an agreement with the Tow Truck Driver's affiliated Broker to provide a Towing Service for that private property, and signs are posted throughout that property with a minimum of two (2) signs indicating where the Motor Vehicle motorhome, trailer, or other vehicle has been Towed to and a contact name and phone number for the Broker is clearly displayed on the sign; and
 - (ii) The Niagara Regional Police Service and the Licensing Officer have been notified of the Tow, along with information as to the description of the Motor Vehicle, motorhome, trailer, or other vehicle that is Towed, the date and time of the Tow, and Tow Truck Yard to which the vehicle has been Towed.

35. No Tow Truck Driver shall Tow a Motor Vehicle from public or private property if that Motor Vehicle is the subject of a police investigation, without first having authorization from the investigating Police Officer to remove the Motor Vehicle.
36. Where a Motor Vehicle, motorhome, trailer, or other vehicle is Towed to a licensed Tow Truck Yard within the Region, the Tow Truck Driver shall ensure that the Motor Vehicle, motorhome, trailer, or other vehicle is secured and the owner of the Motor Vehicle, motorhome, trailer, or other vehicle has reasonable access to it to remove personal effects, unless otherwise instructed by a Police Officer pursuant to a police investigation.
37. No Tow Truck Driver licensed under this By-law shall deliver a Towed Motor Vehicle, motorhome, trailer, or other vehicle to a Tow Truck Yard outside the geographical boundaries of the Region unless the Hirer has requested and given their express consent for such Towed Motor Vehicle, motorhome, trailer, or other vehicle to be delivered to that Tow Truck Yard outside of the Region.

PART VI TOW TRUCK YARD LICENCE

Prohibitions

- 38.(1) No Person shall own or operate a Tow Truck Yard within the Region without first having obtained a Licence, issued pursuant to this By-law, permitting them to do so.
- (2) No Person shall own or operate a Tow Truck Yard within the Region, without first having obtained a Tow Truck Broker Licence.

Licence Application

39. Every application for a Tow Truck Yard Licence or renewal of such a Licence shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application for a Tow Truck Yard Licence shall include the following:
- (1) the full legal name, municipal address, email address and telephone number of each Applicant;
 - (2) the municipal address of the Tow Truck Yard;

- (3) confirmation that the Applicant holds a valid Tow Truck Broker Licence;
- (4) A Certificate of Insurance (COI) identifying and confirming the following minimum insurance requirements for the Tow Truck Yard:

Commercial General Liability Insurance ("CGL")

CGL insurance for all services, operations, and work to a limit of not less than FIVE MILLION DOLLARS (\$5,000,000) per occurrence.

The policy will be extended to include:

- i. bodily injury, death and property damage;
- j. cross liability and severability of interest;
- k. blanket contractual;
- l. premises and operations;
- m. personal and advertising injury;
- n. products and completed operations;
- o. owner's and contractors protective;
- p. non-owned Automobile to a limit of not less than TWO MILLION DOLLARS (\$2,000,000);

The policy shall be endorsed to:

- c. include The Regional Municipality of Niagara as an additional insured; and
- d. contain an undertaking by the insurers to give thirty (30) days prior written notice in the event that there is a material change in the foregoing policies or coverage affecting the Additional Insured(s) or cancellation of coverage before the expiration date of any of the foregoing policies.

Policy Requirements

All policies of insurance shall:

- c) be written with an insurer licensed to do business in Ontario;
- d) be non-contributing with, and will apply only as primary and not excess to any other insurance or self-insurance available to Niagara Region;

Certificates of Insurance

Certificates of insurance originally signed by authorized insurance representatives shall be delivered to the Region prior issuance of the Licence, on a form of Certificate of Insurance which is acceptable to the Region. The Certificate of Insurance must comply with these insurance requirements and must be on the Region's form of Certificate of Insurance, which can be found on the Region's website –

www.niagararegion.ca/business/fpr/cert-insurance.aspx. If the Certificate of Insurance is provided in a non-original form (e.g. a facsimile, photocopy or scanned electronic copy), the Applicant acknowledges and agrees that the Region is fully entitled to treat any such Certificate as an original and that the Applicant will be responsible for the accuracy and validity of the information contained therein. All subsequent policy renewals and certificates of insurance thereafter, during the time that the Licence is in force, shall be forwarded to the Region within fifteen (15) days of their renewal date.

- (5) Information on whether the Applicant, or any officer or director of the Applicant, has been convicted of an offence or has had an order issued against them relating to the protection of the environment, fire safety, public health, property standards, or zoning violation within the previous twelve (12) month period;
- (6) Verification that the Tow Truck Yard is fully enclosed by a fence, as required under this By-law;
- (7) a fire inspection report prepared by the applicable Area Municipality fire department, dated within two (2) months of the date of the application, confirming compliance with all applicable provisions under the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c. 4, as amended;
- (8) a letter from the Region's Planning and Development Services Department, or successor department, confirming the Tow Truck Yard location conforms to the Region's Official Plan;
- (9) A letter from the Niagara Escarpment Commission confirming the Tow Truck Yard in its present location does not violate the Niagara Escarpment Plan, if applicable;

(10) A site plan for the Tow Truck Yard that shows:

- (i) the legal boundaries for the Tow Truck Yard, which must include only those lands that are under the exclusive control of the Applicant;
- (ii) the location of all existing and proposed buildings, roads, driveways, parking areas, storage areas and operating areas;
- (iii) the location of any fence and/or gate, as required under this By-law;
- (iv) The finished surface of the storage yard complies with the requirements set out in subsection 42(6) of this By-law; and,
- (v) The location of CCTV cameras as required under subsection 42(7) of this By-law; and

(11) Proof of certification under the TSSEA, if required.

40. Every Applicant for a Tow Truck Yard Licence shall allow any Officer to enter onto the Tow Truck Yard premises to verify the site plan requirements as set out in subsection 39(10) of this By-law.

Licence Requirements

41. (1) Every Tow Truck Yard Licensee shall maintain a fence that fully encloses the entire perimeter of the property.

(2) Every fence as required under subsection (1) shall be installed and maintained in compliance with the Area Local Municipality By-laws. If none exist, the following standards shall be followed:

- (i) Not less than 1.83 metres and no greater than 2.44 metres in height;
- (ii) Constructed of a uniform material, with a uniform colour, providing a full entry barrier; and
- (iii) Kept in good repair at all times.

(3) If an opening in any fence as required under subsection (1) is necessary for ingress or egress, then the opening shall be covered by a gate that:

- (i) Includes a locking mechanism;
- (ii) Opens to a width of at least 3.5 metres;
- (iii) Is of the same height as the fence;
- (iv) Is kept in good repair at all times;
- (v) Does not open over the travelled portion of a public road allowance or sidewalk; and
- (vi) Is kept clear of obstructions so that it may be opened fully at all times.

(4) No Person shall relocate a fence or a gate as required under this section without the prior written approval of the Licensing Officer.

42. Every Tow Truck Yard Licensee shall ensure that:

- (1) The outdoor area of their Tow Truck Yard is kept in a clean, neat, orderly and sanitary condition;
- (2) All storage containers and other materials belonging to the Licensee or used for the Tow Truck Yard operation on-site are kept within the enclosed area created by the fence, as required under section 41 of this By-law, or in an enclosed building;
- (3) All Motor Vehicles onsite or used for the Tow Truck Yard operation that do not have a current licence plate as issued by the Ministry of Transportation are parked within the enclosed area created by the fence, as required under section 41 of this By-law, or an enclosed building;
- (4) All outdoor lighting for the Tow Truck Yard is arranged so as to divert light away from adjoining lands, inclusive of any public road allowances;

- (5) All parking areas and roadways within the Tow Truck Yard are paved or are treated in a manner to reduce dust;
 - (6) All areas of the Tow Truck Yard that are used for storage have a surface that is hard compacted and consisting of gravel, tar and chip, pavement, or cement, and is free of potholes and debris;
 - (7) The Tow Truck Yard is equipped with operational CCTV cameras that provide video surveillance of all Motor Vehicles contained within the enclosed portion of the Tow Truck Yard; and
 - (8) Contact information for the Tow Truck Yard, including a telephone number and hours of operation, is posted outside of their premises and is clearly visible to any owners of Towed Motor Vehicles stored within the Tow Truck yard;
 - (9) Any voicemail or email messages from a Hirer or owner of a Towed Motor Vehicle must be promptly returned; and,
 - (10) Reasonable and prompt access to a Towed Motor Vehicle is given to a Hirer and/or owner of a Towed Motor Vehicle, at no additional cost or fee.
43. Any Tow Truck Yard that is licensed under this By-law must be located within the geographical boundaries of the Region.
44. Any Tow Truck Yard that is licensed under this By-law must be owned by a single Broker or a co-operative of Brokers licensed under this By-law.
45. The Licensing Officer may approve a transfer of Tow Truck Yard Licence from one Person to another upon the parties providing to the Licensing Officer:
- (1) A completed transfer application, in a form provided by the Licensing Officer;
 - (2) A transfer application fee, as prescribed in the Fees and Charges By-law; and
 - (3) Confirmation that the new Applicant meets all application requirements and conditions for a Tow Truck Yard Licence under this By-law.

PART VII GENERAL LICENCE REQUIREMENTS

46. The Licensing Officer shall issue a Licence or a renewal of a Licence to an Applicant that has satisfied the requirements of this By-law, based on the appropriate Licence class and subclass, if applicable, as set out in Part V of this By-law.
47. Every Applicant shall provide payment, in full, of the appropriate fee, as prescribed in accordance with the Fees and Charges Bylaw, at the time the application for a Licence is submitted.
48. (1) No Applicant shall knowingly misstate or provide false information to the Licensing Officer.
- (2) All Applicants shall provide the Licensing Officer with such other information and documentation as requested by the Licensing Officer.
- (3) Every Applicant and Licensee shall report to the Licensing Officer within twenty-four (24) hours after the event, of any change in any information, including contact, address and insurance information, that was provided to the Licensing Officer pursuant to this By-law.
49. (1) Every Licensee shall hold such Licence subject to the requirements and criteria as imposed in this By-law, including compliance with criteria imposed in order to be licenced, as set out in Parts III, IV and V of this By-law.
- (2) In the event a Licensee cannot meet the requirements as set out in subsection (1), the Licensee shall cease to operate the Tow Truck Business immediately, and surrender the applicable Licence to the Licensing Officer within twenty four (24) hours of the non-compliance.
- (3) Any Licences that have been surrendered to the Licensing Officer pursuant to subsection (2) above, shall be deemed suspended, but may be reinstated and returned to the Licensee upon the Licensee providing proof of compliance with the requirements of the application for the Licence in issue.
50. Every Licensee shall comply with all applicable Federal laws, Provincial laws, and Municipal by-laws, while providing or offering a Towing Service, including but not limited to the TSSEA.

- 51.(1) No Person shall alter, erase, or modify, or permit the alteration, erasure or modification of any Licence or any part thereof issued under this By-law.
- (2) If a Licence is defaced, destroyed, or lost, the Licensee shall apply to the Licensing Officer for a replacement and, on payment of the prescribed fee in accordance with the Fees and Charges By-law, may be issued a replacement Licence, as required.
52. Any report to the Licensing Officer that is required pursuant to this By-law may be made during a Holiday, or before or after business hours as posted by the Region, by submitting the report via electronic mail or leaving a voicemail message to the email address or telephone number posted on the Region's website from time to time.
53. No Licensee shall knowingly interfere in any way with the hiring or use of another Licensee's Tow Truck where a Hirer has hired or indicated an intention to hire such Tow Truck, excepted where a Police Officer directs the Towing of a Motor Vehicle by a specific Licensee to assist in an investigation.
54. No Licensee shall induce any Person to employ or hire a Tow Truck by knowingly misleading or deceiving such Person as to the location or distance of any place, or by making any false representation to such Person.
55. No Licensee shall make or convey, or permit to be made or conveyed, an offer of Towing Services while they are within two hundred (200) meters of the scene of an accident or an apparent accident, or within two hundred (200) metres of a Motor Vehicle involved in an accident, unless they are requested to attend at the scene or the Motor Vehicle by:
- (1) A Hirer;
 - (2) A peace officer as defined in the *Criminal Code*;
 - (3) An Officer authorized to enforce this By-law; or,
 - (4) Any other Person authorized by law to direct the removal of a Motor Vehicle or vehicles from the scene of an accident;

unless emergency conditions exist which pose an immediate threat to the safety of any Person.

56. No Licensee shall request, accept or give, or permit any other Licensee to request, accept or give, any gift, fee, payment or other remuneration to or from any Person other than a Hirer in exchange for any service relating to the use of a Tow Truck, its equipment or its Driver.
57. Every Licensee shall accept payment for Towing and related services by credit card, debit card and cash.
58. Every Licensee shall permit a Hirer or owner of a Towed Vehicle reasonable access to their Motor Vehicle motorhome, trailer, or other vehicle to remove any personal property at no additional cost or fee. For the purpose of this section, reasonable access means that access must be granted, at a minimum, between standard business hours of 9 a.m. and 5 p.m. on all days that are not Statutory Holidays.

PART VIII DISCRIMINATION

59. No Licensee shall discriminate against any Person because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability, or otherwise contravene the *Human Rights Code*, in relation to the provision of a Towing Service.
60. Without limiting section 59 of this By-law, no Licensee shall charge:
- (1) A higher fare or an additional fee for Persons with disabilities than for Persons without disabilities for the same Towing Service; or
 - (2) A fee for the storage of mobility aids or mobility assistive devices in relation to a Towing Service.

PART IX INSPECTIONS

61. Every Licensee shall allow an Officer, upon demand, to enter upon and inspect a Broker's premises, Tow Truck Yard and/ or a Tow Truck licensed under this By-law to ensure that all provisions of this By-law have been satisfied.

62. Upon inspection, every Person shall produce all relevant Licences and permits, invoices, vouchers or like documents, trip records, Provincial Licences and all documents required to be kept and maintained under this By-law, which may be removed for the purpose of photocopying and returned to the Licensee within forty eight (48) hours of removal.
63. No Person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer from carrying out an inspection or withhold, destroy, conceal or refuse to furnish any information or thing required by the Officer inspecting for the purpose of this inspection.

PART X POWERS OF THE LICENSING OFFICER

64. The power and authority to issue or renew a Licence, refuse to issue or refuse to renew a Licence, to revoke or suspend a Licence, to impose terms and conditions, including special conditions, on a Licence are delegated to the Licensing Officer.
65. When an application for a Licence or for a renewal of a Licence is made in accordance with the provisions of this By-law and the Applicant meets all the requirements of this By-law, the Licensing Officer shall issue a Licence.
66. The Licensing Officer may refuse to issue, refuse to renew, revoke or suspend a Licence, or impose a term or condition on a Licence on the following grounds:
- (1) The conduct of the Applicant or Licensee, or where the Person is a corporation, that the conduct of the corporation's officers, directors, employees or agents, affords reasonable cause to believe that the Person will not carry on or engage in the operation of the business in accordance with any applicable Federal law, Provincial law, or Municipal By-law, or with honesty and integrity;
 - (2) The Licensing Officer has reasonable cause to believe that the granting, renewal or continuation of a Licence under this By-law would pose a danger to the health or safety of any Person or the public in general;
 - (3) The Applicant or Licensee is carrying on activities that are in contravention of this By-law;

- (4) There are reasonable grounds to believe that an application or other documents provided to the Licensing Officer by or on behalf of the Applicant or Licensee contains a false statement;
 - (5) Any information contained in the original application form or any other information provided to the Licensing Officer has ceased to be accurate and the Licensee has not provided up-to-date accurate information to allow the Licensing Officer to conclude that the Licence should continue;
 - (6) An Applicant does not meet, at any time, one or more of the requirements of this By-law or any conditions imposed on a Licence;
 - (7) An Applicant or Licensee is not in compliance with any Federal law, Provincial law, or Municipal By-law, including but not limited to this By-law and any requirement to obtain and maintain a valid Provincial Licence; or
 - (8) The Applicant or Licensee has a police investigation or been charged or been convicted of a criminal or *Highway Traffic Act* offence which provides reasonable grounds for the Licensing Officer to believe it would not be in the interest of public health and safety and/or consumer protection to issue or maintain such a licence.
67. Notwithstanding any other provision of this By-law, the Licensing Officer may impose conditions, including special conditions, on any Licence at issuance, renewal or at any time during the term of the Licence, as are necessary in the opinion of the Licensing Officer to give effect to this By-law.
68. Where the Licensing Officer has made a decision to deny, suspend, revoke or place conditions, including special conditions, on a Licence, the Licensing Officer's written notice of that decision shall:
- (1) Set out the grounds for the decision;
 - (2) Give reasonable particulars of the grounds;
 - (3) Be signed by the Licensing Officer; and,
 - (4) State that the Applicant or Licensee is entitled to request a hearing before the Licensing Appeals Committee if the Applicant or Licensee delivers a request for a hearing, in writing, accompanied by the applicable fee set out in the

Fees and Charges By-law, to the Licensing Officer, within thirty (30) calendar days after the notice is served.

69. (1) Where notice to an Applicant or Licensee is required under this By-law, it is sufficiently given if delivered personally to the Applicant or Licensee, sent by electronic mail, or sent by registered mail to the address provided on the application or Licence, as applicable, of the Applicant or Licensee.
- (2) Where service is effected by registered mail under subsection (1), notice shall be deemed to have been made on the fifth (5th) day after the date of mailing. Service is deemed effective by email at the time it is sent. Personal Service is deemed effective at the time it is given.
70. Where no appeal is registered within the required time period, the decision of the Licensing Officer shall be final.
71. Where a Licence issued under this By-law has been suspended or revoked or special conditions have been placed on the Licence, the Licensee shall return the applicable licence to the Licensing Officer within twenty four (24) hours of service of written notice.

Appeal

72. The power and authority to conduct hearings of appeals under this By-law are hereby delegated to the Licensing Appeals Committee (the "Committee").
73. The provisions of sections 5 to 15 and 21 to 24 of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S. 22, as amended, shall apply to all hearings conducted by the Committee under this By-law.
74. (1) When an Applicant is denied a Licence or has their Licence revoked or suspended, or has conditions, including special conditions, placed on their Licence, they may request an appeal hearing before the Licensing Appeals Committee, within thirty (30) calendar days of service of the notice described in section 69 of this By-law, for review of this decision. This request for an appeal shall be made in writing, be sent to the Licensing Officer, and set out the relief sought and the reasons for the appeal.
- (2) When a request for a hearing under subsection (1) and the applicable fee for filing an appeal, as set out in the Fees and Charges By-law, have been

received, a hearing shall be scheduled before the Licensing Appeals Committee and notice of the hearing date shall be given to the Applicant.

- (3) A notice of hearing shall include:
 - (i) A statement of the time, date, location, and purpose of the hearing; and,
 - (ii) A statement that if the Applicant or Licensee does not attend the hearing, the Licensing Appeals Committee may proceed in their absence without notice to them.
- (4) After conducting a hearing, the Committee, may uphold or vary the decision of the Licensing Officer, or make any decision that the Licensing Officer was entitled to make in the first instance.
- (5) Notice of the Committee's decision, with reasons, shall be provided in writing and served in accordance with the service provisions contained in section 69 of this By-law.
- (6) The Licensing Appeal Committee's decision in respect of refusing, suspending, revoking or attaching conditions to a Licence is final.

PART XI ORDERS

75.(1) If the Licensing Officer or a Municipal By-Law Enforcement Officer is satisfied that a contravention of this By-law has occurred, the Licensing Officer or Municipal By-Law Enforcement Officer may make an Order requiring the Person who contravened this By-law or who caused or permitted the contravention to discontinue the contravening activity.

- (2) An Order under subsection (1) shall set out:
 - (i) reasonable particulars of the contravention adequate to identify the contravention and the location of the property on which the contravention occurred, if applicable; and,
 - (ii) the date by which there must be compliance with the Order.
- (3) An Order issued under this By-law shall be served in accordance with the service provisions contained in section 69 of this By-law.

76. Every Person shall comply with an Order issued under the authority of this By-law.

PART XII ADMINISTRATION AND ENFORCEMENT

Penalty

77. Every Person who contravenes any provision of this By-law or an Order under this By-law is guilty of an offence and upon conviction is liable to the applicable penalty as provided for by the *Provincial Offences Act*, R.S.O. 1990, Chapter P. 33, as amended.

78. A director or officer of a corporation who knowingly concurs in the contravention of any provision of this By-law or an Order made under this By-law is guilty of an offence.

79. (1) Notwithstanding section 77 of this By-law, each day on which a Person contravenes any provision of this By-law shall be deemed to constitute a continuing offence under this By-law as provided for in section 429(2) of the *Municipal Act, 2001*. For clarity, in the case of an Order, a contravention continues for every day or part of a day past the date set out in the Order by which the work must be complete or action taken, as the case may be.

(2) For each day or part of a day that the offence continues, the minimum fine shall be ONE HUNDRED DOLLARS (\$100.00) and the maximum fine shall be FIVE THOUSAND DOLLARS (\$5,000.00), and the total of all daily fines for the offence is not limited to ONE HUNDRED THOUSAND DOLLARS (\$100,000.00).

80. If any section of this By-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the By-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the Person convicted or impose conditions

Administration / Enforcement

81. (1) The Licensing Officer shall have all necessary authority to administer and enforce this By-law.

(2) Without limiting subsection (1), the Licensing Officer shall have the authority to:

- (i) prescribe administrative forms, registers and electronic data software required under this By-law;
- (ii) establish policies, procedures, operational protocols, inspection criteria and frequency, licence criteria and operational hours;
- (iii) establish, maintain and publically post, on the Region's website, a Tariff Schedule of maximum rates to be charged to all Hirers of a Tow Truck for Towing Services;
- (iv) establish policies and procedures as necessary regarding the tow rotation system utilized by police and emergency services;
- (v) pro-rate any licensing or administrative fees that may be charged under this By-law;
- (vi) issue any Licence where the Applicant meets criteria and conditions under this By-law;
- (vii) renew, deny, suspend, revoke, restrict or place special conditions on any Licence issued pursuant to this By-law;
- (viii) designate any accessibility training or other required training pursuant to this By-law;
- (ix) verify any information provided by an Applicant or Licensee; and,
- (x) Demand from any Licensee any records, information, documentation, licences or any other thing pursuant to the administration and enforcement of this By-law.

82. Any Licensee that refuses or otherwise does not supply records, information or any other thing as demanded by the Licensing Officer shall have their Licence suspended. The Licensing Officer may re-instate a Licence if the Licensee supplies the information, record or other thing as demanded.

83. This By-law may be enforced by the Licensing Officer, a Municipal By-Law Enforcement Officer appointed by Council to enforce this by-law, or any Police Officer.

84. Any Person who obstructs or interferes with an Officer in the discharge of their duties shall be considered in violation of this By-law.

85. Any Person who provides false information to an Officer shall be deemed to have obstructed or interfered with that Person in the execution of their duties.

Survival

86. If any section or part of this By-law is found by any court of competent jurisdiction to be illegal or beyond the power of Council to enact, such section or part shall be deemed to be severable and all other sections or parts of this By-law shall be deemed to be separate and independent therefrom and shall continue in full force and effect unless and until similarly found illegal.

Citation

87. This By-law may be cited as the "Towing Services By-law".

By-law Commencement / Transition

88. (1) By-Law No. 2018-75, being a by-law to licence, regulate and govern vehicles for hire (Taxicabs, Transportation Network Company Vehicles, Specialty Vehicles, Auxiliary Services Vehicles, Shuttle Buses, Sightseeing Vehicles, Caleche, Tow Trucks) and Businesses (Second-Hand Good Stores and Dealers, Salvage Yards, Auto-Wrecking Yards and Taxicab Brokers) and all amendments thereto, is hereby repealed.

(2) Notwithstanding subsection (1), By-law No. 2018-75, as amended, shall continue to apply to proceedings in respect of offences that occurred before its repeal.

(3) Notwithstanding subsection (1), all Tow Truck-related licences issued under By-law 2018-75, including any suspensions, revocations, denials, renewals or special conditions imposed on licence-holders, that are in effect at the time said by-law is repealed, shall be deemed to be Licences as issued under this By-law, together with any such suspensions, revocations, denials, renewals or special

conditions, and all the rules, requirements and regulations of this By-law shall apply with necessary modification.

(4) All Persons holding Tow Truck-related licences issued under the provisions of By-law 2018-75 must come into compliance with all provisions of this By-law upon the renewal date of their Licence or twelve (12) months from the date this By-law comes into force, whichever date is later.

(5) A Licensee that fails to come into compliance with all provisions of this By-law upon the renewal date of their Licence shall have their Licence revoked.

89. This By-law shall come into force and effect on the date that it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

Jim Bradley, Regional Chair

Ann Marie Norio, Regional Clerk

Passed: <date>

SCHEDULE "A"

STANDARD CHARACTER AND DRIVING RECORD CRITERIA

An application for or renewal of a Licence under this By-law shall be denied where the Applicant:

(Parts 1 to 7 apply to all Applicants)

1. Has an undertaking, recognizance, peace bond, probation order or other court or police issued document where the conditions prohibit the Applicant or Licensee from performing the functions of the licence being applied for;
2. Has been convicted of a criminal offence which provides reasonable grounds for the Licensing Officer to believe it would not be in the interest of public health and safety and/or consumer protection to issue or maintain such a Licence. Such offences include, but are not limited to: sexual-based offences, child pornography, trafficking in persons, kidnapping, hostage taking, abduction, crimes against persons under 18 years of age, assault with a weapon, assault causing bodily harm, and, aggravated assault any assault against a Peace Officer;
3. Has been found guilty and convicted of any criminal offence, in the preceding twenty (20) years from the date of the application, where the term of incarceration imposed exceeded ten (10) years;
4. Has been found guilty and convicted of any criminal offence, in the preceding ten (10) years from the date of the application, where the term of incarceration imposed was between two (2) and ten (10) years;
5. Has been found guilty and convicted of any criminal offence, in the preceding five (5) years from the date of the application, where the term of incarceration imposed was less than two (2) years;
6. Has outstanding criminal charges before the courts and is awaiting trial and sentencing; or
7. Is the subject of a current police criminal investigation.

(Parts 8, 9 and 10 shall only apply to Driver Licence Applicants)

8. Has been found guilty of any of the following *Highway Traffic Act* offences, in the preceding five (5) years from the date of the application:

- i) Careless Driving;
- ii) Racing or Stunt Driving; or
- iii) Exceeding the Speed Limit by 50 km/hour or more;

9. Has accumulated nine (9) or more demerit points or six (6) or more convictions under the *Highway Traffic Act* on their driving record abstract within three (3) years from the date of the application; or

10. Has had their driver's licence, issued in any province or territory, suspended under the *Highway Traffic Act* or *Criminal Code* within three (3) years of the date of application.

Paragraphs 2, 3, 4 and 5 shall not apply if the Applicant has received a Record Suspension or Pardon for the offence by the Parole Board of Canada.

BUSINESS LICENSING

PROPOSED BY-LAW UPDATES

PUBLIC INFORMATION CENTRE

The Niagara Region Business Licensing office is in the process of reviewing and modernizing its by-laws related to taxi cabs, Transportation Network Companies (TNC), shuttles, sightseeing vehicles, specialized transport, medical transport, tow trucks, second hand shops, and salvage and auto wrecking yards.

We value input from the public as they are the consumers of services offered by these various industries.

We value input from the industries as these by-laws govern how they operate within the Niagara Region.

In order to support public safety and ensure high quality customer service while balancing support for industry operations we need input from both stakeholder groups.

This booklet contains an overview of suggested changes to modernize our existing by-law. We are now seeking your input in order to ensure these revisions support our municipality, our consumers, and the industries involved.

Second-Hand Goods Stores



Operational Changes

1. Second-hand goods that are deemed high value will be defined in a schedule to the by-law and require a register to be completed for every transaction.
2. The registry will include the name etc of the seller, the date and time, a detailed description of the goods, the value or consideration paid for the good, the serial number of the good if available and a photo taken of each item and whether the item was taken in as a 'PAWN' loan or not, the items will be held for 21 days before resale unless the item was brought in as a 'PAWN' item.
3. If the good is not contained in the Schedule of Goods then the registry does not have to be completed.
4. Second hand goods will now include antiques and other items purchased from a person for any dollar value or other consideration.
5. Second-hand goods will no longer include scrap metal or other recyclable items but will continue to include used tires purchased for resale.
6. If an item was purchased or received for any other consideration and turns out to be stolen property, the property shall be turned over to the legal owner without any fees, charges or any other form of financial burden to that legal owner.
7. If the business feels the item may be stolen property, the property should not be purchased and the transaction refused and the police contacted.
8. No person under the age of 18 may sell any item listed in the Schedule of Goods and no Second-Hand Shop or Dealer may purchase it.
9. The register shall be delivered to the Niagara Region daily by 10:00 am.

Eligibility/Compliance Requirements

1. Businesses are required to maintain a \$5 million general liability insurance.
2. All owners, persons associated with the business or employees of the business will supply the Region a Criminal Record and Judicial Matters check annually.

Taxi/ Transportation Network Company (TNC)



Process Improvements

1. The Taxi Plate waiting list will be eliminated, as the list will be eliminated taxi-plates may be placed on 'non-use' for any amount of time as long as fees are paid annually for the plate.
2. All persons on the current waiting list will be issued their respective plate(s).
3. Those persons on the current waiting list that do not wish to accept their plate shall receive a refund for their initial plate fee and forfeit their \$75.00 fee for each year they were on the waiting list.
4. Taxi-Cabs and TNC's may accept all forms of payment.
5. The number of Taxi Plates will be reviewed annually with stakeholders to determine if more plates need to be issue.

Operational Changes

1. A Taxi Cab Broker must have a minimum of 5 regular or accessible taxi-cab vehicles operating under the Brokerage banner.
2. A maximum of 5 TNC Brokers will be allowed to operate within Niagara Region.
3. There will be no borders for Taxi plates, a taxi plate issued by Niagara Region is valid for operation anywhere within the Niagara Region.
4. Only Taxi-Cabs may accept Flag, Hail or Taxi Stand ride requests.
5. TNC's ride requests must be pre-booked either through an application based system or by telephone through a dispatch service that records the trip request on the application for the driver and the value of the trip shall be communicated to the customer and agreed to prior to commencement of the trip.
6. The number of accessible Taxi-Cabs will be based on a percentage of Regular taxi-cabs operating under a Brokerage banner. The initial percentage will be 10% with a minimum of 1 vehicle for Brokers with only 5 regular taxi-cabs. TNC's shall pay a fee of \$0.05 per trip for not supplying accessible services.
7. Only Taxi-Cabs may use 'top signs' and use marked 'taxi stands', TNC's are not permitted to use "top signs" and may not use 'taxi stands'.

8. Taxi and TNC Brokers will solely be responsible for the training of their drivers, all training subjects and criteria will be supplied to the Niagara Region annually. Accessible drivers will receive an accessible endorsement on their Taxi-Cab Driver licence upon proof of passing an accessible vehicle training course.
9. Spare vehicles may be used to assist with peak period service during certain holidays such as Christmas and New Years.
10. TNC's must display a decal on the passenger side of the front and rear window for each TNC service they are operating under.

Eligibility/Compliance Requirements

1. The Niagara Region will establish a set of criteria for Taxi and TNC drivers that all initial applicants and renewal request will be reviewed against. This will include, demerit points, driver convictions, suspensions, criminal convictions or other types of court or other agency restrictions that would prohibit a driver from operating a Taxi and TNC vehicle.

2. Vehicles between 0 and 3 years of age with less than 40,000 km will not require a safety inspection certificate to be licensed, vehicles between 3 and 7 years of age require an annual safety inspection certificate, vehicles greater than 7 years require a safety inspection certificate every 6 months.
3. All Taxi-Cab and TNC Drivers will now only need to supply a Criminal Record and Judicial Matters check annually for licensing, a Vulnerable Sector Police Screen may be requested by the Niagara Region for any Driver before a licence may be issued or maintained.
4. All Driver applicants will require an unrestricted Class 'G' Ontario Driver Licence in order to be considered for a Taxi-Cab or TNC Niagara Region issued driver licence.
5. Brokers are required to maintain a \$5 million general liability insurance policy, vehicles must have a \$2 million per incident insurance policy, TNC drivers must also prove their insurance company knows they are using their vehicle for TNC service and either provide a confirmation from their insurance Broker or provide proof of a 6A/6U/6G endorsement.
6. Leased vehicles may be licensed.

Specialty Vehicles for Hire

Shuttle, Sight-Seeing, Private Ambulance/Medical Transport, Specialty/Limousine, Caleche or other services)



Process Improvements

- 1. Services may accept all form of payment.

Operational Changes

- 1. The minimum rate charged for all services shall be \$10.00 and the full fare shall be communicated to the passenger and agreed to prior to commencement of the trip.
- 2. ‘Top signs’ cannot be used.
- 3. Business Licence holders will supply a monthly ridership count by the 15th day of each month.
- 4. The Niagara Region may impose a limit on the number of Specialty Services operating within the Niagara Region.
- 5. Businesses will solely be responsible for the training of their drivers, all training subjects and criteria will be supplied to the Niagara Region annually.

Eligibility/Compliance Requirements

- 1. An unrestricted ‘F’ class Ontario Driver Licence is required for all vehicles that are an Ambulance Transport, or a vehicle designed to hold between 10 to 24 passengers in conjunction with a Niagara Region issued driver licence.
- 2. An unrestricted ‘C’ class Ontario Driver Licence is required for all vehicles designed to hold 25 or more passengers, in conjunction with a Niagara Region issued driver licence.
- 3. An unrestricted ‘G’ class Ontario Driver Licence is required for all vehicles designed to hold 9 or less passengers, in conjunction with a Niagara Region issued driver licence.
- 4. No rental vehicles may be used.
- 5. Leased vehicles may be licensed.
- 6. The Niagara Region will establish a set of criteria for vehicle drivers that all initial applicants and renewal request will be reviewed against. This will include, demerit points, driver convictions, suspensions, criminal convictions or other types of court or other agency restrictions that would prohibit a driver from operating a vehicle.
- 7. Businesses are required to maintain a \$5 million general liability insurance policy, vehicles that hold 9 passengers or less must have a \$2 million per incident insurance policy, vehicles that hold 10 to 24 passengers must have a \$5 million per incident insurance policy, vehicles that hold 25 or more passengers must have an \$8 million per incident insurance policy.
- 8. Private or Medical Transport Ambulances and vehicles holding 10 passengers or more must supply a Ministry heavy vehicle inspection certificate every 6 months.
- 9. Horses must be inspected annually by a veterinarian.
- 10. All Drivers will need to supply a Criminal Record and Judicial Matters check annually for licensing, a Vulnerable Sector Police Screen may be requested by the Niagara Region for any Driver before a licence may be issued or maintained.
- 11. Vehicles that hold 9 passengers or less between 0 and 3 years of age with lest than 40,000 km will not require a safety inspection certificate to be licensed, vehicles between 3 and 7 years of age require an annual safety inspection certificate, vehicles greater than 7 years require a safety inspection certificate every 6 months .

Tow Trucks and Towing Yards



Operational Changes

1. All fees for all services must be approved by the Licensing Officer and must be posted within the vehicle and provided to the customer and the tow must be authorized by the customer prior to the service.
2. Fees are for the entire municipality of the Niagara Region shall be based on kilometers traveled, services provided and storage fees calculated by day and itemized on a receipt for the customer.
3. Fees must outline charges for entering into another municipality adjacent to the Niagara Region.
4. The Niagara Region may impose a limit on the number of Towing Services operating within the Niagara Region.
5. A registry of every tow completed is to be supplied to the Niagara Region every morning by 10:00 am.
6. No Police/EMS/Fire scanners may be used.
7. If the tow company has been called as part of an agreement signed by a third party to provide “roadside assistance” those fees may be charged in place of the established fees. All tow companies shall provide a list of third party ‘roadside assistance programs’ that they are contracted for.
8. Storage yards and compounds require a permanent metal fence with a minimum height of 3 meters and have a locking gate and a security system which includes Closed Circuit Television Cameras (CCTV) and must be licensed as a yard or compound with the Niagara Region.
9. Before a vehicle may be transferred into the Tow companies name, a letter of authorization must be received from the Licensing Officer authorizing the transfer and outline the make, model, year, VIN and provide an insurance release letter.
10. Towing Businesses may elect to be a member of the Niagara Region administered Towing Rotation, this will not form part of this by-law but will be contained in a separate Schedule of the by-law.
11. A customer may elect to call another towing service from outside of the Niagara Region and may freely do so, likewise, other garages and car dealerships may be called to tow a vehicle at the discretion of the customer. Niagara Region staff or police, fire or EMS will not provide any assistance in contacting a towing service but provide the number for the tow rotation list as administered by the Niagara Region.
12. Only towing companies that have their own licensed storage yard may tow vehicles to that yard.
13. All yards will be inspected and licensed by the Niagara Region, and where the yard is deemed as a police impound yard, co-inspected by police and the Niagara Region.

Eligibility/Compliance Requirements

1. An unrestricted ‘G’ class Ontario Driver Licence is required in conjunction with a Niagara Region issued driver licence.
2. Upgraded Ontario Driver Licences are required for drivers depending on the type and class of vehicle being operated.
3. The Towing Company must supply a copy of the current and valid CVOR for the business.
4. No rental vehicles may be used.
5. Leased vehicles may be used.
6. The Niagara Region will establish a set of criteria for drivers that all initial applicants and renewal request will be reviewed against. This will include, demerit points, driver convictions, suspensions, criminal convictions or other types of court or other agency restrictions that would prohibit a driver from operating a vehicle.
7. The Towing company must supply a Ministry heavy vehicle inspection certificate every 6 months for every towing vehicle.
8. Businesses are required to maintain a \$5 million general liability insurance, a \$2 million per incident vehicle insurance policy, a \$2 million per incident on-hook/in tow vehicle insurance policy, \$2 million per incident garage/storage/damage liability insurance policy.
9. Vehicle types will be defined as light, medium and heavy duty and further classified as ‘flatbed’ or ‘hook/chain/boom and wheel lift’ truck and must be built as and registered as a tow truck with the Ministry of transportation.
10. All tow trucks must have a winch, 360’ amber safety lights mounted in a roof bar and other equipment as required by the Licensing Officer.
11. All Drivers will need to supply a Criminal Record and Judicial Matters check annually for licensing, a Vulnerable Sector Police Screen may be requested by the Niagara Region for any Driver before a licence may be issued or maintained.

Salvage and Auto Wrecking Yard



Operational Changes

1. The register is to be completed for every transaction.
2. The registry will include the name etc of the seller, the date and time, a detailed description of the goods, the value or consideration paid for the good, the serial number or VIN of the good if available and a photo taken of each item and shall also include the make model and plate number of the vehicle delivering the items.
3. Hours of operation will now be outlined and include weekends and holidays and be impacted by the distance from residential areas by distance.
4. If an item was purchased or received for any other consideration and turns out to be stolen property, the property shall be turned over to the legal owner without any fees, charges or any other form of financial burden to that legal owner.
5. If the business feels the item may be stolen property, the property should not be purchased and the transaction refused and the police contacted.
6. The register shall be delivered to the Niagara Region daily by 10:00 am.

Eligibility/Compliance Requirements

1. There will be two categories, Shops and Yards, Shops cannot have an outdoor storage yard.
2. Fencing shall be uniform and permanent and shall not be made of 'see through' materials and shall be a minimum of 3 meters in height, no materials may be stacked higher than the fence and all materials must be 1 meter from the fence and the yard must have a locking gate and any high mast lighting must only point into the yard area.
3. A Salvage Yard may collect all salvage materials including motor vehicles and their parts, an Auto Wrecker may only collect motor vehicles and their parts.
4. Businesses are required to maintain a \$5 million general liability insurance.
5. All owners, persons associated with the business or employees of the business will supply the Niagara Region a Criminal Record and Judicial Matters check annually and the business shall supply the number of employees working at the property.
6. The Business must now have an annual fire inspection and provide the document to the Niagara Region as part of the annual renewal.
7. The business must include all Ministry licences as part of the application process.
8. The business shall provide a property description outlining all buildings and storage areas, their purpose and what is contained in each area and indicate areas that contain HAZMAT materials such as batteries, fuel oil, acids etc.
9. Any business that is zoned as 'legal non-conforming' may continue to operate and if sold may continue to operate if the local municipality approves the continuation of the business operation under the 'legal non-conforming' zoning restriction.
10. Legal non-conforming and regular operations may not expand their business footprint unless approval is granted by the local municipality and the Niagara Region.
11. Scrap metal bins for public use may only be placed outside of the fenced compound if the local municipality grants approval and the business applies for a separate licence from the Niagara Region for each bin.
12. Businesses that have an OMVIC licence to re-sell motor vehicles must clearly mark these vehicles for sale and may store these vehicles outside of the compound provided they are in compliance with all zoning requirements.

BUSINESS LICENSING BY-LAW REVIEW

We need your help to improve
our business licensing by-laws.

TAKE OUR ONLINE SURVEY

niagararegion.ca/business/licensing



niagararegion.ca/business/licensing

For more information: licensing@niagararegion.ca

Regional Municipality of Niagara

Draft Amendments to 2021 Schedule of Fees and Charges - Business Licensing Section

(proposed to be effective September 1, 2021)

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August 11, 2021

Fee #	Previous Fee #	Fee/Charge Description	Unit of Measure	2020 Fee/Charge (\$)	2021 Base Fee/Charge (\$)	HST (\$)	2021 Total Fee/Charge (\$)	Tax Implication	Change
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Business Licensing:

Unless otherwise stated below, refer to the appropriate Business Licensing By-Law for details on required frequency of fee payment (e.g. annual, one-time, etc.)

Fee descriptions that include "renewal" may be prorated under certain criteria as set under the appropriate Business Licensing by-law.

CS-144	CS-50	Adult Entertainment Parlour Owner	each	3,750.00	3,750.00	-	3,750.00	Exempt	None
CS-145	CS-51	Adult Entertainment Parlour Operator	each	1,200.00	1,200.00	-	1,200.00	Exempt	None
CS-146	CS-52	Adult Entertainment Parlour Entertainer	each	250.00	250.00	-	250.00	Exempt	None
CS-147	CS-53	Adult Entertainment Parlour Owner - Non-refundable Administration Fee	each	150.00	375.00	-	375.00	Exempt	None
CS-148	CS-54	Adult Entertainment Parlour Operator - Non-refundable Administration Fee	each	50.00	120.00	-	120.00	Exempt	None
CS-149	CS-55	Adult Entertainment Parlour Entertainer - Non-refundable Administration Fee	each	25.00	25.00	-	25.00	Exempt	None
CS-150	CS-56	Adult Entertainment Parlour Transfer of Owner's Licenses - Arm's length transfer	each	3,750.00	3,750.00	-	3,750.00	Exempt	None
CS-151	CS-57	Adult Entertainment Parlour Transfer of Owner's Licenses - Transfer to an existing Co-owner or non-arm's length transfer	each	1,015.00	1,015.00	-	1,015.00	Exempt	None
N/A	CS-58	Auto Wrecking Yard – Initial Application	each	360.00	370.00	-	370.00	Exempt	Delete
N/A	CS-59	Auto Wrecking Yard – Renewal	each	220.00	220.00	-	220.00	Exempt	Delete

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CS-152	CS-66	Caleche Business License	each	150.00	150.00	-	150.00	Exempt	Updated description
CS-153	N/A	Caleche Coach Operator License (1 month) - Initial Application	each	-	10.00	-	10.00	Exempt	New fee
CS-154	N/A	Caleche Coach Operator License (6 month) - Initial Application	each	-	30.00	-	30.00	Exempt	New fee
CS-155	CS-60	Caleche Coach Operator License (12 month) - Initial Application	each	60.00	60.00	-	60.00	Exempt	Updated description
CS-156	N/A	Caleche Coach Operator License (1 month) - Renewal	each	-	10.00	-	10.00	Exempt	New fee
CS-157	N/A	Caleche Coach Operator License (6 month) - Renewal	each	-	14.00	-	14.00	Exempt	New fee
CS-158	CS-61	Caleche Coach Operator License (12 month) - Renewal	each	28.00	28.00	-	28.00	Exempt	Updated description
CS-159	N/A	Caleche Carriage Plate and License (1 month) - Initial Application	each	-	100.00	-	100.00	Exempt	New fee
CS-160	N/A	Caleche Carriage Plate and License (6 month) - Initial Application	each	-	180.00	-	180.00	Exempt	New fee
CS-161	CS-62	Caleche Carriage Plate and License (12 month) - Initial Application	each	360.00	360.00	-	360.00	Exempt	Updated description
CS-162	N/A	Caleche Carriage Plate and License (1 month) - Renewal	each	-	50.00	-	50.00	Exempt	New fee
CS-163	N/A	Caleche Carriage Plate and License (6 month) - Renewal	each	-	93.00	-	93.00	Exempt	New fee

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CS-164	CS-63	Caleche Carriage Plate and License (12 month) - Renewal	each	185.00	185.00	-	185.00	Exempt	Updated description
CS-165	N/A	Caleche Carriage Plate and License (1 month) - Extra plate existing business	each	-	50.00	-	50.00	Exempt	New fee
CS-166	N/A	Caleche Carriage Plate and License (6 month) - Extra plate existing business	each	-	93.00	-	93.00	Exempt	New fee
CS-167	N/A	Caleche Carriage Plate and License (12 month) - Extra plate existing business	each	-	185.00	-	185.00	Exempt	New fee
CS-168	N/A	Caleche Horse License (1 month)	each	-	10.00	-	10.00	Exempt	New fee
CS-169	N/A	Caleche Horse License (6 month)	each	-	15.00	-	15.00	Exempt	New fee
CS-170	CS-65	Caleche Horse License (12 month)	each	30.00	30.00	-	30.00	Exempt	Updated description
CS-171	N/A	Caleche Business License - Transfer	each	-	150.00	-	150.00	Exempt	New fee
CS-172	CS-64	Caleche Carriage Plate and License - Transfer	each	360.00	360.00	-	360.00	Exempt	Updated description
N/A	CS-67	Paratransit Driver – Initial Application	each	60.00	60.00	-	60.00	Exempt	Delete
N/A	CS-68	Paratransit Driver – Renewal	each	40.00	40.00	-	40.00	Exempt	Delete
N/A	CS-69	Paratransit Owner – Initial Application	each	1,300.00	1,300.00	-	1,300.00	Exempt	Delete
N/A	CS-70	Paratransit Owner – Renewal	each	260.00	260.00	-	260.00	Exempt	Delete
N/A	CS-71	Paratransit Owner – Transfer	each	1,300.00	1,300.00	-	1,300.00	Exempt	Delete
N/A	CS-72	Paratransit Business	each	150.00	150.00	-	150.00	Exempt	Delete

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CS-173	CS-73	Salvage Yard License – Initial Application	each	370.00	370.00	-	370.00	Exempt	Updated description
CS-174	CS-74	Salvage Yard License – Renewal	each	220.00	220.00	-	220.00	Exempt	Updated description
CS-175	N/A	Salvage Yard License – Transfer	each	-	370.00	-	370.00	Exempt	New fee
CS-176	CS-75	Salvage Shop License – Initial Application	each	-	270.00	-	270.00	Exempt	Updated description
CS-177	CS-76	Salvage Shop License – Renewal	each	-	120.00	-	120.00	Exempt	Updated description
CS-178	N/A	Salvage Shop License – Transfer	each	-	270.00	-	270.00	Exempt	New fee
CS-179	CS-77	Second Hand Goods Dealer License – Initial Application	each	260.00	260.00	-	260.00	Exempt	Updated description
CS-180	CS-78	Second Hand Goods Dealer License – Renewal	each	160.00	160.00	-	160.00	Exempt	Updated description
CS-181	N/A	Second Hand Goods Dealer License – Transfer	each	-	260.00	-	260.00	Exempt	New fee
CS-182	CS-79	Second Hand Shop License – Initial Application	each	300.00	300.00	-	300.00	Exempt	Updated description
CS-183	CS-80	Second Hand Shop License – Renewal	each	185.00	185.00	-	185.00	Exempt	Updated description
CS-184	N/A	Second Hand Shop License – Transfer	each	-	300.00	-	300.00	Exempt	New fee
N/A	CS-81	Shuttle Driver – Initial Application	each	60.00	60.00	-	60.00	Exempt	Delete
N/A	CS-82	Shuttle Driver – Renewal	each	40.00	40.00	-	40.00	Exempt	Delete
N/A	CS-83	Shuttle Owner – Initial Application	each	1,300.00	1,300.00	-	1,300.00	Exempt	Delete
N/A	CS-84	Shuttle Owner – Renewal	each	260.00	260.00	-	260.00	Exempt	Delete
N/A	CS-85	Shuttle Owner – Transfer	each	1,300.00	1,300.00	-	1,300.00	Exempt	Delete

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N/A	CS-86	Shuttle Business	each	150.00	150.00	-	150.00	Exempt	Delete
N/A	CS-87	Sightseeing Driver – Initial Application	each	60.00	60.00	-	60.00	Exempt	Delete
N/A	CS-88	Sightseeing Driver – Renewal	each	40.00	40.00	-	40.00	Exempt	Delete
N/A	CS-89	Sightseeing Owner – Initial Application	each	1,300.00	1,300.00	-	1,300.00	Exempt	Delete
N/A	CS-90	Sightseeing Owner – Renewal	each	260.00	260.00	-	260.00	Exempt	Delete
N/A	CS-91	Sightseeing Owner – Transfer (New Owner)	each	1,300.00	1,300.00	-	1,300.00	Exempt	Delete
N/A	CS-92	Sightseeing Business	each	150.00	150.00	-	150.00	Exempt	Delete
CS-185	CS-93	Spare Vehicle Plate and License – Initial Application	each	625.00	625.00	-	625.00	Exempt	Updated description
CS-186	CS-94	Spare Vehicle Plate and License – Renewal	each	300.00	300.00	-	300.00	Exempt	Updated description
N/A	CS-95	Specialty Driver – Initial Application	each	60.00	60.00	-	60.00	Exempt	Delete
N/A	CS-96	Specialty Driver – Renewal	each	40.00	40.00	-	40.00	Exempt	Delete
N/A	CS-97	Specialty Owner – Initial Application	each	1,300.00	1,300.00	-	1,300.00	Exempt	Delete
N/A	CS-98	Specialty Owner – Renewal	each	260.00	260.00	-	260.00	Exempt	Delete
N/A	CS-99	Specialty Owner – Transfer	each	1,300.00	1,300.00	-	1,300.00	Exempt	Delete
N/A	CS-100	Specialty Business	each	150.00	150.00	-	150.00	Exempt	Delete
CS-187	CS-103	Taxicab Broker License	each	150.00	150.00	-	150.00	Exempt	Updated description
CS-188	N/A	Taxicab Broker License - Transfer	each	-	150.00	-	150.00	Exempt	New fee
CS-189	CS-101	Taxicab Driver License - Initial Application	each	60.00	60.00	-	60.00	Exempt	Updated description
CS-190	CS-102	Taxicab Driver License - Renewal	each	40.00	40.00	-	40.00	Exempt	Updated description

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CS-191	CS-104	Taxicab Vehicle Plate and License - Initial Application	each	1,300.00	1,300.00	-	1,300.00	Exempt	Updated description
CS-192	CS-105	Taxicab Vehicle Plate and License - Renewal	each	260.00	260.00	-	260.00	Exempt	Updated description
CS-193	N/A	Taxicab Vehicle Plate and License - Extra plate existing business	each	-	260.00	-	260.00	Exempt	New fee
CS-194	CS-106	Taxicab Vehicle Plate and License - Transfer	each	1,300.00	1,300.00	-	1,300.00	Exempt	Updated description
CS-195	CS-113	Tow Truck Business License	each	150.00	150.00	-	150.00	Exempt	Updated description
CS-196	N/A	Tow Truck Business License - Transfer	each	-	150.00	-	150.00	Exempt	New fee
CS-197	CS-107	Tow Truck Driver License – Initial Application	each	60.00	60.00	-	60.00	Exempt	Updated description
CS-198	CS-108	Tow Truck Driver License – Renewal	each	40.00	40.00	-	40.00	Exempt	Updated description
CS-199	CS-109	Tow Truck Vehicle Plate and License - Initial Application	each	1,300.00	1,300.00	-	1,300.00	Exempt	Updated description
CS-200	CS-110	Tow Truck Vehicle Plate and License - Renewal	each	260.00	260.00	-	260.00	Exempt	Updated description
CS-201	N/A	Tow Truck Vehicle Plate and License - Extra plate existing license	each	-	260.00	-	260.00	Exempt	New fee
CS-202	CS-111	Tow Truck Vehicle Plate and License - Transfer	each	1,300.00	1,300.00	-	1,300.00	Exempt	Updated description
CS-203	CS-112	Tow Truck Yard License	each	100.00	100.00	-	100.00	Exempt	Updated description
CS-204	N/A	Tow Truck Yard License - Transfer	each	-	100.00	-	100.00	Exempt	New fee

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CS-205	N/A	Transportation Network Company Broker License	each	-	150.00	-	150.00	Exempt	New fee
CS-206	CS-114	Transportation Network Company Driver License - Initial Application	each	40.00	60.00	-	60.00	Exempt	Updated description; fee increased from \$40 to \$60
CS-207	N/A	Transportation Network Company Driver License - Renewal	each	-	40.00	-	40.00	Exempt	New fee
CS-208	N/A	Transportation Network Company Vehicle License	each	-	20.00	-	20.00	Exempt	New fee
N/A	CS-115	Transportation Network Company – Driver application administration fee for second and subsequent short-term licences (less than 12 months)	each	25.00	25.00	-	25.00	Exempt	Delete
CS-209	CS-116	Transportation Network Company Fleet Size - 1 - 24 Vehicles	each	1,020.00	1,020.00	-	1,020.00	Exempt	None
CS-210	CS-117	Transportation Network Company Fleet Size - 25 - 99 Vehicles	each	5,100.00	5,100.00	-	5,100.00	Exempt	None
CS-211	CS-118	Transportation Network Company Fleet Size - 100 - 499 Vehicles	each	10,200.00	10,200.00	-	10,200.00	Exempt	None
CS-212	CS-119	Transportation Network Company Fleet Size - 500 - 999 Vehicles	each	15,300.00	15,300.00	-	15,300.00	Exempt	None
CS-213	CS-120	Transportation Network Company Fleet Size - 1000+ Vehicles	each	50,750.00	50,750.00	-	50,750.00	Exempt	None
CS-214	CS-121	Transportation Network Company Per Trip Charge	trip	0.13	0.13	-	0.13	Exempt	None

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CS-215	N/A	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Business License	each	-	150.00	-	150.00	Exempt	New fee
CS-216	N/A	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Business License - Transfer	each	-	150.00	-	150.00	Exempt	New fee
CS-217	N/A	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Driver License (1 month) - Initial Application	each	-	10.00	-	10.00	Exempt	New fee
CS-218	N/A	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Driver License (6 month) - Initial Application	each	-	30.00	-	30.00	Exempt	New fee
CS-219	N/A	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Driver License (12 month) - Initial Application	each	-	60.00	-	60.00	Exempt	New fee
CS-220	N/A	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Driver License (1 Month) - Renewal	each	-	10.00	-	10.00	Exempt	New fee
CS-221	N/A	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Driver License (6 month) - Renewal	each	-	20.00	-	20.00	Exempt	New fee
CS-222	N/A	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Driver License (12 month) - Renewal	each	-	40.00	-	40.00	Exempt	New fee

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CS-223	N/A	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Vehicle Plate and License (1 month) - Initial Application	each	-	300.00	-	300.00	Exempt	New fee
CS-224	N/A	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Vehicle Plate and License (6 month) - Initial Application	each	-	650.00	-	650.00	Exempt	New fee
CS-225	N/A	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Vehicle Plate and License (12 month) - Initial Application	each	-	1,300.00	-	1,300.00	Exempt	New fee
CS-226	N/A	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Vehicle Plate and License (1 month) - Renewal	each	-	50.00	-	50.00	Exempt	New fee
CS-227	N/A	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Vehicle Plate and License (6 month) - Renewal	each	-	130.00	-	130.00	Exempt	New fee
CS-228	N/A	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Vehicle Plate and License (12 month) - Renewal	each	-	260.00	-	260.00	Exempt	New fee

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CS-229	N/A	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Vehicle Plate and License (1 month) - Extra plate existing business	each	-	50.00	-	50.00	Exempt	New fee
CS-230	N/A	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Vehicle Plate and License (6 month) - Extra plate existing business	each	-	130.00	-	130.00	Exempt	New fee
CS-231	N/A	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Vehicle Plate and License (12 month) - Extra plate existing business	each	-	260.00	-	260.00	Exempt	New fee
CS-232	N/A	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Vehicle Plate and License - Transfer	each	-	1,300.00	-	1,300.00	Exempt	New fee

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Business Licensing Administrative

CS-233	CS-122	NSF Cheque	each	35.00	35.00	-	35.00	Exempt	None
CS-234	CS-123	Late fee	each	50.00	50.00	-	50.00	Exempt	None
CS-235	CS-124	License replacement	each	60.00	60.00	-	60.00	Exempt	None
CS-236	CS-125	Replacement Plate	each	-	10.00	-	10.00	Exempt	None
CS-237	CS-126	Replacement Vehicle	each	100.00	100.00	-	100.00	Exempt	None
CS-238	CS-127	Hearing fee	each	-	75.00	-	75.00	Exempt	None
CS-239	N/A	Vehicle plate – non-use status (relevant renewal rate will apply upon re-activation)	each	-	-	-	-	Exempt	New fee

Note - Tax Implication:

- If HST is found to be applicable where originally deemed not applicable, HST will be applied and payable by the user paying the fee or charge.

- Inter- and intra-municipal supplies are tax exempt and billed under the "2021 Base Fee/Charge" column unless they relate to supply of electricity, gas, steam, or telecommunication services made while acting as a public utility.

Towing Rate Fee Tariff (effective September 01, 2021)

(Maximum chargeable fees may be discounted at the discretion of the licensed tow company)

(Auto club contract rates supersede tow rate fee tariff)

The Towing Tariff Rates Apply to Standard Weight Tow Trucks (Including Flatbeds) unless other wise Specified. No other fees may be charged.

Service	Maximum Rate	Notes
Accident Tow	\$325.00	Includes 30 mins of clean-up, after initial 30 mins clean-up billed at \$25 per 15 min increment and 25 kms of towing, after initial 25 kms \$4.00 per km charge
Breakdown Tow	\$160.00	Includes 25 km of towing, after initial 25 kms \$4.00 per km charge
Vehicle Recovery	\$75.00 (initial 15 mins)	After initial 15 mins fee billed at \$25.00 per 15 mins, includes winching
Absorbent Material	\$15.00	Billed for each bag of material used
Extra Truck	\$25.00	Fee is billed for every 15 minute interval
Debris Disposal	\$100.00	Flat Rate
Dollies	\$75.00	Flat Rate
Lock-Out	\$75.00	Unlocking Vehicle
Tire Change	\$75.00	Charged Per Tire Changed
Boost	\$75.00	Boosting the Battery
Fuel Delivery	\$75.00	Plus cost of fuel
Modified Vehicle Tow	\$100.00	Extra charge due to modifications to the vehicle, height, width, ground clearance, length
Burned Vehicle Tow	\$100.00	Extra charge for burned out vehicle tow for cleanup of equipment and yard surface
Second and Subsequent Accident Tow	\$150.00	Fee charged for each location the vehicle is towed after being removed from the licensed yard
Wait Time	\$25.00	Fee is billed for every 15 minute interval
Per km Tow Rate	\$4.00 per km	
Medium Duty Tow Truck	\$50.00	\$50.00 added to Accident Tow or Breakdown Tow due to weight of vehicle being towed
Heavy Tow Truck	\$750.00 per hour	Minimum 2 hr charge, after 2 hours billed at \$187.50 per 15 min increment

Outdoor Vehicle Storage	\$60.00	Per calendar day of vehicle storage
Indoor Vehicle Storage	\$75.00	Per calendar day of vehicle storage
Heavy Vehicle Storage	\$100.00	Per calendar day of heavy vehicle storage
After Hours Gate Fee	\$75.00	Afterhours access to vehicle in storage yard. Fee is for upto one hour of access.

Taxi-Cab Meter Tariff (effective September 01, 2021)

(Taxi-Cab Meter rates are maximums and may be discounted at the discretion of the licensed taxi-cab broker)

(Contract or flat rates may be charged as long as the Taxi-Cab Meter rate is not exceeded)

Taxi-Cab Meters must be activated for all trips. No surcharges for Accessible Services shall be charged. No other fees may be charged.

Taxi-Cab Meter Rate Type	Taxi-Cab Meter Rates
Taxi-Cab Meter Initial Drop Rate	\$3.80
Taxi-Cab Meter Distance Rate	\$0.32 per 110 meters
Taxi-Cab Meter Wait Time Rate	\$31.00 per hour

Industry Information

The following data regarding the businesses licensed by the Region is provided for information purposes.

1. Taxi and TNC

- Number of Taxi Brokers 12
- Number of Taxi Drivers 284 to 375 (number has fluctuated due to COVID-19 impacts)
- Number of Taxi Plates 371 (347 main and 24 spare)
- Number of TNC Brokers 3
- Number of TNC Drivers 686 to 1200 (number has fluctuated due to COVID-19 impacts)
- Number of TNC Vehicles 686 to 1200 (number has fluctuated due to COVID-19 impacts)

2. Vehicles Used for Hire

- Number of Vehicle for Hire Businesses 85 (number may be reduced after July 2021 due to COVID-19 impacts and the delayed tourism season)
- Number of Vehicle for Hire Drivers 85 to 300 (number has fluctuated due to COVID-19 impacts)
- Number of Vehicle for Hire Plates 414 (number may be reduced after July 2021 due to COVID-19 impacts and the delayed tourism season)
- The number of business that have made it through the COVID-19 pandemic and remain operating will not be known until after July 2021. We expect anywhere from 30 to 40% will not be returning to provide any business operations. The majority of the operators have placed most of their fleets in non-use.

3. Salvage Yards

- Number of Salvage Yard Businesses 19
- Number of Salvage Shop Businesses 1
- Number of Auto Wrecking Yard Businesses 24
- Salvage Yards and Auto Wrecking Yards will be merged

4. Second Hand Shops

- Number of Second Hand Shop Businesses 53
- Number of Second Hand Dealer Businesses 15

5. Tow Trucks

- Number of Towing Businesses 44
- Number of Towing Drivers 170
- Number of Towing Plates 186
- Towing fee tariff has been created and is attached to this report as Appendix 8
- Strengthened Provincial Oversight of the Towing Sector:
 - During the course of the Region's internal review and stakeholder engagement, the Province was also doing their own review, resulting in the Moving Ontarians More Safely Act, 2021 (MOMS Act). The MOMS Act was introduced by the Ontario government to help strengthen Provincial oversight of various sectors, including the towing sector, and received Royal Assent on June 3, 2021. The MOMS Act entails the following legislative and regulatory changes, including the introduction of the Towing and Storage Safety and Enforcement Act, 2021, (TSSEA):
 - requiring tow operators, tow truck drivers and vehicle storage operators to be certified under the TSSEA and meet prescribed requirements and standards;
 - set standards for customer protection and roadside behaviours, including penalties for non-compliance; and
 - establish a Director of Towing and Vehicle and Storage Standards to provide oversight.
 - Reference to the TSSEA provisions have been integrated into the Region's Tow Truck By-law, to ensure that Applicants and Licensees are aware of the new requirements.
 - The TSSEA is anticipated to come into force some time in 2022, on a date as prescribed by the Lieutenant Governor.

6. Adult Entertainment Sector to be reviewed in 2022

Governance and enforcement of the Adult Entertainment and Body Rub Parlour industries became the responsibility of Niagara Region as part of the transfer of business licensing from Niagara Regional Police.

Currently the governance and enforcement of Adult Entertainment and Body Rub Parlour industries is conducted in two ways:

- Delegated authority to the Region from the local area municipalities (St. Catharines, Thorold and Niagara Falls); or
- Directly through a Niagara Region by-law (Niagara-on-the-Lake, Fort Erie and Welland).

Staff intend to conduct a separate review of the existing adult entertainment licensing regime, including stakeholder and public engagement. The complexity of the 3 existing lower-tier by-laws; coupled with the desire to harmonize all the Adult Entertainment by-laws in the future was the key factor in that decision and a fulsome review will be undertaken Q3 2022.

Business Licensing Division Overview

The Business Licensing Division is comprised of the following staffing complement:

- 1 FTE – Manager Business Licensing/Licensing Officer
- 4 FTE – Licensing Enforcement Officer
- 1 TPT – Licensing Enforcement Officer
- 1 FTE – Licensing Enforcement Clerk

The Division's administrative hours are Monday to Friday 9:00 am to 5:00 pm.

The Division's enforcement operations are 7 days a week (Monday to Friday, 7:30 am to 8:30 pm, inclusive of holidays; and 10:00 am to 8:30 pm on weekends).

Some of the primary administrative services provided by the division include:

- Processing licence applications;
- Approving, denying, revoking, suspending or placing conditions on licences;
- Processing payments;
- Maintaining the licensing database;
- Issuing licences;
- Coordinating court appearances, court documentation and evidence requirements.

The major operational services provided by the division include:

- Scheduled compliance inspections of licence holders;
- Random compliance inspections of licence holders;
- Complaint investigations pertaining to licence holders;

- Complaint investigations pertaining to unlicensed businesses;
- Deterring criminal impacts within the licensed industries and liaising with NRPS as necessary.

In the initial analysis of the transfer of business licensing responsibilities to Niagara Region from Niagara Regional Police, it was suggested that the division could operate on 100% cost recovery through licensing fees. This has not been the case since the transition of the responsibilities and has been further impacted by the COVID-19 restrictions on the businesses licensed by the division.

It is expected that full cost recovery from licensing fees will not be achieved but rather a percentage of the operations will be recoverable through the fees as is the case in many municipalities. Licensing fees continue to be reviewed and will be adjusted annually to offset expenses directly related to licensing including wage increases, cost of living and technology expenses.

It should be noted these operations have been maintained during the COVID-19 pandemic lockdown measures.

Subject: Rapid Housing Initiative (RHI) Capital Funding

Report to: Corporate Services Committee

Report date: Wednesday, August 11, 2021

Recommendations

1. That, contingent on Federal government approval of Niagara's RHI submission, a gross capital budget adjustment in the amount of \$13,577,582 and \$0 net, **BE APPROVED (and INITIATED)** for the Welland Multi-Residential Intensification Project and that the project **BE FUNDED** as follows:

- Federal RHI Grant - \$10,515,033
- Development Charges – Social Housing - \$2,465,243
- Municipal Contributions - \$597,306

Key Facts

- The purpose of this report is to notify Regional Council of staff's intention to submit the Welland Multi-Residential Intensification project under the recently announced RHI City Stream funding program and to seek approval for the required budget adjustment.
- The Rapid Housing Initiative (RHI) is a Federal funding program created in 2020 to address the urgent housing needs of vulnerable populations. New Construction or Major Renovation projects must add net new units, and be completed within one (1) year of funding agreement.
 - RHI Round 2 funding was announced by the Federal government for 2021, totalling \$1.5 billion to be delivered through two separate funding streams: the Cities Stream (administered by each municipality receiving funds), and the Projects Stream (capital grant directly allocated to project applicants).
 - The Regional Municipality of Niagara has received \$10.5 million in Capital Grant, to be allocated to local affordable housing project(s) selected by the Region.
- Section 6.6(b) of the Budget Control By-Law allows for the creation of an in-year Capital Project if external funding is received for that project. Budget adjustments exceeding \$1 million require Regional Council approval.
 - Staff have identified that non-Federally funded costs associated for this project are eligible for Development Charges as the units are new to Niagara's affordable housing inventory.

- Consistent with other similar projects with funds provided to the Region for a housing project, a legal operating agreement will likely be required between NRH (Niagara Regional Housing) and Niagara Region outlining responsibilities depending on the requirements of the RHI funding programs.
- The City of Welland is in full support of the project; at a pre-consultation meeting in December 2020, City staff confirmed exemption from zoning bylaws, Development Charge and Planning fee waivers, and expedited approvals to meet the RHI timeline.
- The funding announcement under the Cities Stream will allow Niagara Region to transfer the NRH current proposed project from the RHI Project Stream to the Cities Stream; NRH may then submit a replacement project into the RHI Project Stream for application for full capital funding (to be considered in a subsequent call for proposals across the country).
- In accordance with the Niagara Region budget planning by-law and capital financing policy, operating costs associated with new capital are to be approved in the year the capital project is approved in order to ensure all required funding is established.

Financial Considerations

This project was identified in NRH's 2022 capital budget forecast and is now being recommended for RHI funding as it is shovel ready. Confirmation of the Federal capital funding is pending approval based on a business case to be submitted by Niagara Region to CMHC (Canadian Mortgage & Housing Corporation) through the RHI City Stream by August 31, 2021. It is anticipated that Niagara Region will be notified of the final decision regarding the business case by mid October 2021. The project must be completed 12 months after signing the agreement and all of the funds will be advanced to Niagara Region once the project is approved. Details of the business case and funding submission process are outlined in the Analysis section of this report.

The project budget originated in 2020 with a \$100,000 transfer of NRH surplus operating funds in order to get Region owned land shovel ready for this project. The anticipated capital costs being requested as part of this budget adjustment are \$13.6 million, funded by Federal RHI grant in the amount of \$10.5 million, \$2.5 by Social Housing Development Charges (DCs) and \$0.6 million in municipal contributions through Development Charge Grants/Exemptions. The Regional portion of the DC grants/exemptions is funded from the levy similar to all other DC grants.

If the proposed capital costs of the project cannot be funded through RHI, Niagara Region would consider the project as a 2022 capital budget request, funded by DCs and reserves, as previously planned.

Development charges of \$2.5 million are recommended to fund a part of this project since the \$10.5 million provided under RHI is not sufficient to fund construction of all 42 units of the project. A minimum of 41 units are required in order to receive RHI funding and 42 units is preferred based on project design.

Niagara Region's 2017 Development Charge Background study includes \$26 million in total capital projects with \$20 million for additional housing units which may be used to fund the Region's share of this project. The province proclaimed amendments to the DC Act on September 18, 2020 which removed a mandatory 10% reduction of funding of eligible Development Charge therefore the full \$2.5 million may be funded from DCs. Social housing reserves were \$2.5 million at the 2020 year-end before capital commitments. Net of commitments the balance is forecast to be negative \$11 million. The pace of Regional construction activity has not realized the same level of DC collections/revenues in the Social Housing Development Reserve however any projected DC deficits as a result of capital commitments will be recovered through future DC collections under both the current and future DC by-laws. The reserve is projected to be positive by 2024 based on projected annual collections of \$3.0 million.

A requirement under the Niagara Region budget planning by-law and capital financing policy is that operating costs associated with new capital are budgeted in the year the project is approved in order to ensure all required funding is established. Also, it is best practice for housing developments to be self-sustaining once constructed and occupied, meaning that tenant rents collected are sufficient to fund operating and capital requirements of the facility without a levy impact. It should be noted that in light of the fact that RHI funding targets vulnerable populations and requires a certain tenant portfolio mix based on all unit rents being based on Rent Geared to Income, the budget for anticipated tenant rents is expected to be sufficient to fund operating costs. The Region's current asset management practice is to include, in the operating budget of any new incremental capital asset, a contribution to reserves in accordance with best practice in asset management that ranges from 2-3% based on the useful life of the assets. The budget for tenant rents will fund \$64,000 (0.6%) transfer to capital reserves leaving a shortfall of approximately \$163,000 per year which staff will make best efforts to address in the 2022 budget.

Estimated operating budget:

Type of Revenue/Expense	Estimated Annual Amount	Details
Rental Income (100% RGI)	\$ (268,000)	Includes \$5,000 estimated laundry income

Type of Revenue/Expense	Estimated Annual Amount	Details
Facility Expenses	\$ 204,000	Includes utilities, property taxes, maintenance, janitorial, snow, insurance
Contribution to Reserves (alignment with asset management direction)	\$ 227,000	Based on 2% of replacement cost
Total Estimated Shortfall	\$ 163,000	Shortfall of 1.44% of replacement cost

Capital funding from the Federal and provincial governments has most recently been provided without considering the ongoing operating budget needs once the asset is in-service. In light of the positive social outcomes that it will achieve for the vulnerable populations that are targeted, Niagara Region remains committed to this project even though this development would not be fully self-sustaining for capital replacement. The 2021 operating budget for NRH will be adjusted to reflect the estimated annual operating revenues and expenses for this project to a net impact of zero.

Analysis

Project Summary:

In 2019, Niagara Regional Housing (NRH) acquired a 0.58 acre vacant lot in Welland for the purposes of residential development to help address Niagara's housing crisis. NRH has continued front-end planning for a new multi-unit, modular, affordable apartment on the property. In response to the Federal government's July 2021 announcement of the Rapid Housing Initiative Round 2, development work for the project has been accelerated to meet the aggressive timelines of this funding program.

The guiding principle for this project is the creation of "safe, affordable, and sustainable" housing for vulnerable members of the population, including women, Indigenous groups and minorities who are all highly represented on NRH's centralized waitlist. The project will serve people in both the highest core need and longest NRH wait-time segments. (e.g. Welland's 16-year wait for an affordable 1-bed unit, or 7-year wait for a 2-bed unit).

The project involves construction of a 42-unit mid-rise modular apartment, with a combination of 1-bedroom, 2-bedroom and studio / bachelor units. All units will be full RGI with rents set to the maximum shelter allowance. Six units will be dedicated to supportive housing through the Region's Housing First program.

The building is to remain affordable in perpetuity, title shall remain in the name of NRH and it will be operated by NRH as part of its housing portfolio in accordance with existing agreements between NRH and Niagara Region.

By selecting a modular design / construction approach, NRH is adopting an innovative delivery method that should provide the following benefits: government funding to offset the majority of capital costs, resulting in reduced operating expenses compared to a conventional build; and a compressed construction schedule that will allow NRH to put people in new units in a significantly shortened timeframe, meeting the rapid implementation requirements of the funding.

The project will exceed both accessibility and energy efficiency requirements. NRH continues to incorporate Niagara's Facility Accessible Design Standards (FADS) on all new projects, as well as industry-approved barrier-free principles.

Niagara Region Public Health - HEIP

As identified in BRC-C 8-2021 Health Equity-Informed Planning (HEIP) Project Update, a cross sectional, interdepartmental team of staff have been guiding the Health Impact Assessment (HIA) process at Niagara Region. This is aligned with the HEIP Project, part of the Council strategic priority, Fostering a Healthy and Vibrant Community. The initial stages of an HIA involves screening projects for information to aid in the understanding of what social determinants of health (SDOH) the capital project may impact. The Welland Multi-Residential Intensification project was selected to be part of this process. Results of this initial screen along with other select projects will be summarized as part of the 2022 Capital Budget Report.

Alternatives Reviewed

- Council approve gross capital budget adjustment, and project proceeds as per RHI 2 funding schedule.
- Council not approve gross capital budget adjustment, and project is delayed until alternative funding becomes available and Niagara Region will forfeit the receipt of the RHI City Stream funding allocation of \$10.5 million.

Relationship to Council Strategic Priorities

Since RHI funding provides an opportunity to increase affordable housing stock in Niagara in support of vulnerable populations, this project is aligned with the Council Strategic Priority of Healthy and Vibrant Communities.

Other Pertinent Reports

N/A

Prepared by:

Cameron Banach
Manager Housing Operations
Community Services/Acting CEO
Niagara Regional Housing

Recommended by:

Adrienne Jugley
Commissioner
Community Services

Submitted by:

Ron Tripp, P.Eng.
Acting Chief Administrative Officer

This report was prepared in consultation with Donovan D'Amboise, Manager of Program Financial Support (Acting), Gordon Szaszi, Housing Development Project Manager, Sterling Wood, Legal Counsel, and Helen Chamberlain, Director of Financial Management & Planning/Deputy Treasurer.

MEMORANDUM

CSC-C 22-2021

Subject: Recommendations from the Women's Advisory Committee meeting held on July 28, 2021

Date: August 11, 2021

To: Corporate Services Committee

From: Ann-Marie Norio, Regional Clerk

The Women's Advisory Committee, at its meeting held on July 28, 2021, was provided a presentation respecting Women Owned/Led Businesses in Niagara by Blake Landry, Economic Research & Analysis Manager, Niagara Region.

Subsequently the Committee passed the following motions:

That the Women's Advisory Committee **RECOMMENDS:**

1. That the presentation respecting Women Owned/Led Businesses **BE USED** to inform policies and programs offered to support businesses ensuring a gender based lens; and
2. That a Gender-based Analysis Plus process **BE COMPLETED** for all economic development surveys where appropriate.

As these recommendations impact Economic Development, it is suggested that they be referred to the Planning and Economic Development Committee for consideration.

Should Corporate Services Committee be in favour of the referral, the following motion is suggested:

That the recommendations from the Women's Advisory Committee meeting held on July 28, 2021, respecting Economic Development, **BE REFERRED** to the Planning and Economic Development Committee meeting being held on September 15, 2021.

Respectfully submitted and signed by

Ann-Marie Norio
Regional Clerk

Minute Item No. 5.1

PDS 33-2021

Niagara Official Plan: Land Needs Assessment and Settlement Area Boundary Review Update

That Report PDS 33-2021, dated August 11, 2021, respecting Niagara Official Plan: Land Needs Assessment and Settlement Area Boundary Review Update, **BE RECEIVED** and the following recommendations **BE APPROVED**:

1. That Council **ENDORSE**, in principle, the use of the Made-in-Niagara Forecast and the Revised Land Needs Assessment (Appendix 1 of Report PDS 33-2021), to advance the Niagara Official Plan, the Water and Wastewater Master Plan, the Transportation Master Plan, the Development Charge Background Study and By-law, and other Regional programs; and
2. That Report PDS 33-2021 **BE CIRCULATED** to local area municipalities, partner agencies and the Province.

Minute Item No. 5.2

PDS 34-2021

Regional Response – Proposed Land Use Compatibility Guideline

That Report PDS 34-2021, dated August 11, 2021, respecting Regional Response - Proposed Land Use Compatibility Guideline, **BE RECEIVED** and the following recommendations **BE APPROVED**:

1. That Report PDS 34-2021 **BE RECEIVED** for information;
2. That staff **BE DIRECTED** to continue to provide detailed comments on the Ministry of the Environment, Conservation and Parks' proposed Land Use Compatibility Guideline (ERO #019-2785), and any associated matters, as warranted; and
3. That Report PDS 34-2021 **BE CIRCULATED** to local area municipal Planning Directors.

Minute Item No. 6

Consent Items for Information

That the following items **BE RECEIVED** for information:

PDS 32-2021

Update on Niagara Official Plan - Further Draft Policy Development (and **BE CIRCULATED to the local area municipalities)**

ED 15-2021

Economic Development Quarterly Update

Minute Item No. 9.1

Confidential ED 16-2021

A Matter of a Proposed Disposition of Surplus Lands under Section 239(2) of the Municipal Act, 2001 - located at 401A Lakeshore Road and 14 Broadway Avenue in the City of St. Catharines

That Confidential Report ED 16-2021, dated August 11, 2021, respecting A Matter of a Proposed Disposition of Surplus Lands under Section 239(2) of the *Municipal Act, 2001* - located at 401A Lakeshore Road and 14 Broadway Avenue in the City of St. Catharines, **BE RECEIVED** and the recommendations contained therein, **BE APPROVED.**

**THE REGIONAL MUNICIPALITY OF NIAGARA
PLANNING & ECONOMIC DEVELOPMENT COMMITTEE
MINUTES**

**PEDC 8-2021
Wednesday, August 11, 2021
Council Chamber/Video Conference
Regional Headquarters, Campbell West
1815 Sir Isaac Brock Way, Thorold, ON**

Committee Members Present in the Council Chamber: Huson (Committee Chair), Witteveen (Committee Vice Chair)

Committee Members Present via Video Conference: Bradley (Regional Chair), Butters, Bylsma, Campion, Darte, Easton, Fertich, Foster, Greenwood, Heit, Junkin, Redekop, Rigby, Ugulini

Absent/Regrets: Bellows, Sendzik, Zalepa

Staff Present in the Council Chamber: A. Jugley, Acting Chief Administrative Officer/Commissioner, Community Services, M. Lewis, Client & Support Advisor, A.-M. Norio, Regional Clerk, M. Sergi, Commissioner, Planning & Development Services, G. Spezza, Director, Economic Development, M. Trennum, Deputy Regional Clerk, C. Ventura, Legislative Coordinator

Staff Present via Video Conference: E. Acs, Manager, Community Planning, A. Alderman, Senior Development Planner, E. Amirault, Associate Director, Finance Operations & System, I. Banach, Manager, Long Range Planning, G. Bowie, Senior Planner, P. Busnello, Manager, Development Planning, S. Dunsmore, Manager, Development Engineering, F. Fucile, Manager, Real Estate, D. Gibbs, Director, Legal & Court Services, D. Giles, Director, Community & Long Range Planning, D. Heyworth, Official Plan Policy Consultant, V. Kuhns, Associate Director, Economic Development, B. Menage, Director, Procurement & Strategic Acquisition, C. Millar, Senior Planner, K. Scholtens, Manager, Business Development & Expedited Services, I. Stetic, Project Manager, Water & Wastewater Development Planning, S. Wood, Legal Counsel, B. Zvaniga, Interim Commissioner, Public Works

1. CALL TO ORDER

Committee Chair Huson called the meeting to order at 1:00 p.m.

2. DISCLOSURES OF PECUNIARY INTEREST

There were no disclosures of pecuniary interest.

3. PRESENTATIONS

3.1 Niagara Official Plan: Made-in-Niagara Forecast and Land Needs Assessment

Isaiah Banach, Manager, Long Range Planning, provided information respecting Niagara Official Plan: Made-in-Niagara Forecast and Land Needs Assessment. Topics of the presentation included:

- The Land Needs Assessment Program
- Coordinated Planning, Infrastructure, and Finance
- Delays in One Project can cause Delays in Others
- Significant Consultation Since May 2021
- Addressing Affordability
- Made-in-Niagara Forecasts
- Intensification in Built-up Areas
- Land Needs Numbers
- Moving Forward
- Settlement Area Boundary Review (SABR)
- Urban Area Expansion Requests, July 2021
- Takeaways

Councillor Information request(s):

Provide information respecting E. coli containment and treatment.
Councillor Rigby

4. DELEGATIONS

Moved by Councillor Ugolini
Seconded by Councillor Junkin

That Chuck McShane, **BE PERMITTED** to appear before Committee as a delegate respecting Niagara Official Plan: Land Needs Assessment and Settlement Area Boundary Review Update (PDS 33-2021).

Carried

4.1 Niagara Official Plan: Land Needs Assessment and Settlement Area Boundary Review Update (Report PDS 33-2021(Agenda Item 5.1))

4.1.1 Chuck McShane, Niagara Home Builders Association

Chuck McShane, Executive Officer, Niagara Home Builders Association, appeared before Committee regarding Report PDS 33-2021. Mr. McShane thanked staff for their work on the report, and provided comments respecting urban boundary expansion, increasing housing supply to meet provincial growth targets, and expected intensification pressures for municipalities.

5. **ITEMS FOR CONSIDERATION**

5.1 PDS 33-2021

Niagara Official Plan: Land Needs Assessment and Settlement Area Boundary Review Update

Moved by Councillor Redekop
Seconded by Councillor Rigby

That Report PDS 33-2021, dated August 11, 2021, respecting Niagara Official Plan: Land Needs Assessment and Settlement Area Boundary Review Update, **BE RECEIVED** and the following recommendations **BE APPROVED**:

1. That Council **ENDORSE**, in principle, the use of the Made-in-Niagara Forecast and the Revised Land Needs Assessment (Appendix 1 of Report PDS 33-2021), to advance the Niagara Official Plan, the Water and Wastewater Master Plan, the Transportation Master Plan, the Development Charge Background Study and By-law, and other Regional programs; and
2. That Report PDS 33-2021 **BE CIRCULATED** to local area municipalities, partner agencies and the Province.

Carried

5.2 PDS 34-2021

Regional Response – Proposed Land Use Compatibility Guideline

Moved by Councillor Greenwood
Seconded by Councillor Foster

That Report PDS 34-2021, dated August 11, 2021, respecting Regional Response - Proposed Land Use Compatibility Guideline, **BE RECEIVED** and the following recommendations **BE APPROVED**:

1. That Report PDS 34-2021 **BE RECEIVED** for information;
2. That staff **BE DIRECTED** to continue to provide detailed comments on the Ministry of the Environment, Conservation and Parks' proposed Land Use Compatibility Guideline (ERO #019-2785), and any associated matters, as warranted; and
3. That Report PDS 34-2021 **BE CIRCULATED** to local area municipal Planning Directors.

Carried

6. CONSENT ITEMS FOR INFORMATION

Moved by Councillor Bylsma
Seconded by Councillor Fertich

That the following items **BE RECEIVED** for information:

PDS 32-2021

Update on Niagara Official Plan - Further Draft Policy Development (and **BE CIRCULATED** to the local area municipalities)

ED 15-2021

Economic Development Quarterly Update

Carried

7. OTHER BUSINESS

There were no items of other business.

8. CLOSED SESSION

Committee did not resolve into closed session.

9. BUSINESS ARISING FROM CLOSED SESSION ITEMS

9.1 Confidential ED 16-2021

Moved by Councillor Butters
Seconded by Councillor Campion

That Confidential Report ED 16-2021, dated August 11, 2021, respecting A Matter of a Proposed Disposition of Surplus Lands under Section 239(2) of the *Municipal Act, 2001* - located at 401A Lakeshore Road and 14 Broadway Avenue in the City of St. Catharines, **BE RECEIVED** and the recommendations contained therein, **BE APPROVED**.

Carried

10. NEXT MEETING

The next meeting will be held on Wednesday, September 15, at 1:00 p.m.

11. ADJOURNMENT

There being no further business, the meeting adjourned at 2:59 p.m.

Councillor Huson
Committee Chair

Chris Ventura
Legislative Coordinator

Ann-Marie Norio
Regional Clerk

Made-in-Niagara Forecast and Land Needs Assessment

Planning and Economic Development Committee

Report No. PDS 33-2021

Wednesday, August 11, 2021

Greg Bowie, Senior Planner, Long Range Planning

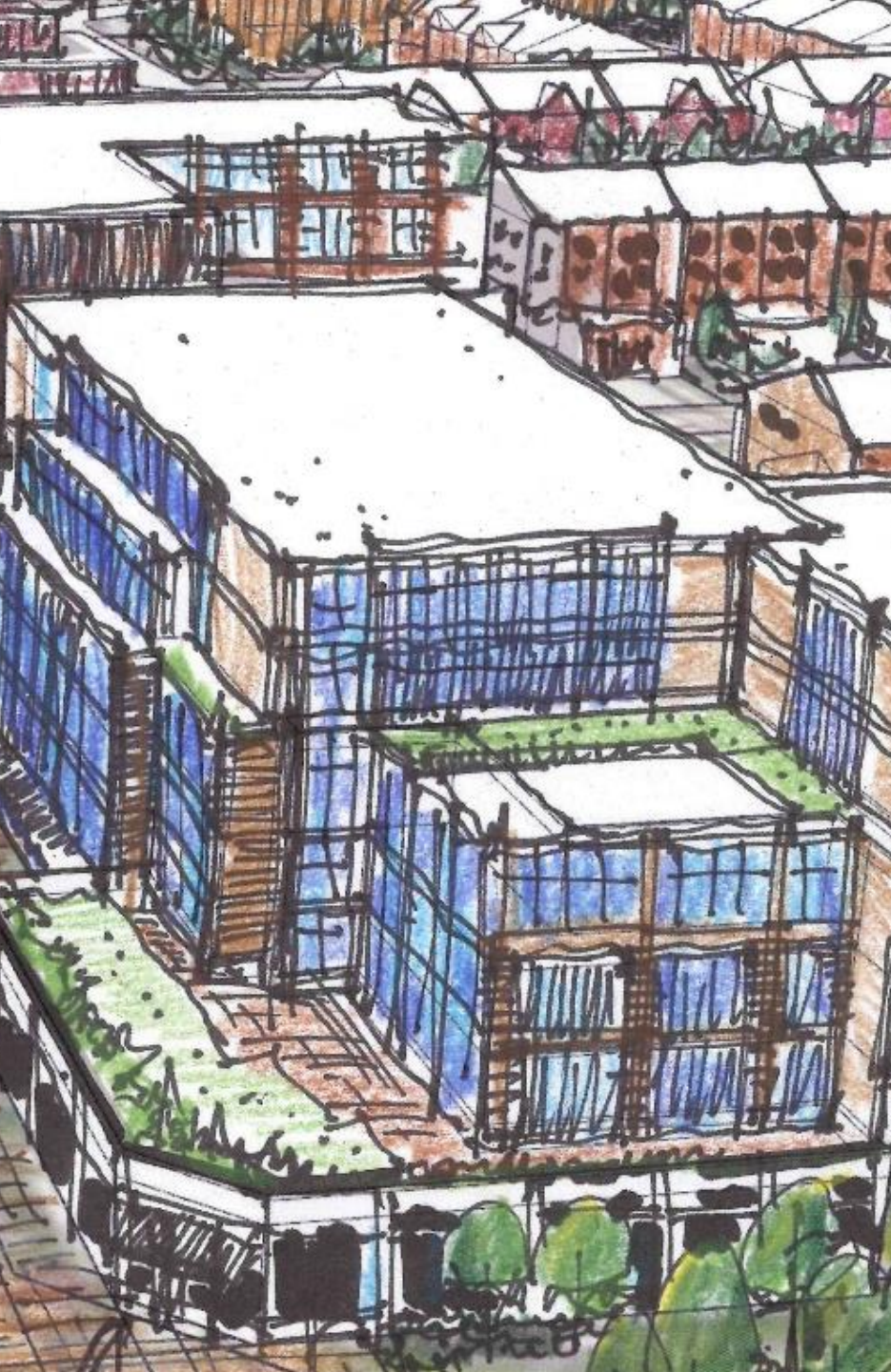
Isaiah Banach, Manager, Long Range Planning

Niagara Official Plan **Made-in-Niagara Forecast and Land Needs Assessment**

Wednesday, August 11, 2021
Planning and Economic Development Committee

Greg Bowie
Senior Planner
Long Range Planning

Isaiah Banach
Manager
Long Range Planning



the land needs assessment **program.**



The Region must follow the Province's Land Needs Assessment (LNA) Methodology.



The LNA is informed by many background studies. A draft LNA was released in May.



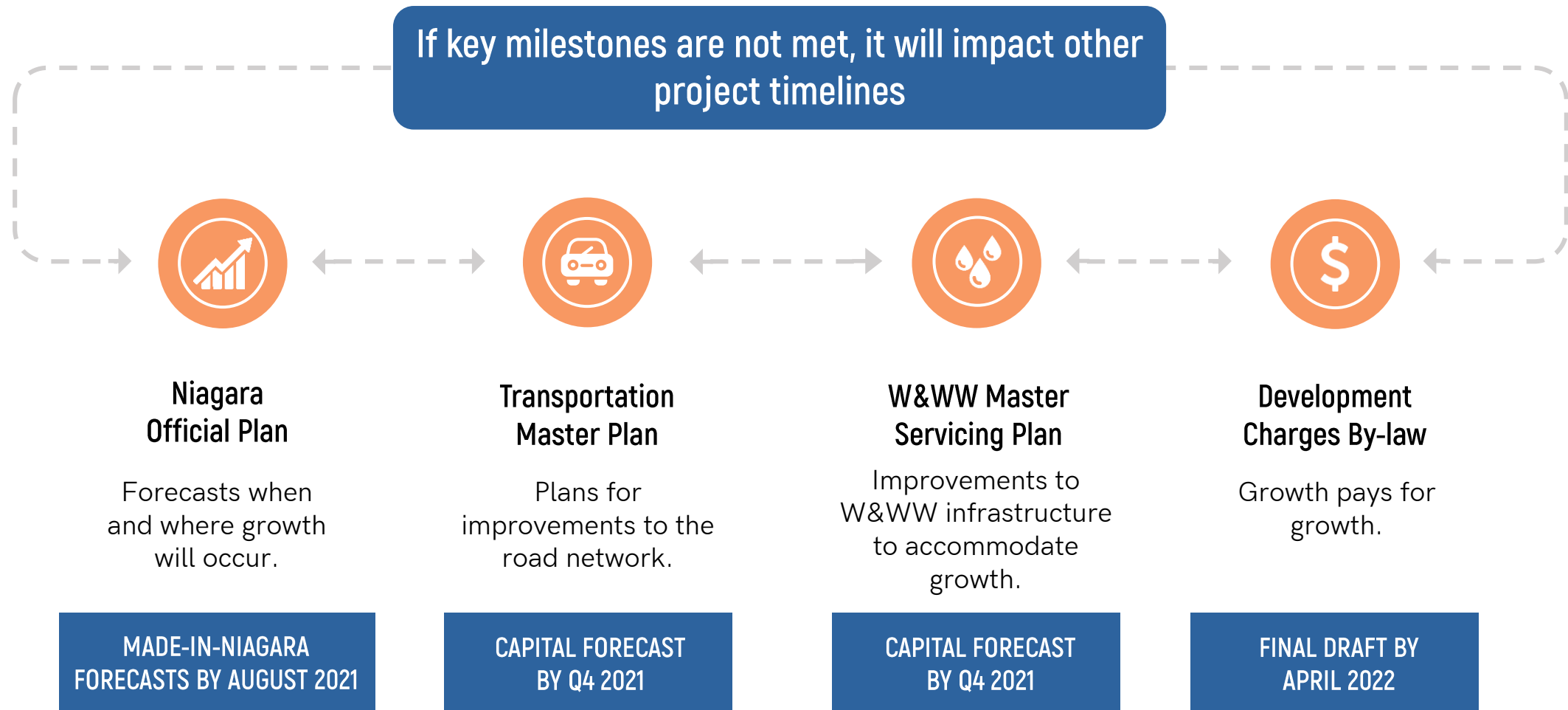
The proposed LNA is generally the same as the May version with two types of updates.



Endorsement of the LNA is needed now to finish the Official Plan in 2022.



coordinated planning, infrastructure, **and finance.**



delays in one project can cause **delays in others.**

01



made-in-niagara forecasts.

Population and employment growth forecasts are a critical initial step for the Official Plan, the Transportation Master Plan, W&WW Master Servicing Plan, and Development Charge By-law. **This needs to be settled no later than August 2021**

02



capital projects.

Growth Forecasts are needed so the Region can develop capital project listings for the Transportation Master Plan and Master Servicing Plan, after which the Development Charges can be finalized. **Capital project lists are needed no later than Q4 2021.**

03



development charges.

Development Charges delays may compromise funding of growth related infrastructure. **DC By-law Approval no later than June 2022.**



significant consultation since **May 2021**.



Since May, staff have met with local municipalities, members of the public, and other stakeholders to discuss growth forecasts and other NOP matters. **Feedback has been generally supportive of the Region's process.**

5

public information centres
attended by 238 members
of the public.

73

comments & submissions
received between May and
early July.

511

30+

meetings with stakeholders
to discuss the May LNA.



addressing **affordability**.

We need to build more housing in Niagara or affordability will get worse.

Analysis by the Region's consultants demonstrates that more growth, particularly medium and high-density housing, will better address core housing need. We need to:

- ✓ Increase intensification within existing developed areas, also known as "built-up areas".
- ✓ Improve the range of housing options and densities to meet current and future housing need.
- ✓ Facilitate compact built forms that support climate change adaptation and mitigation.



made-in-niagara forecasts.

The May Forecasts and LNA addressed Provincial requirements, but we've developed a solution that better reflects our needs. The **Made-in-Niagara Forecasts** and LNA are mostly the same as the May versions, with two types of changes incorporated:

1 More Intensification

The Made-in-Niagara Forecasts has more growth for Lincoln and Welland, in medium- and high- density form. This better reflects anticipated growth and planned infrastructure to 2051. This will also help affordability.

2 Reflect the Natural Environment System

The Made-in-Niagara Forecasts better incorporate the protection of lands associated with the Natural Environment System. More lands will be protected in urban areas.



intensification in **built-up areas**.

The Made-in-Niagara Forecasts direct more housing to existing “built-up areas” rather than new “greenfield areas”.

The Province requires a minimum of 50% of growth to built up-areas. In May, we proposed 56%. **Now, we're at 60%.**

Focusing 60% of growth to built-up areas **reduces community land need expansions by at least 700 Ha.**

Redevelopment also often reduces *existing* environmental impacts – e.g. retrofitting stormwater infrastructure.



“Missing Middle Housing” Concept by Opticos
Richmond, California

land needs **numbers.**

	May Forecasts	Made-in-Niagara Forecasts
Population Forecast	674,000 people	694,000 people *
Employment Forecast	272,000 jobs	272,000 jobs
Settlement Area: Community Area	+ 460 hectares	+ 495 hectares
Settlement Area: Employment Area	- 20 hectares	+ 210 hectares

Outside of the urban area Land Needs, the new Official Plan includes:

1,393 + | Ha of Greenbelt Protected Countryside

3,300 + | Ha of Growth Plan Prime Agricultural Area

38,000 + | Ha of Provincial Natural Heritage system

* The Made-In-Niagara Forecasts includes an additional 10,000 people in Lincoln and Welland, respectively.



moving forward.

REMAINING STRATEGIES



Endorsement of the LNA is needed to move forward with the Official Plan, including the Settlement Area Boundary Review (SABR), and the MSP, W&WWMP and DCS.

GROWTH COORDINATION

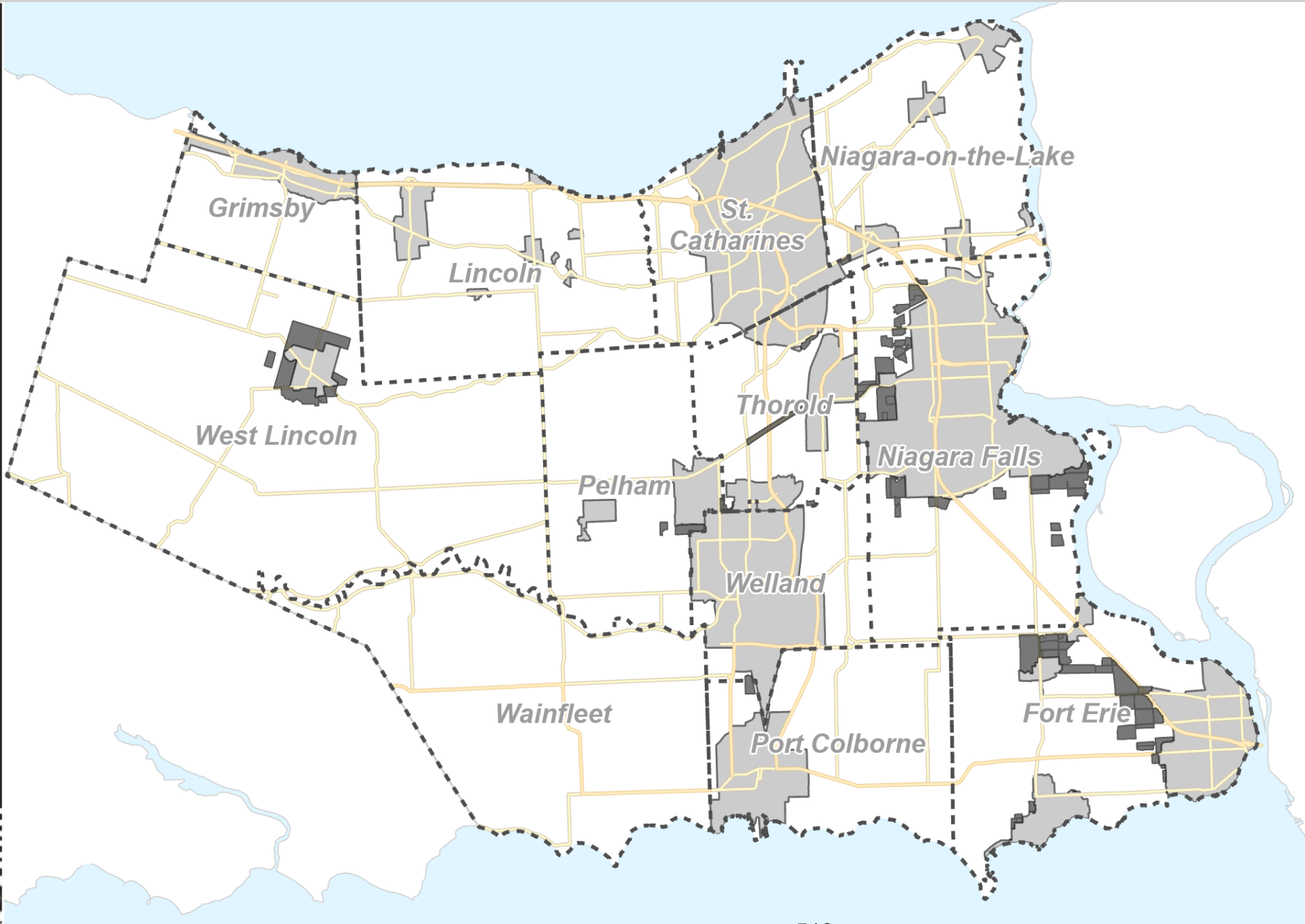


Minor adjustments to the LNA may be made as the Official Plan is finalized, with consideration of ongoing work on SABR, employment conversions and the NES.



settlement area boundary review (SABR)

- Only the Region can expand or adjust settlement area boundaries.
- A key step is the identification of land need. The Made-in-Niagara Forecasts are needed to move SABR forward.
- The Region developed criteria with local municipalities to assess SABR requests. No major concerns expressed through recent consultation.
- At this time, no recommendations are being made on SABR or employment conversions. The SABR program continues through Summer and Fall.



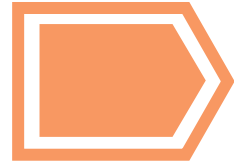
LEGEND

- Existing Urban Area
- Urban Area Expansion Requests Under Review

This is a July 2021 draft map and may not be current. Please see the Region's website to view and comment on the requests.



takeaways.



The Region engaged in significant consultation since May. The LNA feedback was generally supportive.



The Made-in-Niagara Forecast and LNA are mostly the same as the May LNA, but better addresses affordability and the natural environment.



A decision is needed today to advance the Official Plan, the Transportation Master Plan, the W&WW Master Servicing Plan, and the Development Charges By-law.



The SABR program is moving forward with recommendations in Fall 2021.

From: [PF-Mailbox-01](#)
To: [Norio, Ann-Marie](#); [Trennum, Matthew](#)
Subject: FW: Online Form - Request to Speak at a Standing Committee or Regional Council
Date: Friday, August 06, 2021 7:07:27 AM

From: Niagara Region Website
Sent: Friday, 06 August 2021 07:07:24 (UTC-05:00) Eastern Time (US & Canada)
To: Clerks
Subject: Online Form - Request to Speak at a Standing Committee or Regional Council

Request to Speak at a Standing Committee or Regional Council

To reply, copy the email address from below and put into 'To'. (if resident entered their email address)

Name

Chuck McShane

Address

[REDACTED]

City

Niagara on the lake

Postal

[REDACTED]

Phone

[REDACTED]

Email

Chuck@nhba.ca

Organization

Niagara Home Builders Association

standing committee

Planning and Economic Development Committee

Presentation Topic

Land needs

Presentation includes slides

No

Previously presented topic

No

Presentation Details

I would like to speak on the land needs with regards to the official plan

Video Consent

Yes

Subject: Niagara Official Plan: Land Needs Assessment and Settlement Area Boundary Review Update

Report to: Planning and Economic Development Committee

Report date: Wednesday, August 11, 2021

Recommendations

1. That Council **ENDORSE**, in principle, the use of the Made-in-Niagara Forecast and the Revised Land Needs Assessment (Appendix 1 of Report PDS 33-2021), to advance the Niagara Official Plan, the Water and Wastewater Master Plan, the Transportation Master Plan, the Development Charge Background Study and By-law, and other Regional programs; and
2. That Report PDS 33-2021 **BE CIRCULATED** to local area municipalities, partner agencies and the Province.

Key Facts

- This report recommends a “Made-in-Niagara” growth forecast to 2051. The Forecast is a land needs assessment (“LNA”) derived from the Provincial Land Needs Methodology. The Region must conform to the Provincial requirements, including this Methodology.
- The Made-in-Niagara Forecast provides a 2051 population of 694,000 people and 272,000 jobs.
- The Made-in-Niagara Forecast is similar to the previously-released forecast from May 2021, provided in the May Joint Report PDS 17-2021. Population forecasts have increased slightly in two municipalities to account for market demand and provide additional affordable housing options. Importantly, the updates since May are focussed exclusively in built-up areas – not greenfields – meaning that it does not result in additional residential land needed through urban boundary expansions.
- The Made-in-Niagara Forecasts and updated LNA result in a Region-wide net community area land need of 495 Ha and net employment area land need of 210 Ha. The Region-wide intensification rate is 60%, which is 10% greater than the minimum

required. Density is 50 people and jobs per Ha for greenfields and larger densities in the Region's Strategic Growth Areas.

- Feedback was carefully considered in making this recommendation. Staff have considered other key interests, like the Natural Environment System ("NES"), agricultural system, and affordability.
- The Forecasts need to be endorsed in principle at this time. These are used to make decisions about changes to urban and rural boundaries (called the Settlement Area Boundary Review or "SABR"). They are also used as part of the Niagara 2051 program to inform the Water/Wastewater Master Servicing Plan and Transportation Master Plan. The Region's infrastructure is paid for through Development Charges based on this information.
- Changes to municipal boundaries through the SABR can only occur as part of the Region's new Official Plan (with very limited exceptions). Staff need endorsement of the Made-in-Niagara Forecasts to move forward with the SABR. No decisions on SABR itself are requested now - that will be reported on further this Fall.
- The Forecasts and updated LNA are sought for endorsement in principle to allow the programs noted above to move forward. Adjustments to the forecasts are likely, prior to finalizing, to reflect any recommended employment conversions and other matters. This will be provided for consideration at a future Council meeting.

Financial Considerations

There are no financial considerations directly related to this report. However, as described below, a decision on the Made-in-Niagara Forecast is critical to establishing the 2022 Development Change By-law where growth-related costs are recovered.

This report is prepared as part of the Niagara Official Plan ("NOP") program. Council approved the resources to complete the NOP over a 5 year period as part of the 2017 Budget Process.

The growth forecasts identified here will be used in the upcoming revisions to the Water and Wastewater Master Servicing Plan ("MSP"), Transportation Master Plan ("TMP") and Development Charges Study ("DCS"). Those studies identify projects to be built based on the growth forecasts.

The DCS sets out a calculation of how all or a portion of those costs can be recovered through development charges. The Development Charge By-law must be passed in advance of current by-law expiry in August 2022. The Made-in-Niagara Forecasts are needed at this time for the inputs to the Development Charges work so that program can be advanced in time for the August 2022 deadline.

Analysis

On May 20, 2021, Regional Council received PDS 17-2021 Niagara Official Plan Consolidated Policy Report (the “May Joint Report”). The May Joint Report provided a comprehensive update on the NOP process and draft materials for consultation with local municipalities, stakeholders and public.

Staff asked for feedback by July 2, 2021 so it could be considered as part of this report, among other things. Feedback has been carefully considered and is described further below.

Two separate reports are advanced at this time. This report (PDS 33-2021) relates to the updated Made-in-Niagara forecasts and its relationship to SABR and Niagara 2051.

A second, related report, is PDS 32-2021, provided at this same August 11, 2021 PEDC meeting. That report speaks to the additional work that has occurred relating to other Official Plan matters since the May Joint Report. Although these reports are under separate cover, they have been prepared comprehensively with continued consideration of integrated planning of the new NOP.

At this time, the Region seeks endorsement in principle of the Made-in-Niagara Forecast. This allows the SABR program to move forward, and advancement of the Niagara 2051 work, including the Development Charges By-law.

Adjustments to the forecast and LNA are likely to be proposed prior to finalizing these documents. As described further below, employment conversion requests have not yet been considered. Depending on the outcome of that review, the forecast and LNA may be revised for Council consideration.

Further, the Provincial Land Needs Assessment Methodology contemplates that final adjustments may be made, after all other steps are undertaken, to account for specific circumstances like vacancy rates, constrained land from infrastructure, lands that may not develop because of landowner choice, and other economic or demographic factors.

Revised forecasts and LNA will be provided to Council in a future report for consideration.

Growth Forecast Consultation

A Place to Grow (2020) (“Growth Plan”) establishes a *minimum* population and employment forecasts for upper- and single-tier municipalities in the Greater Golden Horseshoe. The Region must plan for these minimum forecasts and assign the forecast to local municipalities.

The Region has done significant forecasting work over several years. Most recently, its forecasting work was set out as part of the May Joint Report, PDS 17-2021 [Appendix 3.3](https://www.niagararegion.ca/official-plan/pdf/pds-17-2021-appendix-3-3.pdf) (<https://www.niagararegion.ca/official-plan/pdf/pds-17-2021-appendix-3-3.pdf>), Growth Allocation Update to 2051 (Hemson, 2021). This work aligned regional forecasts with the recently-released 2020 *Growth Plan* (the “May 2021 Forecast”).

The May 2021 Forecasts distributed the minimum Growth Plan Schedule 3 forecast of 674,000 people and 272,000 jobs throughout Niagara’s 12 municipalities. Forecasts were distributed based on the Preferred Growth Option, established through Niagara 2041 (Niagara 2041: Preferred Growth Option (Hemson, 2019), with revisions made based on the new 2051 planning horizon and emerging development trends. This was based on the 2020 Growth Plan and a newly released Provincial LNA Methodology.

The May 2021 forecasts provided information on housing mix within each municipality and areas within them. This work was done to show how the forecasts represent market-based housing demand and support affordable housing.

The May Joint Report also provided specific data on affordability. Appendix 5.2, Niagara Region Housing Affordability and Growth Plan 2051 (CANCEA, 2021) set out that achieving the minimum Growth Plan forecast of 674,000 people would keep the Region’s Core Housing need at 13%.

The CANCEA conclusion was clear: if the Region grew too slowly, affordability would worsen.

The Region also released its Regional Structure through the May Joint Report. The Regional Structure identified locations and density targets for Strategic Growth Areas (SGAs). SGAs will accommodate a significant amount of growth, support infrastructure investment and contribute to complete communities.

On many occasions before and after the May Joint Report release, the Region met individually with planning staff at each local municipality to discuss growth forecasts, SGAs, intensification rates, densities, and related matters.

Since May 2021, the Region held five public information centres (PICs) and held dozens of meetings with interested parties about these same growth-related matters.

Additionally, the Region progressed on the TMP, MSP, and DCS update. This process involves a Niagara 2051 working group of various staff across many departments and consultation events held in the spring 2021.

Almost all feedback was supportive of the Region's process. The Region received comments on specific aspects of its May 2021 forecasts, with some parties recommending adjustments or changes reflecting a variety of interests.

Importantly, there was general public support, and local planning staff support, of the Region's overall land needs program and the Regional Structure components.

A comment summary of the land needs-related comments is provided in **Appendix 3**. The full set of comments received can be viewed here: [Niagara Official Plan](https://www.niagararegion.ca/official-plan/) (<https://www.niagararegion.ca/official-plan/>).

Additional comments, unrelated to land needs, are reported in PDS 32-2021.

Since the release of the May 2021 Forecasts, the Region carefully considered feedback received. Staff also conducted a further review of individual growth areas and existing and proposed development applications. Additional progress on the detailed work towards finalizing the NES has been made since May 2021.

On this basis, Staff recommend two categories of change be made to what was released in May 2021.

The first is additional intensification growth be allocated to Lincoln and Welland.

The second is including the most current information on the NES.

These topics are described in the following sections of this report.

Summary of Changes to the Land Needs Assessment

The Growth Plan (2020) allows Niagara to use alternative growth forecasts beyond those identified in Growth Plan Schedule 3. The Made-in-Niagara Forecast is an alternative growth forecast.

This alternative growth forecast can be only be advanced by a Region or single-tier government.

Details of the Made-in-Niagara Forecast are provided in **Appendix 1**. This is a revised version of [Appendix 3.2](https://www.niagararegion.ca/official-plan/pdf/pds-17-2021-appendix-3-2.pdf) (<https://www.niagararegion.ca/official-plan/pdf/pds-17-2021-appendix-3-2.pdf>) of the May Joint Report.

The Province provided three growth scenarios in its draft materials for the 2020 Growth Plan. One of those scenarios was a high growth forecast of 700,000 people for Niagara. At that time, Niagara Region staff supported the high scenario.

The proposed, Made-in-Niagara Forecast of 694,000 people is slightly below this high scenario identified by the Province.

The May 2021 Forecast identified a total population of 674,000 people. The additional 20,000 people above the May 2021 forecast have been allocated to Lincoln and Welland. Lincoln's 2051 population has been revised from 35,660 to 45,660 in the current forecast. Welland's 2051 population has been revised from 73,000 to 83,000.

Based on the analysis and consultation noted in the previous section, the Region proposes the following Preliminary Municipal Growth Allocations: 2021 and 2051 (i.e. the Made-in-Niagara Forecast):

Table 1: Preliminary Municipal Growth Allocations: 2021 and 2051

Municipality	Population 2021	Population 2051	Households 2021	Households 2051	Employment 2021	Employment 2051
Fort Erie	33,930	48,050	14,150	21,510	10,530	17,430
Grimsby	30,300	37,000	11,470	16,070	10,690	14,670
Lincoln	26,860	45,660	9,590	19,405	11,390	15,960
Niagara Falls	97,220	141,650	38,520	58,740	37,780	58,110
Niagara-on-the-Lake	19,970	28,900	7,910	12,500	11,800	16,960
Pelham	19,320	28,830	7,150	11,280	4,810	7,140
Port Colborne	19,250	23,230	8,210	10,500	5,910	7,550
St. Catharines	140,250	171,890	58,550	78,320	61,780	81,010
Thorold	24,440	39,690	9,230	15,660	8,530	12,080
Wainfleet	7,000	7,730	2,580	3,040	1,400	1,830
Welland	56,210	83,000	23,610	37,540	18,030	28,790
West Lincoln	16,370	38,370	5,330	14,060	4,460	10,480
Niagara Region	491,120	694,000	196,300	298,645	187,110	272,000

Revised Intensification Rates

Through the comments received and additional analysis done by the Region, Staff determined that the draft May 2021 Forecasts for Lincoln and Welland were likely to be achieved earlier than set out. In our view, higher forecasts were required to ensure alignment with infrastructure investment and to better align with planned development.

In Lincoln and Welland, the additional growth proposed is within the existing urban, built up areas with development or redevelopment potential. Thus, this is considered “intensification” growth. This kind of development supports a broader, more affordable housing mix of more townhouses and apartment units.

These changes reflect the planned infrastructure to sustain the anticipated growth. The Region seeks to proactively plan to accommodate the growth to ensure communities are more sustainable, better connected, healthy and safe.

As note above, the additional forecasted growth to Lincoln and Welland are within the built-up areas as intensification. In other words, more development is proposed within the existing boundaries. There is no impact to Community Area (residential/mixed use) land need to accommodate this additional population and these changes do not result in need for additional land through boundary expansions.

The “intensification rate” is a measure of how much growth is going to built-up areas rather than new greenfield areas. In the updated Forecast, Lincoln’s intensification rate has increased from 80% to 90%, and Welland’s from 60% to 75%. When these changes are incorporated to a Region-wide average, the Region’s intensification rate increases from 56% to 60%.

Table 2 is the revised intensification rates by municipality and the overall Region rate.

Table 2: Revised Intensification Rates to 2051

Municipality	Intensification Rate
Fort Erie	50%
Grimsby	98%
Lincoln	90%
Niagara Falls	50%
Niagara-on-the-Lake	25%
Pelham	25%
Port Colborne	30%
St. Catharines	95%
Thorold	25%
Wainfleet	0%
Welland	75%
West Lincoln	13%
Niagara Region	60%

The above paragraphs describe the changes in terms of population and intensification rates – the Region also looks at this in terms of units. The number of additional units proposed is 10,500. These additional units are predominately medium- and high-density housing types, such as townhouses, apartments, and other multi-unit dwellings.

Increasing this unit type is key to help address core housing need, driven primarily by affordability.

The diversification of Niagara’s existing, low-density housing stock is supported by the Region’s recent housing analyses completed by CANCEA, included in Appendix 5 to the May Joint Report, and noted above. The CANCEA work concluded that more dense forms of housing is needed to support Provincial growth targets, and consequently, to address rates of core housing need over time.

In short, more dense forms of housing are needed to address affordability.

Updated Natural Environment Work

Work on the Natural Environment program has been ongoing for many years.

Since May 2021, the Region has refined the analysis of Natural Environment developable area. The most current information suggests a need to remove non-developable lands from the land needs assessment calculation.

In other words, more land should be protected than identified in the May 2021 Forecast; in turn, less land is available for development. This results in a greater *overall need* for land (since less is available for development). This means a small increase of land needed for the Community Area (i.e. residential and mixed use) and a modest increase in land needed for Employment Areas (i.e. mostly industrial areas).

At the May 20, 2021 Regional Council meeting, Council directed Staff to prepare materials for Natural Environment System (NES) Options 3B and 3C, with a decision by Council on the preferred NES Option to be made at a later time.

Importantly, the land need difference between NES Option 3B and 3C is negligible. Regardless of which NES Option is selected at a later time, the land needs will be similar. For this reason, there is no need to await an Option selection to advance the land needs at this time. When an Option is selected, minor adjustments can be made to the land needs, if needed, before it is finalized..

Community Area Land Needs – Rural Settlement Areas

As directed by the Provincial Land Needs Assessment Methodology, an additional assessment was undertaken for Rural Settlement Areas.

Niagara has a modest population and employment base outside of urban settlement areas. Growth is anticipated to continue within rural areas and rural settlement areas. Between 2021 and 2051, Hemson Consulting forecast an additional 900 housing units and 8,090 jobs will occur in the rural area.

The Rural Settlement Area assessment determines where the forecast growth will occur within the rural areas and if additional land is required within rural settlement areas primarily focussed in Wainfleet and West Lincoln.

Further details of the rural settlement area assessment is provided in **Appendix 1**.

August 2021 Preliminary Draft Land Needs Assessment

As discussed above, the May 2021 Forecast was refined based on the alternative Made-in-Niagara Forecast, higher Regional intensification rate and recent NES work.

The detailed Forecast is provided in **Appendix 1**.

Table 3 below is a summary of the overall preliminary land needs by municipality.

Table 3: August 2021 Preliminary Draft Land Needs Assessment

Municipality	Community Area Land Needs (ha)	Employment Area Land Needs (ha)
Fort Erie	105	155
Grimsby	5	(5)
Lincoln	0	15
Niagara Falls	270	10
Niagara-on-the-Lake	5	(20)
Pelham	40	0
Port Colborne	(160)	(40)
St. Catharines	15	30
Thorold	(155)	(35)
Wainfleet	0	0
Welland	0	45
West Lincoln	370	45
Niagara Region (net)	495	210

In the May 2021 Forecast, the Region's net overall community land need was 460 Ha and net employment area land need was -20 Ha.

The net Community Area land need in the current Forecast and LNA is similar to the May 2021 Forecast. The net Employment Area land need is now 210 Ha compared to the previous surplus of 20 Ha.

Through consultation with the Province, the Region has also been advised that the LNA should result in a single number for land need; a blended number where Community Area land need and Employment Area land need are combined. This combined net land need is 705 hectares.

For the reasons noted elsewhere in this report, adjustments may be made to this preliminary forecast. Those adjustments will be provided to Council for consideration at a later time.

Employment Area Requests for Conversion

The Region is considering Employment Land Employment Area conversions as part of its new Official Plan. The Provincial Land Needs Assessment Methodology implementation section contemplates that this should be considered for reducing the amount of settlement area expansion required for forecasted growth.

Employment land exists both within and outside of Employment Areas in almost all of Niagara's communities. Through the NOP, the Region is mapping Employment Areas, or clusters of employment uses, to define these boundaries. Employment Areas are of Regional interest as they relate to the provision and protection of employment land employment jobs, typically those within industrial areas and business parks.

The Growth Plan contains criteria for conversion of employment lands within an Employment Area and provides direction for when conversions can be considered as part of a Municipal Comprehensive Review. In Niagara's case, this is the NOP process.

Information on conversion criteria considerations was provided in the Employment Policy Paper PDS 17-2021 – [Appendix 10.2](https://www.niagararegion.ca/official-plan/pdf/pds-17-2021-appendix-10-2.pdf) (<https://www.niagararegion.ca/official-plan/pdf/pds-17-2021-appendix-10-2.pdf>).

The Region received seven requests for Employment Areas conversions. These requests remain under consideration and will be reported further as part of the SABR review. The conversion requests are summarized in **Appendix 3**.

One of the tests for employment conversion is land need. Based on the current LNA presented with this report, the Region has a demand for 210 Ha more employment area. In other words, on a regional scale, there is a net land need demand for more employment area, not removal of employment area through conversions. However, individual conversion sites remain under review based on local considerations.

As indicated above, the review of conversion requests is part of the SABR review, with recommendations to be reported in the fall, including any associated adjustments to the forecast and land needs.

Settlement Area Boundary Review

Only the Region can make settlement area boundary changes and the NOP is the time to do so.

In order to make SABR decisions, the Made-in-Niagara Forecast needs to be endorsed. If not, Staff will not know how much land is needed to review and adjust boundaries accordingly.

The SABR will review candidate land adjacent to the existing settlement area boundaries to determine the most appropriate location for settlement area expansion to be accommodated. Regional staff have developed criteria and an assessment process to consider both urban and rural settlement area boundary expansions.

The location of SABR expansion requests are mapped on **Appendix 2**.

SABR Assessment Criteria and Process

The SABR assessment criteria was developed based on direction from the Provincial Policy Statement (2020), the Growth Plan, and Regional considerations. Staff consulted local area planners on many occasions, as a group and in individual meetings. Local planning staff support the criteria.

Additionally, the draft criteria was publically shared as part of the May Joint Report [Appendix 18.2](https://www.niagararegion.ca/official-plan/pdf/pds-17-2021-appendix-18-2.pdf) (<https://www.niagararegion.ca/official-plan/pdf/pds-17-2021-appendix-18-2.pdf>) for urban areas and [Appendix 18.3](https://www.niagararegion.ca/official-plan/pdf/pds-17-2021-appendix-18-3.pdf) (<https://www.niagararegion.ca/official-plan/pdf/pds-17-2021-appendix-18-3.pdf>) for rural settlement areas. Since that time, until July 2, 2021, the Region received comments on the criteria. With one small site-specific exception, no negative comments on the criteria were received. In fact, in many cases, the draft criteria are already under use by those making submissions to support a SABR request.

For these reasons, the Region will continue to use the criteria in its SABR review this summer and fall.

The criteria are divided into two parts. The first is an initial screening of the requests. Not all requests could be considered eligible for reasons related to Provincial Plan prohibitions. For example, the Greenbelt Plan prohibits expansion into the Specialty Crop Area and the Niagara Escarpment Plan also prohibits expansion of Minor Urban

Centres. The Region has no ability to make these changes, and therefore, these types of requests will not proceed.

As a result of this initial screening, 17 requests are being removed from further consideration.

If part one is satisfied, a request proceeds to the second part which contains more detailed criteria, including:

- Sanitary Servicing
- Municipal Water Supply
- Transit and Transportation
- Environmental Protection and Natural Resources
- Agricultural / Agri-food Network
- Aggregate Resources
- Growth Management

To undertake the second part of the SABR process, a review team comprised of regional staff across many disciplines has been assembled (including those relating to water, wastewater natural environment, transportation, aggregates, agriculture and growth management). The team may also draw on additional staff resources, if required, in relation to some topic areas where specific knowledge would assist. Local municipal staff will also participate within their respective areas.

For the SABR process, staff will rely on primary sources of study reference and technical data. The expectation is the same sources of information will be used for all sites being reviewed.

Additionally, any supplemental information provided by requestors will also be reviewed. Not all SABR requests received have supplemental information – it was not required. The supplemental information will be carefully considered; however, no additional weight is given to those requests that have supplemental information.

Some local municipalities have undertaken expansion-related study work or specific comments on expansions that will be carefully considered by the Region's review team.

Criteria for rural settlement area (Hamlet) review differs from the urban SABR. Rural settlement expansion focuses on maintaining rural character and supporting the

agricultural community and rural population needs. Rural settlement areas will continue to be serviced through private systems.

SABR Request Details

The Region received about 87 private owner submissions related to the SABR process. These are specific to the existing Official Plan process; separate from comments made to the Province through the 2017 Coordinated Plan Review (CPR). CPR comments are not currently being processed by the Region (with three exceptions) since these matters are for Provincial review period only. The Region cannot make changes to Provincial Plans as part of the Niagara Official Plan process to accommodate expansion.

The three noted exceptions are sites in Lincoln (Albright Manor), Niagara Falls (Cotton Construction), and Niagara-on-the-Lake (Queenston Quarry) that were changed in the Niagara Escarpment Plan to Urban Area or Escarpment Recreation Area during the past review. Since these changes were made by the Province, the Region is processing these sites through its SABR.

In addition to the private owner requests for this Official Plan, the Region has received a number of local municipal requests for expansion consideration. The requests have been delivered through local Council resolution and will be reviewed along with all other requests made. Some local municipalities are still working on such recommendations, for circulation to the Region in the near future.

Local municipal requests comprise an additional 30 locations to date.

In addition to the private requests and municipal requests, noted above, the Region is reviewing additional candidate lands. The Region must consider what lands should be included – whether or not a request has been made – to ensure a holistic and objective review of Provincial policy in determining “the most appropriate location” for expansion.

As of writing, the total number of locations for expansions is approximately 147, including all categories described above.

A map of the SABR expansion areas is set out in **Appendix 2**.

SABR Consultation

In preparing this report, careful consideration was given to comments provided on land needs, SABR requests and criteria, and employment conversions. All comments

received prior to July 15, 2021 were reviewed in preparing this report. Comments were requested by July 2, 2021.

The Region received over 20 comments related to the LNA. These submissions, as well as responses, are summarized in **Appendix 3**. Generally, the submissions are favourable and support the direction of the LNA. Some landowners made land need- or conversion- related suggestions specific to their interests.

As noted above, the Region also received a number of SABR and conversion requests. These requests have been acknowledged and remain under consideration. Recommendations will be made in the fall.

Prior to advancing SABR recommendations, staff will gather public input. The Region has created a public mapping tool that illustrates the requests for expansion and allows for comments. It is available at the following link: [Niagara Official Plan](https://www.niagararegion.ca/official-plan/) (<https://www.niagararegion.ca/official-plan/>).

In addition to the SABR website, additional public consultation is planned to receive input in the candidate locations. This is not intended to be a forum to have requests added or removed from consideration. It will be a dialogue to inform the process and received information on the assessment process and recommendations.

Policy Review

The *Planning Act, 1990* requires all municipal Council decisions to be consistent with, conform to, or not conflict with the applicable Provincial policy. Regional and local planning staff must provide planning advice and make recommendations under the same requirements.

Below outlines relevant Provincial Policy for the LNA and SABR process. The Made-in-Niagara Forecast and updated LNA conforms to, is consistent with, and does not conflict with these documents, as applicable.

Provincial Policy Statement (PPS), 2020

The PPS, 2020 provides direction on land use planning to promote sustainable, strong communities, a strong economy, and a clean and healthy environment.

Section 1.1 - Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns supplies many of the referenced policies appearing in the SABR Assessment Criteria including:

“1.1.1 Healthy, liveable and safe communities are sustained by:

a) promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term;

c) avoiding development and land use patterns which may cause environmental or public health and safety concerns;

d) avoiding development and land use patterns that would prevent the efficient expansion of settlement areas in those areas which are adjacent or close to settlement areas;

e) promoting the integration of land use planning, growth management, transit-supportive development, intensification and infrastructure planning to achieve cost-effective development patterns, optimization of transit investments, and standards to minimize land consumption and servicing costs; ...

g) ensuring that necessary infrastructure and public service facilities are or will be available to meet current and projected needs;

h) promoting development and land use patterns that conserve biodiversity;”

Respecting the policy context for use in the SABR assessment from a community building perspective, the consistent theme of healthy, livable, safe communities that are efficiently designed, cost effective, transit-supportive and integrated, underscores the direction expansion consideration should take while reminding and recognizing future expansion needs to be a consideration.

Section 1.1.3 – “Settlement Areas” includes direction for settlement area boundary expansions only at the time of an MCR and only after there has been demonstrated need. New to the 2020 PPS is a policy that refers to satisfying market demand.

Policies of Section 1.1.3 also direct that agricultural land and industry be held in regard of decisions being made concerning expansion. This too is reflected in the SABR Criteria to be used in expansion review.

Other policies of the PPS, such as Housing, Employment, Infrastructure, Transportation and Wise Use and Management of Resources, all provide important direction for the completion of the LNA and the criteria considerations for the SABR.

A Place to Grow - Growth Plan for the Greater Golden Horseshoe (2020)

The Growth Plan provides a strategic, long-range growth management framework for the Greater Golden Horseshoe area. The Growth Plan supports Ontario's vision of building stronger, more efficient, prosperous communities through appropriate growth management.

Similar to the PPS, the guiding principles of the Growth Plan are focused on achieving complete communities, stimulating economic growth, prioritizing intensification and higher densities to optimize infrastructure investments, and mitigating the adverse impacts of climate change.

Policy 2.2.1.5 identifies the Province's Land Needs Assessment methodology to be used by the Region to assess the quantity of land required to accommodate forecasted growth to 2051.

Policy 2.2.8 of the Growth Plan speaks to Settlement Area Boundary Expansions.

Specifically, Policy 2.2.8.2 provides the direction for expansions to proceed through the MCR process based on the components and direction of the LNA. Further, Policy 2.2.8.3 requires any expansion be justified based on a comprehensive list of criteria. These policies were used to develop the Region's SABR criteria and have included consideration for transportation, infrastructure, NES, agricultural lands and operations, and the applicable requirements of other Provincial Plans.

The Greenbelt Plan and Niagara Escarpment Plan were also reviewed. The policies of both provide direction for enhancement and protection of the natural and agricultural systems. Expansions into the Greenbelt and Niagara Escarpment areas are prohibited.

Next Steps

The Region will continue to move forward with the NOP work program. Once the SABR and conversion review process is complete, Staff will prepare a report with recommendations in fall 2021.

The Made-in-Niagara Forecasts will be integrated into the Niagara 2051 strategies: the MSP, TMP and DCS and DC By-law. These strategies work together to ensure the planned growth is serviced and paid for.

Alternatives Reviewed

Alternative 1: Council could not endorse any land needs assessment at this time. This alternative is not recommended as any delay has consequences to the Niagara Official Plan, the MSP, TMP and DCS and DC By-law, for the reasons noted in this report. The Made-in-Niagara Forecasts set out in this Report have been developed to conform to Provincial Policy and are based on significant local planning and public consultation.

Alternative 2: Council could endorse a land need assessment that differs from the Made-in-Niagara Forecast set out in this Report. This option is not recommended as the detailed work undertaken led to adjustments to the intensification growth for Welland and Lincoln. Differing from the Made-in-Niagara Forecast could lead to a misalignment between how growth is planned, serviced and paid for through development charges.

Relationship to Council Strategic Priorities

The land needs assessment and Niagara Official Plan is important to address Council's priorities, being:

- Supporting Businesses and Economic Growth;
 - Through the identification and protection of employment areas.
- Healthy and Vibrant Community;
 - Through responsible management of growth by directing population and employment allocations as determined through the LNA.
 - The growth management work will also retain, protect and increase the supply of affordable housing stock to provide a broad range of housing to meet the needs of the community.
- Responsible Growth and Infrastructure Planning.

- Through coordinating growth with infrastructure investment to support existing and future growth in Niagara. The Made-in-Niagara Forecast will be integrated into Niagara 2051 strategies to ensure the Region is responsibly coordinating work related to growth.

Other Pertinent Reports

Report	PDS 17-2021 – Niagara Official Plan Consolidated Policy Report (May Joint Report)
Report	PDS 32-2021 – Update on Niagara Official Plan-Further Draft Policy Development

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Appendices

Appendix 1 Niagara Official Plan: Revised Land Needs Assessment Summary (August 2021)

Appendix 2 Settlement Area Boundary Review: Request Mapping

Appendix 3 Summary of Comments Received Relating to Land Needs Assessment
and Settlement Area Boundary Review

DRAFT



NIAGARA OFFICIAL PLAN

Revised Land Needs Assessment Summary

Results subject to refinement in draft Official Plan.

Niagara Region
August 2021

GROWING REGION



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Land Needs Assessment Overview

The Land Needs Assessment (“LNA”) is a technical, Region-led process that determines the amount of land required for each local municipality based on the Provincially-allocated overall growth to 2051.

Specifically, the Region must calculate the amount of designated land each local municipality requires to accommodate population, housing and employment forecasts provided in *A Place to Grow: Growth Plan for the Greater Golden Horseshoe* (“Growth Plan”).

The Minister of Municipal Affairs and Housing, as directed by the *Growth Plan*, released the *Land Needs Assessment Methodology for the Greater Golden Horseshoe* (the “*Methodology*”) in August 2020. The Region is required to use the Methodology in combination with the policies of the *Growth Plan* to determine the amount of land required to accommodate forecasted growth.

The *Methodology* is used to calculate two separate land needs, one for *Community Area* and one for the *Employment Area*.

Conducting the LNA is an iterative process and requires substantial direction and input from background strategies associated with the Niagara Official Plan (“NOP”) as well as consultation with the public, local municipalities and Province.

An earlier Draft LNA Summary was released in May 2021 for the purpose of consultation and refinement. Feedback was received from local municipalities, consultants and the public. Commentary was generally supportive; feedback was made on allocations, methodology assumptions, existing intensification potential and affordable housing.

Advancement of related to NOP strategies and Niagara 2051, a joint working group made up of the Transportation Master Plan, Water/Wastewater Master Servicing Plan and Development Charge has also occurred since the release of the May 2021 LNA.

The Revised LNA presented in this report is based on the feedback received on the May 2021 draft and updates from associated NOP strategies and Niagara 2051.

The LNA results provided here are for the purpose of informing the Settlement Area Boundary Review and the Transportation Master Plan, Water/Wastewater Master Servicing Plan and Development Charge Background Study associated with Niagara 2051. The LNA may be further refined through the consolidated Official Plan process later this year.

How to Read this Report

This report follows the Provincial *Methodology* process and provides a summary for each component outlined within it. The report does not represent the final land needs assessment; that will be included as a companion to the Official Plan in 2022.

The Revised LNA is based on consultation with the Province, local municipalities, stakeholders, public and Niagara 2051 working group. Details on specific revisions and rationale are provided throughout the report.

The LNA results presented here should not change significantly over the remainder of the Official Plan program. However, advancement and/or refinement to associated Official Plan Strategies may change the output of the LNA.

The Province is the approval authority on the LNA and requires consultation be done prior to submitting the final LNA. The Province has provided feedback on the May 2021 Draft LNA and will continue to be consulted while the LNA is finalized.

The Final LNA will be submitted with the consolidated draft Official Plan for Provincial review and approval.

A **Glossary of Terms** is provided at the end of this summary to provide clarity on frequently used terms and terms from Provincial policy.

Public Consultation and Engagement

The Municipal Comprehensive Review (now called the Niagara Official Plan) was first initiated in 2014 and has been through significant consultation and continuous evolution.

The following summary identifies milestone consultation efforts made so far which covered growth allocations and land needs assessment.

Project Phase	Date	Description
Niagara 2041: Growth Options	November 17, 2015	Public Information Center: Town of Grimsby
	November 18, 2015	Public Information Centre: City of Port Colborne
	November 19, 2015	Public Information Centre: City of St. Catharines
Council approved Phase 1 and 2 Report (PDS 15-2016)		
Niagara 2041: Preferred Growth Option	June 15, 2016	Public Information Centre: Town of Fort Erie
	June 16, 2016	Public Information Centre: Township of West Lincoln
	June 22, 2016	Public Information Centre: City of Welland
	November 30, 2016	Public Information Centre: City of Niagara Falls
	December 6, 2016	Public Information Centre: City of Thorold
	December 7, 2016	Public Information Centre: Town of Niagara-on-the-Lake
	December 8, 2016	Public Information Centre: Town of Lincoln

Project Phase	Date	Description
Preferred Growth Option Forecast approved for Development Charges Study (PDS 37-2016)		
2017 Provincial Plan Review and Release of Growth Plan (2018)		
Regional Council deem Pre-2017 Growth Plan MCR complete and Growth Management work transitioned into new Niagara Official Plan (PDS 21-2018)		
Niagara Official Plan: Employment Strategy	October 10, 2019	Industry Stakeholder Session: Town of Niagara-on-the-Lake
Niagara Official Plan: Growth Strategy	November 6, 2019	Public Information Centre: City of Thorold
	November 7, 2019	Public Information Centre: City of Niagara Falls
	November 13, 2019	Public Information Centre: Town of Grimsby
	November 14, 2019	Public Information Centre: Town of Fort Erie
Niagara Official Plan: Employment Strategy	February 25, 2020	Industry Stakeholder Session: Town of Niagara-on-the-Lake
Release of Growth Plan (2020) and Revised Land Needs Assessment Methodology		
Settlement Area Boundary Review Program: Growth Plan Forecasts and Land Needs Assessment Update presented to Council (PDS 29-2020)		
Niagara Official Plan: Growth Management and Employment Surveys	September – October, 2020	Online surveys related to Growth Management and Employment directions and options
Niagara Official Plan: Land Needs, Growth Allocations and Settlement Area Boundary Adjustment	October 7, 2020	Virtual Public Information Centre

Project Phase	Date	Description
Niagara Official Plan: Employment Strategy	October 8, 2020	Virtual Public Information Centre
Niagara Official Plan Consolidated Policy Report (PDS 17-2021). Appendix 1 to Report PDS 17-2021 provides a detailed list of all Official Plan consultation efforts.		
Niagara Official Plan: Growing Region	June 9, 2021	Virtual Public Information Centre
Niagara Official Plan: Vibrant Region	June 10, 2021	Virtual Public Information Centre
Niagara Official Plan: Competitive Region	June 16, 2021	Virtual Public Information Centre
Niagara Official Plan: Connected Region	June 17, 2021	Virtual Public Information Centre
Niagara Official Plan: Sustainable Region	June 23, 2021	Virtual Public Information Centre
Feedback on Niagara Official Plan Consolidated Report, and associated materials, was requested by July 2, 2021		

Summary of Updates since the Draft May 2021 Land Needs Assessment

On May 20, 2021, Regional Council received PDS 17-2021, Niagara Official Plan Consolidated Policy Report. The report provided a comprehensive update on the NOP process and draft materials for consultation with local municipalities, stakeholders and public.

Staff asked for feedback by July 2, 2021, so it could be considered as part of this report, among other things. Feedback has been carefully considered and is described later in this report.

The May 2021 report provided a Draft LNA, based on a Regional forecast of 674,000 people and 272,000 jobs throughout Niagara's 12 municipalities. Forecasts were distributed based on the Preferred Growth Option, established through Niagara 2041 (Niagara 2041: Preferred Growth Option (Hemson, 2019)), with revisions made based on the extended planning horizon and emerging development trends. Municipal specific forecasts, housing mix and employment mix were all extended to 2051 and provided in PDS 17-2021 Appendix 3, Growth Allocation Update to 2051 prepared by Hemson ("*2051 Growth Update Memo*", 2021). Updated forecasts and assessment were based on the 2020 Growth Plan and associated Provincial LNA Methodology (the "*Methodology*").

The May 2021 Forecasts provided information to address housing mix within each municipality, as well as areas within them (Delineated Built-up Area, Designated Greenfield Area and Rural Area). This was done as a component of 2020 Provincial LNA Methodology and meant to show how the forecasts are representing market-based demand for housing and support affordable housing.

The Region retained a consultant to review core housing needs, which is driven primarily by affordability in Niagara. This was reported in PDS 17-2021 Appendix 5.2, Niagara Region Housing Affordability and Growth Plan 2051 (CANCEA, 2021). CANCEA concluded that achieving the *minimum* Growth Plan forecast would keep the Region's core housing need at 13%. More growth – particularly more medium and higher density housing – is needed to better address core housing need (i.e. affordability).

Before and after the May Joint Report release, the Region met individually with planning staff at each local municipality to discuss growth forecasts, among other things. The Region also held five public meetings and dozens of meetings with

interested parties about its forecasts, land needs, and boundary matters. The need to address housing affordability was raised consistently in these meetings.

Additionally, the Region has progressed on the Transportation Master Plan (“TMP”), the Water and Wastewater Master Plan (“WMP”) and its Development Charge Background Study and By-law update (“DCS”). This process is collectively called “Niagara 2051”. It involves a working group of staff across many departments and public consultation events held in the spring 2021. More is planned in 2021 and 2022.

Since the release of the May 2021 forecasts, the Region carefully considered individual feedback received. Staff also conducted a further review of individual growth areas and existing and proposed development applications. Additional progress on the background work to the Natural Environment System has been made since May 2021.

On this basis, Staff identified two categories of change that have modified the LNA from what was presented in May 2021. The first is that additional population and intensification growth be planned for Lincoln and Welland. The second is that adjustments be made to better integrate the Natural Environment Option 3B/3C in to the growth forecasts.

The Growth Plan (2020) allows Niagara to use alternative growth forecasts beyond those identified in Growth Plan Schedule 3. The forecasts provided here are referenced as the “Made-in-Niagara Forecast” since they represent an alternative growth forecast that works better for the Region.

Through the comments received, and additional analysis done by the Region, Staff determined that the draft May 2021 Forecasts for the Lincoln and Welland were likely to be achieved earlier than set out in the 2051 planning period. Higher forecasts are required to ensure alignment with infrastructure investment and to achieve market based demand.

In both Lincoln and Welland, the areas identified for development (beyond the preliminary forecast) are within existing urban, built up areas with development and redevelopment potential. These locations are considered intensification opportunities and will support a broader, more affordable housing mix through this development/redevelopment.

As a result of the increased population forecasts in these municipalities, and the Region overall, these municipalities will achieve a higher intensification rate. In

other words, more development is proposed within the existing boundaries. There is no impact to Community Area (residential/mixed use) land need from this adjustment.

The Made-in-Niagara Forecast and increased intensification rates do not result in additional land through boundary expansions.

The proposed additional intensification for Lincoln and Welland is important to reflect the planned infrastructure to sustain the growth. The Region seeks to proactively plan to accommodate growth and to ensure communities are more sustainable, better connected, healthy and safe. The addition will also better address core housing needs identified by CANCEA.

Recently, at the May 20, 2021 Regional Council meeting, Council directed Staff to prepare policies and mapping for both Natural Environment System (NES) Option 3B and 3C, with a decision on the preferred NES Option to be made at a later time. The finalization of criteria and methodology has begun, and policies and mapping is under way, with reporting later this year. Consultation with the local municipalities on mapping and policy development is ongoing.

Since May 2021, the Region has refined the analysis of developable area based on the NES Options. The most current information for Options 3B and 3C identified a need to remove non-developable lands from the land needs assessment calculation.

In other words, more land should be protected than identified in the May 2021 Forecast; in turn, less land is available for development.

This results in a greater *overall need* for land (since less is available for development). This means a small increase of land is needed for the Community Area (i.e. residential and mixed use) and a modest increase in land needed for Employment Areas (i.e. mostly industrial areas).

Through consultation with the Province, the Region has also been advised that the LNA should result in a single number for land need; a blended number where Community Area land need and Employment Area land need are combined.

In the May 2021 LNA, the Region's net overall land need was 440 hectares. From the above-noted changes, the Region's current overall net land need is 705 hectares.

Additional context and information is provided throughout this document, with particular focus on those component that were revised from the May 2021 LNA.

Community Area Land Needs Assessment

Community Area is defined as the Urban Area, minus *Employment Areas*, and is made up of both the *Delineated Built-Up Area* (as defined and mapped by the Province in 2006) and the Designated Greenfield Area (DGA).

The *Community Area* part of the Land Needs Assessment seeks to quantify the amount (in hectares) of DGA lands that is needed to accommodate the required growth forecasts to 2051.

The *Community Area* Land Needs Assessment is comprised of six components. Below is a discussion of those components and the results.

Component 1: Population Forecasts

The starting point is the population projection by age group for the Region. This comes from *Growth Plan* Schedule 3, which provides a *minimum* forecast 2051 population of 674,000 for Niagara Region.

Through the work described above, the Region is advancing an alternative growth forecast, referred to as the “Made-in-Niagara Forecast”. This better reflects the growth potential in Niagara’s communities and current work on the NES.

For the reasons set out in this report, the Made-in-Niagara Forecast uses a population of 694,000.

Component 2: Housing Need

The Region has done significant forecasting work, over several years, and based on input from many stakeholders. Most recently, its forecasting work was set out in Report, PDS 17-2021 Appendix 3, Growth Allocation Update to 2051 prepared by Hemson (“*2051 Growth Update Memo*”, 2021).

The *Methodology* requires population to be converted into housing units based on household formation rates. Household formation rates are based on the likelihood or tendency of age groups to live in households.

Niagara’s household formation rates are anticipated to increase between 2016 (the base Census year) and 2051. A contributing factor is Niagara’s aging demographic,

which will continue to grow to 2051, with a significant increase in households maintained by people 75 years of age and older.

The 2051 housing forecast has been updated to reflect the Made-in-Niagara Forecast, based on the assumptions and age cohorts identified in the *2051 Growth Update Memo*.

Table 1 identifies a need for **296,750 households** based on the 2051 population forecast of 694,000.

Table 1: 2016 and 2051 Occupied Households by Age of Household Maintainer

Age	Headship Rate	Occupied Households		2016-2051 Growth	2016-2051 Growth %
		2016	2051		
15 - 19	1.7%	430	566	136	31.7%
20 - 24	14.5%	4,000	5,066	1,066	26.6%
25 - 29	35.2%	8,640	12,768	4,128	47.8%
30 - 34	48.7%	11,435	17,566	6,131	53.6%
35 - 39	52.9%	12,385	19,461	7,076	57.1%
40 - 44	54.1%	13,825	20,130	6,305	45.6%
45 - 49	57.4%	16,365	22,220	5,855	35.8%
50 - 54	57.7%	19,920	24,897	4,977	25.0%
55 - 59	58.6%	20,050	25,948	5,898	29.4%
60 - 64	58.9%	18,845	25,093	6,248	33.2%
65 - 69	61.2%	18,015	25,711	7,696	42.7%
70 - 74	61.7%	13,675	24,331	10,656	77.9%
75 - 79	65.3%	10,480	24,207	13,727	131.0%
80 - 84	66.5%	8,190	21,747	13,557	165.5%
84 - 89	60.7%	5,185	15,991	10,806	208.4%
90 +	46.3%	2,390	11,048	8,658	362.3%
Total	48.2% (2016)	183,830	296,750	112,920	61.4%
	50.8% (2051)				

The forecast population age structure and household formation information is further used to determine households by housing type. The *Methodology* requires housing forecast by four housing types; single/semi-detached, row houses, accessory dwelling and apartment.

As referenced in the *2051 Growth Update Memo*, the starting point for household forecast by housing type was a market-based demand. Market-based demand is a key consideration within the LNA process and, along with housing affordability, is one of the main drivers in establishing housing mix and land need requirements.

The Made-in-Niagara Forecast is driven by an increase of medium and high density housing within existing urban areas. The resulting housing mix, compared to the mix presented in *2051 Growth Update Memo*, is slightly lower for single and semi-detached homes and greater for other housing types. However, there is an overall increase in all housing unit types and is based predominantly on recent development application trends and inquires. Therefore, while the housing mix has changed slightly, it remains reflective of market demand, supports additional intensification, and better aligns with recommendations from CANCEA regarding affordability and core housing need.

Table 2 provides a summary of household forecast by housing type between 2021 and 2051.

Table 1: Household Forecast by Housing Type - 2021 to 2051

Household Forecast by Housing Type: 2021 to 2051					
Niagara Region	Single/Semi-Detached	Row House	Accessory Dwelling	Apartment Building	Total
Units	44,318	27,404	3,390	27,653	102,765
Share	43%	27%	3%	27%	100%

Component 3: Allocation of Housing Need to Local Municipalities

Allocation of Housing Need to local municipalities is based on input from local municipalities and public and private stakeholders.

Draft allocation covering the period between 2016 and 2041 was completed through Niagara 2041 (see PDS 37-2016) and formed the basis for completion of the pre-2017 Municipal Comprehensive Review (see PDS 21-2018).

Municipal allocations were revised and extended to the 2051 planning horizon through the *2051 Growth Update Memo*, based on the need to reflect market demand for housing and informed by associated Official Plan strategies, including Watershed, Housing and Employment Strategies.

After release of the May 2021 Forecasts, consultation and collaboration continued with local municipalities, internal Niagara 2051 working group and the public.. Through this work, it was identified that municipal allocations of population growth to the Town of Lincoln and City of Welland were not reflective of growth expectations and anticipated 2051 infrastructure demand.

On this basis, staff increased the population forecast to 694,000 people – an increase of 10,000 to each of Lincoln and Welland. The increase of 20,000 population results in an additional 9,000 housing units to 2051.

All housing units are located within the existing built boundary, support intensification and contribute to the mix of housing needed to improve housing affordability.

Housing Affordability

The Housing Report (CANCEA, 2021) provided in PDS 17-2021 (Appendix 5.2), sets out that the Region's core housing need (including, affordability) will get worse if we continue growth at the existing level. Achieving the minimum forecasts set out the *Growth Plan* will keep the core housing need level at about 13%. To reduce core housing need, even more housing is needed.

Importantly, core housing need can be addressed by providing a greater share of higher density housing types. Row/townhouse and apartment units have a lower average number of people per unit compared to single and semi-detached units. Therefore, increasing the supply of higher density units leads to more housing options and reduced core housing need.

The Made-in-Niagara Forecast supports higher population growth and an increased amount of medium and high density housing. Therefore, this forecast will better address core housing need.

The LNA considers a market-based housing mix and its relationship to the planned housing mix. This is a requirement of the *Methodology*. A market-based approach is useful to identify an appropriate variety of housing units to be built to meet the needs of Niagara's population.

The Greenbelt specialty crop designation, present in northern Niagara municipalities, prohibits expansion of Settlement Areas boundaries. In the communities of Grimsby, Lincoln, St. Catharines and Niagara-on-the-Lake, growth is proposed within existing Settlement Areas through intensification of the Built-Up Area – requiring a greater proportion of higher density housing types.

Municipalities outside of the *Greenbelt Plan* area have a relatively lower intensification rate and, therefore, a higher proportion of lower density housing types. The balance between these two geographies is important for supporting market-based demand for housing and protection of specialty crop lands within the Greenbelt Plan area.

Table 3 provides municipal-level housing allocations by housing type.

Table 3: Housing Unit Growth by Type and Municipality, 2021 to 2051

Housing Unit Growth by Type and Municipality, 2021 to 2051				
Municipality	Single/Semi	Row	Apartment	Total
Fort Erie	4,060	2,700	600	7,360
Grimsby	130	1,340	3,120	4,590
Lincoln	1,590	2,530	5,695	9,815
Niagara Falls	11,980	5,090	3,140	20,210
Niagara-on-the-Lake	3,060	915	630	4,600
Pelham	2,380	1,070	680	4,130
Port Colborne	1,690	430	180	2,300
St. Catharines	3,040	4,500	12,230	19,770
Thorold	3,900	2,390	160	6,450
Wainfleet	450	0	10	460
Welland	6,010	4,050	4,290	13,930
West Lincoln	6,030	2,390	310	8,730
Niagara Region	44,320	27,405	31,040	102,765

Component 4: Housing Supply Potential by Policy Area

The *Methodology* requires municipalities to plan for growth within three policy areas:

1. Delineated Built-Up Area
2. Designated Greenfield Area
3. Rural Area

Development within the *delineated built-up area* is referred to as Intensification. The *delineated built-up area* was established by the Province in 2008 and was further refined through Niagara 2031, the Region's Growth Management Strategy that implemented the policies of the 2006 Growth Plan.

The *Growth Plan* requires 50% of future household growth in Niagara to be directed to the *delineated built-up area*. This is an increase from 40% in the Region’s current Official Plan, which was the intensification target in the 2006 Growth Plan.

The Region seeks to exceed this requirement. The analysis conducted through the Regional Structure Strategy (PDS 17-2021 Appendix 4.2) identified a Regional Intensification Rate of 56%.

Recent work – based on public consultation and the Niagara 2051 servicing review – suggests Niagara can have an even higher intensification rate. As previously noted, the additional population for Lincoln and Welland is entirely planned within the delineated built-up area. No changes are needed to Strategic Growth Areas (SGA) or settlement boundaries from what was set out in the Regional Structure Strategy, as identified in PDS 17-2021, Appendix 4.2.

The outcome of this recent work reflects an intensification target of 60%.

This target is well above the minimum 50% target identified in the *Growth Plan*.

The *Designated Greenfield Area* (“DGA”) is the remainder of the designated urban area outside of the *delineated built-up area*.

The *Growth Plan* sets out that the Region must plan for a minimum density target of 50 people and jobs per hectare within the DGA. This target is incorporated in the LNA.

The Rural Area is considered all areas outside of Urban Settlement Areas, and includes the Agricultural System and Rural Settlements (Hamlets). Rural housing need will be addressed in the final Land Needs Assessment. The Rural Land Needs Assessment is discussed in detail later in this report.

Housing forecasts by municipality, within the three policy areas, is based on an assessment of intensification opportunities, including SGA’s, and development potential within the DGA. Intensification rates, established through the Regional Structure, are based on a combination of consultation with local municipalities and an assessment of the capacity for growth within the *delineated built-up area*.

Table 4 provides household forecast by policy area for each municipality and identifies the overall intensification rate of 60%.

Table 4: Housing Forecast by Policy Area and Municipality, 2021 to 2051

Shares of Household Growth by Policy Area Niagara Region by Local Municipality, 2021-2051				
Municipality	Built Up Area	DGA	Rural	Total
Fort Erie	50%	49.5%	0.5%	100%
Grimsby	98%	2.5%	0.5%	100%
Lincoln	90%	9.5%	0.5%	100%
Niagara Falls	50%	49.5%	0.5%	100%
Niagara-on-the-Lake	25%	74.5%	0.5%	100%
Pelham	25%	74.5%	0.5%	100%
Port Colborne	30%	69.6%	0.5%	100%
St. Catharines	95%	4.5%	0.5%	100%
Thorold	25%	74.5%	0.5%	100%
Wainfleet	0%	0%	100.0%	100%
Welland	75%	24.5%	0.5%	100%
West Lincoln	13%	86.5%	0.5%	100%
Niagara Region	60%	39%	1%	100.0%

As with Component 3, the *Methodology* requires housing forecasts within each of the policy areas to be broken out into housing type. The distribution of housing type within each policy area must be based on an achievable housing mix and consider market-demand.

Within the *delineated built-up area*, the housing mix is predominately higher density forms of housing including row and apartment housing. In contrast, the housing forecast within the DGA and Rural area is predominately ground-related, with 73% of units anticipated to be single or semi-detached.

Table 5 and **Table 6** provide housing unit forecasts by municipality within the *delineated built-up area* and DGA.

The Township of Wainfleet is excluded from both tables as Wainfleet does not have an Urban Settlement Area and all forecast housing growth will occur within the *Rural Area*, in Rural Settlements and on other agricultural lands. Additional detail is provided in the Rural Settlement Area Assessment section.

Table 2: Housing Forecast by Unit Type, Delineated Built-Up Area, 2021 to 2051

Delineated Built-Up Area Housing Unit Growth, 2021 to 2051				
Municipality	Single/Semi	Row	Apartment	Total
Fort Erie	1,520	1,620	540	3,680
Grimsby	110	1,330	3,060	4,500
Lincoln	1,430	1,920	5,545	8,895
Niagara Falls	4,220	3,050	2,830	10,100
Niagara-on-the-Lake	238	350	563	1,150
Pelham	350	500	180	1,030
Port Colborne	400	130	160	690
St. Catharines	2,480	4,370	11,930	18,780
Thorold	580	890	140	1,610
Welland	2,920	3,330	4,190	10,440
West Lincoln	760	120	250	1,130
Niagara Region	15,008	17,610	29,388	62,005

Table 3: Housing Forecast by Unit Type, DGA, 2021 to 2051

Designated Greenfield Area Housing Unit Growth, 2021 to 2051				
Municipality	Single/Semi	Row	Apartment	Total
Fort Erie	2,500	1,080	60	3,640
Grimsby	0	10	60	70
Lincoln	140	610	150	900
Niagara Falls	7,660	2,040	310	10,010
Niagara-on-the-Lake	2,800	564	66	3,430
Pelham	2,010	570	500	3,080
Port Colborne	1,280	300	20	1,600
St. Catharines	460	130	300	890
Thorold	3,290	1,500	20	4,810
Welland	2,630	720	100	3,450
West Lincoln	5,230	2,270	60	7,560
Niagara Region	28,000	9,794	1,646	39,440

Component 5: Community Area Jobs

The *Methodology* requires *Community Area* jobs be allocated within the DGA portion of the *Community Area* to calculate the total number of residents and jobs occurring within it.

Community Area jobs are predominately within the Major Office and Population-Related Employment categories. For the purposes of the *Community Area* assessment, *Community Area* jobs are further distinguished between the *delineated built-up area* and *designated greenfield area*.

Community Area jobs were calculated based on existing development proposals, land use permissions, and factoring in Work At Home employment.

Work At Home

Work at Home employment is incorporated into the Land Needs Assessment impacts *Community* and *Employment Area* Land needs.

Since the onset of the Covid-19 pandemic to the time of preparing this LNA Summary, many jobs have shifted to a Work at Home setting, although the Region does not have specific data quantifying such a shift.

At the time of writing, the Region and other experts are unsure the long-term impacts for Work at Home. For the preparation of the LNA, this is an important consideration for how Work at Home may impact the calculation of different Employment Types.

In Niagara, the majority of *Employment Areas* are considered Core and Dynamic (as defined in the Employment Strategy, **Appendix 10.2**). Jobs within these areas are largely categorized as Employment Land Employment and occur onsite. Therefore, moving Employment Land Employment jobs out of *Employment Areas* would result in an erroneous reduction in *Employment Area* land requirements.

Alternatively, Major Office and Population-Related Employment jobs are those that are most likely to be Work at Home. In other words, those are the types of jobs that may see long-term Work from Home changes. That type of job is predominantly located within the *Community Area*.

The approach taken in the LNA is to maintain similar Work at Home rates, generally consistent with pre-Covid-19 pandemic conditions. This ensures the greatest flexibility within *Employment Areas* and maintains a sufficient supply of lands in the event there is not a significant long-term shift to Work at Home.

In this way, the Region is being conservative in its LNA. Work from Home trends will be carefully monitored and, if warranted, future Official Plan changes will be advanced to address those trends.

Table 7 provides an estimated number of jobs within the DGA portion of the Community Area for each urban municipality.

Table 4: DGA Community Area Job Forecast, 2021 to 2051

DGA Community Area Job Forecast, 2021-2051	
Municipality	Total
Fort Erie	247
Grimsby	5
Lincoln	744
Niagara Falls	1,065
Niagara-on-the-Lake	1,091
Pelham	559
Port Colborne	362
St. Catharines	1,555
Thorold	532
Welland	266
West Lincoln	1,998
Niagara Region	8,424

Component 6: Need for Additional Land

The final component of the *Community Area* LNA brings together the forecast housing units and employment within the DGA to establish an overall land need based on achieving the minimum density target of 50 people and jobs per hectare.

To determine land need, the forecast housing units in **Table 6** are compared to the planned units (units that are within either a draft or registered Plan of Subdivision) within each municipality. The surplus, or shortfall, of units is converted into residents based on the Persons Per Unit rate¹ for each unit type.

¹ The Person Per Unit (PPU) rate is based on the 2017 Niagara Region Development Charges Background Study. This Study provides a PPU of 2.91 for single/semi-detached, 2.12 for row and 1.62 for apartment. PPU rates may be revised based on forthcoming Development Charges Study work undertaken later in 2021.

Finally, DGA Community Area job forecasts in **Table 7** are added to establish an overall people and jobs target for the DGA.

The overall population and employment target is converted to a land need in hectares based on the minimum density target of 50 people and jobs per hectare.²

Table 8 provides the *Community Area* Land Needs Assessment results.

Table 5: Overall Community Area Land Need, 2021 to 2051

DGA Community Area Land Need, 2021-2051				
Municipality	Population and Employment Growth within the Unplanned DGA	Area Required (ha)	Area Designated³ (ha)	Additional Land Need (ha)*
Fort Erie	8,170	165	60	105
Grimsby	120	5	0	5
Lincoln	2,410	25	25	0
Niagara Falls	23,470	470	195	270
Niagara-on-the-Lake	9,935	80	75	5
Pelham	3,215	65	25	40
Port Colborne	4,615	90	250	(160)
St. Catharines	3,655	75	60	15
Thorold	4,830	95	250	(155)
Welland	5,770	115	115	0
West Lincoln	20,545	410	40	370
Niagara Region	86,735	1,590	1,095	495

Note: Above numbers have been rounded to the nearest 5.

² The density target of 50 people and jobs per hectare excludes Lincoln, which has a vacant DGA target of 100 people and jobs per hectare due to the land use permissions within the Major Transit Station Area and Niagara-on-the-Lake, which has a target of 125 people and jobs per hectare relating to the Glendale District Plan.

³ The Area Designated is the gross developable land, within the Designated Greenfield Area, free of non-developable features identified within the *Growth Plan*. The Natural Environment System (NES) area removed is based on draft analysis associated with NES Option 3B/3C as of July 2021.

Community Area Land Needs Summary

Niagara's 12 local municipalities can be placed into two general categories as it pertains to the Made-in-Niagara Forecast results for Community Area:

1. Additional Community Area Land Required

The Town of Fort Erie, City of Niagara Falls and Township of West Lincoln needs more community area land to accommodate the 2051 forecast. The Town of Pelham has a small need for community area land.

2. No Additional Community Area Land Required

The Town of Grimsby, Town of Lincoln, Town of Niagara-on-the-Lake, City of St. Catharines, and City of Welland generally have a sufficient supply of designated lands to accommodate the 2051 forecast.

The City of Thorold and City of Port Colborne have a surplus of designated lands to 2051.

Additional Considerations and Revisions

The *Methodology* allows for final adjustments to be made to *Community Area* Land Needs, including a minor increase to land in the event of any expansions, to create a logical boundary.

The *Methodology* also allows for refinements based on constrained lands due to infrastructure and servicing. Determining servicing constraints will be important in assessing lands that may be considered constrained, rather than surplus.

Finally, revisions to associated strategies will require updates to the Land Needs Assessment. Work on the Natural Environmental System (NES) is ongoing and draft mapping and policies will be released in Fall 2021. Updates to the NES may require minor adjustments to the LNA.

If an *Employment Area* boundary is changed, it will directly impact the *Community Area* land need. If the *Employment Area* is within the BUA, the result may be an increase to Intensification Rate. If the *Employment Area* is within the DGA, the result would be a decrease in *Community Area* land needs.

The final Land Needs Assessment will be a combined overall number of community area and employment area. That requires endorsement by Council and will be provided to the Province for approval.

Employment Area Land Needs Assessment

Component 1: Employment Forecasts

Similar to the *Community Area* assessment, the starting point for determining the overall *Employment Area* land need is the employment forecast set out in *Growth Plan* Schedule 3. The *Growth Plan* requires Niagara Region to plan for a minimum employment base of **272,000 jobs** by 2051.

The *Methodology* requires the employment forecast to be allocated to local municipalities and be categorized by employment type, including Major Office, Population-Related Employment, Employment Land Employment and Rural based employment. These employment types are defined within the **Glossary of Terms** section at the end of this report.

2051 Growth Update Memo sets out the distribution of employment forecasts for Niagara Region.

Table 9 provides an overview of employment growth by municipality, by employment type, from 2021 to 2051.

Table 6: Niagara Region Employment Growth, 2021 to 2051, by Employment Type

Total Employment Growth by Employment Type, 2021-2051					
Municipality	Major Office	Population-Related Employment	Employment Land Employment	Rural Employment	Total Employment
Fort Erie	140	2,890	3,430	440	6,900
Grimsby	380	2,070	1,130	390	3,970
Lincoln	100	1,580	1,390	1,500	4,570
Niagara Falls	1,150	15,550	2,770	850	20,320
Niagara-on-the-Lake	350	3,040	290	1,480	5,160
Pelham	10	1,600	0	710	2,320
Port Colborne	0	750	350	540	1,640
St. Catharines	4,970	10,780	2,880	590	19,220
Thorold	250	2,540	580	170	3,540
Wainfleet	0	0	0	420	420
Welland	360	4,610	5,300	480	10,750
West Lincoln	160	3,580	1,760	520	6,020
Niagara Region	7,870	48,990	19,880	8,090	84,830

Source: Hemson Consulting, Niagara Region Municipal Comprehensive Review – Growth Allocation Update to 2051

Component 2: Employment Allocation

The *Methodology* requires municipalities to further refine forecasts by allocating employment to the *Community*, *Employment*, and *Rural Areas*.

Employment that is expected to occur outside of urban settlement area boundaries is allocated to the *rural area*. The *Methodology* sets out that a small share of employment land employment and population-related employment should be allocated to the *rural area*. This is particularly important in Niagara where certain local municipalities have existing industrial, manufacturing and greenhouse operations within the *rural area*.

The remaining, non-rural jobs are allocated to *Community Area* and *Employment Areas* within settlement areas. Within Niagara, the vast majority of population-

related employment is based within the *Community Area*; only about 5%⁴ occurring within *Employment Areas*.

Major office growth is also predominately within the *Community Area*, Urban Growth Centre and Major Transit Station Areas. However, some major office currently exists within some *Employment Areas* and some growth is expected to occur within those areas accordingly.

Finally, the vast majority of employment land employment job growth will occur within the remaining *Employment Areas*.

Table 10 provides a summary of employment forecasts by location.

Table 7: Employment Growth by Type and Municipality, 2021 to 2051

Employment Growth by Policy Area, 2021-2051			
Municipality	Community Area	Employment Area	Rural Area
Fort Erie	2,787	3,610	503
Grimsby	2,136	1,412	422
Lincoln	1,535	1,241	1,794
Niagara Falls	15,786	3,501	1,033
Niagara-on-the-Lake	2,250	1,397	1,513
Pelham	1,594	0	726
Port Colborne	705	384	551
St. Catharines	14,253	4,269	727
Thorold	2,005	1,311	230
Wainfleet	0	0	420
Welland	4,513	5,658	579
West Lincoln	3,445	2,001	573
Niagara Region	51,009	24,784	9,072

Component 3: Employment Area Capacity

The *Methodology* requires employment potential within existing Employment Areas be determined.

⁴ 5% is an average. This varies by municipality, particularly those with Knowledge and Innovation Employment Areas as they have a higher share of population-related employment compared to Core and Dynamic Employment Areas.

This is calculated based on the vacant *Employment Area* employment lands and densities identified within the Employment Strategy.

The Employment Policy Paper (PDS 17-2021, Appendix 10.2) provides a breakdown of occupied and vacant lands, as well as associated densities, for each of the 34 Employment Areas across the Region.

Table 11 provides a summary of existing capacity within Employment Areas, by municipality.

Table 8: Existing Employment Area Potential for Additional Employment

Existing Employment Area Potential	
Municipality	Additional Employment Potential
Fort Erie	1,264
Grimsby	1,679
Lincoln	500
Niagara Falls	3,079
Niagara-on-the-Lake	3,421
Pelham	0
Port Colborne	1,538
St. Catharines	2,663
Thorold	2,128
Wainfleet	0
Welland	4,552
West Lincoln	885
Niagara Region	21,709

Component 4: Need for Additional Employment Area Land

The final step in determining the *Employment Area* land need is to compare the forecast growth (**Table 10**) with the job growth potential within existing *Employment Areas* (**Table 11**). The difference between the forecast and the potential is divided by the municipal level vacant *Employment Area* land density target.

The vacant density target is based on the sub-grouping of employment type determined through the Employment Policy Paper. Generally, Core Employment Areas, with traditional/heavier employment type uses, have the lowest vacant land density target. Knowledge and Innovation Employment Areas, with more major office type uses, have the highest density target. Dynamic Employment Areas can have a mix of traditional and lighter employment type uses and have densities that fall in between Core and Knowledge and Innovation.

Employment Area Densities

Changes to any Employment Area density target within the Employment Strategy will directly impact the Existing Employment Area Potential in **Table 11** and Vacant Employment Area Density Target in **Table 12**. This will either increase or decrease the associated amount of Employment Area land required to meet 2051 forecasts.

Table 12 provides a summary of the Employment Area Land Needs.

Table 9: Employment Area Land Need, by Municipality, 2021 to 2051

Employment Area Land Need by Municipality, 2021-2051			
Municipality	Unaccommodated Employment Growth	Vacant Employment Area Density Target (Jobs/ha)	Employment Area Land Need (ha)*
Fort Erie	2,345	15	155
Grimsby	(265)	50	(5)
Lincoln	740	45	15
Niagara Falls	420	35	10
Niagara-on-the-Lake	(2,025)	95	(20)
Pelham	0	0	0
Port Colborne	(1,155)	30	(40)
St. Catharines	1,605	50	30
Thorold	(815)	25	(35)
Wainfleet	0	0	0
Welland	1,105	25	45
West Lincoln	1,115	25	45
Niagara Region	3,075	32	210

Note: Above numbers have been rounded to the nearest 5.

Employment Area Land Needs Summary

The result of the *Employment Area* component of the LNA suggests the Town of Fort Erie, City of Welland and Township of West Lincoln do not have sufficient supply of *Employment Area* to accommodate the forecast growth to 2051.

As noted earlier in this Summary, since May 2021, NES work identified that additional vacant lands need to be removed from the developable area calculated in the land needs assessment. This removal of land was most predominant for employment areas in certain municipalities with a greater vacant employment area land surplus. Specifically, this had the largest impact in Port Colborne and Thorold.

In the current LNA, the surplus has been reduced significantly for these municipalities.

Overall the Region has a need for 210 Hectares of Employment Area.

Rural Land Needs Assessment

As directed by the Provincial Land Needs Assessment Methodology, an additional assessment was undertaken for Rural Settlement Areas.

Niagara has a modest population and employment base outside of urban settlement areas. Limited growth is anticipated to continue within rural areas and rural settlement areas. Between 2021 and 2051, the *2051 Growth Update Memo* forecast an additional 900 housing units and 8,090 jobs will occur within the rural area.

The Rural Settlement Area assessment determines where the forecast growth will occur within the rural areas and if additional land is required within rural settlement area boundaries (also known as Hamlets).

The Rural Land Needs Assessment has been restricted to municipalities where Rural Settlement Areas currently exist and are outside of the Greenbelt Plan Area. In other words, the analysis only considers the potential for additional Rural Settlement Area lands where supported by Provincial policies.

Table 13 provides a summary of housing and employment forecasts within both the Rural Area and the proportion to be directed to Rural Settlement Areas. Distribution of units and employment to Rural Settlement Areas is based on historic trends and policy direction within associated Local Official Plans.

Table 13: Rural Area and Rural Settlement Area Forecasts

Rural Area and Rural Settlement Area Forecasts: 2021 to 2051				
Municipality	Rural Area Housing Forecast	Rural Area Employment Forecast	% Rural Employment to Rural Settlement Areas	% Units to Rural Settlement Areas
Fort Erie	40	500	0%	10%
Port Colborne	10	550	100%	100%
Wainfleet	420	460	50%	60%
West Lincoln	40	570	100%	50%

Consultation is ongoing with local municipalities to determine the capacity of existing Rural Settlement Areas, vacant lands and NES mapping. The above Rural Land Needs Assessment may be refined as part of that consultation and included

with the new Niagara Official Plan. It will include a summary of need within Rural Settlement Areas.

Land Needs Assessment Results

This Land Needs Assessment provides a total amount of land required to support the Made-in-Niagara 2051 forecasts.

The Province requires the Region provide a cumulative need of Community Area and Employment Area assessments. **Niagara Region requires a cumulative need of 705 hectares of additional developable urban lands to support a minimum of 694,000 people and 274,000 jobs by 2051.**

Conclusion

This LNA Summary provides a revised draft assessment of how *Community Area* and *Employment Area* land need is calculated.

The *Growth Plan* requires that the Province approve the Region's final LNA. The Region has been consulting with the Province on the draft LNA and will continue to communicate until a final assessment is presented to Council as part of the Niagara Official Plan in 2022.

In preparing this document, careful consideration was given to input from the public, agency and local area municipalities, as outlined above. The Region will continue to consult and make minor refinements in preparing the final LNA as part of the new Official Plan. The next round of public consultation is planned for fall 2021.

Regional staff will seek endorsement in principle of these Forecasts. After that, substantive changes are not planned. However, refinements to the overall need, or distribution between municipalities, may be required. The overall land need should generally remain. This is to ensure consistent recommendations can be advanced for settlement boundaries changes and the Niagara 2051 servicing strategies.

Glossary of Terms

Community Area: Areas where most of the housing required to accommodate the forecasted population will be located, as well as most population-related jobs, most office jobs and some employment land employment jobs. Community areas include delineated built-up areas and designated greenfield areas (Provincial Land Needs Assessment Methodology).

Delineated Built-Up Area: The limits of the developed urban area as defined by the Minister in consultation with affected municipalities for the purpose of measuring the minimum intensification target in the Growth Plan (Growth Plan).

Designated Greenfield Area: Lands within *settlement areas* (not including *rural settlements*) but outside of *delineated built-up areas* that have been designated in an official plan for development and are required to accommodate forecasted growth to the horizon of this Plan. *Designated greenfield areas* do not include *excess lands* (Growth Plan).

Employment Area: Areas where most of the employment land employment jobs are (i.e. employment in industrial-type buildings), as well as some office jobs and some population-related jobs, particularly those providing services to the employment area. Employment areas may be located in both delineated built-up areas and designated greenfield areas (Provincial Land Needs Assessment Methodology).

Employment Land Employment: all employment in urban industrial-type employment areas, excluding major office. As well, large retail concentrations and major institutions that lie within employment areas are excluded from the Employment Land Employment category (2020 Growth Plan).

Excess lands: Vacant, unbuilt but developable lands within settlement areas but outside of delineated built-up areas that have been designated in an official plan for development but are in excess of what is needed to accommodate forecasted growth to the horizon of this Plan (Growth Plan).

Headship Rate: The headship rate is defined as the ratio of the number of household heads or household maintainers to the population 15 years of age and older (Government of Canada).

Intensification: The development of a property, site or area at a higher density than currently exists through:

- a. *redevelopment*, including the reuse of *brownfield sites*;
- b. the development of vacant and/or underutilized lots within previously developed areas;
- c. infill development; and
- d. the expansion or conversion of existing buildings (PPS, 2020).

Major Office: Freestanding office buildings of approximately 4,000 square metres of floor space or greater, or with approximately 200 jobs or more (Growth Plan).

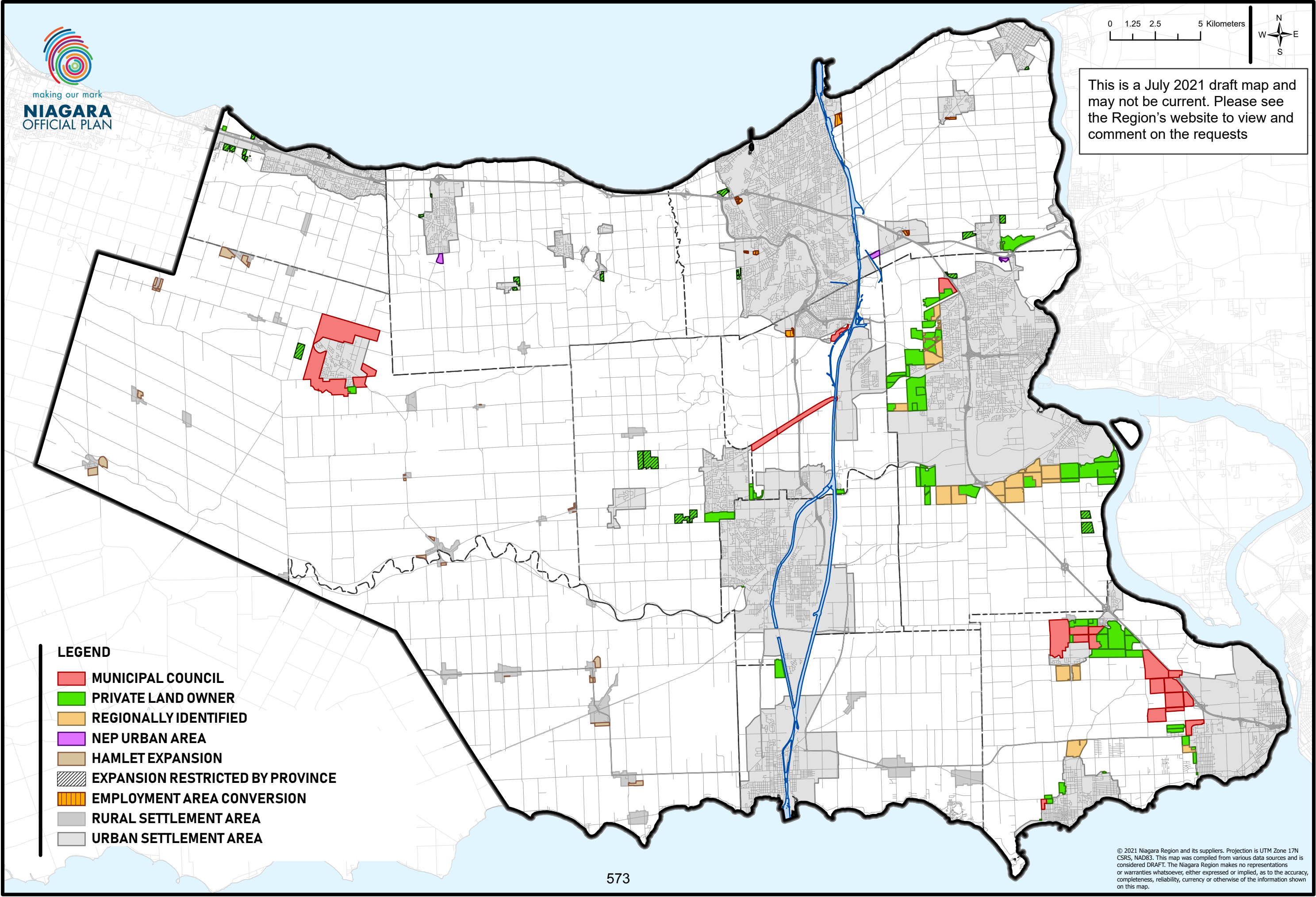
Population-Related Employment: Population-Related Employment is all employment within urban community areas, except major office, and is mainly commercial retail, institutional and urban work at home employment. Major concentrations of retail or large institutions excluded from Employment Land Employment are also part of Population-Related Employment (2051 Growth Update).

Rural Area: Rural Area, for the purposes of the Land Needs Assessment, refers to all lands outside of urban Settlement Area Boundaries. The Rural Area includes Rural Settlements, Prime Agricultural Lands and Rural Lands.

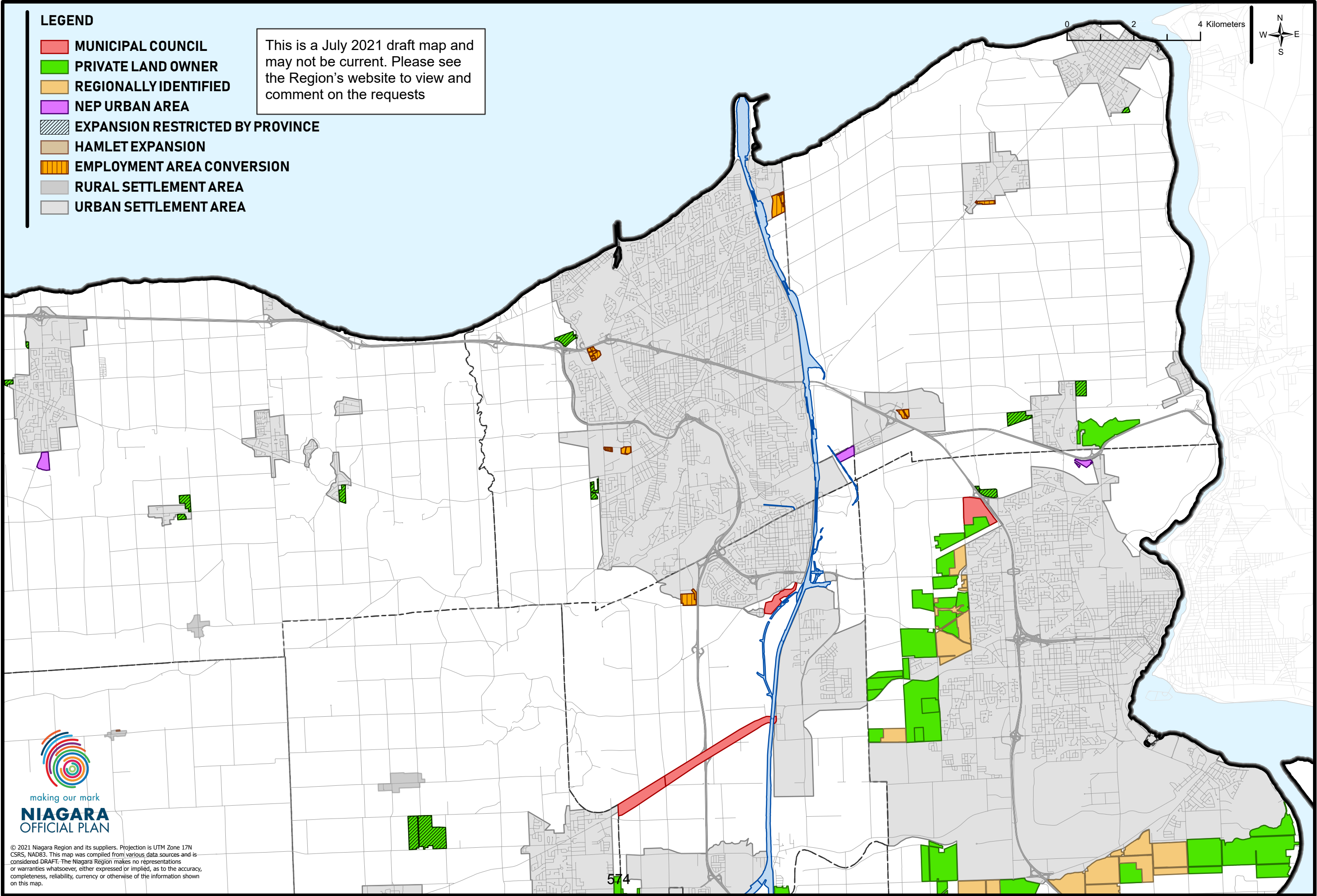
Rural Employment: all employment occurring within the rural geography with the few exceptions for major industrial uses or larger rural industrial areas. Work at home employment is typically a substantial proportion of the rural employment base (Hemson Consulting, Niagara Region Municipal Comprehensive Review – Growth Allocation Update to 2051).

SETTLEMENT AREA BOUDNARY REVIEW REQUESTS

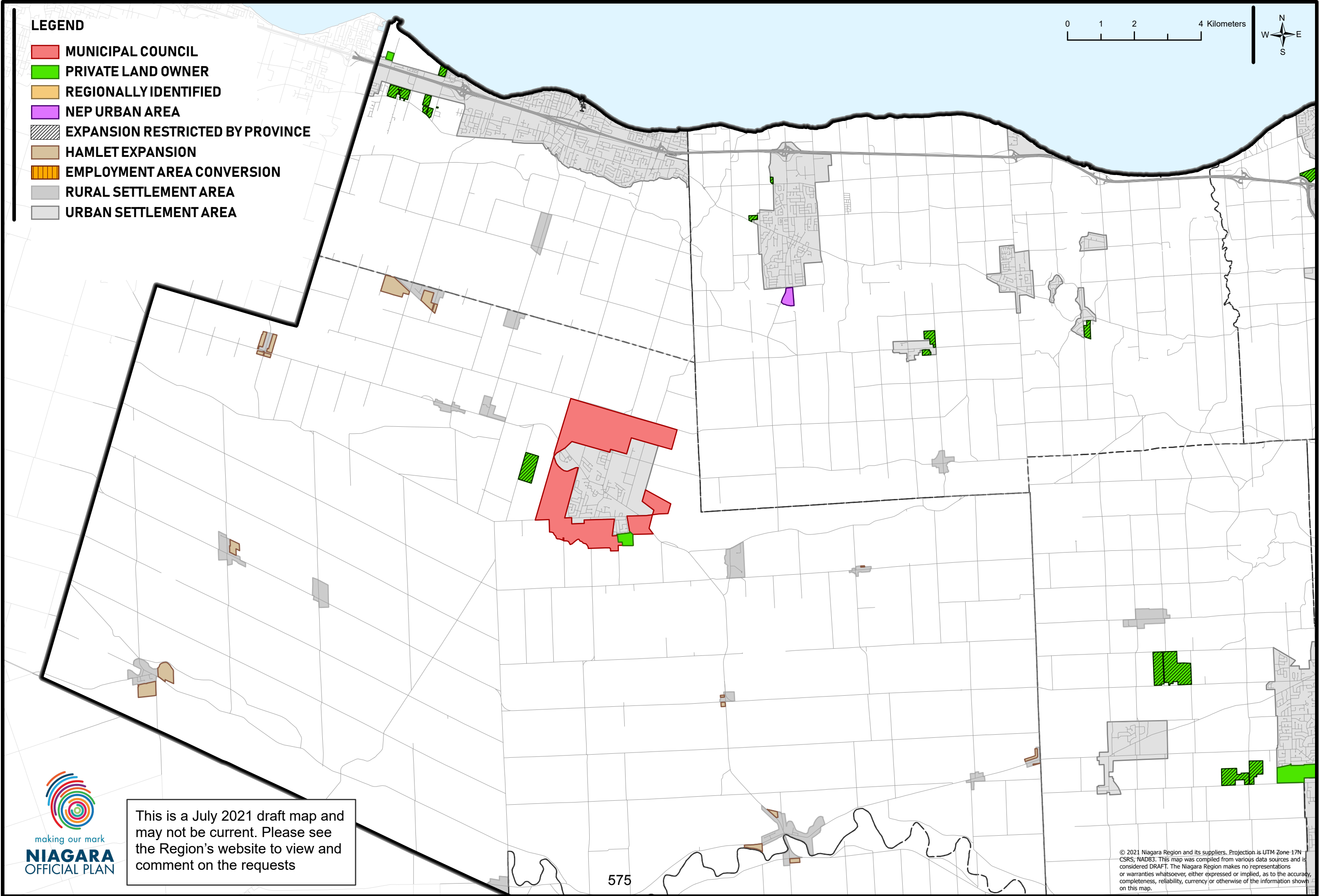
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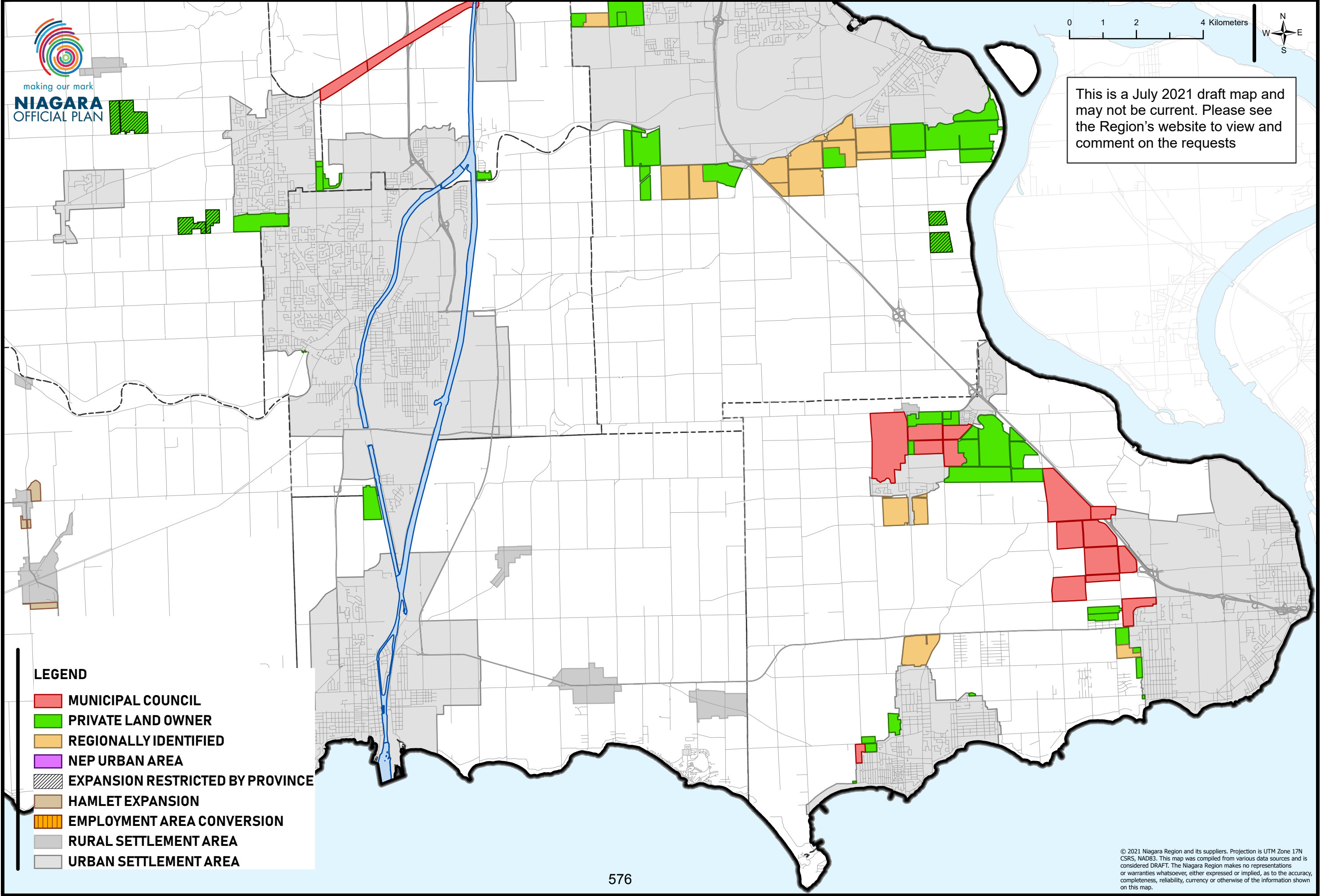
SETTLEMENT AREA BOUDNARY REVIEW REQUESTS



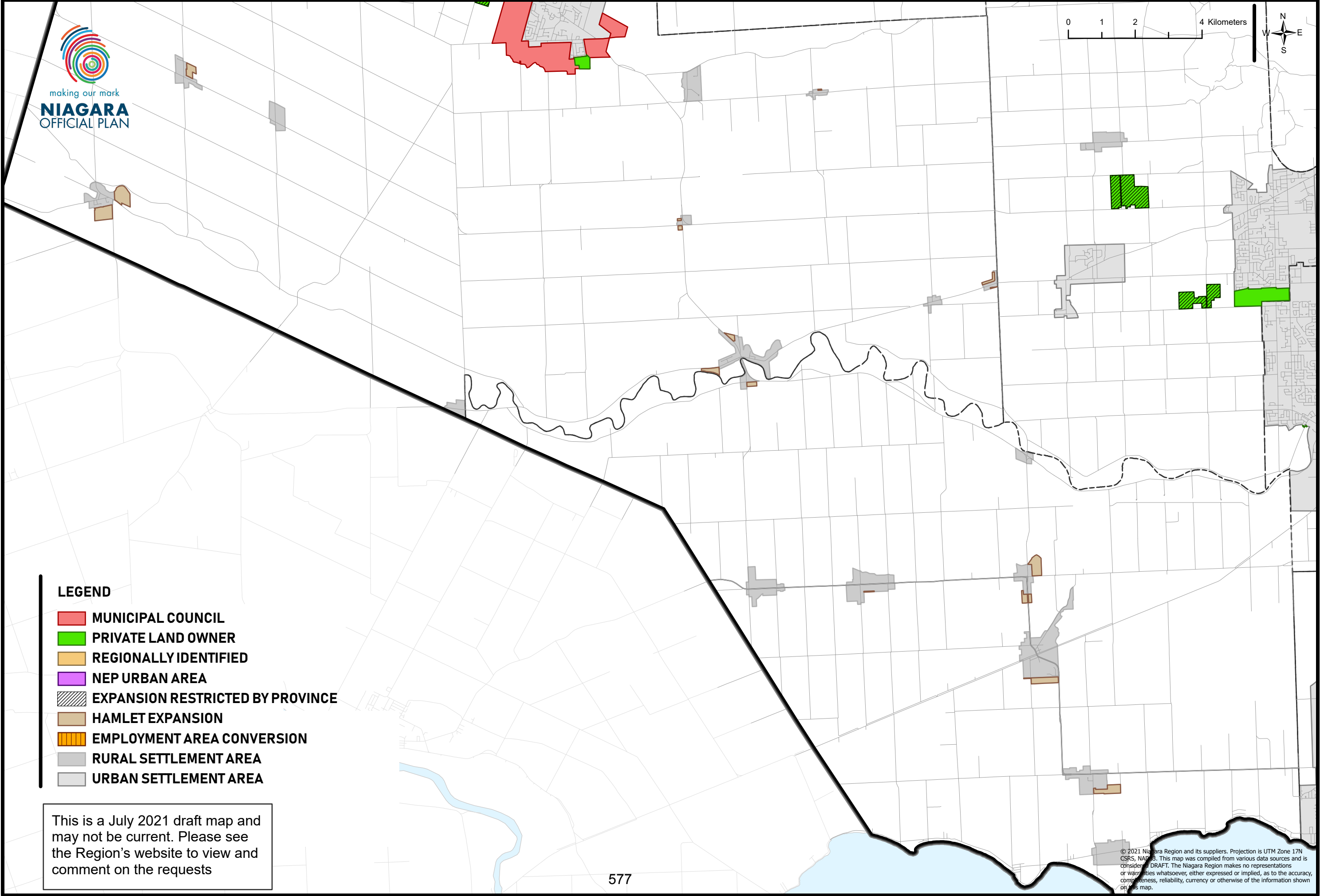
SETTLEMENT AREA BOUDNARY REVIEW REQUESTS



SETTLEMENT AREA BOUDNARY REVIEW REQUESTS



SETTLEMENT AREA BOUDNARY REVIEW REQUESTS



Appendix 3: Summary of Comments Received Relating to Land Needs Assessment and Settlement Area Boundary Review

Below is a summary of written comments received on PDS 17-2021 between May 2021 and July 15, 2021, related specifically to the Land Needs Assessment, Settlement Area Boundary Review, and employment conversions. Comments received verbally through municipal meetings and Public Information Centres are not summarized below.

Detailed comments are available at the Region’s website: [Niagara Official Plan](https://www.niagararegion.ca/official-plan/) <https://www.niagararegion.ca/official-plan/>

Commenter	Comment Summary	Regional Response	Action Taken
Town of Pelham	Town staff support 2051 population and Employment forecasts, as well as Town’s intensification rate. This was endorsed by Pelham Council (Report #2021-0108).	Staff acknowledge the Town’s support of the Region’s work to date on the forecasts.	Region Planning staff will continue to consult with Pelham staff on the LNA and related processes.
Town of Pelham	Town staff support draft Community Area land need of 40 ha. This was endorsed by Pelham Council (Report #2021-0108).	Staff agree with Pelham comments on minor expansion need.	Region Planning staff will continue to consult with Pelham staff on minor expansion need through its SABR process.
Town of Pelham	Town staff have identified locations for potential expansion through property owner requests and have provided their assessment of those which are practical for consideration and those which are not, having regard for provincial policies relating to expansion.	Comments received.	Region Planning staff will continue to consult with Pelham staff on minor expansion need through its SABR process.

Commenter	Comment Summary	Regional Response	Action Taken
City of Niagara Falls	City staff support the 2051 population target of 141,560 people and housing growth of 20,220 units for the 2021 to 2051 period.	Staff acknowledge the City's support of the Region's the work to date on the forecasts.	Region Planning staff will continue to consult with City staff on the LNA and related processes.
City of Niagara Falls	Niagara Falls staff request that the City intensification rate be changed from 50% to 60%, to reflect work undertaken on the City's Housing Needs and Supply Report. Corresponding changes are requested to the Region's Land Needs assessment materials.	<p>Niagara Region staff support the City's Housing work.</p> <p>The Region's Intensification Rates are based on the Land Needs Assessment Methodology released by the Province. The City's Housing work suggested increased intensification to address Housing needs, but did not include analysis of land needs, including market demand.</p>	<p>The Region will continue to work with the City to support the City's Housing work.</p> <p>The City is encouraged to apply a greater intensification rate, above the minimum identified in the Niagara Official Plan, through the City's future Official Plan conformity exercise. At this time, in the Region's Official Plan, we do not intend to change the City's intensification rate from 50% to 60%.</p>
City of Thorold	Identified excess lands through the Regions' LNA need to be addressed through tools and policies in the Region's Official Plan. At this time, those policies and tools have not yet been prepared. Development of these policies and tools should be done in conjunction with local Planning staff.	Work is ongoing on policies and tools to manage lands that are currently designated beyond the 2051 planning horizon.	Additional policies are forthcoming in Fall 2021 to address this comment. Region and Thorold staff will meet to collaboratively work on policies.

Commenter	Comment Summary	Regional Response	Action Taken
Town of Lincoln	Staff opine that Lincoln's population forecasts are low considering current development proposals and the planned higher densities in the Beamsville GO Station Area and Prudhommes area.	Based on a detailed review of the development proposals and servicing to 2051, more population is needed in Lincoln's built-up area.	Lincoln is assigned an additional 10,000 people to 2051, exclusively in the delineated built-up area. This results in an intensification rate of 90% and no additional need for Community Area lands to 2051.
Town of Lincoln	The Region allocated an additional 900 households to Lincoln's Designated Greenfield Area (DGA) over the next 30 years. Lincoln staff opine this figure is low, given the location of DGA in the Beamsville GO Station area planned for higher transit-oriented densities.	The DGA lands in the Beamsville GO Transit Station Area Secondary Plan Land Use Schedule are predominately Office Commercial and Transit Station Area. Thus, only 900 residential units are forecast. However, this unit forecast is a minimum target.	No action taken at this time. Minor refinements may be made to the housing unit mix prior to the completion of the Niagara Official Plan.
Town of Lincoln	Lincoln supports the Region's allocation of 0.5% growth to the Rural Area.	Staff acknowledge the Town's support of the Region's work.	None.
Town of Lincoln	Staff opine that a larger proportion of growth should be allocated to apartment unit types. This reflects recent applications, planned densities and land supply.	On further data review, Regional staff have adjusted the unit mix and included a greater share of apartment units. This is assigned exclusively within the built-up area.	Lincoln is assigned an additional 4,225 apartment units through the Made-in-Niagara Forecast.

Commenter	Comment Summary	Regional Response	Action Taken
Town of Lincoln	Town staff previously requested a number of technical amendments as part of the Provincial Plans Review and Municipal Comprehensive Review. The Town's suggested boundary amendments that were included in staff report PL 16-13 continue to be carried forward to the Region for consideration. Town staff request to be provided with draft mapping from the Region when it becomes available for comment.	Region staff acknowledge receipt of technical boundary adjustments, and will comment at a later time. Technical adjustments are not the same as boundary expansions – these are minor and intended to fix a technical matter.	Staff are working on technical boundary adjustments for reporting in Fall 2021.
Town of Fort Erie	Town Staff reviewed the Draft LNA and Draft Forecasting Polices and are generally satisfied with the proposed intensification rates, growth allocation numbers and land needs assessment. However the Town felt although close, more employment area was needed based on its consultant findings (Report PDS-54-2021).	Staff acknowledge Town's support of Region's work on the LNA and allocations. The revised Made-in-Niagara Forecast and updated LNA has more employment area in Fort Erie than the May Forecast and LNA.	Region Planning staff will continue to consult with Fort Erie staff on the LNA and related processes.
Town of Fort Erie	The Town, through the approved Urban Area Boundary Expansion Study, has forwarded expansion candidate sites to the Region for consideration.	Staff received the Town's reports on preferred expansions. These will be reviewed as part of the Region's SABR process.	Region Planning staff will continue to work with Fort Erie staff on the SABR expansion process.

Commenter	Comment Summary	Regional Response	Action Taken
Town of Fort Erie	The Town has the ability to legislatively advance 40 ha expansions outside of the MCR process. Addendum 2 of the Urban Area Boundary Expansion Study, identified sites and priorities for these expansions, should candidate sites not be considered by the Region.	Only the Region can expand boundaries. The Growth Plan has a policy that allow expansions for up to 40 Ha in advance of a municipal comprehensive review (i.e. new Official Plan), subject to specific requirements. The Region is not processing 40 Ha expansion requests at this time since it is not in advance of a municipal comprehensive review.	Comment received. No action taken.
City of Welland	Welland staff seek clarification on draft Regional Structure policy 2.2.5.6 as it relates to criteria development by the Region for expansions and local involvement.	This policy relates to criteria developed for the SABR review, which has been discussed at several meetings with local staff.	Regional staff are considering revisions to this policy to better reflect the draft SABR criteria.
City of Welland	City Staff inquired on the relationship between established neighbourhoods and declining population growth over the 30 year planning horizon.	Established neighbourhoods generally have an older demographic than new neighbourhoods; as a result, the average number of people per unit is expected to decline slightly from 2021- 2051.	No action taken.
City of Welland	City Staff inquired how additional dwelling units (sometimes called Secondary Suites) are captured in the forecast and suggested a higher forecast be provided for the City of Welland.	Through consultation with Welland staff after receipt of this comment, the Region and City agreed that 50 additional units per year for Secondary Suites was an achievable target.	Welland is assigned an additional 1,600 apartment units in the Made-in-Niagara Forecast. The majority of additional apartment units are anticipated to be Secondary Units.

Commenter	Comment Summary	Regional Response	Action Taken
City of Welland	City Staff note the population and housing forecast seems low for Welland. Planning applications and pre-consultations surpass some draft figures, especially for apartment units. These projects will commence within the next half decade or less.	Based on a detailed review of development proposals and servicing to 2051, more population is needed in Welland's built-up area.	In the updated Made-in-Niagara Forecast, Welland is assigned an additional 10,000 people to 2051, exclusively in the built-up area. This results in an intensification rate of 75% and no additional need for Community Area lands to 2051.
City of Welland	City Staff noted that Employment Area needs increased as Natural Heritage mapping is updated.	Refinements to the Natural Environment System (NES) have been on going since the May report. Since that time, the Region has protected more environmental lands in Employment Areas, including in Welland. This results in less developable Employment Area in Welland.	The revised LNA has a small need for additional Employment Area land in Welland. NES work, including consultation on it, is ongoing. Thus, the final land need may have minor adjustments prior to completion in the Official Plan.
City of Welland	Based on the methodology for determining developable land, including the removal or discount of Natural Heritage features, City Staff ask if the amount of developable land within existing Employment Areas will be impacted.	The Employment Area calculations for the LNA are based on developable land supply and remove natural heritage features and encumbered lands.	No action taken.

Commenter	Comment Summary	Regional Response	Action Taken
City of Welland	The City is currently having its own forecasts being created as part of our own Official Plan review. These forecasts will be included in the updated Official Plan document. The City will consider policies in its Zoning and OP where necessary that are in adherence to the requirements of Provincial Policy.	The Growth Plan identifies that the Region is responsible for allocating forecasts. Until the Region allocates forecasts, the forecasts that existed on August 28, 2020 remain in effect. Future forecasts established by Welland must conform to the Niagara Official Plan and Growth Plan.	None at this time.
Township of West Lincoln	West Lincoln supports the Regional growth allocations as provided to West Lincoln.	Staff acknowledge the Township's support of the Region's work to date on the forecasts.	None at this time.
Township of West Lincoln	Township staff provided report PD-077-21 which identifies a rural hamlet review work program to be completed in accordance with the Region's SABR Appendix 18.3.	Regional planning staff acknowledge the Township's work plan and are available to consult as needed.	Region will work with Town and consultant as needed during their study.
Niagara Escarpment Commission	NEC requests that it be consulted if any of the proposed urban designations in the Region's Official Plan are for properties within the NEP Area. The Region cannot approve urban amendments, unless the change in designation has first been approved by the Province.	Any boundaries changes related to the NEP area, including technical adjustments, will be discussed with the NEC and local planning staff.	Region has ongoing meetings with the NEC and will address this topic at future meetings.
Niagara Escarpment Commission	NEC would like to assist with mapping discrepancies; it has new digital maps for the NEC Area of Development Control starting July 1, 2021.	Comment received.	None at this time.

Commenter	Comment Summary	Regional Response	Action Taken
Public	Question about potential redevelopment and land use designation changes to the lands west of Garner Road, north of McLeod Road, and south of Lundy's Lane in Niagara Falls. Concerned about urban expansion areas in the vicinity of their rural residence.	This is to be considered as part of the Region's SABR process.	Planning staff communicated with commenter to outline SABR and reasons why the process is needed.
Public	Question about whether the Region has changed the land use designation of lands on the east side of Rice Road, in Pelham, from agricultural land to rural or urban? Contends that it should be re-designated due to Pelham's zoning, extension of services, and dormant agricultural fields.	This area is under consideration for possible expansion.	Expansion consideration is under review as part of SABR process, for reporting in Fall 2021.
Public	Will 1538 RR20 will be brought into Bismark Hamlet in West Lincoln? Region should review hamlet boundaries to capture all of the R1A zone.	Staff are reviewing request to determine if request is an expansion or technical adjustment. The change requested will not add building lots in hamlet.	Staff communicated with requestor to outline process and provide location for materials.

Commenter	Comment Summary	Regional Response	Action Taken
Preservation of Agricultural Land Society (PALS)	PALS regards the use of a higher population projection by Niagara than that provided by the province as subversive of good land use planning across Ontario. Comments with respect to rejecting provincial population projections.	<p>The Region must plan for the population forecasted in the Growth Plan, as a minimum.</p> <p>Decision of Regional Council must conform to the Growth Plan.</p> <p>In developing forecasts, Staff consider all planning matters, including climate change, the natural environment system, and core housing needs/affordability. The Made-in-Niagara Forecasts best address these matters.</p>	Staff recommend proceeding with the Made-in-Niagara Forecasts for the reasons identified here and in the covering report.

Commenter	Comment Summary	Regional Response	Action Taken
Preservation of Agricultural Land Society (PALS)	Understands that a 460 hectare urban expansion for residential needs has been determined. Comments that this figure hasn't been defended and logically explained. Inquires about how this can be subject to change and why there is need for expansion of employment lands, with no precise figure provided. This does appear to eliminate the notion that residential needs can be accommodated through re-designating employment lands.	<p>A detailed May 2021 Draft Land Needs Assessment (LNA) is provided in Appendix 3.2 of PDS 17-2021. An updated version of the LNA is attached to this report as Appendix 1. This LNA was developed in conformity to the Provincial Land Needs Assessment Methodology, which identifies the specific components, inputs and assumptions required.</p> <p>Employment Areas are a component of the LNA. The additional Community Area land cannot be supported through re-designating employment lands. A reduction in existing Employment Areas to support Community Area development would create a greater need for Employment Area.</p>	Staff recommend proceeding with the Made-in-Niagara Forecasts for the reasons identified here and in the covering report.
Preservation of Agricultural Land Society (PALS)	Supportive of urban boundary expansion in Welland as it has been carefully planned for 10 years, has a linked natural heritage system, and can be logically serviced by transit. PALS not supportive of urban boundary expansions in Fort Erie and West Lincoln, for reasons of lack of transit support and loss of agricultural land, natural heritage and water resource features.	Comment received.	Expansions remain under consideration as part of SABR process.

Commenter	Comment Summary	Regional Response	Action Taken
Timberlee Glen Development Ltd. (IBI Group)	IBI Group representing Timberlee Glen Development Ltd., respecting lands in the Port Weller East area of St. Catharines, south of Lakeshore Road, between Read Rd and the Welland Canal, outlines reasons for making these lands a mixed-use area. These lands are currently employment and comprise approximately 18.4ha.	This matter is the subject of an OLT appeal relating to St. Catharines OPA 26. At this time, the Region does not agree to change the designation on these lands from employment area.	Employment Area conversions remain under consideration as part of the SABR process, for reporting in Fall 2021.
Marco Marchionda (Marcasa Homes Inc.)	Submission made in respect of lands on the north side of Regional Road No. 81 in the area of Cline Rd. comprised of approximately 2.4 ha. in Grimsby. How does the ROP identify the lands between Casablanca and Kelson Ave? Question about the potential for a MCR in Grimsby rather than NOTL given available infrastructure for development.	Area identified is within Greenbelt and currently prohibited from being considered for expansion. Lands would need to be removed from the Greenbelt through Provincial process prior to consideration for expansion.	Regional staff have advised commenter of Provincial prohibition for expansion.
Owner (Antrix Architects Inc.)	Request to include south side Forkes Street (25 acres south-west of Forks Rd and Elm St) that spans both Welland and Port Colborne municipal boundaries, be brought into Urban Area. Total lands comprise approximately 45.2 ha.	This area is under consideration for possible expansion.	Expansion consideration is under review as part of SABR process, for reporting in Fall 2021.

Commenter	Comment Summary	Regional Response	Action Taken
Hummel Properties (urbanMetrics inc.)	<p>Submitted in respect of lands located at 1287, 1301 and 1313 Niagara Stone Road (6.7 ha.) on the southern boundary of Virgil, and 308 Four Mile Creek Road (0.2 ha.) in St. Davids.</p> <p>Commented on the share of household growth allocated to Niagara-on-the-Lake and suggested a higher rate of 6.8% be used rather than 5%.</p>	<p>Allocations of household growth have been evolving since initial scenarios were established in 2016. In 2019, Town staff suggested, and the Region agreed, the housing share be lowered to 5% as the developments in Old Town, Virgil and St. David's were being built-out.</p>	<p>No action at this time.</p>
Hummel Properties (urbanMetrics inc.)	<p>Submitted in respect of lands located at 1287, 1301 and 1313 Niagara Stone Road (6.7 ha.) on the southern boundary of Virgil, and 308 Four Mile Creek Road (0.2 ha.) in St. Davids.</p> <p>urbanMetrics suggests consideration be given to seasonal dwellings and how they will impact the LNA.</p>	<p>Niagara has a considerable supply of housing units that are not occupied by a usual resident – this includes both seasonal dwellings and student housing. Additional consideration could be considered for how these units drive housing need.</p>	<p>Consideration for units not occupied by usual residents (seasonal and student dwellings) are under further consideration for possible minor adjustment in final LNA included with Official Plan.</p>
Hummel Properties (urbanMetrics inc.)	<p>Submitted in respect of lands located at 1287, 1301 and 1313 Niagara Stone Road (6.7 ha.) on the southern boundary of Virgil, and 308 Four Mile Creek Road (0.2 ha.) in St. Davids.</p> <p>urbanMetrics requests conversion of lands from employment to non-employment use in Niagara-on-the-Lake, based on specific comments included in their submission.</p>	<p>Comments received.</p>	<p>Employment Area conversions remain under consideration as part of the SABR process, for reporting in Fall 2021.</p>
502 Winston Road Inc. (IBI Group)	<p>Request for consideration of an urban boundary expansion - Lands at 502 Winston Rd. in Grimsby comprised of approximately 5.8 ha.</p>	<p>Area identified is within Greenbelt. Provincial policy prohibits the Region from expansion in the Greenbelt, unless lands are removed from it.</p>	<p>Regional Planning staff have advised agent of the Provincial Plan prohibition.</p>

Commenter	Comment Summary	Regional Response	Action Taken
Iron Horse Stables (Niagara) Inc. (JV Consulting)	Request for consideration of an urban boundary expansion - Iron Horse Stables (Niagara) Inc. adjacent to existing settlement area boundary in Chippawa. 95 ha in size and bound by Sodom Road (west) and Willoughby Drive (east)- Niagara Falls	Comments received.	Expansion consideration is under review as part of SABR process, for reporting in Fall 2021.
(1) Niagara Falls Park Inc. (2) Niagara Estates of Chippawa (3) Lyons Creek Niagara Falls (Trans Global Partners Canada)	Request for urban boundary expansion in 3 separate locations in Niagara Falls – (1) 5021 Gardner Rd (81.2 ha.), (2) east side Sodom Rd between Willick Rd and Weaver Rd (36.9 ha.) and (3) northeast corner of Stanley and Logan Rd (36.6 ha.)	Comments received.	Expansion consideration is under review as part of SABR process, for reporting in Fall 2021.
Owners (Weston Consulting)	Request for urban boundary expansion at 9941 Lundy's Lane in Niagara Falls being approximately 24.5 ha.	Comments received.	Expansion consideration is under review as part of SABR process, for reporting in Fall 2021.
Rankin Engineering Inc. (MHBC Planning)	Request for Employment Area Conversion for lands in the STC-2 Hannover Employment Area for non-employment use. Lands are identified as 218, 222, 250 Martindale Road; 20, 25, 75 Corporate Park Drive and comprise approximately 10 ha. in St. Catharines.	This site was recently addressed through St. Catharines OPA 26. At this time, the Region does not agree to change the designation on these lands from employment area.	Employment Area conversions remain under consideration as part of the SABR process, for reporting in Fall 2021.

Commenter	Comment Summary	Regional Response	Action Taken
Grand Niagara (The Planning Partnership)	Grand Niagara request for urban boundary expansion in Niagara Falls being approximately 138 ha. west of the existing Grand Niagara golf course lands.	Comments received.	Expansion consideration is under review as part of SABR process, for reporting in Fall 2021.
River Realty, Club Italia, Redeemer Bible Church (Niagara Planning Group)	Request for urban boundary expansion of approximately 40 ha. in Northwest Niagara Falls between the QEW and Montrose, south of Niagara Sports Centre Limited lands (Regency Motel).	Comments received.	Expansion consideration is under review as part of SABR process, for reporting in Fall 2021.
Anthony Romano, Andrew Zhongan, and Young Hong (Niagara Planning Group)	Request for urban boundary expansion – northeast Corner of Lundy's Lane and Beechwood in Niagara Falls and comprising approximately 12.9 ha.	Comments received.	Expansion consideration is under review as part of SABR process, for reporting in Fall 2021.
Niagara Sports Centre Limited (Douglas, Morningstar & Bonin LLP)	Letter of support for Niagara Sports Centre Limited and Ralph Biamonte for expansion of the northwest quadrant in Niagara Falls to include lands of approximately 64.8 ha.	Comments received.	Expansion consideration is under review as part of SABR process, for reporting in Fall 2021.
Grand Niagara Legends Estate Inc. (MHBC Planning)	Grand Niagara Legends Estate Inc. request for urban boundary expansion of lands on the north side of Weaver Rd, east of Willoughby Drive, and south of Legend's way in Niagara Falls. Total area requested expansion is approximately 206 ha.	Comments received.	Expansion consideration is under review as part of SABR process, for reporting in Fall 2021.

Commenter	Comment Summary	Regional Response	Action Taken
Owner G. Douglas Vallee Limited	Request for urban boundary expansion at 949 Clare Ave in Pelham are comprised of approximately 4.1 ha.	Comments received.	Expansion consideration is under review as part of SABR process, for reporting in Fall 2021.
Owner G. Douglas Vallee Limited	Water and waste water calculations for 949 Clare Ave potential expansion in Pelham.	Comments received.	None at this time.
Kaneff Properties Limited (MHBC Planning)	Request for urban boundary expansion at 590 Glendale Avenue in St. Catharines being a portion of the site and totaling approximately 17 ha.	Lands currently awaiting decision from NEC on designation.	Expansion consideration is under review as part of SABR process, for reporting in Fall 2021.
Prca Global Enterprises Inc. (The Planning Partnership)	Request for both an employment area conversion and settlement area expansion involving lands totaling approximately 16.3 ha. - Price Global Enterprises Inc. at 38 Merritville Inc. and Schmon Parkway.	Comments received.	Expansion and employment conversions are under consideration as part of SABR process, for reporting in Fall 2021.
P. Coletto & Mr. D. Bartels (T. Johns Consulting Group)	Rural settlement area boundary expansion request - 8250 Mud Street West and 3498 Grassie Rd, West Lincoln totaling approximately 31 ha.	Comments received.	Rural expansion consideration is under review as part of SABR process, for reporting in Fall 2021.
Owner	Consultant for 5415 Hwy 20 West Lincoln inquiring about the property and potential expansion of the Bismark Hamlet Boundary. Inquires about studies/reports required and the overall process for the expansion.	Planning staff responded to inquiry to provide information relating to rural settlement area expansion criteria.	Rural expansion consideration is under review as part of SABR process, for reporting in Fall 2021.

Commenter	Comment Summary	Regional Response	Action Taken
P. Coletto & Mr. D. Bartels T. Johns Consulting Group	Preliminary letter expressing rural settlement area boundary expansion request - 8250 Mud Street West and 3498 Grassie Rd, being totaling approximately 31 ha. in West Lincoln	Comments received.	Rural expansion consideration is under review as part of SABR process, for reporting in Fall 2021.
Andre Leblanc (IBI Group)	Rural Settlement area boundary expansion request in the Caistorville Hamlet - Part Lot 20, Concession 1, West Lincoln. Request area is approximately 7.1 ha.	Comments received.	Rural expansion consideration is under review as part of SABR process, for reporting in Fall 2021.
Stuart Wright (Quartek)	Request for urban boundary expansion- 1555 Nigh Road- Lands West of Buffalo Rd to Rosehill Rd- Town of Fort Erie. Site totals approximately 10.7 ha.	Comments received.	Expansion consideration is under review as part of SABR process, for reporting in Fall 2021.
Marz Homes (A.J. Clarke and Associates Ltd.)	Engineering Feasibility Report for expansion at Schooley Rd and Michener Rd in Fort Erie totaling approximately 8.3 ha.	Comments received.	Expansion consideration is under review as part of SABR process, for reporting in Fall 2021.
Marz Homes (A.J. Clarke and Associates Ltd.)	Planning Rationale Report for expansion at Schooley Rd and Michener Rd in Fort Erie totaling approximately 8.3 ha.	Comments received.	Expansion consideration is under review as part of SABR process, for reporting in Fall 2021.
Marina (Green Acres) Developments Inc. (Niagara Planning Group)	Request for settlement area boundary expansion for lands on the south side of Bertie Street, east of the Fort Erie Golf club and comprised of approximately 10.2 ha. in Fort Erie.	Comments received.	Expansion consideration is under review as part of SABR process, for reporting in Fall 2021.

Commenter	Comment Summary	Regional Response	Action Taken
Jukic Group Inc. (Bousfields Inc.)	Request for urban boundary expansion for 'Black Creek Commons' by Jukic Group Inc. in Fort Erie. Materials provided include planning rationale, concept master plan, and responses to MCR criteria. Total of lands is approximately 371 ha. between Stevensville and Douglastown.	Comments received.	Expansion consideration is under review as part of SABR process, for reporting in Fall 2021.
Owners (LANDx Developments Ltd.)	Request of for technical mapping adjustment for 100 Dock Road in Thorold.	Comments received.	Staff are working on technical boundary adjustments, for reporting in Fall 2021.
LJM Developments (Niagara Planning Group)	Request for urban boundary expansion for Pt Lot 154 Garner Rd on the west side of Garner between Lundy's Lane and McLeod Road in Niagara Falls, comprised of approximately 24.1 ha.	Comments received.	Expansion consideration is under review as part of SABR process, for reporting in Fall 2021.

Subject: Regional Response – Proposed Land Use Compatibility Guideline

Report to: Planning and Economic Development Committee

Report date: Wednesday, August 11, 2021

Recommendations

1. That Report PDS 34-2021 **BE RECEIVED** for information;
2. That staff **BE DIRECTED** to continue to provide detailed comments on the Ministry of the Environment, Conservation and Parks' proposed Land Use Compatibility Guideline (ERO #019-2785), and any associated matters, as warranted; and
3. That Report PDS 34-2021 **BE CIRCULATED** to local area municipal Planning Directors.

Key Facts

- This report provides an overview of the proposed Land Use Compatibility Guideline ("Guideline").
- On May 4, 2021, the Ministry of the Environment, Conservation and Parks ("MECP") released the draft Land Use Compatibility Guideline and set July 3, 2021 as the consultation deadline.
- On July 2, 2021, the MECP extended the consultation deadline until August 6, 2021.
- Staff prepared comments on the proposed Land Use Compatibility Guideline for submission to the Environmental Registry of Ontario ("ERO"). A copy is attached as Appendix 1.

Financial Considerations

There are no financial considerations directly linked to this report.

The proposed Land Use Compatibility Guideline may have a financial impact on the proponents of development within the Region. The proposed Minimum Separation Distances and Areas of Influence may result in an increase in the quantity of compatibility studies, and demonstration of need, required to support *Planning Act* applications.

Analysis

The Province's Proposed Land Use Compatibility Guideline

The proposed Land Use Compatibility Guideline is intended to replace components of the existing MECP D-Series Guidelines (Environmental Land Use Planning Guides), which were first introduced in the 1990s.

The Province developed the Land Use Compatibility Guideline to assist land use planning authorities and proponents of development in planning for land use compatibility that protects the long-term viability of major facilities while avoiding, or if avoidance is not possible, minimizing and mitigating adverse effects to the surrounding community.

The Guideline is to be applied to achieve and maintain land use compatibility between major facilities and sensitive land uses when a planning approval under the *Planning Act* is needed in the following circumstances:

- A new or expanding sensitive land use is proposed near an existing or planned major facility; or
- A new or expanding major facility is proposed near an existing or planned sensitive land use.

The proposed Land Use Compatibility Guideline will be implemented through PPS Policy 1.2.6.1, which states, “*major facilities and sensitive land uses shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects...in accordance with provincial guidelines, standards and procedures.*” The PPS has also aimed to protect and preserve employment areas for current and future uses, and provide long-term operational economic viability of the uses and functions of these areas. The current policies are found in Section 1.3.2 of the 2020 PPS, and note that “*employment areas planned for industrial and manufacturing uses shall provide for separation or mitigation from sensitive land uses.*”

The proposed Land Use Compatibility Guideline is to be applied when an approval under the *Planning Act* is needed. The Guideline applies in situations where the land

use is not changing, but the nature and/or intensity of the land use is, and an application under the *Planning Act* is required (e.g., difference in building height). It is also applicable in situations where there is a new use proposed for an existing building and an application under the *Planning Act* is required (e.g., residential use proposed in previous commercial building).

Through the Municipal Comprehensive Review (“MCR”) Niagara Official Plan Review, Regional staff will be updating the current Regional Official Plan to be consistent with and conform to the 2020 PPS and A Place to Grow: Growth Plan for the Greater Golden Horseshoe (the “Growth Plan”; 2019) with regard to land use compatibility. The Region will look to the MECP guidance for ways to address land use compatibility and leverage the available tools under the *Planning Act* when refining Regional policies.

Key Changes

The proposed Land Use Compatibility Guideline provides a policy basis approach to land use compatibility, which is represented by a decision-making hierarchy to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects between incompatible uses. The following discussion presents some of the key changes proposed in the Land Use Compatibility Guideline.

Specified Major Facilities, Classes of Major Facilities & Characteristics

The proposed Land Use Compatibility Guideline assigns specific Area of Influences (AOIs) and Minimum Separation Distances (MSDs) to certain types of major facilities. The facility-specific AOIs and MSDs provide for more clarity in the planning process and consistent implementation across planning authorities.

The AOI is the area surrounding the property boundary of an existing or planned major facility where adverse effects on surrounding sensitive land uses have a moderate likelihood of occurring. Within AOIs, compatibility studies are required for proponents of proposed major facilities or proposed sensitive land uses as part of the supporting documentation for a planning application.

The MSD is a recommended minimum distance from a major facility within which adverse effects to a sensitive land use are highly likely to occur. Planning authorities should not allow sensitive land uses within the MSD. Where a sensitive land use is proposed within the MSD, a demonstration of need is required.

Introduction of Five (5) Industrial Class Facilities

The Guideline introduces five (5) industrial facility classifications, in comparison to the existing three (3) industrial facility classifications in the current D-Series Guidelines. Descriptions of major facilities at each class are provided below:

- Class 1: Operations with known smaller adverse effects.
- Class 2: Operations with moderate adverse effects. May include some outdoor operations.
- Class 3: Operations with moderate to significant adverse effects that may be difficult to mitigate. May include larger outdoor operations.
- Class 4: Operations with significant adverse effects that may be difficult to mitigate. May include larger outdoor operations.
- Class 5: Operations with the most significant adverse effects that may be difficult to mitigate. May include larger outdoor operations.

Additional characteristics to classify major facilities are provided in Table 3 of the proposed Guideline. It is noted that Table 3 does not provide specific characteristics for all five classifications, and represents a scaled approach to classify major facilities.

Increased Area of Influence and Minimum Separation Distance

The proposed Guideline presents increased distances for the AOI and MSD for each industrial facility classification. The AOI and MSD is typically measured as the actual distance between the property line of a sensitive land use and the property line of a major facility. The planning authority may allow measurement of the AOI or MSD from the major facility's building or equipment that is the actual source of adverse effects, as opposed to the property line. This method does not take into account any future expansions or future outdoor works, and should only be applied if the planning authority and major facility are agreeable and if future expansions to the major facility are not expected.

The below table (Table 1) demonstrates the increased distances for MSD and AOI, and compares the existing distances in the D-6 Guideline (Compatibility between Industrial Facilities) and the proposed Land Use Compatibility Guideline. As provided in the Land Use Compatibility Guideline, sensitive land uses should not be located within the MSD.

Table 1 – Current and Proposed Minimum Separation Distances

Major Facility Classification	Current Minimum Separation Distance (D-6 Guideline)	Proposed Minimum Separation Distance (Land Use Compatibility Guideline)	Increase
Class 1	20 metres	200 metres	180 metres
Class 2	70 metres	300 metres	230 metres
Class 3	300 metres	500 metres	200 metres
Class 4	N/A	500 metres	N/A
Class 5	N/A	500 metres	N/A

Table 2 – Current and Proposed Areas of Influence

Major Facility Classification	Current Area of Influence (D-6 Guideline)	Proposed Area of Influence (Land Use Compatibility Guideline)	Increase
Class 1	70 metres	500 metres	430 metres
Class 2	300 metres	750 metres	450 metres
Class 3	1,000 metres	1,000 metres	0 metres
Class 4	N/A	1,500 metres	N/A
Class 5	N/A	2,000 metres	N/A

Land Use Compatibility Studies, Demonstration of Need

If a land use proposal would place a new or expanding sensitive land use within a major facility's AOI, or a new or expanding major facility would capture sensitive land uses

within its AOI, a compatibility study will be required. If a new or expanding sensitive land use is proposed within a major facility's MSD or a new or expanding major facility would result in sensitive land uses within its MSD, compatibility studies and mitigation measures to address potential adverse effects on sensitive land uses and potential impacts to major facilities will be required. A demonstration of need will also be required if the proposed land use is a sensitive land use within the MSD of an existing or planned major facility.

The requirement for a demonstration of need is a new requirement of the proposed Land Use Compatibility Guideline.

Implementation through Official Plan Provisions

The proposed Guideline contains direction for planning authorities to address land use compatibility through official plan policies and procedures, planning tools and proponent-driven planning applications. The Guideline notes that the Official Plan should be the first mechanism used to implement compatibility policies, and recommends the incorporation of AOIs and MSDs and their related policies. The Guideline also recommends that Official Plans make specific reference to provincial guidelines, standards and procedures for land use compatibility. It is recommended that Official Plans include compatibility studies as part of a complete application when development is proposed within an AOI; and specifically requiring a demonstration of need as part of a proposal for a sensitive land use when mitigation measures are required for the development within an AOI and when the development is proposed within the MSD. The Guideline notes that, in two-tier municipalities (upper-tier and lower-tier), both levels need to have policies supporting early consideration of land use compatibility. Official Plans should identify or designate areas with existing or planned major facilities and identify associated AOIs and MSDs for these facilities; this can be demonstrated on a land use schedule, possibly as an overlay.

Identified Implications and Concerns

Regional staff have noted a number of recommendations, and items of concern or implication to anticipated and proposed development, in response to the proposed Land Use Compatibility Guideline. While more information on these items is detailed in Appendix 1, a list of the items has been provided below.

1. **Change from a Guideline to Official Plan Policy Directive:** resulting in potential impacts to the Region's MCR submission, and inflexibility in mapping (to demonstrate the AOI and MSD) as recommended in the Guideline.

2. **Municipal Comprehensive Review Timeline:** the Guideline requires planning authorities to identify, evaluate and develop alternate AOIs as part of the MCR, which may impede the Region in meeting the Provincial conformity deadline.
3. **Industrial Classification Language:** the Guideline utilizes subjective language such as “moderate” and “significant” to classify major uses. These terms are open to interpretation, and staff has concerns with consistent application and opinion on major facility classifications.
4. **Classification and Characteristics of Major Facilities:** the Tables provided in the proposed Guideline does not provide for clear reading or understanding of the characteristics of major facilities. Recommended that the Province consider utilizing the North American Industry Classification System (NAICS) to support major facility classification.
5. **Significant Increase in the MSDs and AOIs:** the increases in AOI and MSD may impact a number of strategic growth areas in the Region, including Major Transit Station Areas and development undergoing the approval process.
6. **Demonstration of Need:** the Guideline introduces that a demonstration of need is required, generally, when sensitive land uses are proposed within the MSD of a major facility. The Guideline does not outline who is qualified to prepare an MSD or criteria to evaluate the assessment.
7. **Transition Clauses:** the Guideline does not include a transition or sunset clause that recognizes existing and planned sensitive land uses prior to the implementation date. Staff has concerns regarding the implementation of the Guideline, upon finalization by the Province, and the ways in which this may impact ongoing, long-term, development proposals.
8. **Distances Measured from Property Boundary:** the Guideline requires that distances for MSD and AOI are measured from the property line or the building envelope of the major facility, and has eliminated the ability to measure these distances from site-specific zoning. The Province is encouraged to re-consider permissions to measure setbacks from site-specific zones.
9. **Applicability to Agriculture-Related and On-Farm Diversified Uses:** the Guideline notes that its provisions do not apply to agricultural operations; Regional staff wish to clarify whether agricultural operations include agriculture-related and/or on-farm diversified uses, which may be industrial in nature.
10. **Application to Cannabis Production Facilities:** the Guideline classifies cannabis production facilities within the settlement area boundary (i.e. urban

area) as a Class 5 industrial use, with significant AOI and MSD. Given that the Guideline does not apply to agricultural operations, which can include cannabis production facilities, staff are concerned that this classification creates two sets of rules for the same use.

11. **Consultation with Industry:** the Guideline places significant importance on engagement from and with major facilities; staff are supportive of this direction and recommend that the Guideline clearly outline the benefits of early and continued engagement to both proponents of new or expanding sensitive land uses and new or expanding major facilities.
12. **Transitional Uses:** the Guideline recommends that commercial or office uses be applied as transitional uses between major facilities and sensitive land uses. Staff are concerned that the implementation of commercial or office spaces as transitional uses will impact the ability of the Region and local area municipalities to achieve complete communities.
13. **NPC-300 Class 4 Designation and Land Use Compatibility Guideline:** Regional staff are concerned that the proposed significant increase in the MSD and AOI will result in increased requests of the planning authority to consider the application of Class 4 designation, per NPC-300. Staff are of the opinion that the proposed Land Use Compatibility Guideline could benefit from additional clarification regarding NPC-300 and the proposed provisions, as it is anticipated that many proponents will request the implementation of a Class 4 designation.

Alternatives Reviewed

The purpose of this report is to provide a summary of the proposed Land Use Compatibility Guideline as well as provide the Staff comments that were submitted to the Province on July 2, 2021.

Relationship to Council Strategic Priorities

Businesses and Economic Growth

The proposed Land Use Compatibility Guideline will impact the way in which Niagara Region conducts its planning function, to promote and improve interactions with proponents of major facilities early on in the planning approvals process.

Healthy and Vibrant Community

The intent of the proposed Land Use Compatibility Guideline is to ensure suitable setbacks between major facilities and sensitive land uses to ensure that compatibility is achieved. With compatibility being achieved, planning in Niagara can continue to result in the development of healthy and vibrant communities.

Other Pertinent Reports

N/A

Prepared by:

Aimee Alderman, MSc, MCIP, RPP
Senior Development Planner
Planning and Development Services

Recommended by:

Michelle Sergi, MCIP, RPP
Commissioner
Planning and Development Services

Submitted by:

Ron Tripp, P.Eng.
Acting, Chief Administrative Officer

This report was reviewed by Diana Morreale, MCIP, RPP, Director of Development Approvals.

Appendices

Appendix 1	Niagara Region's submission: Proposed Land Use Compatibility Guideline (ERO 019-2785)
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Delivered electronically

Subject: Niagara Comments: Proposed Land Use Compatibility Guideline (ERO 019-2785)

Date: July 2, 2021

To: Sanjay Coelho

Senior Policy Analyst, Ministry of the Environment, Conservation and Parks – Environmental Policy Branch

From: Doug Giles

Acting Commissioner of Planning and Development Services, Niagara Region

Thank you for the opportunity to comment on the proposed Land Use Compatibility Guideline (the “Guideline”).

Please accept this submission in response to Environmental Registry of Ontario (ERO) posting #019-2785, on behalf of the Acting Commissioner of Planning and Development Services of the Regional Municipality of Niagara (the “Region”).

This submission contains three parts:

- 1) This cover letter highlighting the background of the proposed Land Use Compatibility Guideline, and the Region’s key areas of interest.
- 2) A table containing the Region’s policy-specific comments and recommendations.
- 3) Case study examples, which demonstrate the impacts in the Niagara Region of increasing the areas of influence and minimum separation distances in proposed employment areas.

Regional Comments

Niagara Region supports many of the proposed changes to address land use compatibility, as presented in the Guideline. For instance, the Region supports:

- The additional clarification provided regarding when the contents of the Guideline are to be applied in the planning approvals process.
- The introduction of graphics throughout to demonstrate process and application of the Guideline.

- In principle, the introduction and implementation of Table 1 (Area of influence and minimum separation distance for select major facilities), which will reduce ambiguity and subjectivity in the planning process.
- In principle, additional tools to assess land use compatibility and implement recommendations of necessary studies.

The Region has identified some instances where further clarification is required. As previously noted, we have provided the enclosed table with detailed comments in that regard. Following the Table of Contents is a summary of the background of the proposed Land Use Compatibility Guidelines and the Region's key concerns.

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Background

On May 4, 2021, the Ministry of the Environment, Conservation and Parks (the “MECP”) released the proposed Land Use Compatibility Guideline on the Environmental Registry of Ontario (“ERO”; [ERO No. 019-2785](#)). Since May 4, 2021, the Province held various information sessions to discuss the proposed Land Use Compatibility Guideline, including sessions Regional staff attended on June 2, 9 and 16, 2021. The MECP has provided a 60-day consultation period, with comments and feedback due on July 3, 2021.

The proposed Guideline is intended to replace components of the existing MECP D-Series Guidelines (Environmental Land Use Planning Guides), which were first introduced in the 1990s, as follows:

- D-1 Land Use and Compatibility
 - D-1-1 Land Use Compatibility: Procedure for Implementation
 - D-1-2 Land Use Compatibility: Specific Applications
 - D-1-3 Land Use Compatibility: Definitions
- D-2 Compatibility Between Sewage Treatment and Sensitive Land Use
- D-4 Land Use on or Near Landfills and Dumps
 - D-4-1 Assessing Methane Hazards from Landfill Sites
 - D-4-3 Registration or Certificates and Provisional Certificates
- D-6 Compatibility Between Industrial Facilities
 - D-6-1 Industrial Categorization Criteria
 - D-6-3 Separation Distances

In replacing the above sections of the existing D-Series Guidelines, the proposed Land Use Compatibility Guideline will consolidate all information and direction into one document. It is noted that the following D-Series Guidelines sections are not being replaced through the introduction of the proposed Land Use Compatibility Guideline:

- D-3 Environmental Considerations for Gas or Oil Pipelines and Facilities
- D-5 Planning for Sewage and Water Services and its subsections

The Province developed the Land Use Compatibility Guideline to assist land use planning authorities and proponents of development in planning for land use compatibility which protects the long-term viability of major facilities while avoiding, or if

avoidance is not possible, minimizing and mitigating adverse effects to the surrounding community.

The Land Use Compatibility Guideline is to be applied to achieve and maintain land use compatibility between major facilities and sensitive land uses when a planning approval under the *Planning Act* is needed in the following circumstances:

- A new or expanding sensitive land use is proposed near an existing or planned major facility; or
- A new or expanding major facility is proposed near an existing or planned sensitive land use.

The proposed Land Use Compatibility Guideline features the following key components:

- Direct allocation of responsibility to planning authorities (municipalities) to:
 - Ensure that sensitive uses and major facilities are planned to avoid or minimize adverse effects in accordance with Provincial Policy Statement (PPS) Policy 1.2.6.1 and 1.2.6.2;
 - Protect the long-term viability of existing and planned industrial and employment uses in accordance with PPS Policy 1.3.2.2, 1.3.2.3, 1.3.2.4, and 1.3.2.5.
- Detailed process for assessing land use compatibility through clear delineation of the area of influence (the “AOI”) and minimum separation distance (the “MSD”), measured between property lines.
- Guidance on mitigation strategies and the preparation of compatibility studies.

Since the introduction of the Provincial Policy Statement (the “PPS”) in 2005, the Province has directed that major facilities and sensitive land uses should be planned to prevent or mitigate adverse effects, minimize risk to public health and safety, and to ensure the long-term viability of major facilities. Section 1.2.6 (Land Use Compatibility) of the 2020 PPS specifically speaks to compatibility. The proposed Land Use Compatibility Guideline will be implemented through PPS Policy 1.2.6.1, which states, “major facilities and sensitive land uses shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects...in accordance with provincial guidelines, standards and procedures.” The PPS has also aimed to protect and preserve employment areas for current and future uses, and provide long-term operational economic viability of the uses and functions of these areas. The current policies are found in Section 1.3.2 of the 2020 PPS, and note that “employment areas planned for industrial and manufacturing uses shall provide for separation or mitigation from sensitive land uses.”

The 2020 PPS provide the following definitions:

“Adverse effects: as defined in the *Environmental Protection Act*, means one or more of:

- a) impairment of the quality of the natural environment for any use that can be made of it;
- b) injury or damage to property or plant or animal life;
- c) harm or material discomfort to any person;
- d) an adverse effect on the health of any person;
- e) impairment of the safety of any person;
- f) rendering any property or plant or animal life unfit for human use;
- g) loss of enjoyment of normal use of property; and
- h) interference with normal conduct of business.”

“Major facilities: means facilities which may require separation from *sensitive land uses*, including but not limited to airports, manufacturing uses, transportation infrastructure and corridors, *rail facilities*, *marine facilities*, sewage treatment facilities, *waste management systems*, oil and gas pipelines, industries, energy generation facilities and transmission systems, and resource extraction activities.”

The proposed Land Use Compatibility Guideline is to be applied when an approval under the *Planning Act* is needed, including: Official Plan and Official Plan Amendments; Secondary Plans; Community Planning Permit Systems; Plans of Subdivision and Condominium; Consents; Minor Variances; and Site Plan Control and other planning approvals. The Guideline applies in situations where the land use is not changing, but the nature and/or intensity of the land use is, and an application under the *Planning Act* is required (e.g., difference in building height). It is also applicable in situations where there is a new use proposed for an existing building and an application under the *Planning Act* is required (e.g., residential use proposed in previous commercial building).

Through the Municipal Comprehensive Review (MCR) Niagara Official Plan Review, Regional staff will be updating the current Regional Official Plan to be consistent with and conform to the 2020 PPS and A Place to Grow: Growth Plan for the Greater Golden Horseshoe (the “Growth Plan”; 2019) with regard to land use compatibility. The Region will look to the MECP guidance for ways to address land use compatibility and leverage the available tools under the *Planning Act* when refining Regional policies.

Discussion

Key Changes

The proposed Land Use Compatibility Guideline provides a policy basis approach to land use compatibility, which is represented by a decision-making hierarchy to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects between incompatible uses. The following discussion presents some of the key changes proposed in the Land Use Compatibility Guideline.

1. Specified Major Facilities, Classes of Major Facilities & Characteristics

The proposed Land Use Compatibility Guideline assigns specific AOIs and MSDs to certain types of major facilities. These distances are found in Table 1 (Area of influence and minimum separation distance for select major facilities) of the Guideline. Where available, the facility-specific AOIs and MSDs found in Table 1 should be used. Where other types of major facilities (those not listed in Table 1) are being considered, Table 2 (Area of influence and minimum separation distance for classes of major facilities) and Table 3 (Characteristics for classifying major facilities) should be reviewed to best classify the use and determine the appropriate class-related AOI and MSD.

The inclusion of these three tables (Tables 1, 2, 3) will replace the existing D-6-1 Industrial Categorization Criteria. The existing D-6-1 table provides criteria to classify industrial uses into one of three (3) existing classifications; it provides possible examples of industries that may qualify as a specific classification but does not provide strict requirements for a certain major facility (as is proposed in Table 1).

2. Introduction of Five (5) Industrial Class Facilities

The Land Use Compatibility Guideline introduces five (5) industrial facility classifications, in comparison to the existing three (3) industrial facility classifications in the current D-Series Guidelines. Per Table 2 of the proposed Guideline, descriptions of major facilities at each class are provided below:

- Class 1: Operations with known smaller adverse effects.
- Class 2: Operations with moderate adverse effects. May include some outdoor operations.
- Class 3: Operations with moderate to significant adverse effects that may be difficult to mitigate. May include larger outdoor operations.
- Class 4: Operations with significant adverse effects that may be difficult to mitigate. May include larger outdoor operations.
- Class 5: Operations with the most significant adverse effects that may be difficult to mitigate. May include larger outdoor operations.

Additional characteristics to classify major facilities are provided in Table 3 of the proposed Land Use Compatibility Guideline. It is noted that Table 3 does not provide specific characteristics for all five classifications, and represents a scaled approach to classify major facilities.

3. Increased Area of Influence (AOI) and Minimum Separation Distance (MSD)

The proposed Land Use Compatibility Guideline presents increased distances for the AOI and MSD for each industrial facility classification. The Guideline defines the AOI as the distance within which adverse effects on surrounding sensitive land uses have a moderate likelihood of occurring; MSD is defined as the distance within which adverse effects on surrounding sensitive land uses are very likely to occur. The AOI and MSD is typically measured as the actual distance between the property line of a sensitive land use and the property line of a major facility. The planning authority may allow measurement of the AOI or MSD from the major facility's building or equipment that is the actual source of adverse effects, as opposed to the property line. This method does not take into account any future expansions or future outdoor works, and should only be applied if the planning authority and major facility are agreeable and if future expansions to the major facility are not expected.

The below table (Table 1) demonstrates the increased distances for MSD and AOI, and compares the existing distances in the D-6 Guideline (Compatibility between Industrial Facilities) and the proposed Land Use Compatibility Guideline. As provided in the Land Use Compatibility Guideline, sensitive land uses should not be located within the MSD.

Table 1 – Current and Proposed Separation Distances

Current Minimum Separation Distance (D-6 Guideline)		Proposed Minimum Separation Distance (Land Use Compatibility Guideline)		Increase
Classification	Distance	Classification	Distance	
Class 1	20 m	Class 1	200 m	180 m
Class 2	70 m	Class 2	300 m	230 m
Class 3	300 m	Class 3	500 m	200 m
		Class 4	500 m	N/A
		Class 5	500 m	N/A

Current Potential Influence Areas (D-6 Guideline)		Proposed Area of Influence (Land Use Compatibility Guideline)		Increase
Classification	Distance	Classification	Distance	
Class 1	70 m	Class 1	500 m	430 m
Class 2	300 m	Class 2	750 m	450 m
Class 3	1,000 m	Class 3	1,000 m	0 m
		Class 4	1,500 m	N/A
		Class 5	2,000 m	N/A

4. Land Use Compatibility Studies, Demonstration of Need

Section 2.9 Decision Tree for Land Use Compatibility (Figure 5 – Decision tree for land use compatibility) outlines the requirement for studies to support proposed sensitive land uses and major facilities that may fall within an AOI or MSD. If a land use proposal would place a new or expanding sensitive land use within a major facility's AOI, or a new or expanding major facility would capture sensitive land uses within its AOI, a compatibility study will be required. If a new or expanding sensitive land use is proposed within a major facility's MSD or a new or expanding major facility would result in sensitive land uses within its MSD, compatibility studies and mitigation measures to address potential adverse effects on sensitive land uses and potential impacts to major facilities will be required. A demonstration of need will also be required if the proposed land use is a sensitive land use within the MSD of an existing or planned major facility.

Section 2.7 (General Documentation in Compatibility Studies) of the proposed Land Use Compatibility Guideline outlines the general information that should be provided as part of required compatibility studies. This general information should be provided in addition to the requirements listed in Appendix B (Compatibility Studies Addressing Noise, Dust and Odour). Information required in a Demonstration of Need is provided in Section 2.8 (Demonstration of Need) of the proposed Guideline.

5. Implementation through Official Plan Provisions

The proposed Land Use Compatibility Guideline contains direction for planning authorities to address land use compatibility through official plan policies and procedures, planning tools and proponent-driven planning applications. The Guideline notes that the Official Plan should be the first mechanism used to implement

compatibility policies, and recommends the incorporation of AOIs and MSDs and their related policies. The Guideline also recommends that Official Plans make specific reference to provincial guidelines, standards and procedures for land use compatibility. It is recommended that Official Plans include compatibility studies as part of a complete application when development is proposed within an AOI; and specifically requiring a demonstration of need as part of a proposal for a sensitive land use when mitigation measures are required for the development within an AOI and when the development is proposed within the MSD. The Guideline notes that, in two-tier municipalities (upper-tier and lower-tier), both levels need to have policies supporting early consideration of land use compatibility. Official Plans should identify or designate areas with existing or planned major facilities and identify associated AOIs and MSDs for these facilities; this can be demonstrated on a land use schedule, possibly as an overlay.

Implications and Concerns

In reviewing the proposed Land Use Compatibility Guideline, Regional staff have noted a number of recommendations, and items of concern or implication to anticipated and proposed development. Staff have organized these comments into the below major themes. Regional staff included comments of a more technical nature in Appendix A, for Ministry consideration.

1. Change from a Guideline to Official Plan Policy Directive

The proposed Land Use Compatibility Guideline contains new direction for planning authorities to address land use compatibility through Official Plan policies. The Guidelines recommend that Official Plans make reference to provincial guidelines, standards and procedures for land use compatibility. Specifically, the Guidelines outline that Official Plans should identify or designate areas with existing or planned major facilities and identify associated AOIs and MSDs for these facilities; this can be demonstrated on a land use schedule, possibly as an overlay. This change in direction, to implement the guidelines through Official Plan policies, will significantly impact the Region's, and local area municipality's, ability to protect its employment areas while meeting Provincial intensification and density targets. Depending on the methods in which the Region implements the Guideline directives in the Official Plan, there is a possibility that any revisions will significantly impact the timing of the Region's Official Plan Review and employment area policies.

An additional challenge with this approach will be the ability for municipalities to ensure accurate mapping that reflects current uses and the potential expansion of these uses. Updating this mapping to reflect on-ground uses will prove challenging, as employment growth and investment can be volatile and result in the need to adjust AOIs and MSDs based on evolving employment uses. For example, AOI and MSD would need to be reduced in an instance where an employment parcel that has historically occupied a Class I facility experiences the facilities departure of that facility and is replaced by a

Class II facility. Constantly updating official plan mapping to reflect these changes would result in increased burden to staff resourcing, as well as added red-tape and uncertainty to nearby development applications captured within these mapped areas.

The simplest and least burdensome means for municipalities to implement AOI and MSD mapping into official plans would be to assume a worst-case scenario for all designated employment lands and employment areas based on existing uses and permitted zoning. Staff has provided an example of this scenario in Map 3 (Proposed Land Use Compatibility Guideline Distances Applicable to Niagara's Draft Employment Areas), found in Appendix B. It is important to note; however, that this approach would result in its own implementation challenges – particularly with respect to potential development application study requirements and justification.

2. Municipal Comprehensive Review Timeline

The proposed Land Use Compatibility Guideline will impact and possibly delay the Niagara Region's submission of the Municipal Comprehensive Review (the "MCR"), to be completed by July 2022. The proposed Guideline requires Planning Authorities to identify, evaluate, and develop alternate AOI as part of the MCR (reviews of Official Plans, Secondary Plans and/or Zoning By-laws), which may impede the Region in meeting the Provincial conformity deadline. Further, with respect to employment areas, the Niagara Region is in the late stages of identifying its draft employment areas as part of its ongoing MCR. The Region worked closely with local municipalities and industry stakeholders to identify draft employment areas, which were considered based on the existing D-Series Guidelines. The new Guideline introduces increased MSD and AOI, which will significantly impact the draft employment areas and the associated MCR work completed to-date. It will be challenging to adjust the Regional MCR workplan and fully understand the implications of the Land Use Compatibility Guideline recommendations until such time as a final Guideline is released.

3. Industrial Classification Language

To assist planning authorities in classifying major facilities that do not have identified AOI or MSD in Table 1 of the Guideline (Area of influence and minimum separation distance for select major facilities), the Guideline provides Table 2 (Area of influence and minimum separation distance for classes of major facilities). Regional staff has concerns with the language used in the descriptions of each class of major facility:

- Class 1: Operations with known smaller adverse effects.
- Class 2: Operations with moderate adverse effects.
- Class 3: Operations with moderate to significant adverse effects that may be difficult to mitigate.

- Class 4: Operations with significant adverse effects that may be difficult to mitigate.
- Class 5: Operations with the most significant adverse effects that may be difficult to mitigate.

The inclusion of terms such as “moderate” and “significant” are considered strongly subjective in nature. These terms are open to interpretation, which may result in a major facility being considered of higher or lower class in a neighbouring local area municipality (lower-tier municipality). Regional staff are concerned with consistent application and opinion on these classifications, and the ability of the subjective terms to significantly impact development.

Regional staff recommends that the Province consider how seasonal uses may align with Table 3 of the Guideline (Characteristics for classifying major facilities). For instance, if a use has characteristics that align with the “red” section of Table 3 for the summer months (June to September), but its operations for the remainder of the year align with the “green” to “yellow” section of Table 3, how would the planning authority most appropriately classify the facility?

4. Classification & Characteristics of Major Facilities

The proposed Land Use Compatibility Guideline provides AOIs and MSDs for specific major facilities, and Section 2.3 provides guidance on how to classify a major facility with no facility-specific AOI and MSD. To classify a major facility with no facility-specific AOI and MSD, the Guideline directs the reader to first review Table 2 (Areas of influence and minimum separation distance for classes of major facilities), which identifies AOIs and MSDs for all five classes, provides a description of the major facility and examples of said facilities. The Guideline then directs the reader to review Table 3 (Characteristics for classifying major facilities) to identify the adverse effects commonly associated with the type of proposed or existing major facility. Given that Table 3 (excerpt provided below) does not delineate between each class, it is unclear how this table is implemented and analyzed to determine the class of the major facility and its associated AOI and MSD. It is recommended that the Province refine Table 3 to better classify the characteristics of major facilities to assist the planning authority in implementing the most accurate classification. The Guideline could also benefit from more clarification as to when a use could be considered Class 2 or Class 4 based on the below Table 3.

Image 1 – Table 3 Excerpt (Characteristics for classifying major facilities)

Table 3 – Characteristics for classifying major facilities.

	CLASS 1 → CLASS 2 → CLASS 3 → CLASS 4 → CLASS 5		
	IMPACTS		
Noise	Sound is not audible off property	Sound occasionally audible off property	Sound frequently audible off property
Vibration	No ground borne vibration on plant property	Possible ground-borne vibration, but cannot be perceived off property	Ground-borne vibration can frequently be perceived off property
Dust (Point Source)	Infrequent and not intense	Frequent and occasionally intense	Persistent and/or intense

The Province may wish to consider utilizing the North American Industry Classification System (NAICS) to support the determination of which classification a major facility is considered. The Guideline could be improved by specifying all level 1 (two-digit codes) of the NAICS sectors that apply to each major facility class. For NAICS sectors that apply within multiple classes, the NAICS sector could be further defined to include additional NAICS level three- and four-digit codes (level 2 subsectors and level 3 industry groups, respectively) to clarify the distinction between the industrial facilities within each class. Utilizing this method could support future planning efforts by considering how an industries class may change, should it have future plans to expand or transition its operations.

5. Significant Increase in the Minimum Separation Distances and Areas of Influence

The proposed Land Use Compatibility Guideline increases the number of classes for major facilities from three (3) classes (under the current D-6 Guidelines) to five (5) classes. The Guideline also increases the minimum separation distance (MSD) and area of influence (AOI) associated with the classes for major facilities. As a result of the proposed increases, many strategic growth areas in the Niagara Region, including Major Transit Station Areas, will be captured within the MSD and AOI of major facilities. Staff has provided case study examples of these implications in Appendix B.

Staff also has concerns regarding how the proposed Guideline will impact existing development proposals that are undergoing the approval process. This could include developments for which the land use permissions have been granted (through an amendment to an Official Plan and/or Zoning By-law) but require additional technical

approvals (including draft plan and/or site plan approval) once the Guideline comes into effect. Staff question how the increases to AOI and MSD will impact developments that have yet to proceed through the approval process but have land use compatibility assessments underway. Does a compatibility study completed under the existing D-Series guidelines override the recommended AOI and MSD of the proposed Land Use Compatibility Guideline?

It is recommended that the Province consider the case studies and additional analysis provided in Appendix B, and the circumstances noted above in revising the proposed Land Use Compatibility Guideline to better understand the implications of these increased distances on planning practice.

6. Demonstration of Need

The proposed Land Use Compatibility Guideline introduces a new assessment, the demonstration of need, which will accompany compatibility studies. A demonstration of need is an assessment that determines whether there is an identified need for the proposed use in the proposed location, and evaluates alternative locations if avoidance is not possible. A demonstration of need assessment is required for proponents of sensitive land uses and Section 2.8 of the Guideline outlines the instances when the additional assessment is required, including proposed development within the MSD. The Guideline does not outline who is qualified to prepare a demonstration of need assessment; however, the Guideline notes that a demonstration of need may be included as part of a planning justification report, which suggests that a Registered Professional Planner is a qualified author. It is recommended that the Province develop criteria to evaluate demonstrations of need, to assist the planning authority in determining the appropriateness of a completed assessment. Regional staff also recommend that the Province clarify what “avoidance” the demonstration of need is aiming to achieve.

7. Transition Clauses

The proposed Land Use Compatibility Guideline does not include a transition or sunset clause that recognizes existing and planned sensitive land uses prior to the implementation date of the new Guideline. Regional staff anticipate several challenges associated with the implementation of the Guideline without a transition period or transition clause. In particular, issues may arise with sensitive land uses that were previously approved within a given distance from an employment area or employment lands, which under the new Guideline, are captured within the increased MSD. Staff are particularly concerned with applications where a property was deemed appropriate for a proposed use (i.e. through an Official Plan and/or Zoning By-law Amendment) but requires additional technical Planning Act approvals (i.e. draft plan and/or site plan approval). As indicated in the consultation session organized by the Ministry of the Environment, Conservation and Parks staff on June 9, 2021, the Ministry intends to

reconsider the inclusion of transition clauses. Regional staff strongly encourages the Ministry to consider the inclusion of transition clauses, and would be supportive of the Guideline including such wording. In the absence of transitional wording being provided in the Guideline, Regional staff would work with local area municipalities to determine transition approaches, as applicable. Staff notes that this approach could vary by municipality, resulting in an inconsistent application of the Land Use Compatibility Guideline; accordingly, it is strongly recommended that the Province incorporate transitional clauses into the Guideline.

8. Distances Measured from Property Boundary

The proposed Land Use Compatibility Guideline recommends that both AOI and MSD be measured from the property line of a major facility and the property line of a sensitive land use. The Guideline also outlines that there may be instances where there is a buffer on a property and, in specific circumstances, the planning authority may allow the measurement of the separation distance from the source the adverse effect (building or equipment) as opposed to the property line. The Guidelines do not generally recommend this alternative measurement approach as it does not consider future facility expansions. The existing D-Series Guidelines permit AOIs and MSDs to be measured from a site-specific zone. Eliminating the possibility of planning authorities to measure these distances from site-specific zones will result in larger setbacks from major facilities and/or sensitive land uses. The proposed alternative to measuring setbacks from the property line requires significant engagement with existing major industries, which may not always be practical or feasible. Regional staff encourage the Province to re-consider permissions to measure setbacks from site-specific zones.

9. Applicability to Agriculture-Related and On-Farm Diversified Uses

The proposed Land Use Compatibility Guideline does not apply to agricultural operations to which the OMAFRA Minimum Separation Distance guidelines apply. Agricultural uses are not considered major facilities in the PPS and as such are not specifically referenced under this Guideline. According to the Guideline, it is expected that development and proposals outside of settlement areas will be able to achieve the required separation (AOI/MSD).

Given that agriculture-related (including agriculture-related commercial and industrial operations) and on-farm diversified uses are permitted outside of settlement areas, it is unclear as to whether “agricultural operations” include agriculture-related and on-farm diversified uses. Additional guidance should be provided to clarify whether agriculture-related and on-farm diversified uses are exempt from the criteria outlined in the proposed Land Use Compatibility Guideline.

10. Application to Cannabis Production Facilities

The proposed Land Use Compatibility Guideline provides different guidance for cannabis production facilities depending upon the location of the use. In settlement areas and employment areas, the Guideline recognizes a cannabis production facility as a major facility and classifies the use as a Class 5 Industry. In contrast, when a cannabis production facility is located within or proposed within the prime agricultural area or rural area, the Guideline defers to the OMAFRA Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas. Regional staff are concerned that the proposed Guideline results in the creation of two sets of rules that apply for cannabis production facilities. Regional staff recommend that the Province reconsider this approach as land use compatibility concerns are the same for nearby sensitive land uses regardless of whether the cannabis production facility is located in a settlement area, prime agricultural area, or rural area. Further, Regional staff are concerned that the Guideline will encourage cannabis production facilities to locate within prime agricultural areas and rural areas. As proposed, the Guideline classifies cannabis production facilities as a Class 5 Industry within settlement areas and employment areas; therefore, a proposed cannabis production facility could strategically locate within a prime agricultural area or rural area to avoid the more onerous Class 5 guidelines despite producing the same impacts on adjacent sensitive land uses.

11. Consultation with Industry

The proposed Land Use Compatibility Guideline places significant importance on engagement from and with major facilities. Appendix C of the Guideline (Consultation and Engagement for Land Use Compatibility) provides engagement strategies, timing and best practices. The Guideline "highly encourages" early engagement in accordance with Appendix C (refer to Section 1.6.2). Regional staff are supportive of, and encourage, early engagement in the planning approvals process. Staff note that there are often barriers to engaging with existing industry; if existing industry is not sufficiently engaged in the planning approval process, this could result in future compatibility concerns. The Guideline should clearly outline the benefits to both proponents of new or expanding sensitive land uses and new or expanding major facilities, to ease the implementation of early engagement strategies.

12. Transitional Uses

The proposed Land Use Compatibility Guideline outlines that transitional uses will be used to buffer impacts between major facilities and potentially incompatible uses. The Guideline recommends that if commercial or office uses are proposed as transitional land uses, a qualified individual should be hired to review its suitability; however, the Guideline does not include specific criteria for determining whether a particular use is an appropriate transitional use. Further, the Guidelines do not specify whether an existing use, which provides a buffer between a major facility and surrounding sensitive land

uses, can be considered a transitional use. Staff notes that the D-6 Guidelines currently permits for transitional uses subject to a feasibility analysis.

Regional staff are concerned that the implementation of the proposed Guideline will limit the types of transitional uses permitted in 'transition areas', such as employment areas, and thereby impacting the Provincial priority of creating complete communities. As previously mentioned, a large portion of Niagara Region's strategic growth areas and major transit station areas (the "MTSAs") are captured within the buffers associated with the increased AOIs and MSDs. As a result, the guidelines for transitional uses could restrict the types of uses otherwise envisioned and planned for in employment areas and the surrounding area.

In previous instances where Class 1 facilities were implemented as transitional uses, due to their 20 metre minimum separation distance, the proposed Guideline permits for only commercial or office-related type uses to transition from a major facility to a sensitive land use. It is recommended that the Province consider the implications of this direction on the ability for municipalities to encourage and achieve complete communities, in alignment with the direction provided in the PPS and Growth Plan. If commercial and office-related type uses are the only uses that could feasibly transition a major facility to a sensitive land use, staff have concerns with the potential relation of these uses outside of downtown cores. It is recommended that the Province consider ways to re-introduce additional uses as transitional uses between major facilities and sensitive land uses.

As proposed, the Land Use Compatibility does not appear to support the Provincial priorities of creating complete communities in close proximity to strategic growth areas. The significant proposed increase in MSD and AOI results in a large portion of MTSA and other strategic growth areas that are planned to accommodate Niagara's future growth becoming captured within these buffers. Regional staff recommend that the Guideline clearly articulate whether MTSAs are subject to the policies and recommended distances. The proposed Guideline must clarify how these various competing Provincial interests are balanced and prioritized, especially during instances where strategic growth areas are impacted by MSD and AOI from employment areas.

13. NPC-300 Class 4 Designation and Land Use Compatibility Guideline

The proposed Land Use Compatibility Guideline provides a note on Class 4 Designations under NPC-300 (Environmental Noise Guideline – Stationary and Transportation Sources – Approval and Planning), stating that "Class 4 areas [per NPC-300] are defined as an area of specific site that would otherwise be defined as Class 1 or 2 and which is intended for development with new noise sensitive land use(s) that are not yet built; is in proximity to existing, lawfully established stationary source(s); and has formal confirmation from the land use planning authority with the Class 4 area classification which is determined through the land use planning process." The

Guideline further states that “Class 4 designation is intended for areas where a mix of incompatible uses may be unavoidable or very difficult to avoid, such as areas that are built-out or designated as MTSAs in the Growth Plan.”

Staff has concerns that, due to the significant increases in MSD and AOI, planning authorities will receive significant pressure from proponents to apply Class 4 designations to sites. Regional staff also recommends that the Province provide additional clarification on the ways in which the Land Use Compatibility Guideline and NPC-300 work together, or separately. Clarification should be provided regarding whether the AOI and MSD can be reduced if a Class 4 designation for Noise is permitted by the planning authority; if the AOI and MSD can be reduced, how do planning authorities address facilities that have more characteristics than noise (i.e. if a sensitive land use can be considered under a Class 4 designation for noise, but a nearby facility has dust and odour impacts, how will NPC-300 and the Land Use Compatibility Guideline align with one another to determine the applicable AOI and MSD)? In the event that a parcel is approved for Class 4 designation under NPC-300, is a proponent still required to complete a demonstration of need and a land use compatibility study if their property is within the AOI and MSD from a major facility, or is the parcel only subjected to a noise impact assessment as provided in the Guideline?

Regional staff are of the opinion that the proposed Land Use Compatibility Guideline could benefit from additional clarification regarding NPC-300 and the proposed provisions, as it is anticipated that many proponents will request the implementation of a Class 4 designation.

Summary

Based on the above-noted discussion, Regional staff are supportive of the Province revising the approach to land use compatibility to support the Provincial Policy Statement; staff encourage the Province to review and consider the recommendations provided in this submission when revising the proposed Land Use Compatibility Guideline. Regional staff acknowledge that the final Land Use Compatibility Guideline may be different than the proposed draft; the final Guideline may eliminate or reduce some of the items of concern or implication provided above.

Additional comments on the proposed Land Use Compatibility Guideline are provided in the enclosed table.

The Region appreciates the opportunity to provide these comments. Please contact myself if you have any questions or require additional information.

Respectfully submitted and signed by



for

Doug Giles

Acting Commissioner of Planning and Development Services

Niagara Region

Attachments:

- Appendix A – Consolidated Niagara Region Comments. Response to proposed Land Use Compatibility Guideline (ERO #019-2785)
- Appendix B – Case Study Application of the proposed Land Use Compatibility Guideline (ERO #019-2785)

Appendix A – Consolidated Niagara Region Comments

Response to proposed Land Use Compatibility Guideline (ERO #019-2785).

Land Use Compatibility Guideline

Niagara Region Review Comments

<https://ero.ontario.ca/notice/019-2785>

PART A:	Overview and Policy Context	
1	Introduction and Context	
1.1	Overview	
	<p>This Land Use Compatibility Guideline (Guideline) has been developed to assist land use planning authorities and proponents of development in planning for land use compatibility which protects the long-term viability of major facilities while avoiding, or if avoidance is not possible, minimizing and mitigating adverse effects to the surrounding community.</p> <p>The primary purpose of the Guideline is to support the implementation of the Provincial Policy Statement, 2020 (PPS) issued under Section 3 of the Planning Act, including policies 1.2.6.1, 1.2.6.2, 1.3.2.2 and 1.3.2.3 related to land use compatibility. It also supports land use compatibility-related policies in provincial plans, including those in A Place to Grow: A Growth Plan for the Greater Golden Horseshoe (A Place to Grow).</p> <p>The Guideline acts in concert with provincial noise, dust and odour guidelines, standards and procedures, and refers to these technical guidelines for further direction on undertaking compatibility studies, assessments and modelling. The Guideline provides context on how land use compatibility is achieved through Ontario’s land use planning process and the Environmental Protection Act (EPA) and regulations. It should also be used to inform Environmental Assessment (EA) processes carried out under the Environmental Assessment Act (EAA) and for compliance considerations.</p>	<p>Consider listing the guidelines that currently apply related to noise, dust and odour. While this could be problematic in the future, assuming that name/regulation changes will occur, the guideline titles could be listed as examples and refer to their predecessors.</p> <p>I.e., Noise = NPC-300, Air = O.Reg. 419/05, Guideline A-12, AERMOD, etc.</p>
	<p>The Guideline is to be applied to achieve and maintain land use compatibility between major facilities and sensitive land uses when a planning approval under the Planning Act is needed in the following circumstances:</p> <ul style="list-style-type: none">• a new or expanding sensitive land use is proposed near an existing or planned major facility; or• a new or expanding major facility is proposed near an existing or planned sensitive land use. <p>The Guideline will also be applied when municipalities are incorporating land use compatibility policies and principles into various land use planning tools under the Planning Act and other legislation.</p>	<p>The term “expanding” may have prior definition, but does “expanding” mean addition of land or change in zoning? Or is this a building (“facility”) expansion or new building on lands that might otherwise already be permissive of the in-effect zoning on a particular site? (As-of-right on site expansion). In other words, does this imply expansion on an existing industrial site would be subject to new limitation if a sensitive land use was being proposed outside of the industrial site itself?</p>

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	<p>The objectives of land use compatibility planning are to:</p> <ul style="list-style-type: none">• protect employment areas designated for future major facilities from incompatible uses and encroachment by sensitive land uses;• protect existing or planned major facilities from potential impacts from new sensitive land uses; and• prevent adverse effects to existing or planned sensitive land uses from new and/or expanding major facilities. <p>Part A of the Guideline outlines the general approach and guiding hierarchy, key concepts, use of the guideline, roles and responsibilities and policy context for the Guideline.</p> <p>Part B details the approach for assessing land use compatibility to inform land use planning decisions regarding land use compatibility matters. This Part includes areas of influence (AOIs) and minimum separation distances (MSDs) for specific types of facilities and various classes of facilities. It also provides a description of the expected contents of a compatibility study, including guidance and links supporting technical assessments of noise, dust, odour and other emissions, and of a demonstration of need. Mitigation measures that can be used to mitigate land use compatibility issues and impacts are also described.</p> <p>Part C provides direction on incorporating land use compatibility policies and tools into various tools under the Planning Act and other legislation. Additional considerations for transitional land uses and infill and intensification scenarios are also provided.</p> <p>The Appendices provide additional detail on relevant policies, completing assessments supporting compatibility studies, specific sectors, and planning for land use compatibility for landfills and dumps. They also include a glossary, abbreviations, case studies and helpful references.</p>	<p>As stated, of the three bullets, I interpret the preference / hierarchy is given to employment over community. This should be the preference. This is reinforced through the Growth Plan by permitting “future” employment areas being identified (but not designated) for protection beyond 2051. This permission is not identified for “future” community area.</p> <p>Bullet two (from new sensitive land uses) should be revised to include “expanding” sensitive land uses. If a sensitive land use is expanding to encroach closer to an industrial use, this needs to be evaluated.</p>
1.2	<p>General Approach to Planning for Land Use Compatibility</p> <p>Land use compatibility is achieved when major facilities and sensitive land uses can co- exist and thrive for the long-term within a community through planning that recognizes the locational needs of both. These different land uses need to be planned and managed properly to avoid conflicting with or adversely impacting each other. Planning communities effectively to ensure compatibility amongst land uses enables industry and businesses to continue to operate and grow, while enabling the surrounding community to continue about their daily life and activities without experiencing adverse effects from emissions and other impacts from major facilities.</p> <p>Given the nature of major facilities, they are often a source of noise, dust, odour and other emissions which may have potential impacts on surrounding land uses. Sensitive land uses can also have impacts on existing major facilities if they are located too close to a major facility, resulting in complaints from residents, potential risks to public health and safety, need for additional mitigation, impacts to major facility operations and additional costs for the major facility.</p> <p>Consideration of these potential impacts early in the land use planning process, before new land uses are approved, provides opportunities to prevent conflicts. This Guideline contains direction for planning authorities to address land use compatibility through official plan policies and procedures, planning tools and proponent-driven planning applications.</p>	<p>Consideration of these potential impacts early in land use planning process is important if a use has been established prior to new uses being located in an adjacent area.</p> <p>It is recognized that it is ideal to consider impacts of land use compatibility early on in the land use planning process, however there are swaths of land that are zoned for sensitive land uses that were not feasibly assessed when they were zoned. The Guideline should consider additional wording to implement at the site plan stage, in the absence of being able to apply any setbacks or request studies at the time of rezoning (past/historical decisions).</p>

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	<p>To enable planning land uses that avoid incompatible land uses, this Guideline provides AOI distances associated with various types of major facilities. A sensitive land use within that AOI could experience impacts. Planning authorities should use these AOIs to inform land use designations, zoning by-laws and other planning tools to avoid incompatible uses. These AOIs should also be used to inform policies to trigger land use compatibility studies if a development proposal would result in a sensitive land use being located within an AOI. That compatibility study then becomes the basis for assessing potential adverse effects and determining a more specific separation distance that would prevent adverse effects, potentially together with identified mitigation measures. This Guideline also provides MSDs, within which sensitive land uses should not be located, and supports the requirement for a demonstration of need to be completed in relation to a proposed sensitive land use if mitigation measures are the only possible way to prevent adverse impacts or if the proposed sensitive land use is within the MSD of a major facility.</p>	<p>Note the use of “should” here - provides some flexibility based on site-specific technical study.</p> <p>The Guideline requires land use compatibility studies for any sensitive development within the AOI distance and within the MSD; as noted above, this Guideline appears to provide flexibility for the location of sensitive land uses within the MSD (see “should”).</p>
1.3	<p>Guiding Hierarchy for Land Use Compatibility Planning</p>	
	<p>Separation of incompatible land uses is the preferred approach to avoiding land use compatibility issues. In many situations, including in relation to proposals for greenfield development and proposals outside of settlement areas, it is expected that separation can be achieved. Doing this would be consistent with achieving policy 1.1.5.6 of the PPS, which indicates that opportunities should be retained to locate new or expanding land uses that require separation from other uses. When avoidance (i.e. separation) alone is not possible, minimizing and mitigating potential impacts may provide a basis for a proposal. If minimization and mitigation of impacts is not viable, the proposed incompatible land use should not be enabled, and related planning or development applications should not be approved. Planning authorities, proponents (e.g. developers of sensitive land uses and major facility owners) and the surrounding community should work together to achieve land use compatibility.</p> <p>In order to support implementation of the PPS, a guiding hierarchy for land use compatibility is provided as a decision-making framework for planning authorities where avoidance of incompatible land uses through adequate separation should be achieved, or if avoidance is not possible, minimizing and mitigating adverse effects. See Figure 1 below.</p>	<p>What happens in the case if there is not a better alternate location? As I interpret this guideline, if adverse impacts cannot be mitigated or minimized, the proposed development should not be approved.</p> <p>What flexibility is provided by stating that planning or development applications “should” not be approved? Are there any instances where an approval authority could reasonably argue that a use is suitable when it will fact impacts from the industrial/sensitive land uses? The use of “should” does not align with the strength of the wording provided in the diagram below.</p>

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<p>1. AVOID incompatible land uses</p> <ul style="list-style-type: none"> Locate a <i>sensitive land use</i> outside of the <i>AOI</i> of a <i>major facility</i>, and locate a <i>major facility</i> to an area where <i>sensitive land uses</i> are not captured within its <i>AOI</i>. Avoidance does not include mitigation measures, only separation between uses. Designate appropriate transition areas between <i>major facilities</i> and <i>sensitive land uses</i> (such as an area where heavy industrial is buffered by lighter industrial, and subsequently may be buffered by commercial or office uses). <p><i>Where avoidance by locating outside the AOI is not possible, follow steps 2 and 3 as required:</i></p> <p>2. ASSESS impacts in terms of types of impact and magnitude</p> <ul style="list-style-type: none"> For proposals within the <i>AOI</i>, <i>compatibility studies</i> are required. Proponents should pre-consult with <i>planning authorities</i> to understand requirements. A compatibility study will determine a specific separation distance for that proposal that would avoid adverse effects. That separation distance should be used if possible. <p>3. MINIMIZE and MITIGATE impacts</p> <ul style="list-style-type: none"> If the separation distance is not possible, the compatibility study must identify mitigation measures to ensure no adverse effects will remain post-mitigation. Even with proposed mitigation, the separation distance should be maximized to minimize impacts, and should not be less than the MSD. Once implemented, monitor and maintain required mitigation measures over time to avoid future compatibility issues. <p><i>Where avoidance and minimization/mitigation of impacts is not possible, do not permit the proposed incompatible land use.</i></p>	<p>2nd bullet of point 3 should specify that it is the site-specific MSD.</p>
1.4 Key Concepts	

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<p>The following key concepts are briefly described to provide context for planning for land use compatibility. Further details on the application of these concepts are described in subsequent sections.</p> <p>Major Facilities: “Facilities which may require separation from sensitive land uses, including but not limited to: airports, manufacturing uses, transportation infrastructure and corridors, rail facilities, marine facilities, sewage treatment facilities, waste management systems, oil and gas pipelines, industries, energy generation facilities and transmission systems, and resource extraction activities” (PPS).</p> <p>The above definition does not include a comprehensive list of major facilities. Facilities other than those provided as examples with similar potential to affect sensitive land uses must be treated in the same manner under the PPS and this Guideline. See Section 1.5.2 for additional discussion on application of the Guideline to major facilities.</p> <p>Sensitive Land Uses: “Buildings, amenity areas, or outdoor spaces where routine or normal activities occurring at reasonably expected times would experience one or more adverse effects from contaminant discharges generated by a nearby major facility. Sensitive land uses may be a part of the natural or built environment. Examples may include, but are not limited to residences, day care centres, and educational and health facilities” (PPS).</p> <p>The above definition does not include a comprehensive list of all types of sensitive land uses. Planning authorities are expected to identify other similar uses as sensitive under the PPS and this Guideline. While uses such as residential are clearly sensitive land uses in all contexts, sensitive land uses could also include various commercial, retail, institutional, and office uses. Some additional examples of sensitive land uses may include hotels, community centres and places of worship. Under this Guideline residences includes long-term care homes, shelters for emergency housing and detention centres.</p>	<p>Potential conflict with NPC-300 in terms of hotels being subject to this guideline but not NPC-300.</p>
<p>Adverse Effects: “means one or more of:</p> <ul style="list-style-type: none"> a) impairment of the quality of the natural environment for any use that can be made of it; b) injury or damage to property or plant or animal life; c) harm or material discomfort to any person; d) an adverse effect on the health of any person; e) impairment of the safety of any person; f) rendering any property or plant or animal life unfit for human use; g) loss of enjoyment of normal use of property; and h) interference with normal conduct of business” (EPA, ss.1(1)) <p>Note that minor nuisance effects may not meet the definition of adverse effect.</p> <p>Area of Influence (AOI) (Section 2.1.1): an area surrounding the property boundary of an existing or planned major facility where adverse effects on surrounding sensitive land uses have a moderate likelihood of occurring (see Figure 2). Within AOIs, compatibility studies are required for proponents of proposed major facilities or proposed sensitive land uses as part of the supporting documentation for a planning application.</p> <p>Minimum Separation Distance (MSD) (Section 2.1.3): a recommended minimum distance from a major facility within which adverse effects to a sensitive land use are highly likely to occur. Planning authorities should not allow sensitive land uses within the MSD (see Figure 2). Where a sensitive land use is proposed within the MSD, a demonstration of need is required.</p>	<p>How to guarantee NO adverse effects? What if only one or a few people claim adverse effects?</p> <p>If uncertain, who should be responsible for qualifying an adverse effect? For example, there is a nearby industrial use but the planner is uncertain of the outputs of the facility; should a qualified professional proceed with an analysis? Is it sufficient for a planning consultant to complete their own due diligence? What happens when there is a difference of opinion?</p> <p>Highlighted section is new from PPS 1.2.6.2. How does this reconcile with the steps of 1.3... 1.3 appears to indicate a use can be located within a MSD if there is a site specific study specifying an alternative MSD/mitigation measures are feasible.</p>

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	<p>Compatibility Study (Section 2.6): a study that assesses potential adverse effects and recommends separation distances between land uses and mitigation measures, if needed, to prevent impacts to surrounding sensitive land uses.</p> <p>Avoidance: for the purposes of this Guideline, “avoidance” is achieved if a sensitive land use and a major facility are sufficiently separated to prevent any adverse effects on the sensitive land use, without the need of mitigation measures. Locating sensitive land uses outside of the AOI of a major facility would achieve this outcome, as would locating beyond the separation distance assessed through a compatibility study as necessary to avoid an adverse effect without mitigation.</p> <p>Demonstration of Need (Section 2.8): an assessment that determines whether there is an identified need for the proposed use in the proposed location, and evaluates alternative locations for the proposed use if avoidance is not possible. A demonstration of need is only required to be carried out by proponents of sensitive land uses in certain circumstances as outlined in Section 2.8 of this Guideline.</p> <p>Minimize and Mitigate: under this Guideline, minimizing potential adverse effects on sensitive land uses and potential impacts to major facilities is achieved by maximizing the separation distance between land uses that are incompatible, and mitigation refers to the additional measures necessary to prevent an adverse effect or impact, where avoidance is not possible.</p>	<p>“Demonstration of Need” - Further supports hierarchy in favour of employment over community.</p> <p>Comment added in highlighted text.</p>
1.5	Use of the Guidelines	
1.5.1	Audience	
	<p>This Guideline is intended for planning authorities under the Planning Act, including municipalities, planning boards, and the Province in circumstances where it is the planning authority. It should also be considered by the Local Planning Appeal Tribunal (now Ontario Land Tribunal) when determining appeals of decisions or a lack of decision(s) made by a planning authority under the Planning Act. Proponents of proposed development (e.g. developers of sensitive land uses, major facility owners/operators) are another key audience to understand the expectations of the planning authority. This Guideline is also intended for planning consultants and consultants preparing compatibility studies.</p> <p>Proponents for new or expanding sensitive land uses and/or new or expanding major facilities should consult the Guideline prior to applying for approvals under the Planning Act and environmental permissions, to better coordinate requirements for all processes.</p> <p>The Guideline may also be used by stakeholders and the public for educational purposes and increased awareness of considerations in land use planning decisions regarding land use compatibility in their communities.</p>	<p>Comments added in highlighted text, and note name change to LPAT.</p>
1.5.2	Applicability to Major Facilities	
	<p>The Guideline supports implementation of the PPS to address impacts to and from a range of major facilities. This includes but is not limited to major facilities listed as examples in the definition of major facility and listed in Table 1, such as manufacturing facilities, sewage treatment plants, composting facilities and anaerobic landfills.</p> <p>This Guideline is intended to apply to land use planning proposals related to any major facility unless otherwise specified or more specific provincial direction exists in relation to a specific major facility type. In respect of some major facilities for which other Guidelines or direction are provided, this Guideline may apply to encroachment of sensitive land uses on these facilities. This Guideline also does not address specific land uses that are not major facilities as defined by the PPS, but which may also have compatibility requirements. For example, this guideline does not apply to agricultural operations to which the Ontario Ministry of Agriculture, Food and Rural Affairs’ (OMAFRA’s) Minimum Separation Distance</p>	<p>The guideline does not apply to agricultural operations and this is an issue around NR12 with the surrounding chicken farms.</p> <p>What about other exclusions previously listed in the D-1 and D-6 guideline? And how does the application of the LUCG through the PA process coordinate with the ECA process to avoid overlap and ensure consistency in decision making?</p> <p>The Guideline does not apply to agricultural operations to which the OMAFRA MDS Guidelines apply; what about industrial uses located in the agricultural area that could be considered industrial (agriculture-related and on-farm diversified uses)?</p>

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	guidelines apply. See Appendix K for information and guidance related to some specific types of major facilities and other land uses. Guidance on landfills is located in Appendix E.	
	With respect to federally-regulated facilities, such as airports, rail facilities, marine facilities, and oil and gas pipelines, this Guideline does not apply to locating these major facilities. Similarly, this Guideline does not apply to development on federal crown lands that are not subject to the Planning Act. However, planning authorities are required to apply this Guideline in relation to sensitive land uses proposed near these facilities that are subject to the Planning Act.	
1.5.3	Applicability under the Planning Act	
	<p>The Guideline is to be applied to achieve and maintain land use compatibility between major facilities and sensitive land uses when an approval under the Planning Act is needed in relation to:</p> <ul style="list-style-type: none">• a new or expanding sensitive land use is proposed near an existing or planned major facility; or• a new or expanding major facility is proposed near an existing or planned sensitive land use. <p>“Planned” major facilities or sensitive land uses means that the land use is already designated in the local official plan (OP) and zoned in the local zoning by-law.</p> <p>Planning Act approvals this Guideline would apply to include:</p> <ul style="list-style-type: none">• OP and OP amendments (OPAs);• Secondary plans;• Community planning permit systems;• Zoning by-laws and zoning by-law amendments;• Plans of subdivision or condominium;• Consents;• Minor variances; and• Site plan control and other planning approvals. <p>The Guideline also applies in situations where the use of the land is not changing, but the nature and/or intensity of the land use is, and an application under the Planning Act is required. For example, a six-storey residential building being replaced by a twenty-storey residential building within the same parcel can trigger this Guideline, if an approval under the Planning Act is required. It also applies in situations where there is a new use proposed for an existing building and an application under the Planning Act is required.</p>	Of note, this section now specifies that the Guideline applies to Planning Act approvals including Site Plan control.

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	For example, a new residential use may be proposed for a building that is currently used for commercial purposes, which would lead to a situation of potential incompatibility if the building is located within an industrial and commercial employment area. Unless referenced under other applicable legislation, this Guideline does not apply when there are existing incompatible land uses (e.g. existing sensitive land uses too close to existing major facilities) and no Planning Act approval is being triggered.	This example is a bit confusing as they comment on residential in an industrial employment area. It must be assumed that they are not meaning an “Employment Area” by definition, which prohibits residential. Thereby a conversion would be required (OPA). Similarly, Employment Lands (outside Employment Areas) would require OPA for land use change to allow residential, therefore I am a bit confused as to why a Planning Act Application would not be the result. I do not see how an “existing” SLU as an intervening use would play into this when an OPA is required still.
1.5.4	Applicability under other Legislation	
	<p>Planning authorities and proponents need to be aware of and consider environmental legislation, regulations, programs and permissions, and other relevant provincial legislation, when making decisions in relation to land use compatibility. Proponents for major facilities that require other permissions (such as an Environmental Compliance Approval (ECA)) should consider undertaking land use planning approvals and environmental permissions, and the studies that inform them, in a coordinated fashion to the extent possible. The Guideline may also be used to inform some Environmental Assessments (EA). For example, this Guideline can be considered in the EA process for waste management projects that may be subject to the EAA. Information and compatibility study requirements developed through planning approvals and EAs may inform requirements for ECAs.</p> <p>This Guideline does not provide guidance on applying for an ECA, a Renewable Energy Approval, or registering on the Environmental Activity and Sector (EASR). Please refer to Appendix J for other documents that provide guidance and direction on these matters.</p>	This policy seems to put the onus on the proponent, but we (Regional staff) would be interested in ensuring there is consistency in the decision-making process as well.
1.5.5	Territory without Municipal Organization	
	<p>Despite generally having lower population and development density, land use compatibility issues exist in Northern Ontario, including in territories without municipal organization. In these areas, the Province or other planning authority should request that studies be completed to ensure that compatibility issues are adequately addressed prior to planning approvals being granted.</p> <p>Planning authorities in Northern Ontario in territories without municipal organization are the following:</p> <ul style="list-style-type: none"> • Planning boards, which coordinate overall future growth and land use planning activities. They can prepare OPs and can pass zoning by-laws in areas without municipal organization within their jurisdiction. • The Minister of Municipal Affairs and Housing defines planning areas of planning boards and may also initiate zoning controls in some territories without municipal organization. The Minister has the authority to approve development applications (plans of subdivision and consent applications) except in those areas where approval is given to other approval authorities, such as planning boards. <p>The Ministry of Natural Resources and Forestry (MNRF), which manages Crown land on behalf of the public.</p>	
1.6	Roles and Responsibilities	
1.6.1	Planning Authorities	

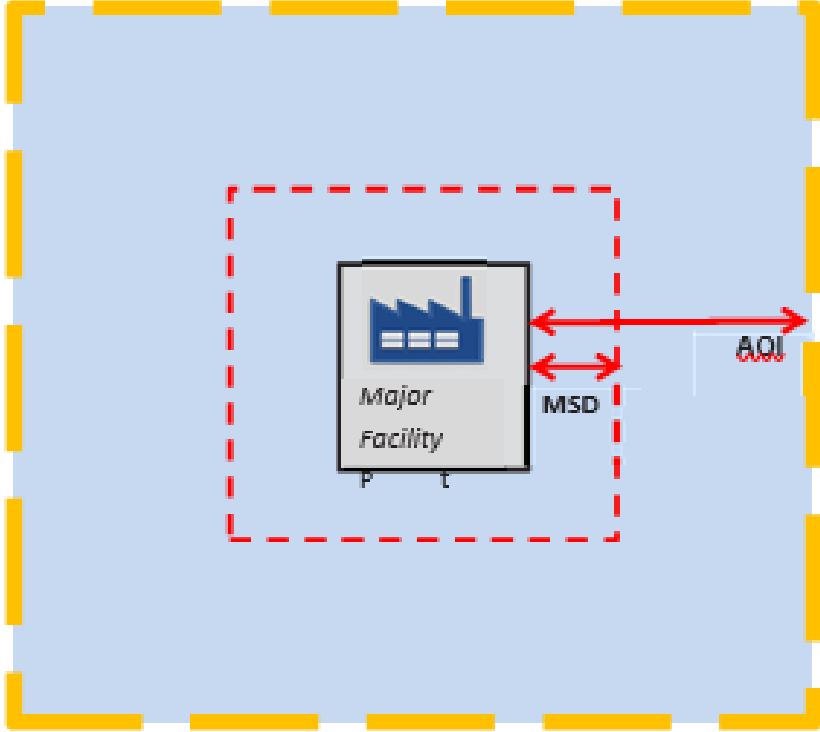
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	<p>“Planning authorities” refers to entities or bodies with land use planning approval authority under the Planning Act, including the council of a municipality, a planning board and the Ministry of Municipal Affairs and Housing (MMAH).</p> <p>Subsections 3(5) and 3(6) of the Planning Act provide that planning decisions and comments, submissions or advice affecting a planning matter by a council of a municipality, a local board, a planning board, a minister of the Crown and a ministry, board, commission or agency of the government shall be consistent with the PPS and shall conform or not conflict with any provincial plans in effect at that time. As such, under the Planning Act and the PPS, planning authorities are responsible for ensuring that major facilities and sensitive land uses are planned and developed to avoid, or if avoidance is not possible, minimize and mitigate adverse effects. They are also responsible for protecting the long-term viability of existing or planned industrial, manufacturing or other employment uses. Planning authorities must not approve development proposals where there are irreconcilable incompatibilities (i.e. adverse effects with no feasible required mitigation measures). Land use planning decisions that result in incompatibility may create ongoing issues for all parties, including municipalities, to address noise and odour complaints and other impacts</p>	<p>Feasible or required? Or just feasible?</p>
	<p>Planning authorities should encourage pre-consultation with proponents to identify potential land use compatibility constraints (e.g. closed landfill, existing major facilities and/or sensitive land uses). Planning authorities will need to be satisfied that the classification of a major facility or AOI used are appropriate. Planning authorities are responsible for reviewing Planning Act applications (including required compatibility studies) for potential adverse impacts to existing facilities and/or existing sensitive land uses, and only approving planning applications that have demonstrated that such impacts do not exist or that impacts have been addressed and any necessary mitigation will be implemented. Municipalities that do not have in-house expertise to assist with this task are encouraged to hire third party experts for review of land use compatibility studies. Where feasible, planning authorities should encourage or accept electronic submissions of land use compatibility studies that may be required in this Guideline with planning applications.</p> <p>Planning authorities also undertake planning exercises which must address land use compatibility, such as comprehensive reviews of OPs, development of secondary plans and reviews of zoning by-laws. To address land use compatibility, OP policies and land use designations, requirements for supporting documentation for development applications, and zoning by-laws must be up to date and in accordance with the Guideline. See Table 4 for more details and instruction on how planning documents can incorporate the Guideline.</p>	<p>Timing of a compatibility study should occur at top level of any required PA Application and not be permitted to be pushed down the process to subdivision or site plan unless they represent the highest level of PA Application required to advance development.</p> <p>With respect to the comment on digital submissions, this should be a requirement. The wording should be affirmative in that respect, as the ability to retain, search, disseminate study work for the purposes of other related or area studies is enhanced. Hard copy of such materials is quickly, if not already, an antiquated method of application processing in general.</p>
1.6.2	Proponents of Major Facilities and Sensitive Land Uses	
	<p>This section applies to proponents of new or expanding major facilities that would capture existing or planned sensitive land uses within their AOI, and new or expanding sensitive land uses that would be captured within the AOI of an existing major facility.</p> <p>Proponents are responsible for ensuring that they have the proper land use planning approvals in place prior to development, and that their applications for planning and development demonstrate that the proposed new land uses will avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects.</p> <p>Pre-consultation with planning authorities is highly encouraged when planning for a new development, to identify potential constraints with respect to potential impacts to major facilities and sensitive land uses, explore alternative locations if necessary, and ensure all necessary studies are completed to inform planning decisions. Proponents can request pre-consultation and municipalities are required to agree to pre-consultation upon request under the Planning Act.</p>	<p>What are the implications for a proponent if they don't have the proper land use planning approvals in place prior to development?</p>

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	<p>Engagement between parties will allow for awareness of concerns, potential access to facility-specific information to complete compatibility studies, discussion on recommendations for mitigation, identification of any barriers to mitigation and, if necessary, discussion on agreements for any potential mitigation to address adverse effects and/or potential impacts to the major facility. Where a new sensitive land use is proposed, engaging existing major facilities early is highly recommended to better understand their operations and the mitigation measures that may already be in place. If major facility operators are the proponent of a new or expanded facility, early engagement of nearby sensitive land uses is highly recommended. More information on engagement and consultation is in Appendix C.</p> <p>Proponents are responsible for retaining qualified individuals to undertake appropriate studies, locating and designing their proposal to avoid, minimize and mitigate adverse effects and/or potential impacts to major facilities, and for installing and monitoring any required mitigation measures, as well as ensuring any necessary permissions (including ECAs, EAs and EASR registrations as applicable) under the EPA, the EAA or the Ontario Water Resources Act (OWRA), or other relevant legislation, are in place (see Appendix B for more on qualified individuals). Proponents of major facilities are encouraged to undertake studies supporting land use planning approvals and environmental permissions in a coordinated manner, where possible.</p>	<p>Barriers to this approach are significant where the proposed sensitive land use threatens existing industry. Most industry will not participate or engage with the developer of a sensitive land use where they think it will disadvantage their operations or advantage the sensitive land use. This leads to issues down the road with potentially conflicting land uses as a result of the industry not engaging in the public process. How can these conflicts be alleviated if the industry does not participate in the planning/public process?</p> <p>What about where the proponent is the sensitive land use and they don't require ECAs, etc? Salit Steel didn't have an ECA and was unregulated up until last year. They had no requirement to comply with noise and air quality at their property line or based on sensitive receptors.</p>
1.6.3	Existing Sensitive Land Uses and Major Facility Owners/Operators	
	<p>Owners of existing sensitive land uses are encouraged to engage with proponents and planning authorities when major facilities are proposed, and the sensitive land use is captured within their AOI.</p> <p>Conversely, existing major facility owners and operators are encouraged to respond to and engage with proponents and planning authorities when sensitive land uses are proposed within the AOIs of the major facility.</p> <p>Major facilities are encouraged to share information that may lead to the completion of land use compatibility studies and other reports that may be needed, provided appropriate privacy considerations are met. Ensuring compatibility studies are based on the best and current information will help to ensure potential compatibility issues are avoided in the future.</p>	<p>More clarity on the as-of-right status of both land uses needs clarity (if not offered later in this document).</p> <p>The reality is this doesn't happen. Owners of existing sensitive land uses may be represented by one land owner; and major facilities may not provide this information because they think it will assist in the sensitive land use being approved.</p>
1.6.4	Ministry of the Environment, Conservation and Parks (the Ministry)	
	<p>The Ministry is responsible for providing land use planning and technical guidance on land use compatibility matters related to certain types of major facilities, and other matters that fall within its mandate and programs.</p> <p>As a partner ministry, the Ministry also supports MMAH in the review of provincial planning policies and Planning Act applications where MMAH is the approval authority. The Ministry will conduct technical reviews where MMAH is the planning authority. In limited cases where MMAH is not the planning authority, municipalities may engage with the Ministry directly through the Municipal Plan Review process if they require specific technical input relating to compatibility studies. The Ministry does not have a role in reviewing and approving technical studies supporting planning applications under the municipal review process; its role is limited to providing specific technical information or guidance under its mandate and legislation.</p> <p>The Ministry is not a decision-maker on Planning Act applications. As part of its broader mandate to protect Ontario's air, land and water, the Ministry issues permissions required by its key legislation including the EPA, the EAA, OWRA and their regulations for some activities at major facilities. Environmental permissions, which include ECAs, EAs and EASRs, do not replace the need for land use planning approvals to address compatibility.</p>	
1.7	Planning Legislation and Policy Context	

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	The following sections provide context and background on the main provincial legislation and policies related to land use compatibility. A more comprehensive listing of relevant policies is found in Appendix A.	
1.7.1	Planning Act	
	<p>This Guideline supports implementation of key provincial land use planning policies. This includes relevant policies of the PPS, which is issued under the authority of the Planning Act.</p> <p>This Guideline also supports fulfillment of provincial interests under section 2 the Planning Act that planning authorities shall “have regard to”. These include building strong healthy communities, the protection of public health and safety, and the appropriate location of growth and development.</p> <p>Subsections 3(5) and 3(6) of the Planning Act require that decisions and comments, submissions or advice affecting a planning matter as made by planning authorities, and decisions made by the Local Planning Appeal Tribunal when making a determination on appeal “shall be consistent with” the PPS policies and “shall conform with” or “shall not conflict with” provincial plans.</p>	
1.7.2	The Provincial Policy Statement (PPS)	
	<p>The PPS sets out the Province’s long-term vision for building strong, healthy communities through land use planning decisions which support the long-term prosperity, environmental health and social well-being of Ontario.</p> <p>Relevant policies are referenced below, but it should be noted that the policies of the PPS represent minimum standards. Within the framework of the provincial policy-led planning system, planning authorities may go beyond these minimum standards to address matters of importance to a specific community, unless doing so would conflict with any policy of the PPS.</p> <p>PPS policies 1.2.6.1 and 1.2.6.2 provide direction to planning authorities to ensure that major facilities and sensitive land uses are appropriately planned and developed to avoid, or if avoidance is not possible, minimize and mitigate adverse effects (e.g. from odour, noise and other contaminants) and ensure the long-term viability of major facilities. As such, planning proposals need to demonstrate how land use compatibility has been assessed and addressed.</p> <p>Planning authorities also need to ensure that long-term viability and functions of employment areas are protected from encroachment within and surrounding these areas, as per PPS policies 1.3.2.2 and 1.3.2.3. Employment area conversion is also an important issue, as per PPS policies 1.3.2.4 and 1.3.2.5.</p>	
1.7.3	A Place to Grow: Growth Plan for the Greater Golden Horseshoe	

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	<p>A Place to Grow is issued under the authority of section 4 of the Places to Grow Act, 2005. A Place to Grow is the Ontario government's initiative to plan for growth and development in the Greater Golden Horseshoe. The area subject to A Place to Grow is set out in O. Reg. 416/05: Growth Plan Areas, made under the Places to Grow Act, 2005. Key policies relevant to the Guideline include 2.2.5.6 to 2.2.5.10.</p> <p>A Place to Grow policies 2.2.5.6 and 2.2.5.7 provide direction to municipalities to designate employment areas and protect them for employment use over the long- term by doing such things as prohibiting residential uses, prohibiting or limiting other sensitive land uses, and providing an appropriate interface between employment areas and adjacent non-employment areas to maintain land use compatibility. To support this, policy 2.2.5.9 and 2.2.5.10 address employment land conversion.</p> <p>A Place to Grow policy 2.2.5.8 stipulates that the development of sensitive land uses, major retail uses or major office uses will, in accordance with provincial guidelines, avoid, or where avoidance is not possible, minimize and mitigate adverse impacts on industrial, manufacturing or other uses that are particularly vulnerable to encroachment</p> <p>A Place to Grow is issued under the authority of section 4 of the Places to Grow Act, 2005. A Place to Grow is the Ontario government's initiative to plan for growth and development in the Greater Golden Horseshoe. The area subject to A Place to Grow is set out in O. Reg. 416/05: Growth Plan Areas, made under the Places to Grow Act, 2005. Key policies relevant to the Guideline include 2.2.5.6 to 2.2.5.10.</p> <p>A Place to Grow policies 2.2.5.6 and 2.2.5.7 provide direction to municipalities to designate employment areas and protect them for employment use over the long- term by doing such things as prohibiting residential uses, prohibiting or limiting other sensitive land uses, and providing an appropriate interface between employment areas and adjacent non-employment areas to maintain land use compatibility. To support this, policy 2.2.5.9 and 2.2.5.10 address employment land conversion.</p> <p>A Place to Grow policy 2.2.5.8 stipulates that the development of sensitive land uses, major retail uses or major office uses will, in accordance with provincial guidelines, avoid, or where avoidance is not possible, minimize and mitigate adverse impacts on industrial, manufacturing or other uses that are particularly vulnerable to encroachment.</p>	
1.8	Environmental Legislation and Permissions	
	<p>The following sections provide background on other provincial legislation and permissions related to land use compatibility. More information on environmental permissions can be found on the Ministry's website at https://www.ontario.ca/page/environmental-permissions.</p>	
1.8.1	Environmental Protection Act (EPA)	
	<p>A key part of the legislative basis for the Guideline is subsection 14(1) of the EPA, which provides:</p> <p>Subject to subsection (2) but despite any other provision of this Act or the regulations, a person shall not discharge a contaminant or cause or permit the discharge of a contaminant into the natural environment, if the discharge causes or may cause an adverse effect.</p>	How does the Guideline account for major facilities that are operating contrary to the EPA but without an ECA?
1.8.2	Environmental Assessment (EA)	

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	<p>Ontario's EA program promotes good environmental planning by determining the benefits and potential effects of projects, as well as evaluating alternatives, before projects are implemented. Projects that involve new or expanding major facilities may be subject to the EAA. The Minister may also designate a project as subject to the EAA.</p> <p>EA studies may involve evaluating alternative locations for siting a proposed major facility and must consider the proposed project's potential impacts to the environment, including impacts to the natural, social, economic, built, and cultural environments. This must include consideration of impacts to surrounding land uses. Appropriate measures must be proposed and implemented to address any impacts, such as noise and odour. Accordingly, the compatibility between a proposed major facility and its surrounding land use is often directly assessed and considered during an EA planning process.</p> <p>EA documents may be a resource for information related to land use compatibility when considering sensitive land use development near major facilities or vice versa.</p>	
1.8.3	Environmental Compliance Approvals (ECAs)	
	<p>ECAs are environmental permissions that are required by the EPA and the OWRA for certain activities which release contaminants into the air (including noise, vibration, odour and dust), land or water, such as industrial activities, waste management activities, sewage works, water works, and stormwater management systems.</p> <p>Existing ECAs may be able to be used as a source of information for conducting land use compatibility studies in a range of situations. The ECA and supporting studies include information about the assessment of noise, dust and odour emissions from a major facility, conditions on the timing of operations, setbacks or infrastructure and technology systems for mitigating emissions. However, there may be limitations on the ability to obtain reports used to inform an ECA. Major facilities are encouraged to provide reports and information when it will be used for such purposes as developing land use compatibility studies for proposed development.</p> <p>Terms and conditions set out in an ECA are included to help ensure the proper operation and maintenance of equipment and processes to minimize the impact to the environment and to prevent an adverse effect resulting from the operations. Depending on the type of facility, the ECA may include specific requirements to control dust, odour, noise, vibration, and other contaminants that can be released via air, water or land, to the environment.</p> <p>It should be noted that while ECAs can address various matters that relate to land use compatibility, such as the use of noise-attenuating technology, there are a range of issues related to the layout and operation of the site that are addressed through land use planning and not ECAs.</p> <p>It should be further noted that it cannot be assumed by a planning authority that a major facility with an ECA will implement additional mitigation measures to facilitate a sensitive land use proposed to be established nearby.</p>	<p>Only way to get these (possibly) is through and FOI to MECP. The MECP will not release them without an FOI.</p> <p>Or that a major facility that release contaminants is operating in compliance/with an ECA...</p>
1.8.4	Environmental Activity and Sector Registry (EASR)	

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	<p>An EASR is an online self-registration process for subject facilities instead of seeking a ministry approval through an application and review process.</p> <p>If a facility is required to register under the Air Emissions EASR, the proponent of that facility is required to have reports prepared that assess air, noise, fugitive dust and odour emissions prior to registration. Major facilities are encouraged to provide reports and information when it will be used for such purposes as developing land use compatibility studies for proposed development. Additionally, some summary information (i.e. Summary Table from Emissions Summary and Dispersion Modelling Report and the Acoustic Summary Table from the Noise Report) is available from the Ministry website through the Access Environment portal tools function.</p>	
PART B:	Assessing Land Use Compatibility	
2	Tools to Assess Land Use Compatibility	
2.1	Area of Influence (AOI) and Minimum Separation Distance (MDS)	
	<p>AOIs and MSDs specific to certain sectors or types of major facilities have been provided in this Guideline (Table 1). AOIs and MSDs have also been assigned to major facility class based on their anticipated local impact (Table 2). Where available, the facility-specific AOI/MSD in Table 1 shall be used. Where there is no facility-specific AOI/MSD in Table 1, or if planning authorities are determining an AOI for an area which may include a variety of facilities, Table 2 and Table 3 can be used to determine the appropriate Class-related AOI. See Figure 2 below for a visual representation of these areas, and Section 2.1.1, Section 2.1.2, and Section 2.1.3.</p>	
	<div><p>The diagram shows a central icon of a 'Major Facility' (a factory with smokestacks). This icon is enclosed within a red dashed rectangular boundary labeled 'MSD' (Minimum Separation Distance). This red dashed boundary is itself enclosed within a larger yellow dashed rectangular boundary labeled 'AOI' (Area of Influence). The entire area is set against a light blue background.</p></div> <div><p>AOI: distance within which adverse effects on surrounding sensitive land uses have a moderate likelihood of occurring. Compatibility studies are required for proposed major facilities and sensitive land uses. See 2.1.1 for more information.</p><p>MSD: distance within which adverse effects on surrounding sensitive land uses are very likely to occur. Proposals should not result in a sensitive land use being located in the MSD. See 2.1.3 for more information.</p></div>	<p>Label bold black line as property line?</p>

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	AOIs and MSDs provided in this Guideline are based on analysis of the Ministry’s complaint data (specific to noise, dust and odour) from a ten-year period, its experience dealing with issues associated with land use compatibility and considering other ministry guidelines and regulations. While the AOIs and MSDs were mainly based on adverse effects related to noise, dust and odour, the major facilities listed in Table 1 and Table 2 may have other adverse effects, such as groundwater and surface water contamination or methane leakage.	
2.1.1	Area of Influence (AOI)	
	<p>An AOI is defined in this Guideline as an area surrounding the property boundary of an existing or planned major facility where adverse effects on surrounding sensitive land uses have a moderate likelihood of occurring. If a land use proposal would place a new or expanding sensitive land use within a major facility’s AOI or a new or expanding major facility would capture sensitive land uses within its AOI, a compatibility study will be required (see Figure 3). Compatibility studies assess potential impacts associated with a planning proposal, determine a recommended separation distance for the proposed use, and if required, identify necessary mitigation measures to prevent impacts and demonstrate the need for a sensitive land use in a specific location (see Section 2.6).</p> <p>If a land use proposal would place a proposed sensitive land use outside of a major facility’s AOI, or when a new major facility is proposed in a location that does not capture existing or planned sensitive land uses within a major facility’s AOI, this Guideline does not require compatibility studies.</p>	<p>“Should” be required. There may be cases that do not warrant a study, and it would be nice to have that flexibility</p> <p>Can an AOI be “reduced” if a property has site-specific zoning that only encompasses the industrial use? Instead of measuring from the property boundary?</p>

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	<div><pre>graph TD; A[START - Proposed major facility or proposed sensitive land use near major facility (or facilities)] --> B[Classify major facility using Table 1 (Section 2.2)]; B --> C[If major facility is not listed in Table 1, classify major facility using Table 2 and Table 3 (Section 2.3)]; C --> D[Measure separation distance between major facility and sensitive land use (Section 2.4)]; D --> E[Determine whether proposed sensitive land is within major facility AOI or whether AOI of proposed major facility captures existing sensitive land uses]; E --> F[If yes - follow the process in section 2.5 (see Figure 5) If no - no further action required in this Guideline];</pre></div> <p>Figure 3 – Steps to determine if land use compatibility study is required.</p>	<p>The step indicating “Measure separation distance between major facility and sensitive land use (Section 2.) – is it appropriate to say “from property line”?</p>
	<p>AOIs are intended to be used as the study area as well as the default separation distance from a major facility unless compatibility studies recommend a different separation distance. The separation distance used should be sufficient to permit the functioning of the two potentially incompatible land uses without an adverse effect to the sensitive land use or potential impacts to major facilities. Separation of incompatible land uses under this Guideline does not result in ‘freezing’ or denying usage of the intervening land. Other compatible, transitional uses may be able to be developed in the intervening land.</p>	<p>I thought the minimum separation distance was the default separation distance? I think the highlighted section belongs under the MSD section, not AOI. Or should this say “to evaluate and recommend site specific separation distance from a major facility”?</p>
2.1.2	<p>Planning Authority-Determine Alternate AOIs</p> <p>The AOI distances noted in Table 1 and Table 2 of this Guideline must be used as the AOI in most situations. In relation to specific areas or sites, planning authorities may determine an alternate AOI, which may be smaller or larger than the AOI outlined in this Guideline, if supporting studies are completed to justify this alternate AOI. An alternate AOI may be smaller, for example in locations with a planning objective of increasing intensification as well as avoiding conflicts. An alternate AOI may also be larger if the planning authority has determined that adverse effects may occur outside of the Guideline’s AOI, for example in consideration of other area or facility specific emissions. In either case, the planning authority may choose to implement policies that restrict uses and/or require compatibility studies based on their studies.</p> <p>The development of an alternate AOI is a voluntary activity undertaken by the planning authority that is intended to support its broader land use planning framework. As such, studies to justify an alternate AOI should be developed by the planning authority (supported by consultants as necessary), and should take place during a broader planning process (such as review of Official Plans, Secondary Plans and/or zoning by-laws) so that the alternate AOI can inform the overall community structure of a particular area surrounding a major facility or employment area, and inform policies setting the study requirements for future development applications in the area.</p> <p>Alternate AOIs should only be developed for a specific major facility or specific employment area, and not for a sector of major facilities. For example, work completed to justify an alternate AOI at steel mill A, does not mean that all steel mills can have the same alternate AOI; the planning authority would</p>	<p>Why is the review and development of an alternate AOI limited to Planning Authorities? Further, limiting the development of alternate AOIs to “broader planning processes” could be onerous for local planning authorities during an MCR. It would result in additional in-house or procured work to identify and review Major Facilities to determine the necessity or feasibility of alternative AOI.</p> <p>What if a Major Facility is proposed outside of the timeframe of a MCR or broader planning process? Can an alternate AOI be assessed and developed?</p> <p>Highlighted section is unclear, should this say “to determine the alternative AOI”?</p>

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	undertake separate studies for each steel mill (in each location) to develop an alternate AOI appropriate for that specific steel mill.	
	<p>Planning authorities may only consider using an alternate AOI if it can be justified through the results of a technical and scientific process similar to that of a compatibility study. The study should include qualitative and quantitative assessments of the magnitude, significance, frequency and extent of the expected impacts to the major facility or to sensitive land uses. The assessments would need to demonstrate that impacts are expected within a smaller area than the AOI specified in this Guideline.</p> <p>The alternate AOI must never be smaller than the MSD in the Guideline (see Section 2.1.3).</p>	Is this meant to address larger swaths of industries (i.e. all industries of Type X are able to have a reduced AOI)? Or is this to be applied on one-off basis?
2.1.3	Minimum Separation Distances (MDS)	
	<p>MSDs are defined in this Guideline as recommended minimum separation distances. They are smaller than the AOI and are the distance within which adverse effects and compatibility issues are highly likely to occur. Proposals should not result in sensitive land uses being located in MSDs, as adverse effects are highly likely to occur. Such proposals should only be considered where there is a demonstrated need for the proposed use in that location and no other location is feasible, and mitigation to prevent adverse effects is possible and will be implemented. Avoiding sensitive land uses being located in the MSD should be feasible in areas of new development such as areas of settlement expansion and new built-up areas, and in employment areas intended for industrial or manufacturing uses in the long-term. If a new or expanding sensitive land use is proposed within a major facility's MSD or a new or expanding major facility would result in sensitive land uses within its MSD, compatibility studies and mitigation measures to address potential adverse effects on sensitive land uses and potential impacts to major facilities will be required. A demonstration of need will also be required if the proposed land use is a sensitive land use within the MSD of an existing or planned major facility.</p>	<p>This statement is loaded with questions as it relates to absolute encroachment limit, because 200m on class 1 for MSD seems rather excessive. When I read this, it indicates "should not be located in" MSD, but the results of a compatibility study and mitigating measures would afford encroachment, but to what degree? Site by Site recommended separation would become a benchmark on that site and should sensitive land use be established as a result, then nothing more impactful could establish on the site if the MF changed users and use.</p> <p>I am having difficulty comprehending a recommendation increase of 20 to 200m for Class 1 for MSD. Seems drastic.</p> <p>Demonstration of need is going to vary from LAM to LAM and if the expectation is to use all available urban area efficiently, these lands should expect to come online at some point, so curious how delaying the development would be beneficial in the long run.</p> <p>"Avoiding sensitive land uses being located in the MSD should be feasible in areas of new development" – Should the language be revised to "shall"?</p> <p>Greenfield areas? Is the demonstration of need for areas of infill/redevelopment as well?</p>

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2.2	<p>How to Classify a Major Facility with an Assigned AOI and MSD</p> <p>Certain types of major facilities have been assigned specific AOIs and MSDs. The proponent and planning authority should first determine whether a given major facility type has been assigned an AOI and MSD in Table 1. Where available, the facility- specific AOIs and MSDs in Table 1 should be used instead of class-related AOIs and MSDs in Table 2.</p> <p>Due to the differing exact characteristics of emissions of different activities, some types of major facilities have a larger MSD relative to their AOI compared to some other major facility types.</p> <p>Where other types of major facilities are being considered (i.e. facilities that are not listed in this table), the approach outlined in Section 2.3 to determine an appropriate class-related AOI and MSD should be used and Table 2 and Table 3 should be referenced.</p>	

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Table 1 – Area of influence and minimum separation distance for select major facilities.



Select Major Facility	Description of Major Facility	AOI & Class	Minimum Separation Distance
Aggregate Operations	Aggregate extraction, Resource extraction, Other mineral quarries	1,000m Class 3*	500m*
Asphalt Manufacturing	Asphalt mixture and block manufacturing, Asphalt shingle and coating manufacturing	1,000m Class 3	300m
Cannabis production and processing facilities	Indoor cannabis production facilities that are located in a <i>settlement area</i> on lands that are zoned for industrial uses; and all cannabis processing facilities	2,000m Class 5	500m
Cement Manufacturing	Cement manufacturing and distribution	2,000m Class 5	500m
Chemical Product Manufacturing	Inorganic chemical manufacturing, Household cleaning and miscellaneous product manufacturing	2,000m Class 5	500m
Composting Facilities	Composting facilities	1,500m Class 4	500m
Concrete (Ready-mix)	Ready-mix and concrete product manufacturing facilities	250m Class 1	100m
Industrial Anaerobic Digesters	Anaerobic digesters that are not agricultural uses	1000 m Class 3	500m
Food Manufacturing	General industrial manufacturing of food products	500m Class 1	200m
Industrial Food Mills (non-agricultural)	Wet corn or flour mill	750m Class 2	300m
Landfills and Dumps (see Section 7.2 of Appendix E)	Operating and non-operating sites	case-by-case Class 5	500m

Is the MSD for aggregate operations measured from property line or area of extraction? Often aggregate operations retain land outside of their extraction area to act as a buffer.

There are existing industrial food mills with residential uses immediately across the street in Niagara. How should intensification/redevelopment in these areas be treated?

Does “all Cannabis processing facilities” include outside of settlement areas as well?

In most instances, the facility specific uses could be applied. Provides greater certainty of MDS and AOI for specific facilities that previously may have been classified as a Class II or ClassIII

Draft Regional OP to be completed Q4 2021, impact of changes to MCR work already completed with respect to Employment lands.

Encourage MECP to do some GIS analysis on the facilities they have record of, to understand the implications for growth of UGCs (already delineated) and MTSAs

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	<table><tr><th>Select Major Facility</th><th>Description of Major Facility</th><th>AQI & Class</th><th>Minimum Separation Distance</th></tr><tr><td>Meat and Meat Product Processes</td><td>Slaughterhouses and rendering facilities, Meat by-product processing, Production of foods using fats or oils, Cooking oil production</td><td>1,500m Class 4</td><td>500m</td></tr><tr><td>Metal and Glass Parts Manufacturing</td><td>Manufacturing steel parts, Foundries, Metal stamping, Manufacturing glass or fiber glass auto parts</td><td>600m Class 2</td><td>300m</td></tr><tr><td>Oil Refinery</td><td>Refinery for oil and oil products</td><td>2,000m Class 5</td><td>500m</td></tr><tr><td>Painting/Coating</td><td>Application of paint, solvent, lacquer or other coating/ Includes paint spray booths, electroplating, tanneries</td><td>400m Class 1</td><td>100m</td></tr><tr><td>Paper Manufacturing</td><td>Paper, newsprint and paperboard mills</td><td>1,000m Class 3</td><td>400m</td></tr><tr><td>Plastics Manufacturing</td><td>Manufacturing plastic or rubber products</td><td>500m Class 1</td><td>100m</td></tr><tr><td>Recycling Facilities – General</td><td>The sorting, processing, storage and transfer of recycled material (except auto parts)</td><td>900m Class 3</td><td>200m</td></tr><tr><td>Recycling Facilities – End-of-Life Vehicles</td><td>The sorting, processing, storage and transfer of motor vehicles</td><td>2,000m Class 5</td><td>300m</td></tr><tr><td>Scrap Yards</td><td>Scrap metal recyclers, auto recyclers, auto wreckers</td><td>1,500m Class 4</td><td>300m</td></tr><tr><td>Steel Mills</td><td>Iron and steel manufacturing</td><td>2,000m Class 5</td><td>500m</td></tr><tr><td>Waste Transfer Stations</td><td>The sorting, processing and transfer of waste</td><td>400m Class 1</td><td>100m</td></tr><tr><td>Sewage Lagoons</td><td>Sewage treatment lagoons</td><td>500m Class 1</td><td>200m</td></tr></table>	Select Major Facility	Description of Major Facility	AQI & Class	Minimum Separation Distance	Meat and Meat Product Processes	Slaughterhouses and rendering facilities, Meat by-product processing, Production of foods using fats or oils, Cooking oil production	1,500m Class 4	500m	Metal and Glass Parts Manufacturing	Manufacturing steel parts, Foundries, Metal stamping, Manufacturing glass or fiber glass auto parts	600m Class 2	300m	Oil Refinery	Refinery for oil and oil products	2,000m Class 5	500m	Painting/Coating	Application of paint, solvent, lacquer or other coating/ Includes paint spray booths, electroplating, tanneries	400m Class 1	100m	Paper Manufacturing	Paper, newsprint and paperboard mills	1,000m Class 3	400m	Plastics Manufacturing	Manufacturing plastic or rubber products	500m Class 1	100m	Recycling Facilities – General	The sorting, processing, storage and transfer of recycled material (except auto parts)	900m Class 3	200m	Recycling Facilities – End-of-Life Vehicles	The sorting, processing, storage and transfer of motor vehicles	2,000m Class 5	300m	Scrap Yards	Scrap metal recyclers, auto recyclers, auto wreckers	1,500m Class 4	300m	Steel Mills	Iron and steel manufacturing	2,000m Class 5	500m	Waste Transfer Stations	The sorting, processing and transfer of waste	400m Class 1	100m	Sewage Lagoons	Sewage treatment lagoons	500m Class 1	200m	
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2.3	How to Classify a Major Facility with No Facility-Specific AOI and MDS	
	This section provides an overview of how to determine the AOI and MSD based on a class of facilities, where the specific major facility type is not listed in Table 1.	
	<p>1. Identify the type of the major facility</p> <p>Table 2 of this Guideline provides a description and examples of major facility classes to serve as a guide for determining an AOI and MSD. There are 5 classes of major facilities.</p> <p>The first step in the process of classifying is to identify the type of major facility and seek information to better understand its operation and potential adverse effects.</p> <p>If a major facility is being proposed, the facility type should be known. If a sensitive land use is being proposed or planned, particularly relative to a planned employment area, the planning authority should be consulted to advise on specific types of uses permitted under local zoning-by-laws and future development plans. Where major facility development plans are unknown or where the planning authority is determining an AOI for an area which contains multiple major facilities, the AOI for the largest scale major facility that could be permitted by the existing planning framework should be assumed ("worst case" scenario), unless, in collaboration with the planning authority, it is determined that certain uses are impractical in a specific area.</p>	<p>Additional examples would be helpful to assist in step 1.</p> <p>What about where a new sensitive use is proposed in proximity to an existing major facility, but insufficient information is known about the facility to classify the use? Historically we have put the onus on the proponent to classify the use.</p>
	<p>2. Consider the scale and characteristics the operations</p> <p>Identify the adverse effects commonly associated with the type of existing or proposed major facility (see Table 3) and its operations, including:</p> <ul style="list-style-type: none"> • impacts related to the timing of operations (e.g. day-time, shift or 24-hour operations); • fugitive emissions and vehicular emissions related to the operation; • traffic related to the operation; • noise, vibration and fugitive dust from indoor and outdoor operations (e.g. wood cutting, outdoor welding, moving stored materials); • adverse effects that may result from ancillary operations (e.g. delivery of raw materials via rail cars or marine facilities, facility lighting); • odours from indoor and outdoor operations (e.g. organic waste handling, outdoor storage for composting facilities, wastewater treatment lagoons); • any history of complaints in the area about adverse effects. <p>Where available, use approval information in the existing ECA or EASR for the major facility (e.g. existing ECAs and EASRs) as a source of information, as they may include conditions on the timing of operations, setbacks or systems for mitigating impacts for facilities in the area. ECAs and EASR information can be accessed at the Ministry's Access Environment site and may be useful.</p> <p>Note, the level of adverse effects anticipated should only be assessed from day-to-day operations, not from emergency situations or spills.</p>	<p>Note for internal purposes: this checklist should be included in the Terms of Reference being developed for Land Use Compatibility studies, to ensure that the information provided aligns with the Provincial guidelines.</p>

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	<p>3. Select the appropriate class</p> <p>Based on available information and professional expertise, a facility class and associated AOI and MSD is then selected for a major facility.</p> <p>The planning authority will need to be satisfied that the classification is appropriate. Proponents are encouraged to consult with the planning authority before proceeding further to verify that the information they are gathering will be satisfactory to them.</p> <table><tr><th>Select Major Facility</th><th>Description of Major Facility</th><th>AOI & Class</th><th>Minimum Separation Distance</th></tr><tr><td>Municipal and private communal wastewater facilities (small)</td><td>Facilities with a rated capacity less than 25,000 cubic metres per day</td><td>300m Class 1</td><td>100m</td></tr><tr><td>Municipal and private communal wastewater facilities (large)</td><td>Facilities with a rated capacity more than 25,000 cubic metres per day</td><td>1,250m Class 4</td><td>500m</td></tr></table> <p>* AOI and MSD only applies to new or expanding sensitive land use proposals near major facility aggregate operations.</p>	Select Major Facility	Description of Major Facility	AOI & Class	Minimum Separation Distance	Municipal and private communal wastewater facilities (small)	Facilities with a rated capacity less than 25,000 cubic metres per day	300m Class 1	100m	Municipal and private communal wastewater facilities (large)	Facilities with a rated capacity more than 25,000 cubic metres per day	1,250m Class 4	500m	<p>Confirm who the planning authority is – Land Use Compatibility studies are often solely requested and reviewed by the Region. Is the Region the authority that confirms whether the classification is appropriate, or is it the Local Area Municipalities (i.e. approval authority)?</p> <p>The differentiation between Classes 1-2, 2-3, 3-4, and 4-5 in Table 3 are unclear and are thus open to significant interpretation, which may result in the guidelines being applied inconsistently or inaccurately. Consideration should be given to revising Table 3 to include separate columns for each class, with impacts differentiated between each class, versus a threshold. Alternatively, at minimum, the text of this section should be expanded to explain in detail how the threshold between each class is to be determined.</p> <p>Additional language should be added to clarify that the Classes ONLY apply when there are no applicable Facility Specific AOIs and MDS (previous tables).</p>
Select Major Facility	Description of Major Facility	AOI & Class	Minimum Separation Distance											
Municipal and private communal wastewater facilities (small)	Facilities with a rated capacity less than 25,000 cubic metres per day	300m Class 1	100m											
Municipal and private communal wastewater facilities (large)	Facilities with a rated capacity more than 25,000 cubic metres per day	1,250m Class 4	500m											

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Table 2 – Area of influence and minimum separation distance for classes of major facilities.

Class	Description of Major Facility	AOI	Examples of Major Facility (see Table 1 for more examples)	Minimum Separation Distance
Class 1	Operations with known smaller <i>adverse effects</i> .	500m	Food Manufacturing Sewage Lagoons Various <i>EASR</i> activities	200m
Class 2	Operations with moderate <i>adverse effects</i> . May include some outdoor operations.	750m	Manufacturing Metal and Glass Parts	300m
Class 3	Operations with moderate to significant <i>adverse effects</i> that may be difficult to mitigate. May include larger outdoor operations.	1,000m	Aggregate Operations (in relation to <i>sensitive land use</i> proposals)	500m
Class 4	Operations with significant <i>adverse effects</i> that may be difficult to mitigate. May include larger <i>outdoor</i> operations.	1,500m	Meat and meat product processes (slaughterhouses and rendering facilities)	500m
Class 5	Operations with the most significant <i>adverse effects</i> that may be difficult to mitigate. May include larger outdoor operations.	2,000m	Chemical product manufacturing	500m

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Table 3 – Characteristics for classifying major facilities.

CLASS 1 → CLASS 2 → CLASS 3 → CLASS 4 → CLASS 5			
IMPACTS			
Noise	Sound is not audible off property	Sound occasionally audible off property	Sound frequently audible off property
Vibration	No ground borne vibration on plant property	Possible ground-borne vibration, but cannot be perceived off property	Ground-borne vibration can frequently be perceived off property
Dust (Point Source)	Infrequent and not intense	Frequent and occasionally intense	Persistent and/or intense

This diagram is clear however, is there a standard interpretation to quantify the characteristics? For instance, how are the following terms defined / quantified "infrequent", "frequent", "persistent"? How is seasonality considered?

Using Table 3, unlikely to get a Class 2 or 4.

CLASS 1 → CLASS 2 → CLASS 3 → CLASS 4 → CLASS 5			
Dust (Fugitive Emissions)	Low probability of fugitive emissions	Moderate probability of fugitive emissions	High probability of fugitive emissions
Odour	Infrequent and not offensive	Frequent and occasionally offensive	Persistent and/or usually offensive
SCALE OF OPERATION			
Scale of Production	Small scale plant	Medium level of production allowed	Large production levels
Outside Storage	Minimal storage	Outside storage permitted	Outside storage of raw and finished products
Process	Self-contained plant or building	Outdoor storage of low to moderate amounts of wastes or materials	Outdoor storage of large amounts of wastes or materials
Process Outputs	Produces/stores a packaged product	Periodic outputs of minor annoyance	Frequent outputs of major annoyances
Hours of Operation	Daytime operations only	Shift operations permitted at times	Daily or 24 hour shift operations permitted
On-site Movement	Infrequent movement of products and/or heavy trucks	Frequent movement of products and/or heavy trucks with the majority of movements during daytime hours	Continuous movement of products by heavy trucks and rail cars including at night

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2.4	How to Measure Separation Distances, AOIs and MSDs	
	<p>A separation distance, AOI or MSD is typically measured as the actual distance between the property line of a sensitive land use and the property line of a major facility.</p> <p>To determine whether the proposal would result in an existing or planned sensitive land use within the AOI or MSD for a particular facility, the proponent should do the following:</p> <ul style="list-style-type: none">• measure the current separation distance between the property boundary of a proposed sensitive land use or major facility to the property boundary of the existing sensitive land use or major facility; and• determine whether the separation distance falls within the AOI or MSD. <p>Measuring the separation distance, AOI and MSD from the major facility's property boundary, instead of from the major facility building or source of emission, is recommended, as it will account for any future expansions that may be contemplated or new major facilities that may be developed within the property boundary.</p> <p>However, the planning authority may allow measurement of the separation distance, AOI and MSD from the major facility's building or equipment that is the actual source of adverse effects as opposed to the property line. This approach could be used, for example, if the major facility has a buffer area on the property which was included in order to shield impacts of the major facility from adjacent uses. However, this method does not take into account any future expansions or future outdoor works such as vehicular traffic, or onsite storage and maintenance. It should only be used if the planning authority and major facility is agreeable and if future expansions of the major facility are not expected.</p>	<p>Add context to better apply this Guideline to situations where a property has dual zoning (i.e. industrial use is limited to that zoning on the property).</p> <p>Suggest including consideration for site specific setback preventing expansions, as outlined in the current D6 Guideline, otherwise this approach will always be used by new sensitive uses.</p>
2.5	What to do if Development is Proposed within an AOI or MSD	
	<p>When a new or expanding sensitive land use is proposed within a major facility's AOI or MSD, or when a proposed or expanding major facility's AOI or MSD captures existing or planned sensitive land uses, the steps below apply and are the responsibility of the proponent of the planning application. See Figure 4 and Figure 5.</p> <ol style="list-style-type: none">1) Carry out compatibility studies (see Section 2.6).2) Determine through the compatibility studies whether adverse effects to sensitive land uses from an existing or planned major facility or impacts to major facilities are expected. The determination must include consideration of relevant ministry standards or technical guidelines and assessments. Then:<ol style="list-style-type: none">a. If a compatibility study shows that no adverse effects to sensitive land uses or impacts to major facilities is expected at the proposed separation distance (or a revised separation distance based on the study), without mitigation, then no further action is required (unless the proposal is for a new sensitive land use located within the MSD, see c) below).b. If a compatibility study shows that adverse effects to sensitive land uses or impacts to major facilities are expected at a proposed separation distance, mitigation measures must be identified (see Section 3). Implementation of identified mitigation measures must be required as part of the planning approval process, and they must be maintained over time.c. If a proposed new sensitive land use is located within the AOI of a major facility and mitigation measures are identified or if a proposed new sensitive land use is located in the MSD of a major facility, a demonstration of need is required (see Section 2.8).	<p>The descriptions are clearly being conveyed. On it's own a D-series it remains clear.</p> <p>The last paragraph is definitive in that new sensitive use "must not be permitted" where adverse effects cannot be mitigated. How does this change should NPC-300 Class 4 be applied by the municipality if noise and vibration are the focus of nuisance?</p> <p>It would strike me as more instances of NPC-300 Class 4 will be used in future, or at least efforts by proponents of sensitive land uses will lobby for the designation.</p> <p>In such instances where the Industrial Class 3 (under current classification) inside an Employment Area should be concerned about Class 4 use given the purpose of Employment Area identification and protection from encroaching sensitive land uses.</p> <p>The PPS says "minimize and mitigate any potential adverse effects...minimize public health and safety, and ensure long –term...." It does not say no adverse effects should be expected. I think this is contrary to the PPS.</p> <p>Minimization and mitigation typically limit and minimize the adverse impacts from development, but may not be able limit <u>all</u> adverse impacts. This definitive language of no adverse impacts or the planning authority must not permit a development is highly subject to interpretation and may limit what would otherwise be good development in</p>

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	<p>The planning authority is responsible for reviewing the documents (e.g. compatibility studies) prepared by the proponent and must be in agreement with the conclusions of the documents, before Planning Act approval is provided. When adverse effects from major facilities cannot be minimized and mitigated such that no adverse effects are expected, the planning authority must not permit the new development.</p>	<p>keeping with Provincial and municipal planning and economic strategies, policies and goals. Further an adverse effect may impact community members differently, depending on their individual health versus that of the general population, so meeting this threshold may be difficult for any development to meet this standard.</p>
2.6	<p>Compatibility Studies</p> <p>Compatibility studies assess potential adverse effects to sensitive land uses and impacts to major facilities and recommend separation distances and mitigation measures to prevent adverse effects or impacts to surrounding land uses.</p> <p>Compatibility studies are required when:</p> <ul style="list-style-type: none">• a new or expanding sensitive land use is proposed within a major facility’s AOI (including MSD); or• a new or expanding major facility is proposed to locate where there are existing or planned sensitive land uses within the AOI (including MSD) of the proposed major facility. <p>Compatibility studies should be prepared for the proponent by qualified individuals with experience in preparing technical assessments. The planning authority is responsible for reviewing the compatibility studies submitted by the proponent, and must be in agreement with the conclusions of the documents, prior to moving forward through the planning approvals process. If in-house expertise is not available, the planning authority should consider having a peer review of studies at the expense of the proponent.</p> <p>Technical guidance on preparing compatibility studies addressing noise, dust and odour is provided in Appendix B. Although this Guideline focuses on noise, dust and odour, the planning authority can and should require the proponent to avoid, minimize and mitigate any other relevant adverse effects that may exist (e.g. other air contaminants, toxins, traffic). The planning authority can also, at their discretion, undertake or require broader studies outside of a site-specific study, such as regional or cumulative impact modeling. This could be appropriate if there are multiple existing major facilities or multiple proposals for potentially incompatible development in a regional area, and the planning authority may want to assess impacts on an area-wide scale.</p>	<p>Based on this, from a Development Planning perspective, we must be satisfied with the Land Use Compatibility study that is submitted with an application and not make revisions a condition of approval.</p>

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	<p>Section 2.7 provides a list of the documentation that is required to be included as part of compatibility studies. Some of the information required for completing compatibility studies may not be accessible to the proponent due to its proprietary nature or if a major facility or sensitive land use is not able or willing to share the information. In such cases, the compatibility study should note the deficiencies in information, and make conservative estimates for the separation distance and mitigation measures to minimize and mitigate potential adverse effects to sensitive land uses or impacts to major facilities. The planning authority should use its discretion to ensure that the information provided is sufficient to justify the conclusions of the compatibility study and if not, require revision to address any noted deficiencies or if unsatisfactory, be rejected.</p> <p>Proponents should also carry out pre-consultation with the planning authority to discuss the application and compatibility study requirements, including potential impacts to be considered and potential information sources. Proponents must also share information and contact major facilities or sensitive land uses (depending on the proposal) based on the AOI to inform the compatibility study. Information sharing, engagement and consultation is discussed in Appendix C.</p>	
2.7	<p>General Documentation in Compatibility Studies</p> <p>In addition to the required technical components of compatibility studies (Appendix B), the following general documentation should be provided as part of required compatibility studies. The information may be integrated as part of technical compatibility studies done specifically for noise, dust, odour or other contaminants or kept as a stand-alone “general documentation” piece. For proponents of major facilities, the study area would be the AOI. For proponents of sensitive land uses, the study area should be large enough to include all the major facilities that capture the proposed sensitive land use in their AOIs.</p> <p>i. A general site description of the study area, including the nature of any land uses within the area (e.g. numbers of units, size, type).</p> <p>ii. Detailed mapping and descriptions showing the following:</p> <ul style="list-style-type: none">• For proposed sensitive land uses:<ul style="list-style-type: none">○ the nature of the proposed sensitive land use;○ all existing and planned major facilities in the study area; and○ the separation distance between the proposed sensitive land use and existing and planned major facilities, including whether the proposed sensitive land use is captured within any AOIs and MSDs.• For proposed major facilities:<ul style="list-style-type: none">○ the nature of the proposed major facility;○ all existing and planned sensitive land uses in the study area; and○ the separation distance between the proposed major facility and existing and planned sensitive land uses, including whether any sensitive land uses are captured within the MSD. <p>iii. Relevant excerpts from the OP and/or zoning by-law for properties in the study area, including vacant property designations or zoning, to indicate the full range of permitted uses and enable a complete assessment of potential impacts.</p> <p>iv. Classification of the major facilities within the study area according to the procedure described in Section 2.2 and Section 2.3.</p> <p>v. Description of the engagement completed with residents or major facility owners within the study area, including who was contacted, how they were contacted, what opportunities were provided to provide input into the proposal and how the input was incorporated into the compatibility study.</p> <p>vi. The assessment(s) of the adverse effects being generated by each major facility and for proposed sensitive land uses, potential impacts to major facilities, including:</p> <ul style="list-style-type: none">• how the potential adverse effects may impact sensitive land uses within its AOI informed by required technical assessments (Appendix B provides specific guidance to assess noise, dust and odour impacts); and	<p>The information listed in this section should be made clear to applicants, that we expect all of this to be incorporated into Land Use Compatibility studies.</p>

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	<ul style="list-style-type: none">• possible operational impacts (e.g. ability to expand) on existing or planned major facilities, where applicable. <p>vii. For each major facility within the study area, provide information that informed the assessment(s) of adverse effects, such as:</p> <ul style="list-style-type: none">• the duration, timing and types of operational activities, shipping, receiving and other transport activities, and outputs/contaminants associated with major facilities;• the hours of operation/normal use periods for sensitive land uses• design details and number, type and location of windows and doors in sensitive land use buildings;• wind patterns (predominant winds, wind roses), topography and natural and man-made barriers/buffers (e.g. elevation, vegetation, walls, berms, ground and surface water) in the study area;• any existing complaint history (where available) associated with the operation of the major facility (or major facilities) which would impact sensitive land uses, and any actions undertaken to address the concerns. <p>viii. Description of proposed mitigation measures to address potential adverse effects or impacts, if required (see Section 3), when they will be implemented, and ongoing maintenance requirements. This should include a description of the extent to which a proposed development and associated mitigation may require future permissions or other authorizations from the Ministry or other ministries, such as an ECA or an EASR.</p> <p>ix. Conclusions, including the following:</p> <ul style="list-style-type: none">• Whether the proposed sensitive land use is expected to experience adverse effects from the nearby major facilities, the proposed major facility is expected to have adverse effects on the nearby sensitive land uses, or the proposed sensitive land use is expected to have impacts on nearby major facilities.• A recommendation of whether the proposed development should move forward based on the analysis completed in general documentation and technical studies.• A proposed separation distance from the proposed use to the major facilities or sensitive land uses within the study area, whichever is applicable, and within which adverse effects or impacts would not be expected. This should be provided both without mitigation measures and, if any are necessary, with proposed mitigation measures implemented.	
2.8	Demonstration of Need	
	<p>A demonstration of need is an assessment that determines whether there is an identified need for the proposed use in the proposed location and evaluates alternative locations for the proposed use if avoidance is not possible. This assessment is only required for proponents of sensitive land uses.</p> <p>A demonstration of need is required to be carried out by a proponent of a sensitive land use when:</p> <ul style="list-style-type: none">• a new sensitive land use is proposed within a major facility's AOI and mitigation measures would be needed to ensure no adverse effects or potential impacts; or• a new sensitive land use is proposed within a major facility's MSD (regardless of whether mitigation measures are assessed to be needed or not). <p>The information required to be reported in a demonstration of need must accompany the compatibility study and can be included as part of existing municipal planning documents such as planning justification reports.</p> <p>The planning authority must review the demonstration of need provided by the proponent and must be satisfied that the report is complete and with the analyses and conclusions presented. In respect of the demonstration of need, and in addition to the other compatibility tests associated with approving a proposal, the planning authority must only permit the proposal if they are satisfied that there is an</p>	<p>Why does the demonstration of need not apply to expanding sensitive land uses?</p>

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	identified need and sound planning rationale for the proposed use in that location, and that alternative locations or areas for the proposed use have been evaluated and there are no reasonable alternative locations or areas.	
	<p>The demonstration of need should include the following:</p> <ol style="list-style-type: none">1) Demonstrate that there is a need for the proposed use in that particular location. This includes answering the following questions:<ol style="list-style-type: none">a. Do policies and objectives in the planning authority's applicable planning documents (such as OPs) and relevant provincial policies and plans (e.g. PPS, A Place to Grow) support locating the use in the proposed location? For example, consider policies/objectives related to complete communities, housing diversification, and community amenities.b. Are there demographic considerations, such as expected land supply, housing strategy, and forecasted growth or growth targets in population or employment, that would support the use in the proposed location?c. How will the proposed use, in its proposed location, support the community or other existing uses in the area? For example, does it provide necessities for daily living, including an appropriate mix of jobs, local stores, and services, a full range of housing and transportation options and public service facilities?d. Are there community amenities and infrastructure (i.e. transportation, servicing) available to support the use?e. Is the proposed use to be located within a designated strategic growth area which by nature should include multiple types of uses, such as an MTSA (within the Greater Golden Horseshoe growth plan area) or nodes and corridors generally?2) Identify other locations in the municipality that have been designated and zoned specifically for this use and explain why they have not been chosen for the proposed use.3) Provide a list of at least two alternative locations that have been considered outside of the major facility's AOI and for each, discuss whether they would be appropriate for this use as compared to the preferred location. This discussion should address the same questions presented in #1a-e.4) Identify other potential uses for this particular site that would not be considered incompatible and explain why they have not been chosen for the proposed location.5) The conclusion of the demonstration of the need should discuss why the proposed use in the proposed location is the best option, having considered the answers to the questions presented in #1a-e.	<p>Question #3 states that the demonstration of need needs to provide a list of "at least" two alternative locations that have been considered outside of the major facility's AOI. What determines how many alternative locations should be explored, or will this be the responsibility of the proponent to identify in the report?</p> <p>Anticipating that we will run into constraints that are similar to our expansion policies for legal non-conforming uses in the agricultural area; the landowner owns the land they want to use for the expansion, given that they already own the land, it wouldn't make sense for them to purchase land elsewhere. Are the listed points for demonstration of need strong enough to ensure that the previously mentioned scenarios are not permitted or encouraged? How does a landowner owning adjacent property, that may encroach on an industrial use, result in good planning practice?</p>

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	<p>Note: unless the proposal relates to an expansion of an existing use, current ownership of property is not a factor that should be considered within the demonstration of need.</p>	
u	Decision Tree for Land Use Compatibility	

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The following figure is a visual representation of the process outlined in **Section 2.5**.

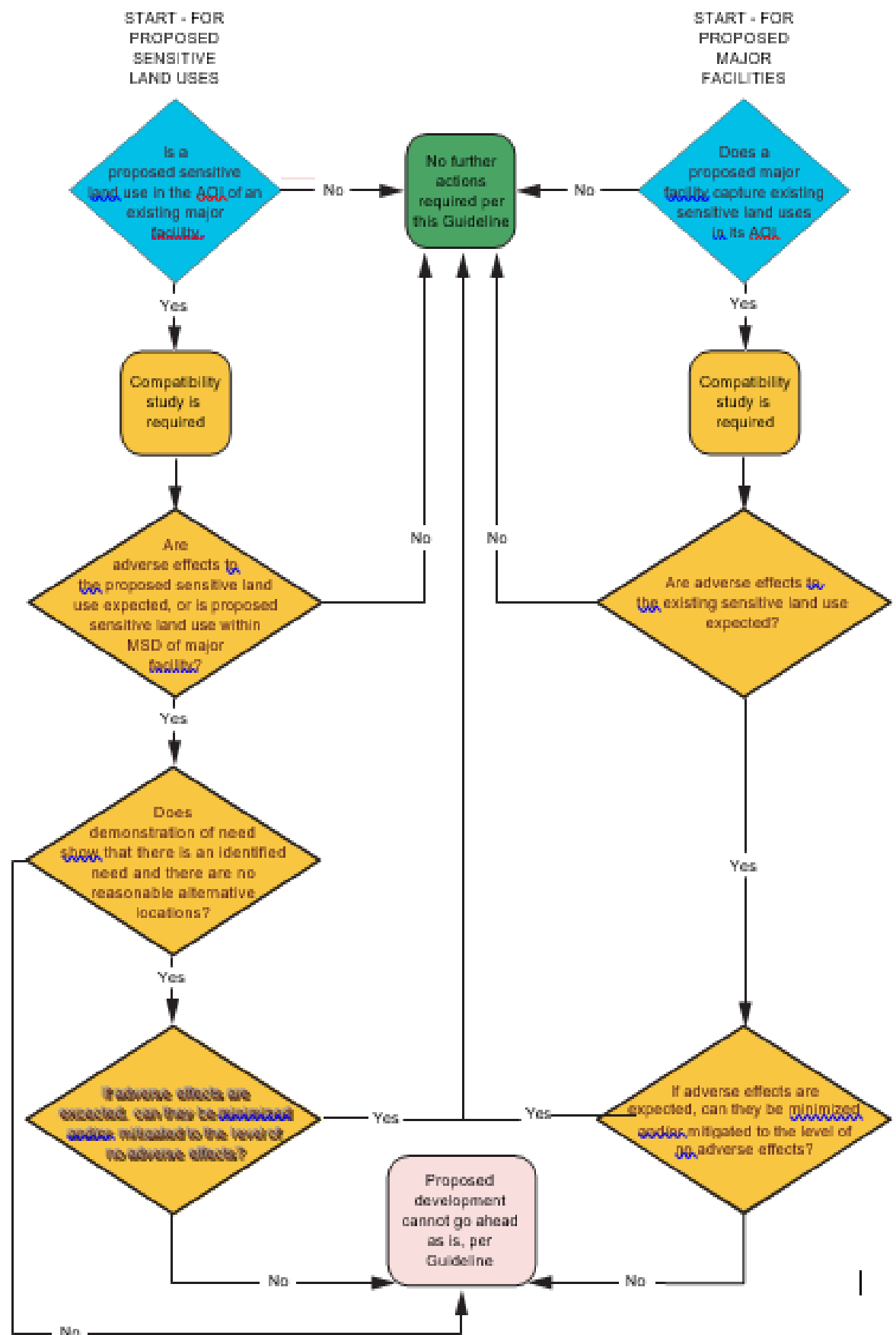


Figure 5 – Decision tree for land use compatibility.

[illegible]

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	<ul style="list-style-type: none">• What type(s) of mitigation should be put in place?• Who has responsibility for ongoing inspection and upkeep of mitigation measures as needed?• Who will pay for the mitigation measures?• How will implementation of mitigation measures form part of planning approvals or other legal agreement?	
	<p>It is the proponent's responsibility to demonstrate the effectiveness of any proposed mitigation measure to the satisfaction of the planning authority. Planning authorities should also ensure that any mitigation measures put in place are in compliance with provincial requirements.</p> <p>An assessment of the different types of recommended mitigation measures (if needed) to minimize and mitigate adverse effects to sensitive land uses from major facilities must form part of a compatibility study. Where appropriate, proponents should begin discussing possible mitigation measures with affected landowners, planning authorities and relevant provincial staff early in the planning process. Part of this assessment could include a scan of mitigation measures being used at similar major facilities and which have been determined to be effective.</p> <p>The below sections provide discussion on mitigation, and examples of it, but technical documents including NPC-300, Environmental Noise Guideline–Stationary and Transportation Sources–Approval and Planning, and the draft Odour Guideline provide additional considerations and examples.</p>	
3.1	At-Source Mitigation	
	<p>Mitigation at-source is mitigation that is used at a major facility to decrease adverse effects from its operations. Mitigation at-source is typically more effective than mitigation at-receptor.</p> <p>Examples of at-source mitigation can include:</p> <ul style="list-style-type: none">• installation and maintenance of emission mitigation equipment such as:<ul style="list-style-type: none">○ filters on exhausts to reduce air emissions;○ air scrubbers to reduce air emissions; and○ silencers to reduce noise;• process or chemical changes for manufacturing facilities;• enclosures for outdoor operations to reduce off-site noise, dust and odour;• orientation of new buildings to reduce noise and mitigate bright lighting;• physical placement of outdoor operations away from sensitive land uses to reduce adverse effects;• installation of vibration pads to reduce vibration from stamping presses and forging hammers; and	

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	<ul style="list-style-type: none">• installation and maintenance of emission mitigation equipment such as filters on exhausts to reduce air emissions.	
3.2	Operational Mitigation	
	<p>Operational mitigation is a type of at-source mitigation which includes changes made to a major facility's existing operations to reduce adverse effects.</p> <p>Examples of operational mitigation can include:</p> <ul style="list-style-type: none">• wheel washing stations to reduce fugitive dust;• limiting noisy operations to day-time hours;• use of alternate truck routes;• outdoor storage of waste materials in closed containers; and• broad band reverse warning alarm systems for trucks reversing.	
3.3	At-Receptor Mitigation	
	<p>At-receptor mitigation refers to mitigation that would minimize and mitigate adverse effects at the receptor and is located at the sensitive land use (e.g. an acoustic barrier on residential lands, triple-glazed windows, etc.). This type of mitigation is dependent on long-term maintenance by individual owners or operators of a sensitive land use. Where at-receptor mitigation is proposed, long-term maintenance should be ensured.</p> <p>It should be recognized that these individuals may not have been part of planning decisions and may not be aware of the importance of this mitigation to minimize adverse effects. For this reason, where at-receptor mitigation is used, it is recommended that warning clauses or notices on title be registered to inform future buyers of the potential for adverse effects and the need to maintain the mitigation (for more information on warning clauses, see Section 4.3.2 of this Guideline).</p> <p>At-receptor mitigation may be implemented on the property of the receptor or directly on a building.</p>	

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	<p>Examples of at-receptor mitigation include:</p> <ul style="list-style-type: none"> • building orientation to direct exposed areas away from source; • laying out the site such as that receptor is furthest away from source; • at-property berm/acoustic barrier; • enclosed areas that act as noise buffer; • acoustic barriers on building; • fixed/inoperable windows; • restriction to rooftop gardens/terraces; • protection of indoor air quality through centralized heating/air conditioning systems with air intake appropriately located away from odour sources; • individual heating/air conditioning systems associated with each residential unit equipped with carbon filters; and • locating air intakes well above grade. <p>At-receptor mitigation is not recognized by the Ministry to mitigate odour and dust impacts. However, at-receptor mitigation is recognized by the Ministry as mitigation for noise only in the ECA application review process if the area is designated as “Class 4” under NPC-300.</p>	
3.4	Buffers	
	<p>Buffers are a mitigation measure which involves a barrier used to prevent or minimize the adverse effects of incompatible land uses. Note that buffers which may be satisfactory for the control of noise may not be adequate for dust, odours, or gaseous air contaminants. A berm or wall may have little or no effect on these, and distance is often the only effective buffer.</p> <p>It should be noted also that narrow strips of plantings, trees or shrubs, and privacy fences may have little or no actual effect with regard to the reduction of noise or air pollution. These buffers may provide limited benefit, however, through screening the source from view and lessening the perceived impact.</p> <p>Examples of buffers include:</p> <ul style="list-style-type: none"> • fences and walls; • berms; • vegetation/landscaping/treed areas; • parking lots; and a land use that is different from the two conflicting ones but compatible with each of them. 	
3.5	Phasing	
	<p>In some cases, phasing or sequencing of development may be able to mitigate adverse effects between users. If a major facility will be changing to operations with fewer and/ or less impactful effects or relocating, development may be approved sequentially. If possible, development approvals could be timed so that sensitive land uses closest to a major facility are not developed until after the operation has changed or moved.</p>	
3.6	Effectiveness and Limitations of Mitigation Measures	

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	<p>Mitigation measures are specific to the current major facility and sensitive land use, and are to be based on the facility's scale and design, and the duration, frequency and the type of discharges/impacts.</p> <p>To be effective, the mitigation measure should be appropriately designed, constructed and maintained, bearing in mind the overall intended purpose. The measure should permit the normal functioning of the two incompatible land uses without conflict.</p>	
3.7	Requirements for Mitigation	
	<p>When mitigation is required to meet the land use compatibility requirements of the PPS and A Place to Grow, legal requirements to have mitigation implemented, and then maintained as necessary, should be in place. The legal requirements must apply to the person responsible for implementation and any costs (if applicable), and if necessary, ensure maintenance for any required mitigation measures in the long-term. Typically, legal requirements would be addressed through agreements and conditions applied directly on a given land use planning approval.</p> <p>For a range of planning approvals, conditions with respect to mitigation can be applied as pre-approval conditions. Further, in many cases, a legal agreement can be used to apply conditions that would be fulfilled following approval, including maintenance of mitigation measures. A range of legal agreements are possible under the Planning Act, including agreements entered into as part of a condition on the approval of plans of subdivision, plans of condominium, consents/severances, site plan control, and the issuance of a permit under the Community Permit Planning System (CPPS). Planning authorities are responsible for ensuring available approvals and agreements can ensure implementation and maintenance of mitigation measures. See Table 4 for more general discussion on the use of planning approvals in land use compatibility.</p> <p>It is possible that not all of the mitigation measures that will ultimately be needed will be confirmed or implemented at the planning approval stage. In these situations, when the planning authority is reviewing the proposed development, if any necessary mitigation measures are not confirmed on the basis of a planning approval, the planning authority should still be satisfied that the mitigation is feasible and will be addressed through a later approval (e.g. ECA if applicable). Note that the use of a subsequent ECA as a mechanism for mitigation would only apply in relation to a proposal for a major facility and to require at-source mitigation implemented by a major facility subject to an ECA. A new or amended ECA cannot be assumed in relation to a planning approval for a new sensitive land use.</p>	
	<p>Where mitigation measures are proposed to be implemented by a party other than the proponent of a proposal to enable that proposal to proceed, implementation of those measures should be complete as a condition of approval, and if necessary, agreements should be in place to ensure operation measures are implemented and to ensure all measures are maintained. It is a best practice to consider three party agreements (major facility, sensitive land use, and planning authority) where appropriate.</p> <p>In some cases, agreements must be able to bind subsequent landowners (be registered on title) to ensure ongoing implementation of measures. Agreements may also be used to achieve the placing of warning clauses on title where, for example, ongoing nuisance effects may be expected at a property (see Warning Causes in Section 4.3.2).</p>	

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	<p>Agreement(s) must be legally enforceable, signed by key parties, and should:</p> <ul style="list-style-type: none">• Outline the short-term and long-term responsibilities of each party (e.g. developer, major facility, planning authority etc.), including but not limited to financial and operational responsibilities.• Only assign responsibilities for fulfilling conditions to parties that are signatories to the agreement.• Outline responsibilities for obtaining planning approvals and ECAs (and other environmental permissions) that may be needed.• Outline who is responsible for undertaking the studies and associated costs for the approval applications, studies (including hiring qualified individuals), mitigation measures, monitoring, etc.• Provide for registration on title, as necessary, to bind subsequent property owners, and to provide for warning clause to be placed on title as necessary.• Outline responsibilities and expectations for consultations between parties and with the public.• Safeguard any confidential information from the facility that may be required.• Provide confirmation in writing that any required mitigation measures are implemented and maintained, and a description of how mitigation measures will be implemented and maintained.• Be adaptable to future change, such as in situations where business operations at a major facility change and there is a need for new mitigation measures.	
3.8	<p>Compliance</p> <p>Planning authorities and the Ministry have roles in ensuring compliance with conditions of planning approvals and environmental permissions, respectively. The EPA gives the Ministry the authority to respond to concerns about impacts from land use compatibility issues (i.e. potential adverse effects) as appropriate. A risk-based approach* is used by the Ministry to address known and potential violations of the law and risks to the environment or human health. Per its compliance framework, the Ministry may refer incidents related to compatibility issues that stem from planning decisions to a more appropriate level of government or agency (e.g. municipality).</p> <p>It is important to note that after a major facility has obtained its necessary planning approvals to be located in an area that may be close to a sensitive land use (e.g. a residential development), or vice versa where a sensitive land use was approved close to an existing facility, the tools available to the Ministry to deal with discharges of contaminants from that facility, as well as technical solutions may be limited. For example, when responding to a complaint from residents situated close to such a facility, the Ministry may only require the facility to take compliance actions to reduce</p> <p>the discharge of a contaminant where it is reasonably believed action is required to bring the facility into compliance with the EPA. If the Ministry determines that a major facility is in compliance with all ministry requirements and standards under the EPA and the major facility is using available technology to mitigate potential impacts, additional compliance actions may not be possible or required. This may result in a situation where the sensitive land use has to co-exist with minor impacts from the major facility over the long-term and subsequent complaints about adverse effects (e.g. noise, dust and odour) may be directed to the municipality.</p>	
	<p>In relation to existing major facilities that may be receiving complaints, a key responsibility of major facilities is effective responses to complaints. For all major facilities, when there are complaints, the major facility should respond in a way to help prevent potential need to revise an environmental permission (if applicable) or be subject to compliance from either the Ministry or municipality.</p> <p>* For more information on the Ministry's approach to compliance and enforcement see Compliance Policy: Applying Abatement and Enforcement Tools.</p>	

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PART C:	Incorporating Land Use Compatibility into Planning Tools	
4	Implementation and Planning Tools	
	Planning authorities must implement the policies related to land use compatibility and employment areas of the PPS and similar policies in A Place to Grow (see Appendix A). This section provides information on how to incorporate land use compatibility policies and approaches into various existing tools and approvals under the Planning Act and other legislation, including through OP policies and designations, secondary plans, zoning by-laws and other planning approvals. Planning authorities will need to integrate land use compatibility, protection of employment areas (which are recognized as having value for employment), and development and intensification in implementing these policies.	
4.1	Planning Tools	
	<p>Table 4 describes how key tools under the Planning Act can be used to enable land use compatibility. The purpose of Table 4 is not to provide foundational information on how land use planning approvals work. For guidance on this, see the Citizen’s Guides to Land Use Planning and other materials developed by MMAH.</p> <p>To the fullest extent possible, land use compatibility issues should be reconciled at the OP and zoning stage. It is expected, generally, that there is opportunity to avoid incompatible uses when planning for future industrial employment areas and surrounding non-employment uses. While conditions related to land use compatibility and mitigation can be integrated as part of the approval process for site-specific planning tools (such as plans of subdivision), decisions on these types of applications are usually one of the last steps of the planning process, before a building permit may be given. Accordingly, zoning which is done earlier in the land use planning process, should be used as much as possible to ensure potential adverse effects are avoided and minimized.</p>	
4.2	Overarching Mechanisms and Considerations	
4.2.1	Complete Planning Application Requirements	

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	<p>In addition to the minimum planning application requirements set out under regulations under the Planning Act, municipalities and planning boards can establish their own list of additional information or material required for land use planning applications, including OPAs, zoning by-law amendments and subdivision, condominium and consent applications. When a municipality/planning board requires additional information as part of a complete application, this must be identified in OP policies.</p> <p>Planning authorities must identify compatibility studies (and a demonstration of need, where applicable, required in relation to a proposed sensitive land use, see section 2.8) to be submitted as part of a complete land use application for the development of new sensitive land uses or new/expanding major facilities within an AOI. Within the MSD, studies are even more important, and mitigation would be expected in many cases.</p> <p>Proponents should review this Guideline and consult with planning authorities and other relevant agencies when considering a Planning Act approval involving new sensitive land uses or new major facilities. Part of this early consultation should include a discussion of what may be required to evaluate the compatibility of the proposal with existing and planned uses in the AOI. Mapping, for example, that includes existing and former land uses with potential compatibility issues (e.g. active and closed landfill sites) would be a key tool to avoid locating major facilities or sensitive land uses where compatibility may be an issue.</p> <p>Planning authorities typically provide and often publish online pre-application checklists for proponents to ensure that their application has considered legislative and regulatory requirements. This would be an appropriate place to list compatibility studies.</p>	
4.2.2	Transitional Land Uses	

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	<p>Transitional land uses are land uses that are compatible with major facilities and sensitive land uses and can be located between the potentially incompatible uses and buffer any impacts between them.</p> <p>Planning for transitional land uses is required by PPS policy 1.3.2.3, which indicates that employment areas planned for industrial or manufacturing uses should include an appropriate transition to adjacent non-employment areas.</p> <p>Accordingly, transitional land uses should be planned for where needed as part of developing or amending an OP, secondary plan or zoning by-law. The designation and zoning of appropriate transitional land uses should be considered irrespective of whether an on-site buffer area is used as part of the separation distance.</p> <p>To the fullest extent possible, existing or proposed heavier industrial uses should be buffered from existing or proposed sensitive land uses by lighter industrial uses, rights of way, and other land uses that may not be sensitive in that context (e.g. warehousing, various commercial uses that relate to types of industries or the neighbouring lands, and roads). Buffering should allow for sensitive land uses to be located outside of the AOI to the fullest extent possible. If there is intention to use commercial or office uses as a transitional land use, a qualified individual should be hired to determine if such uses can be considered a transitional land use.</p>	<p>What should be considered when determining whether commercial or office uses are appropriate as a transitional land use? This isn't clearly identified.</p>
4.2.3	<p>Considerations for Infill and Intensification Scenarios</p> <p>It is recognized that locating sensitive land uses outside AOIs and MSDs may be more complicated to achieve in areas undergoing infill and intensification, including areas planned for mixed-use development, such as MTSAs as defined in A Place to Grow. In these scenarios, compatibility still needs to be addressed and it is important that the key direction and recommendations of this Guideline are followed (e.g. use of mitigation as needed), including the following:</p> <ul style="list-style-type: none">• Ensuring that OP policies and zoning by-laws are up-to date, clearly factor compatibility into designations and permitted uses, and require compatibility to be addressed.• An area-based approach to planning, including the use tools such as secondary plans, is encouraged to resolve potential compatibility issues through broader planning processes, instead of individual planning applications.• The zoning is use-specific (i.e. only the existing or proposed industrial or sensitive land use is permitted), or planning considerations are based on the "worst case scenario" based on permitted uses in the industrial zoning by-law.• Within employment areas, keep major facilities separated from other employment uses, and any sensitive land uses should only be permitted mixed with low-impact employment uses and where compatibility can be achieved. Note that per PPS policy 1.3.2.3, within employment areas planned for industrial or manufacturing uses, planning authorities shall prohibit residential use and prohibit or limit new sensitive land uses that are not ancillary to the primary employment uses. Any sensitive land uses in these areas continue to be subject to compatibility policies requiring adverse effects to be avoided or minimized and mitigated, and impacts on major facilities to be avoided.• Holding by-laws and interim control by-laws are used, if needed. These can be relevant in areas of intensification and infill because they can hold development until compatibility studies are completed and/or mitigation (as needed) is undertaken.• When industry is being phased out as part of a large-scale plan (e.g. a secondary plan to transition from historical industrial areas to other uses), redevelopment and/or infilling should be staged to coincide with the closure of those industries which create a significant impact on the proposed sensitive land use(s).	<p>This potentially would impact the expansion of any facilities e.g. landfills, as population and number of homes grows.</p>

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	<ul style="list-style-type: none">Planning is done for transitional land uses per PPS policy 1.3.2.3. Lighter industrial uses would ideally be in proximity to heavy industrial uses, instead of sensitive land uses.The cumulative effects of development are considered. For example, considering the potential implications of approving an additional industrial use near existing sensitive land uses may have a cumulative impact on the existing sensitive land uses.Long-term monitoring and maintenance/replacement requirements for required mitigation measures should be in place. In infill and mixed-use areas, land use compatibility may only be possible through coordinated, implemented and maintained mitigation. Compatibility will be lost if mitigation is not maintained.Use of municipal by-laws (e.g. noise by-laws) as an effective means of addressing unplanned nuisance impacts. <p>Information sharing and engagement are particularly important in infill and intensification areas. See Appendix C for more about information sharing and consultation.</p> <p>A Place to Grow provides some flexibility in considering employment area conversion when located in a MTSA. Policy 2.2.5.10 indicates that notwithstanding policy 2.2.5.9, which requires proposed employment area conversion to be assessed as part of municipal comprehensive review, areas may be converted to non-employment uses, even if they are in a provincially significant employment zone, if part of the employment area is located within a MTSA as delineated in accordance with subsection 2.2.4 of A Place to Grow. Note that only those portions of an employment area within an MTSA would be subject to this flexibility.</p> <p>In spite of this increased flexibility, other employment area conversion policies of A Place to Grow, including policy 2.2.5.9d (which then triggers 2.2.5.8, which relates to land use compatibility) still apply. Accordingly, policy tests to ensure land use compatibility still need to be met.</p>	In terms of long-term monitoring, there needs to have provisions for monitoring or it would need to be removed or amended in the ECA.
4.3	Additional Mechanisms to Support Compatibility	
	The following mechanisms are not implemented under the Planning Act but can also be used to foster land use compatibility.	
4.3.1	Municipal By-laws	
	<p>By-laws under the Municipal Act are an important part of a municipality's toolkit to respond to land use compatibility issues. Section 129 provides authority to municipalities to develop by-laws in response to noise, vibration, odour, dust and outdoor illumination. Municipalities are encouraged to develop and update by-laws as necessary. The onus is on the municipality to enforce by-laws that would prevent and respond to land use compatibility issues.</p> <p>In various by-laws, restrictions such as noise limits may be lower in industrial areas and other areas designated for employment. For these reasons, in communities where major facilities and sensitive land uses may have land use conflicts, including in areas undergoing infill and intensification, by-laws should be used in addition to the other mechanisms noted above.</p> <p>While municipalities bear primary responsibility for their by-laws, NPC-300 provides guidance that may help with creation of noise by-laws.</p> <p>In relation to odour, MECP's draft Guideline to Address Odour Mixtures in Ontario may be helpful.</p> <p>Regarding dust, municipalities are encouraged to consider the elements of the Ministry's Technical</p>	

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	Bulletin: Management Approaches For Industrial Fugitive Dust Sources when developing relevant by-laws.	
4.3.2	Warning Clauses	
	<p>Warning clauses should be used where there are effects expected post-mitigation that may cause nuisance to receptors within the AOI. When new development is expected to generate compatibility issues with existing major facilities, in addition to addressing this through the other means described in this document (e.g. compatibility studies, separation and mitigation if necessary), the Ministry recommends that a warning of anticipated nuisance effects be included in any offers of purchase and sale. The planning authority would need to require this as a condition of approval of a plan of subdivision or a condominium declaration; and once the parcels of land are sold individually, conditions should be included in agreements of purchase and sale and possibly lease/rental agreements.</p> <p>Direction on the use of warning clauses should be included in agreements (such as subdivision agreements) that are registered on title to the lands in question; it is appropriate to do this as part of the subdivision and condominium approval processes. After that, title searches done by lawyers should reveal warning clauses. This will notify potential future purchasers of property of the presence of a major facility in the area and the possibility of adverse effects as a result. Additional information on registering warning clauses on title can be found in the document: 2009-04 Environmental Warnings and Restrictions.</p> <p>NPC-300 gives additional guidance regarding warning clauses for noise and should be followed for the development of these clauses for noise. For example, when a Class 4 designation is used, NPC-300 gives additional guidance and wording. See NPC- 300, section C8, for further discussion on warning clauses and sample language. For example, Warning Clause Type E is applicable to a sensitive land use when it is located within the AOI of a major facility. Warning Clause Type F is applicable to a proposed sensitive land use when it is located in a Class 4 Area.</p>	
	<p>Warning clauses are useful but should not be used in replacement of other mechanisms described above, as they have drawbacks. The Ministry would also not consider warning clauses to be a mitigation measure, since they do not minimize or mitigate impacts, but communicate the possibility of impacts. There have been situations where warning clauses are disregarded or not properly communicated to property owners (the first property owner and successive property owners) over time. Additionally, warning clauses generally are used only for the first purchaser of a property after a development is built but should be included in every agreement of purchase and sale on a property where concerns persist over time. Compatibility studies should describe the use of proposed warning clauses if they may be needed.</p> <p>For stationary sources of noise, NPC-300 indicates that it is not acceptable to use warning clauses in</p>	

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	place of physical noise control measures to identify an excess over the Ministry’s sound level limits; warning clauses may still be used and have value, but it is not to be used as justification for exceeding standards	
4.3.3	Inventories	
	<p>The Ministry recommends that municipalities and planning boards maintain inventories of the location of all existing, committed and former major facilities within their respective jurisdictions. This information should be provided on some form of scaled map (e.g. OP schedules), and accessible to inform studies, decisions and engagement. The inventory should be used to support the review of planning applications.</p> <p>To support constraint mapping and land use planning generally, planning authorities and proponents are encouraged to look at existing ministry resources, including Access Environment and the Source Protection Information Atlas. Using these map-based tools, planning authorities and proponents can search for information on various permissions, including registrations on the EASR, Renewable Energy Approvals and ECAs issued by the Ministry from December 1999 onward or identify if properties are within drinking water source protection vulnerable areas that may have other restrictions. This would be useful to planning authorities in developing OPs, zoning by-laws and more site-specific mechanisms. As well, information on sites where a record of site condition has been filed can be found through Ontario’s Environmental Site Registry.</p>	
Appendix A -	Applicable Provincial Policy	
	<p>Provincial Policy Statement, 2020 – 1.1.5 Rural Lands in Municipalities</p> <p>1.1.5.6 Opportunities should be retained to locate new or expanding land uses that require separation from other uses.</p> <p>Provincial Policy Statement, 2020 – 1.2.6 Land use compatibility</p> <p>1.2.6.1 Major facilities and sensitive land uses shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term operational and economic viability of major facilities in accordance with provincial guidelines, standards and procedures.</p> <p>1.2.6.2 Where avoidance is not possible in accordance with policy 1.2.6.1, planning authorities shall protect the long-term viability of existing or planned industrial, manufacturing or other uses that are vulnerable to encroachment by ensuring that the planning and development of proposed adjacent sensitive land uses are only permitted if the following are demonstrated in accordance with provincial guidelines, standards and procedures:</p> <p>a) there is an identified need for the proposed use;</p> <p>b) alternative locations for the proposed use have been evaluated and there are no reasonable alternative locations;</p>	

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	<p>c) adverse effects to the proposed sensitive land use are minimized and mitigated; and</p> <p>d) potential impacts to industrial, manufacturing or other uses are minimized and mitigated.</p> <p>Provincial Policy Statement, 2020 – 1.3.2 Employment Areas</p> <p>1.3.2.2 At the time of the official plan review or update, planning authorities should assess employment areas identified in local official plans to ensure that this designation is appropriate to the planned function of the employment area.</p> <p>Employment areas planned for industrial and manufacturing uses shall provide for separation or mitigation from sensitive land uses to maintain the long-term operational and economic viability of the planned uses and function of these areas.</p> <p>1.3.2.3 Within employment areas planned for industrial or manufacturing uses, planning authorities shall prohibit residential uses and prohibit or limit other sensitive land uses that are not ancillary to the primary employment uses in order to maintain land use compatibility.</p> <p>Employment areas planned for industrial or manufacturing uses should include an appropriate transition to adjacent non-employment areas.</p> <p>1.3.2.4 Planning authorities may permit conversion of lands within employment areas to non-employment uses through a comprehensive review, only where it has been demonstrated that the land is not required for employment purposes over the long term and that there is a need for the conversion.</p> <p>1.3.2.5 Notwithstanding policy 1.3.2.4, and until the official plan review or update in policy 1.3.2.4 is undertaken and completed, lands within existing employment areas may be converted to a designation that permits non-employment uses provided the area has not been identified as provincially significant through a provincial plan exercise or as regionally significant by a regional economic development corporation working together with affected upper and single-tier municipalities and subject to the following:</p> <p>a) there is an identified need for the conversion and the land is not required for employment purposes over the long term;</p> <p>b) the proposed uses would not adversely affect the overall viability of the employment area; and</p> <p>c) existing or planned infrastructure and public service facilities are available to accommodate the proposed uses.</p>	

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<p>A Place to Grow: Growth Plan for the Greater Golden Horseshoe – 2.2.5 Employment under Policies for Where and How to Grow</p> <p>2.2.5.6 Upper- and single-tier municipalities, in consultation with lower-tier municipalities, will designate all employment areas in official plans and protect them for appropriate employment uses over the long-term. For greater certainty, employment area designations may be incorporated into upper- and single-tier official plans by amendment at any time in advance of the next municipal comprehensive review.</p> <p>2.2.5.7. Municipalities will plan for all employment areas within settlement areas by:</p> <ul style="list-style-type: none">a) prohibiting residential uses and prohibiting or limiting other sensitive land uses that are not ancillary to the primary employment use;b) prohibiting major retail uses or establishing a size or scale threshold for any major retail uses that are permitted and prohibiting any major retail uses that would exceed that threshold; andc) providing an appropriate interface between employment areas and adjacent non-employment areas to maintain land use compatibility. <p>2.2.5.8. The development of sensitive land uses, major retail uses or major office uses will, in accordance with provincial guidelines, avoid, or where avoidance is not possible, minimize and mitigate adverse impacts on industrial, manufacturing or other uses that are particularly vulnerable to encroachment.</p> <p>2.2.5.9. The conversion of lands within employment areas to non-employment uses may be permitted only through a municipal comprehensive review where it is demonstrated that:</p> <ul style="list-style-type: none">a) there is a need for the conversion;b) the lands are not required over the horizon of this Plan for the employment purposes for which they are designated;c) the municipality will maintain sufficient employment lands to accommodate forecasted employment growth to the horizon of this Plan;d) the proposed uses would not adversely affect the overall viability of the employment area or the achievement of the minimum intensification and density targets in this Plan, as well as the other policies of this Plan; ande) there are existing or planned infrastructure and public service facilities to accommodate the proposed uses. <p>2.2.5.10. Notwithstanding policy 2.2.5.9, until the next municipal comprehensive review, lands within existing employment areas may be converted to a designation that permits non-employment uses, provided the conversion would:</p> <ul style="list-style-type: none">a) satisfy the requirements of policy 2.2.5.9 a), d) and e);	

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	<p>b) maintain a significant number of jobs on those lands through the establishment of development criteria; and</p> <p>c) not include any part of an employment area identified as a provincially significant employment zone unless the part of the employment area is located within a major transit station area as delineated in accordance with the policies in subsection 2.2.4.</p>	
Appendix B -	Compatibility Studies Addressing Noise, Dust and Odour	
	<p>The following sections provide an overview of compatibility studies for noise, dust and odour emissions from major facilities and are based on the Ministry's technical guidance documents. Meeting the standards and requirements outlined in these sections may help mitigate and minimize adverse effects from major facilities to nearby sensitive land uses.</p> <p>If documents referenced in these sections are not available online, they can be obtained by contacting the appropriate ministry District Office. To find contact information for your closest District Office, see: https://www.ontario.ca/environment-and-energy/ministry-environment-district-locator.</p>	
B.1	Noise (Including Vibration)	
	<p>While sound (noise is unwanted sound) and vibration are two separate contaminants under the EPA, vibration is addressed alongside noise in this Guideline. For the purposes of this Guideline, the Ministry-developed AOIs this Guideline should address both noise and vibration impacts (if developed, alternate AOIs should do the same); separation distances for noise are larger than vibration so covering noise impacts will cover vibration impacts.</p>	
	Vibration	

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	<p>Setbacks specifically for vibration are addressed through other municipal, provincial and federal guidelines and regulations by organizations including GO Transit, the Canadian National Railway, the Canadian Pacific Railway, the Toronto Transit Commission and the Ministry of Natural Resources and Forestry (in respect of aggregates sites). The requirements of those documents in respect of vibration will prevail if they conflict with this Guideline.</p> <p>These documents related to vibration include but are not limited to the following:</p> <ul style="list-style-type: none">• The Federation of Canadian Municipalities and the Railway Association of Canada’s Guidelines for New Development in Proximity to Railway Operations which provides mitigation measures associated with development near railway operations, particularly those associated with residential development;• Ontario Ministry of Environment and Energy / GO Transit Draft Protocol for Noise and Vibration Assessment;• Ministry of the Environment and Climate Change/Toronto Transit Commission Protocols for Noise and Vibration Assessment;• Ontario Publication NPC-119 – Blasting; and• Ontario Provincial Standard Specification 120 – General Specification for the Use of Explosives. <p>The above is not an inclusive list of all relevant documents related to vibration. Any applicable provincial documents not in this list will need to be considered and followed as well. To find links for these documents, or information on how to retrieve them, see Appendix J and Appendix K.</p>	
	Compatibility Study for Proponents of Sensitive Land Uses	
	<p>Under the Environmental Noise Guideline: Stationary and Transportation Sources – Approval and Planning (NPC-300), proponents of noise sensitive land use proposals may be required by planning authorities to undertake feasibility studies and/or detailed noise impact studies. For the purposes of this Guideline, the feasibility study and/or detailed noise impact study would act as the compatibility study for noise. These studies must be able to answer the criteria outlined in Section 2.7 and in this Appendix to the satisfaction of the planning authority.</p>	
	Compatibility Study for Proponents of Major Facilities	

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<p>For proponents of major facilities, the compatibility study for major facilities' noise impacts should follow the process outlined in the Ministry's noise screening and guidelines outlined below.</p> <p>Depending on the facility's North American Industrial Classification Standards (NAICS)¹ codes, a range of levels of screening requirements and studies can apply.</p> <p>There are three types of studies that may be used to screen and assess the impact of noise from a facility:</p> <ol style="list-style-type: none">1) Primary Noise Screening Method (PNSM) does not require detailed calculations and uses conservative assumptions for potential noise sources at the facility to calculate distances within which additional studies are required. See the Ministry's Primary Noise Screening Method Guide for more details. Steps involved in this are:<ul style="list-style-type: none">• Identify NAICS code associated with facility and confirm that the PNSM applies. Calculate the separation distance between a facility's noise source and the closest point of noise reception at the sensitive land use.• Determine if beyond the noise screening's separation distance, it is not anticipated that a major facility's noise emissions will exceed noise limits set under the Ministry's noise guidelines (see section on noise limits).• When the facility does not screen out using the PNSM, the Secondary Noise Screening Method or the Acoustic Assessment Report need to be used.2) Secondary Noise Screening Method is for facilities that are ineligible for the primary noise screening process. It uses calculations and site-specific conditions to predict sound levels at closest points of reception, exceedances of provincial noise limits, and the effectiveness of any proposed mitigation to meet noise limits set under the Ministry's noise guidelines. <p>Studies need to analyze the following: location of the noise sources relative to the point of reception; effect of acoustic barriers that break the line-of-sight; tonality; intermittency of operation; and background noise from major highways/roadways. See the Ministry's Secondary Noise Screening Guide for more details.</p> <p>When the facility does not screen out using the Secondary Noise Screening Method, an Acoustic Assessment Report needs to be used.</p> <ol style="list-style-type: none">3) Acoustic Assessment Report (AAR) is based on detailed noise review of noise sources at the facility and their impacts on neighbouring points of reception. Facilities that require an AAR are those that are not eligible to use the Primary or Secondary Noise Screenings. The ministry has several guidance documents on how to prepare an AAR. These include NPC-103, NPC-104, NPC-233, NPC-300, AAR Check-List, AAR ACME and the Basic Comprehensive Certificates of Approval (Air) User Guide.	
Noise Limits	

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	<p>For either proponents of sensitive land uses and major facilities, in order to meet the test of no adverse effects, provincial noise limits for various noise sources must be met. These are set by the Ministry under various guidelines, including:</p> <ul style="list-style-type: none">• NPC-300 – this Guideline covers sound level limits applied by the Ministry in ECAs, Renewable Energy Approvals (bioenergy and solar), EAs and the investigation of noise-related incidents; advice for decisions under the Planning Act; sound level limits that may be used for municipal noise control by-laws; and sound level limits which may be applied for aggregate resource extraction licensing and permitting. It does not provide sound level limits for blasting operations, landfills or new or expanded transit corridors, which are addressed in other publications.• Impulse Vibration in Residential Buildings (NPC-207): Vibration impacts from facilities producing impulse vibration (e.g., metal stamping or forging facilities) should be assessed following the methods and noise limits set in this Guideline.• Procedures (NCP-103) and Blasting (NCP-119): the noise and vibration impacts produced by blasting in quarries and mines should be assessed following the methods and noise limits set in these documents.• Air emissions user guide for environmental activity and sector registry (EASR Publication): Refer to the noise chapter in the EASR Publication, which is given in the hyperlink.	
	A note on Class 4 Designations	
	<p>For new sensitive land uses, planning authorities have the option to designate future areas as Class 4 areas as per NPC-300. Designating an area as Class 4 would allow proponents to construct new sensitive land uses in that area in proximity to existing, lawfully established and approved stationary sources of noise, to a greater extent than would otherwise be possible.</p> <p>Class 4 areas are defined as an area or specific site that would otherwise be defined as Class 1 or 2 and which is intended for development with new noise sensitive land use(s) that are not yet built; is in proximity to existing, lawfully established stationary source(s); and has formal confirmation from the land use planning authority with the Class 4 area classification which is determined during the land use planning process.</p> <p>The Class 4 designation is intended for areas where a mix of incompatible uses may be unavoidable or very difficult to avoid, such as areas that are built-out or designated as MTSAs in A Place to Grow. It is not meant to be used where separation of incompatible land uses is possible. It should be used in scenarios where potential encroachment impacts could not be otherwise avoided or mitigated through separation or other mitigation measures. In addition, one or more Class 4 designations should not serve as a precedent for future developments in the same area. Each designation should be considered and treated as a stand-alone case. This approach provides additional flexibility and should be used to address encroachment impacts to enable at-receptor mitigation (at the sensitive land use site), in addition to traditional at-source mitigation (at the major facility site) to address noise emissions without adversely impacting the ongoing operability of the existing facility.</p> <p>Within Class 4 designated areas, potential noise impacts from major facilities which are vulnerable to encroachment are addressed through:</p> <ul style="list-style-type: none">• Increased permitted noise limits according to NPC-300 for stationary and transportation sources, recognizing increased background noise from nearby noise emitters.	

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	<ul style="list-style-type: none">• Allowances for the consideration of at-receptor mitigation measures in a facility's ECA review process. The area must be designated Class 4 and recognized in local planning documents, in order for at-receptor mitigation to be recognized.• The increased sound level limits for Class 4 areas assume that windows can be kept closed with the use of a ventilation system (e.g. central air conditioning).	
	<p>The following considerations apply to new sensitive land uses proposed in Class 4 areas:</p> <ul style="list-style-type: none">• An appropriate noise impact assessment should be conducted for the land use planning authority as early as possible in the land use planning process that verifies that the applicable sound level limits will be met.• Noise control measures may be required to ensure the stationary source complies with the applicable sound level limits at the new noise sensitive land use.• Noise control measures may include receptor-based noise control measures and/or source-based noise control measures.• Source-based noise control measures may require a ministry permission.• Receptor-based noise control measures may require agreements for noise mitigation, such as agreements under a planning permission.• Prospective purchasers should be informed that their property is located in a Class 4 area through appropriate means and informed of the agreements for noise mitigation. Registration on title of the agreements for noise mitigation should be required as directed by related permissions (e.g. planning or ministry permissions) , as well as registration on title of an appropriate warning clause to notify purchasers that the applicable Class 4 area sound level limits for this property are protective of indoor areas and are based on the assumption of closed windows.• Any final agreements for noise mitigation as described in NPC-300 and all other relevant documentation are to be submitted to the Ministry by the stationary source owner(s) when applying for a ministry permission. These agreements will be assessed during the review of the application for ministry permissions. Additionally, the stationary source owner(s) are to include a copy of the formal confirmation of the Class 4 area classification from the land use planning authority in the application for a ministry permission. <p>Specific information about Class 4 Areas definition, applicable limits, at-receptor noise control measures and when to apply the Class 4 Area designation are provided in Parts A, B and C of NPC-300.</p>	

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B.2	Dust and Other Air Emissions													
	<p>The operations of some sectors lend themselves to dust and other air emissions from fugitive sources such as on-site roadways, storage piles and on-site traffic (e.g. bulldozers, grading, and parking lots). Adverse effects from these emissions can be assessed through methods explained below.</p> <p>To assess fugitive dust emissions from facilities, the compatibility study for dust should determine and explain how the major facility has met the requirements of Ontario Regulation 419/05: Air Pollution – Local Air Quality, made under the EPA (O. Reg 419/05) through any of the three compliance approaches that are included in the regulation. O. Reg. 419/05 is Ontario’s local air quality regulation, which works within the province’s air management framework by regulating air contaminants released into communities by various sources, including local industrial and commercial facilities.</p> <p>An approved ECA, which may be available on the Access Environment website, would indicate that the major facility is meeting ministry standards for dust at the property line. However, there might still be nuisance dust effects beyond the property line. Due to the potential for these effects, planning authorities should not allow sensitive land uses within the facility’s MSD unless completely unavoidable.</p> <p>The compatibility study should also determine and discuss whether a detailed Fugitive Dust Control Plan or Best Management Practices Plan (BMPP) is available for the major facility. Typically, requirements for a Fugitive Dust Control Plan or BMPP are included as conditions in the facility’s ECA. For more information on these plans, see the Technical Bulletin: Management Approaches For Industrial Fugitive Dust Sources that sets out information on the possible sources and management of suspended particulate matter from fugitive dust sources.</p>													
	<p>Recommendations for Facilities with Potentially Hazardous Fugitive Dust Emissions</p> <p>Certain types of facilities may emit potentially hazardous fugitive dust. These facility types are listed in Table 7-2 of the Guideline A-10: Procedure for Preparing an Emission Summary and Dispersion Modelling Report, below.</p>													
	<table><tr><th colspan="2">Sectors where metal content within fugitive particulate must be considered</th></tr><tr><th>NAICS Code</th><th>NAICS Code Description</th></tr><tr><td>2122</td><td>Metal Ore Mining</td></tr><tr><td>331</td><td>Primary Metal Manufacturing</td></tr><tr><td>332810</td><td>Coating, Engraving, Heat Treating and Allied Activities</td></tr><tr><td>332999</td><td>All Other Miscellaneous Fabricated Metal Product Manufacturing</td></tr></table> <p>As part of the dust <i>compatibility study</i>, <i>proponents</i> should determine whether the <i>major facility</i> meets one or more of the <u>NAICS</u> codes listed in Table 7-2 of the Guideline A-10: Procedure for Preparing an Emission Summary and Dispersion Modelling Report. If so, it is recommended that the proposed use be built outside the <u>AOI</u> of these <i>major facilities</i>, to avoid potential <i>adverse effects</i> from metal content in <i>fugitive dust</i>.</p> <p>If it is not possible to locate the proposed use outside the <u>AOI</u>, the <i>proponent</i> must obtain a copy of the approved <u>ECA(s)</u> for the <i>major facility</i> to demonstrate to the satisfaction of the planning authority that no <i>adverse effects</i> related to significant dust emissions are expected from the facility.</p>	Sectors where metal content within fugitive particulate must be considered		NAICS Code	NAICS Code Description	2122	Metal Ore Mining	331	Primary Metal Manufacturing	332810	Coating, Engraving, Heat Treating and Allied Activities	332999	All Other Miscellaneous Fabricated Metal Product Manufacturing	
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	<p>Recommendations for Facilities Registered for Technical Standards, Site-Specific Standards or Sector Specific Regulations</p> <p>Certain facilities cannot meet required air standards set out in O. Reg 419/05, so they meet technical standards or site-specific standards instead. There are also some facilities that fall under sector-specific regulations, such as O. Reg. 530/18: Air Pollution–Discharge of Sulphur Dioxide from Petroleum Facilities, made under the EPA (O. Reg. 530/18). As part of the compatibility study, proponents should determine whether the major facility is subject to technical standards, site-specific standards or sector-specific standards.</p>	
	<p>The following resources can be used to determine whether the major facility falls in the categories of technical standards, site-specific standards or sector specific regulations:</p> <ul style="list-style-type: none"> • Technical Standards: • Site-specific standards: Facilities with site-specific standards can be found by searching the Environmental Registry of Ontario. • Sector-specific regulations such as O. Reg. 530/18 can be checked to find the NAICS codes for which sectors are covered under the regulation. <p>It is recommended that any proposed uses be built outside the AOI of these facilities to avoid adverse effects related to significant air quality emissions.</p> <p>If it is not possible to locate the use outside the AOI, the proponent must demonstrate to the satisfaction of the planning authority that no adverse effects related to significant air emissions are expected from the facility. The compatibility study should also consider whether there are cumulative effects from multiple major facilities on the proposed land use. The ministry publishes maps which show the cumulative effects of air quality from multiple air pollution sources. These maps can be found at the following website:. If the proposed land use falls within Action Levels 2 or 3 of these maps, the study should acknowledge these cumulative effects and discuss whether adverse effects are expected and what measures would be taken to mitigate these effects.</p>	
B.3	Odour	
	<p>Odour is a subjective experience and individual responses to odour are highly variable and are dependent on many factors. Generally, the impact of an odour results from a combination of factors collectively known as FIDOL (frequency (F), intensity (I), duration (D), offensiveness (O), and location (L).</p>	<p>This is a significant issue. Odour is subjective and in some cases it may be difficult to determine its source therefore need to ensure there is a robust system in place to determine and monitor odours.</p>
	Draft Guideline to Address Odour Mixtures	
	<p>The compatibility study for a major facility's odour impacts should follow the process outlined in the ministry's draft guideline entitled, 'Guideline to Address Odour Mixtures in Ontario' (draft Odour Guideline). While the following highlights some key elements, the draft Odour Guideline should be reviewed for a full understanding. Use of the draft Odour Guideline will help determine the likelihood of causing an adverse effect.</p> <p>As part of the draft Odour Guideline, the ministry has identified several odorous activities and processes and grouped them into 3 tiers based on the potential to cause odour. These tiers are used for ECA applications and in the EASR to determine the level of requirements for major facilities to address any potential odour impacts. Based on the compatibility study, one or more of the following may be required</p>	

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	<p>at the facility before a new proposal or development can proceed:</p> <ol style="list-style-type: none">1) Facility Screened Out / No Additional Assessment Required – Based on the compatibility study the major facility can be screened out (i.e. no additional assessment would be required); otherwise, one or more of 2-4 could be required.2) BMPP for Odour – Less odorous activities may require a BMPP to address potential odours;3) An Odour Technology Benchmarking Report – More odorous activities may be required to develop an Odour Technology Benchmarking Report to determine the potential odour impacts and mitigation options if required.4) Odour Mitigation/Minimization Plan – based on the results of the Odour Technology Benchmarking Report, the plan would identify the odour control strategy (ies) selected to minimize and mitigate potential odours, describe any technical requirements, and clarify the responsibility for the costs, implementation and maintenance of the required odour control strategies. <p>It should be noted that the proponent (proposed sensitive land use or proposed major facility) is responsible for any required work associated with this approach. Major facilities should provide information and participate in completing compatibility studies. However, if the major facility does not cooperate, the proponent should consult with the planning authority and still complete required compatibility study and determine if any mitigation is required to the best of their ability. If the planning authority cannot convince the major facility to participate, approaches to resolution outlined in the draft Odour Guideline should be considered.</p>	
B.4	Source of Information	
	<p>Consultation should be undertaken with existing major facilities to obtain information that would better inform the compatibility study and other assessments as described in this Guideline. Major facilities may have the information needed on site layout, design and existing noise, dust and odour control measures. It is expected that this consultation can usually occur concurrently with other information sharing and engagement activities related to compatibility studies.</p> <p>The major facility may have conducted an EA, have ECAs or be registered to the EASR.</p> <p>Documentation and studies supporting EAs, ECAs and EASRs should be used, if available, to gather relevant information on the major facility to inform the compatibility studies for noise, dust and odour as needed. This documentation may also help decide what mitigation measures should be used, and matters related to the ongoing operation of sites after compatibility studies are done and mitigation measures (if needed) are in place. While respecting information that may be proprietary, facilities are encouraged to be involved in the development of documentation and studies, and to share information. This would lead to timelier and more effective reconciliation of land use compatibility issues. Note that the information from any ministry permission/approval may not be up to date. When developing supporting information, proponents should determine whether new information is available and if there is a need to update assessments or studies received from major facilities.</p> <p>Also, note that any assessment developed for ECAs and EASRs may not consider fugitive emissions (e.g. traffic, on-site storage and loading). For odour and noise, previous issuance of ECAs or registration in the EASR will consider impacts to the closest existing or planned sensitive receptor at the time of the permission/approval or registration. As such, new sensitive land uses which result from rezoning will not have been considered and will need to be assessed as part of applying for an ECA or registering on the EASR.</p>	

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B.5	Qualified Individuals <p>Municipal OPs should require that any study carried out to support planning decisions related to land use compatibility (including compatibility studies) be prepared by qualified individuals with experience in preparing technical assessments. Qualified individuals should have the education, experience, training or certification that will qualify them to: conduct the necessary analysis on adverse effects; provide expert opinions; and make recommendations on the subject matter related to avoiding or mitigating the adverse effects.</p> <p>For example:</p> <ul style="list-style-type: none">Noise impact studies should be prepared by qualified individuals with experience in environmental acoustics.Vibration studies should be undertaken by qualified individuals with experience in vibration.Dust studies should be undertaken by qualified individuals with experience in assessing sources of particulate matter, including fugitive emissions and dust mitigation measures.Odour compatibility studies should be undertaken by qualified individuals with experience in odour assessment and mitigation. <p>In most cases these reports should be prepared by a licensed engineering practitioner that is a holder of a licence, limited licence, or provisional licence under the Professional Engineers Act.</p>	
Appendix C	Consultation and Engagement for Land Use Compatibility <p>Consultation may be required as part of a number of the processes and approvals described in this document. For example, if an OPA is undertaken, the Planning Act stipulates the minimum public consultation that is needed (or municipalities can also establish alternative notice and consultation provisions). When a sensitive land use is proposed, consultation should involve the planning authority, proponent (i.e. developer of new sensitive land use) and surrounding major facilities with an AOI that the proposed sensitive land use would be located in. If mitigation is required at the facility site, agreements or other legal mechanisms will be needed. Planning authorities can act as the facilitator between parties and place agreements as part of their conditional approval of suitable planning applications.</p>	
	Early Engagement for Proposed Land Use Decisions <p>Pre-consultation has been recommended in this document (see Section 2.6). Planning authorities should include pre-consultation policies in their OPs and are required to participate in pre-consultation if asked.</p> <p>For example, in order to ensure that noise, dust odour and other potential sources of adverse impacts to the facilities have been appropriately assessed and addressed, planning authorities should ensure that proponents of new sensitive land uses have pre- consulted with major facilities within the AOI(s) of those major facilities. It is important that all major facilities are consulted as facility information may be required to determine the extent of potential impacts at the new sensitive land use and minimization and mitigation measures.</p>	
	Engagement to Support Compatibility Studies	

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	<p>A complete compatibility study includes information collected from potentially affected existing land uses and from existing emitting operations. Proponents of major facilities should engage all residents and other occupants within the AOI, including other major facilities, sensitive land uses and First Nations and Métis communities. Proponents of sensitive land uses should engage the owners of major facilities whose AOI the proposed sensitive land use falls into. This should include informing residents and occupants of the proposal and compatibility study, providing them an opportunity to provide input into the proposal and compatibility study, and incorporating information and input related to land use compatibility into the compatibility study and its conclusions. These efforts are intended to inform the compatibility study. Multiple forms of notification or contact may be necessary to ensure potentially affected parties are aware of the proposal and provide the information and input they are willing to provide.</p> <p>Overall, early contact between the proposed land use (whether a major facility or sensitive land use) and surrounding land uses is imperative to building understanding and avoiding future impacts and complaints. It will inform the following:</p> <ul style="list-style-type: none">• common understanding of the proposal, including potential uses, activities and operations;• common understanding of current uses, activities and operations associated with existing uses and planned expansions;• current and planned emissions and mitigation measures associated with existing and already planned uses;• potential types and scale of impacts the major facility may have on the sensitive land use or potential operational impacts or complaints on the major facility;• appropriate separation distances and mitigation measures to mitigate impacts on the major facility or sensitive land use; and• if necessary and appropriate, potential agreements between parties regarding implementation, monitoring and maintenance of any required mitigation measures.	
	Best Practices in Relationship Building	
	<p>Maintaining good relations between major facilities and neighbouring land uses is very important. There is a higher likelihood that communities would respond well to proposed nearby development when they are given the opportunity to become familiar with the proposed development or major facility operation and when they are given clear and accurate information.</p> <p>Methods for major facilities to communicate with members of the public include:</p> <ul style="list-style-type: none">• open houses;• presentations to schools and local groups;• newsletters;• websites;• advisory councils/groups;• social media;• signage in appropriate locations (such as highly visible or frequented areas where landowners are likely to see it);• dedicated points of contact such as a specific staff member or email; and,• one-on-one meetings with landowners where appropriate.	

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	Indigenous Engagement	
	Proactive engagement with Indigenous communities that may be affected by or interested in a planning or development proposal is recommended, early in the planning or development process, if compatibility is a concern. This engagement should help to inform compatibility studies. This guidance applies to planning authorities as well as proponents, as engagement should be considered as early as the OP stage. This guidance does not alter engagement and/or consultation that may be required through the Planning Act, provincial plans (e.g. A Place to Grow), EAA, or other legislation and regulations, and regardless of those requirements, proponents should always consider the need for engagement to inform compatibility studies.	
Appendix D	Sector-Specific Considerations Included in the Guideline	
	<p>This section provides additional considerations for specific sectors which are within the scope of this Guideline, which have had history of ongoing and frequent complaints. The following sections provide information and an overview of programs that may provide insight into adverse effects from these key sectors.</p> <p>Note that this section provides considerations for adverse effects specifically related to noise, dust and odour emissions. Planning authorities will also need to consider other potential adverse effects, such as the potential for groundwater and surface water contamination, which are not discussed specifically in this section.</p> <p>In addition to the guidance provided below on these sectors, guidance related to land uses near landfills and dumps is provided in Appendix E</p>	
	Composting and Industrial Anaerobic Digestion Facilities	

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	<p>Composting and industrial anaerobic digestion facilities use aerobic and anaerobic biological processes, respectively, to break down and stabilize recycled organic matter. In an urban setting these facilities are usually operated to manage organic waste like household organic materials, food processing by-products, and in the case of compost facilities, leaf and yard waste. These facilities have a potential for significant odour impacts on surrounding sensitive land uses. In addition, other potential impacts from animals and insects, dust, litter, lighting and noise may be experienced. Generally, these risks are managed through environmental approvals; however, setbacks can further help reduce impacts. This document provides AOIs and MSDs for composting and industrial anaerobic digestion facilities (see Table 1).</p> <p>For the purposes of this Guideline, composting and industrial anaerobic digestion facilities are understood to not be located on a farm or operated as an agricultural use or agricultural-related use. Farm-based anaerobic digestion or composting often involves the management of agricultural feedstocks like manure, animal by-products, livestock mortalities, or other agricultural materials in addition to mixing off-farm feedstocks like food waste. Farm-based anaerobic digestion facilities are generally sited according to the OMAFRA's Minimum Distance Separation (MDS) Guidelines, or setbacks required in other environmental permissions. Composting facility layout has an impact on the facility's relative impacts. Facilities with outdoor management of organic materials, whether it be feedstock reception, active compost piles, screening, and/or curing piles, may be expected to have significantly more impact than a facility where some or all of these features are indoors. Indoor activities are often subject to air capture and treatment requirements as part of their approval. For more information on considerations for siting composting facilities, please see the Ministry's Guideline for the Production of Compost in Ontario and the Ontario Compost Quality Standards.</p> <p>For industrial anaerobic digestion facilities not located on a farm or operated as an agricultural use or agriculture-related use, the facility's environmental permission/ approval (whether an ECA, or a Renewable Energy Approval under O.Reg. 359/09) often specifies detailed controls for potential causes of adverse impacts. Generally, for these facilities, the feedstock reception areas, materials handling, and effluent storage are located within enclosed structures with odour control. Management of fugitive emissions is key to reducing potential impacts. Other possible sources of impacts may include the biogas flare, cogeneration equipment that generates electricity, and truck traffic.</p>	
	Municipal and Private Communal Wastewater Treatment Plants	

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	<p>This document provides AOIs and MSDs for three categories of municipal and private communal wastewater treatment plants (see Table 1).</p> <ol style="list-style-type: none">1) Wastewater treatment facilities with a rated capacity less than 25,000 cubic metres per day (small), which are considered to be class 1 facilities;2) Wastewater treatment facilities with a rated capacity more than 25,000 cubic metres per day, which are considered to be class 4 facilities; and3) Sewage treatment lagoons. <p>For clarity, these AOIs and MSDs would not apply to municipal and private communal wastewater treatments plants that are fully underground/subsurface, e.g. subsurface treatment systems such as septic tanks and fields.</p> <p>The following should be considered for municipal and private domestic wastewater treatment facilities:</p> <ul style="list-style-type: none">• When taking into consideration Section 2.4 of this Guideline and determining whether the property line or the facility/equipment should be used to determine separation distance, the following elements may support a conclusion that the shorter option may be used:<ul style="list-style-type: none">○ Parts of the plant are enclosed (headworks, solids handling/thickening, dewatering systems)○ Parts of the plant are covered (e.g. primary clarifiers, aerobic digesters, process tanks)○ Odour mitigation technologies are in place.• Where practical, sensitive land uses should not be placed adjacent to treatment facilities.• When new facilities (or enlargements to existing facilities) are proposed, an adequate buffer area should be acquired as part of the project. There should also be consideration of whether there are policies in local source protection plans that may restrict or prohibit the development in an area identified as a vulnerable area for the purpose of protecting existing and future sources of drinking water. <p>This Guideline is not appropriate for dealing with the effects of major treatment plant upsets due to overloading or equipment breakdown.</p>	
	<p>Aggregates</p> <p>It is important to plan land uses surrounding aggregate resources in a way that both prevents adverse impacts to sensitive land uses and ensures the long-term protection of aggregate resources. Planning authorities must consider the potential for adverse effects from aggregate operations (including existing, planned and potential future operations), such as traffic to and from the facilities, and noise and dust from blasting, crushing or other operations, for proposals that require a planning approval.</p> <p>This Guideline is prepared with the intent of assisting planning authorities in the implementation of PPS policies 1.2.6.1 and 1.2.6.2. In addition, the PPS recognizes the importance of aggregate resources and PPS policies related to mineral aggregate resources also need to be addressed in a municipal OP and any Planning Act application. For example, policies 2.5.2.4 and 2.5.2.5 direct that any proposed development and activities that would preclude or hinder the establishment of a new mineral aggregate operation, the continuation of an existing operation and any future expansions shall only be permitted subject to requirements. These requirements are in addition to what is recommended in this Guideline. This Guideline provides AOIs and MSDs in Table 1 applicable to new or expanding sensitive land use proposals near existing or planned aggregate operations. The AOI and MSD align with the Ministry's screening and study requirements for ECAs that are required for above-ground aggregate equipment, such as aggregate crushers, ready-mix concrete plants and asphalt plants. However, recognizing that</p>	

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	<p>the impacts associated with different aggregate operations may vary, the planning authority may choose to assess whether an alternate AOI for a given aggregate operation is appropriate.</p> <p>The AOI and MSD in the Guideline are not applicable to land use decisions for new or expanding aggregate operations proposed near sensitive land uses. Planning authorities are required to address land use compatibility with respect to new or expanding operations, as required by the PPS. However, when determining whether there may be potential adverse effects from an aggregate operation, planning authorities should also take into consideration that through the licensing process under the Aggregate Resources Act, the Ministry of Natural Resources and Forestry also has requirements to assess potential impacts on existing nearby land uses and whether it is feasible to mitigate potential impacts through that process.</p> <p>Development that encroaches into an aggregate operation's AOI may have a negative effect on the operability of that site, possibly resulting in the inability to access existing or future aggregate resources on the current site and/or through an expansion. Complaints from nearby sensitive land uses can also have an impact on the continued operations of aggregate sites.</p> <p>When considering new sensitive land uses near mineral aggregate areas, planning authorities must consider active aggregate operations, zoning which permits future aggregate operations and, where provincial information is available, deposits of mineral aggregate resources. Provincial information refers to aggregate resource information that can be found on the Ministry of Energy, Northern Development and Mines websites (GeologyOntario or OGSEarth) for the Aggregate Resources of Ontario (currently ARO- 2019, but typically updated yearly, ARO-2020 planned for early 2021). The Aggregates Resources of Ontario was compiled from published reports and maps contained in Ontario Geological Survey Aggregate Resources Inventory Papers (ARIPs). These reports are also available to download from the GeologyOntario or OGSEarth websites.</p>	
	Cannabis Production and Processing Facilities	
	<p>For the purposes of this Guideline, cannabis production is the term used to refer to the entire cultivation process (i.e., growing plants, harvesting, drying and storing), whereas cannabis processing refers, for example, to the subsequent manufacturing of edible cannabis, cannabis extracts and cannabis topicals. Sorting and packaging may fall into either category depending on the scale, extent and type of the packaging.</p> <p>The Guideline applies to indoor cannabis production facilities in areas zoned for industrial uses within settlement areas, and all cannabis processing facilities as these facilities are considered industrial uses. For information on cannabis production facilities in prime agricultural areas and on rural lands see Appendix K.</p> <p>Personal use production of cannabis (both recreational and medical use) is not covered under this Guideline.</p> <p>This section will provide an overview of the federal, provincial and municipal role in regulating cannabis, as well as specific guidelines that can be applied to cannabis processing facilities.</p> <p>Various levels of government play different roles in regulating and/or planning aspects of cannabis production and processing facilities, and these are described below.</p>	<p>This section states that packaging of cannabis may be defined as cannabis production or processing “depending on the scale, extent, and type of the packaging”, however no further information is provided as to how this should be determined. Application of the guidelines differs for cannabis production and processing facilities if they are located outside of a settlement area boundary. Therefore more clarification should be provided as to when packaging is considered processing versus production in order to properly apply the guidelines.</p>
	Federal Role	

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	<p>In 2018, the Federal Government of Canada legalized the production and sales of cannabis and cannabis-related products under the Cannabis Act.</p> <p>The Federal Government regulates cannabis production and processing and facility licensing, including odour management requirements. The Cannabis Act and Cannabis Regulations (SOR/2018-144) are administered by Health Canada. Production is authorized via licenses, registration certificates (e.g. designated growers), and through exemptions.</p> <p>Licensed cannabis facilities are subject to Part V Good Production Practices in the federal Cannabis Regulations (note: for clarity, the Cannabis Regulations (SOR/2018-144) refers to one federal regulation at the link given above, not multiple regulations). Under Part V, indoor parts of the facility are subject to a regulatory requirement to be equipped with a system that filters air to prevent the escape of odours (Section 85 of Part V).</p> <p>Certain types of facilities are not subject to odour control provisions in the federal Cannabis Regulations. Examples include:</p> <ul style="list-style-type: none">• Licensed facilities that are cultivating cannabis outdoors; and• Registered designates who need a registration certificate from Health Canada and are producing cannabis with a medical document authorizing the use of cannabis for medical purposes (even when they are cultivating indoors). <p>It is important to note that rules for controlling odour are addressed under the Cannabis Act and regulations. Nothing in this Guideline is meant to replace or detract from the authorities or requirements under the Cannabis Act and regulations.</p>	
	Provincial Role	
	<p>Cannabis production facilities may be subject to provincial environmental legislation such as the EPA, OWRA, Nutrient Management Act and Pesticides Act. Land use decisions around the location of these facilities are required to be consistent with provincial policies and conform or not conflict with provincial plans. An exact determination of the extent of provincial regulatory application is dependent on the circumstances associated with each cannabis production facility.</p> <p>Cannabis processors (e.g. oil extraction and refining, manufacturing of edibles, topical and extracts) could be subject to the environmental permission requirements for air emissions and/or waste management activities (e.g. waste storage and transport) under the EPA, if the activities are not agricultural.</p> <p>Some other involvement with the Ministry that may occur for cannabis production facilities includes the potential requirement for water-taking permits, permissions/ approvals related to stormwater works, records of site condition, regulation of pesticides use and storage and the regulation of waste storage</p>	

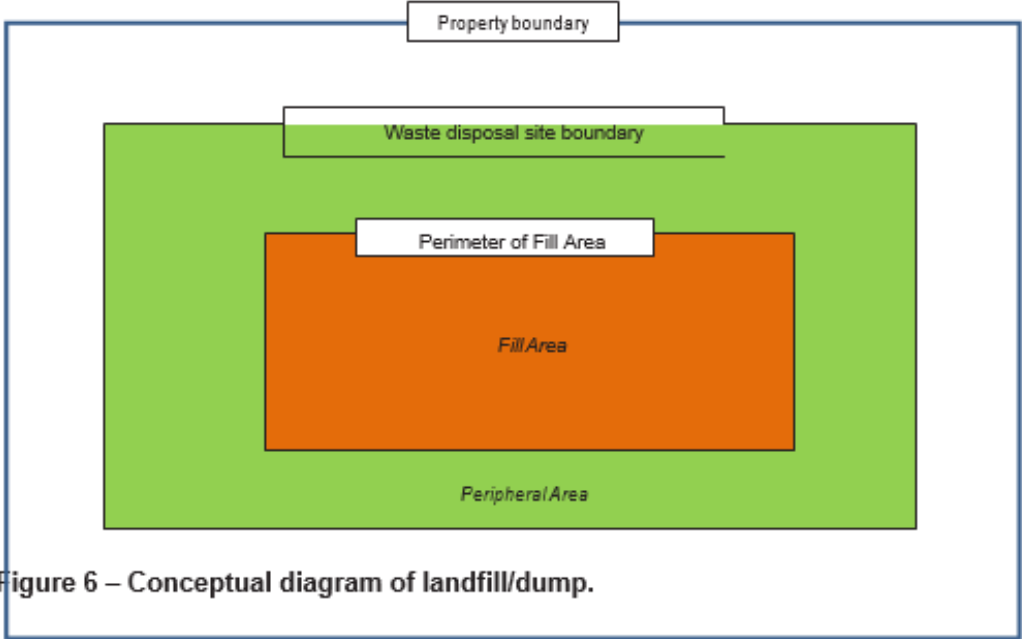
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	and transport. The ministry could also potentially be involved with the regulation of air emissions not directly associated with the growing, processing or storage of cannabis.	
	Municipal Role	
	<p>Municipalities and planning authorities have a role in maintaining land use compatibility and ensuring consistency with provincial policies and conformity with provincial plans through land use planning decisions regarding proposed cannabis processing facilities and adjacent sensitive land uses. As part of Health Canada's licensing process, cannabis producers and processors must comply with provincial and municipal laws, which provides an opportunity for local input through municipal by-laws (e.g. odour by-laws), zoning, and permitting processes.</p> <p>Municipalities have a range of tools available under the Planning Act to influence the location of cannabis production and processing facilities, such as official plan policies and land use designations, zoning by-laws, and site plan control. Through their zoning by-laws, municipalities may choose to adopt siting requirements for the production of cannabis, such as provisions for lot coverage, range and scale of accessory uses, or requiring setbacks to improve land use compatibility and reduce potential noise and odour impacts.</p> <p>Interim control by-laws can also be used to provide time to study potential impacts of land use planning matters and inform local decision-making. Municipalities may also choose to adopt a site plan control by-law under the Planning Act to address specific design elements that may improve compatibility such as mass or location of buildings, traffic access, parking layout, lighting, landscaping, drainage, etc.</p> <p>Municipalities also have powers under the Municipal Act to regulate a wide range of matters, including health, safety, and nuisance (subject to certain limits). Municipalities may also choose to develop odour control by-laws to regulate odour from cannabis production facilities.</p>	
	Applying the Guideline to Indoor Cannabis Production Facilities in Areas Zoned for Industrial Uses in Settlement Areas, and Cannabis Processing Facilities	
	<p>This Guideline is applicable to proposed new or expanding sensitive land uses near a cannabis processing facility and new or expanding indoor cannabis production facilities in areas zoned for industrial uses in settlement areas. When establishing policies to trigger compatibility studies, the largest AOI in Table 2 should be used. Alternatively, a planning authority may complete a study to determine an alternate AOI for a specific facility. This would enable factors such as the scale of operations, known mitigation, types of surrounding sensitive land uses, etc., to be factored into the AOI before it is set in policy. To assist with identifying these facilities, contact Health Canada at hc.compliance-cannabis-conformite.sc@canada.ca.</p>	

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Appendix E	Land Use on or Near Landfills and Dumps	
1	Application	
	<p>This section of the Guideline builds on other sections and provides additional guidance and direction specific to planning applications for lands in proximity to landfills and dumps or for applications that would permit new landfills and dumps. It reflects the restrictions and controls on land use that the ministry wishes to see implemented in the vicinity of landfills and dumps in order to protect the health, safety and welfare of residents and others near such facilities. It replaces the 1994 document D-4: Land Use on or Near Landfills and Dumps.</p> <p>The need to consider this section extends to all proposals for land use on, or near, operating and non-operating landfills (as defined in Regulation 347: General – Waste Management, made under the EPA), and dumps which contain municipal solid waste, liquid waste, hazardous waste, industrial solid waste and/or sewage sludges. It does not apply to lands certified as organic soil conditioning sites in Regulation 347. This section applies to all landfills and dumps regardless of ownership.</p> <p>When a land use, irrespective of its sensitivity, is proposed within the AOI of a landfill (formerly known as the influence area in D-4), this section must be considered. This is due to the risks that landfill gas and to a lesser extent, leachate, pose where there are or will be buildings or other enclosed structures on the proposed (or existing) land use. As well there are risks from groundwater that impact buildings via the soil vapour to indoor air pathway that are important.</p> <p>This section also applies when looking for locations to establish a landfill in Ontario, as this is the proposal of a new major facility, though it is acknowledged that a range of tasks described may be covered through an EA process.</p> <p>What is described in this section is separate from requirements related to Section 46 of the EPA, which provides that waste disposal sites (including non-operating landfills) cannot be used for any other use for 25 years after the end of the disposal without the approval of the Minister of the Environment, Conservation and Parks. Similarly, if a new proposed development is planned to be built on land underlain by a leachate contaminated groundwater plume a record of site condition completed based on Ontario Regulation 153/04: Records of Site Condition – Part XV.1 of the Act, made under the EPA (O. Reg. 153/04) may be needed. While this Guideline generally focuses on noise, dust and odour, planning decisions related to landfills and dumps will need to consider other potential adverse effects associated with landfills and dumps, prominently including landfill gas and potential groundwater and surface water impacts, as described below.</p>	
2	Municipal Input into New Large Landfill Siting	

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	<p>In addition to the guidelines in this appendix, it should be noted that Ontario has given municipalities more say in landfill approvals by requiring municipal support be obtained. Requiring municipal support helps ensure that the municipalities most directly impacted by the siting of new large landfills would have a say on a matter as important as a new landfill undertaking. The province recognizes the importance of autonomy in local decision making and believes that new large landfills should be located in communities that are supportive of the project.</p> <p>The Environmental Assessment Act requires proponents of new, large landfills (i.e. those that require an individual/comprehensive EA) to obtain support from host municipalities and adjacent municipalities where there is land with authorized residential uses within 3.5 kilometres of the proposed new landfill site.</p> <p>This requirement does not apply to landfill expansions. Applicants for landfill expansion proposals continue to have to meet all current approvals process requirements, including extensive consultation requirements with municipalities and other stakeholders.</p>	<p>This is an issue that is still being dealt with by both the public and private sectors.</p>
3	Impacts Associated with Operating Sites	
	<p>Impacts from landfilled waste can be widespread depending on the size of the landfill, the type of waste buried and the geology of the area. Lands which are used to dispose of waste can have significant adverse effects on nearby land uses (e.g. landfill gas migration and groundwater risks, including vapour intrusion from contaminated groundwater), even long after the deposit of waste has stopped. It is both the waste and the associated landfilling operations that can generate significant adverse impacts on neighbouring lands.</p> <p>The potential adverse effects from active waste disposal can be persistent and long- lasting. Factors to be considered by the planning authority, proponent and qualified individuals as appropriate when land use is proposed near an operating site include but are not limited to:</p> <ul style="list-style-type: none"> • landfill-generated gases; • groundwater and surface water and soil contamination by leachate, including vapour intrusion from leachate contaminated groundwater; • surface water runoff; • litter; • contaminant discharges from associated vehicular traffic; • visual impact; • noise, dust, odour or other air emissions; • fires; and, • attraction of animals and insects (vectors and vermin). <p>Regarding landfill gases, the production and migration of methane gas is also a key concern due to the risk of explosion hazards. There is also the risk of asphyxiation when methane displaces oxygen. Particular attention is needed to address this issue; see Appendix F for more guidance on this matter.</p> <p>These factors should also be considered for a proposed landfill, but consideration of such factors would typically be covered off through an EA process which these sites are required to go through.</p>	
4	Impacts Associated with Non-Operating Sites	

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	<p>Factors to be considered by the planning authority, proponent and qualified individuals as appropriate when land use is proposed on or near a non-operating site (i.e. within the AOI) include:</p> <ul style="list-style-type: none">• landfill-generated gases;• groundwater and surface water contamination by leachate, including vapour intrusion from leachate contaminated groundwater;• surface water runoff;• ground settlement;• visual impact;• soil contamination;• hazardous waste; and,• odour.	
5	Information Resources on Landfills	
	<p>In addition to considering the sources of information described in Appendix B of this Guideline, for landfills and dumps it is recommended that planning authorities map and include all past and present landfills and dumps for consultation with proponents.</p> <p>Inventories of landfills and dumps adjacent to the planning authority's jurisdiction should also be developed, as part of the inventory of facilities recommended in Section 4.3.3 of this Guideline.</p> <p>Some possible sources of information on existing or closed landfills include:</p> <ul style="list-style-type: none">• EAs: Waste management projects may have requirements under Ontario's EAA. Any EA process that may be required includes an assessment of the anticipated adverse effects of waste management activities on surrounding land uses.• Ministry District Office records on operating or former landfills.• Municipal records on operating and closed landfills (may not be kept in all municipalities). <p>Some possible sources of information for operating landfills include:</p> <ul style="list-style-type: none">• ECAs and associated technical assessments: Conditions set forth in ECAs and impact assessments provide information on associated off-site adverse effects anticipated from landfills.• Annual reports prepared based on ECA requirements (which contain monitoring).• Ministry published waste disposal site inventories.	
6	Additional Discussion on Key Environmental Considerations	
6.1	Landfill Generated Gas	

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	<p>Methane (CH₄) and carbon dioxide (CO₂) make up the majority of the landfill gas, with lesser amounts of nitrogen, oxygen, ammonia, hydrogen sulfide and various other gases. The quantity and components of gas generated by a landfill depends on the types and age of the waste buried, the quantity and types of organic compounds in the waste, moisture content and temperature of the waste, particle size and compaction, climate and buffering capacity.</p> <p>In this Guideline we focus on methane due to its combustibility and toxicity. Methane is an odourless, explosive and particularly strong greenhouse gas that contributes to climate change. It can build up in the ground and nearby buildings and become an explosion hazard. Regulatory agencies, proponents and planning authorities should always consider the possible presence of methane at or adjacent to lands that have been used for landfilling or dumps. Even landfills that are not operational continue to produce methane gas, hence it must be considered for both operating and non-operating landfills as described in sections 3 and 4 of the Appendix above. The extent of landfill gas subsurface migration depends on a number of factors such as landfill cover type, natural pathways (e.g. fractured rock), human-made pathways (e.g. drains, trenches etc.), and moisture conditions (wet vs. dry soil). Appendix F provides guidance in this area and is a replacement to the document D-4-1 Assessing Methane Hazards from Landfill Sites.</p>	
6.2	Leachate and Groundwater / Surface Water	
	Leachate is a liquid that permeates the landfill and ‘leaches’ into the subsurface. It is a result of precipitation falling on the landfill, and runoff entering the landfill, or water from the decomposition of waste, which then passes through the waste before “leaching” out. It varies widely in composition and will depend on landfill characteristics such as the age of the landfill, and the depth and the type of waste deposited. The downwards migration of leachate, through waste into underlying soil can eventually reach the groundwater and, through the discharge of leachate-impacted groundwater, a surface water body.	
7	Land Use Considerations	
7.1	How to Measure Separation Distance	
	<p>Section 2.4 of this Guideline indicates that separation distances should typically be measured from property boundary of the major facility (the landfill or dump in this case) to the property boundary of the sensitive land use (the proposed land use in this case, regardless of sensitivity). For landfills, instead of the property line, the waste disposal facility boundary may be used; this is because landfills are sometimes found within a property area boundary.</p> <p>However, not using the property line does not take into account any future potential expansions to the landfill. It should only be done if future expansions of the landfill are not expected, and when the buffer area has been recognized in the zoning by-law or site plans. In these situations, the planning authority is encouraged to assess the appropriateness of this approach, taking into consideration the potential for future expansions, as using this approach may limit or prohibit future expansions of the landfill (due to incompatible land uses being too close). Finally, the fill area itself should not be used for the purposes of measuring separation distances.</p> <p>See Figure 6 for a conceptual diagram of these boundaries. Peripheral Area is the area controlled by the site owner/operator between the boundary of the waste disposal site and the fill area; together, the peripheral area and the fill area make up the waste disposal site; the peripheral area will contain the buffer areas required to be on-site.</p>	Just a flag regarding expansions of a landfill – Given the challenges in finding new landfill sites, preserving capacity for expansion should be a high priority.

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	<div><p>Figure 6 – Conceptual diagram of landfill/dump.</p><p>Note: the <i>buffer</i> area would be between the property boundary and the perimeter of the <i>fill</i> area and/or waste disposal site boundary limits.</p></div>	
7.2	<p>Determining the Case-by-Case AOI</p> <p>When there are sensitive land uses proposed near an existing landfill or dump, the AOI will need to be determined on a case-by-case basis. Most of the requirements outlined in Section 8.1 of this Appendix may not apply to new proposed landfills that are subject to the EA process.</p> <p>The resources described in Section 5 of this Appendix may help in a case-by-case determination of what the AOI for a particular open or closed landfill is, or if necessary, what the AOI for a proposed landfill will be. Information availability will vary on circumstances. For example, ECAs were never obtained for many historic landfills and dumps and proposed new landfills do not hold ECAs at the land use planning stage. Qualified individuals such as Licenced Professional Engineers should be hired to determine what the AOI is. Factors described in Sections 3 and 4 of this Appendix should be considered; other factors to be considered include but are not limited to:</p> <ul style="list-style-type: none">• age and status of the landfill (i.e. proposed, open, closed);• regional and local hydrogeology, topography and geomorphology;• presence of surface water features (e.g., river, lake, pond, wetland, etc.);• landfill capacity and annual rate of waste disposal; and,• types of waste. <p>For proposed landfills, the AOI will need to be estimated based on a facility that does not yet exist. The compatibility study elements identified in Section 2.6 of this Guideline should be considered, but in many cases the EA process will account for the creation of an AOI, even if such terminology is not used in the EA process.</p>	
7.3	<p>The 500 metre Minimum Separation Distance</p>	

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	<p>The ministry has determined that the MSD for landfills and dumps is 500 metres. When the AOI is developed on a case-by-case basis, it must never be smaller than the MSD.</p> <p>While 500 metres is the MSD, the separation distance required should be larger in certain situations. For example, there may be exceptional hydrogeological settings such as areas of fractured rock where leachate contaminated groundwater or gas could migrate beyond 500 metres.</p> <p>It should also be noted that developing a new sensitive land use within the MSD of a landfill or dump will require a <i>demonstration of need</i> as described in Section 2.8</p>	
7.4	Sensitive Land Uses Adjacent to Operating Landfills	
	Planning authorities should not allow sensitive land uses within the MSD. If it is unavoidable, planning authorities must not consider Planning Act applications for sensitive land uses on an adjoining property, and on land used for waste disposal purposes where there are completed or partially completed fill areas. It should be noted that it is not possible to file a Record of Site Condition under O. Reg. 153/04 if waste is present on the property.	
7.5	Examples of Sensitive Land uses for Operating Landfills	
	<p>The PPS provides a definition of sensitive land uses, which gives examples of sensitive land uses and is not comprehensive. For the purposes of landfills currently in operation, this definition of sensitive land uses may include but is not limited to any existing or committed land use which includes the following:</p> <ul style="list-style-type: none"> • a permanent structure used in animal husbandry; or • agricultural land used for pasturing livestock or growing crops; or • a permanent structure where a person is present on a full-time basis; but not including, generally, uses such as food or motor vehicle service facilities adjacent to a highway, utility operations, scrap yards, heavy industrial uses, gravel pits, quarries, mining or forestry activities (note: some of these examples would be considered major facilities). These uses tend to be outdoors; or • cemeteries. 	
7.6	Sequential Development	
	In considering long-range planning, the ministry recommends that proponents delay or phase certain types of land use to coincide with closure of sections of a landfill, or the operation itself, as adverse effects are reduced or eliminated. This approach shall only be permitted in cases where no risks to health or safety are present.	
8	Assessment	
	<p>The potential impacts described above in Sections 3, 4 and 6 of this Appendix should be addressed through compatibility studies when they are needed as described in Section 2.6 of this Guideline and other referenced technical documents.</p> <p>Hydrogeological assessment and engineering matters (e.g. noise) can be integrated in those studies or addressed in stand-alone reports.</p> <p>When considering the adverse effects that may be created at each landfilling site, it should be noted that the overall extent, number, degree and frequency of contaminant discharges and visual problems can vary with each landfilling site. Consideration must be given to the nature of proposed land use(s). Accordingly, compatibility studies for landfills can vary significantly from one landfill to another.</p> <p>Note that the AOI would need to be determined before these studies are done.</p>	
8.1	Hydrogeological/Engineering Studies	

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	<p>Once compatibility studies are triggered in the AOI of an open or closed landfill, where the hydrogeological and geological setting of the proponent's property and the inter- relationship with gas and/or leachate from the fill area are unknown, and/or if the proposed use is a new sensitive land use that is going to be reliant on groundwater for drinking water (if applicable), the proponent must ensure a qualified individual is retained to determine the subsurface conditions and leachate migration and, where necessary, propose remedial measures and controls (e.g. annual monitoring and sampling). Landfill gas assessment must be included.</p> <p>For proposed landfills, there is an EA process that covers these requirements; Ontario Regulation 101/07: Waste Management Projects under the EAA (O. Reg. 101/07) defines which waste projects are subject to the EAA process. Requirements for hydrogeological and surface water assessment under Ontario Regulation 232/98 – Landfilling Sites (O. Reg. 232/98) are also provided for new or expanding landfilling sites where the total waste disposal volume of the site is greater than 40,000 m3. Hydrogeological and surface water assessment is required as set out in this regulation and the associated guideline titled Landfill standards: A guideline on the regulatory and approval requirements for new or expanding landfilling sites. Requirements under Regulation 347 apply to proposed landfills that fall outside of these regulations. Identifying sites for new landfills (or other types of waste management facilities) will also need to consider whether there are policies in local source protection plans that may restrict or prohibit the development in an area identified as a vulnerable area for the purpose of protecting existing and future sources of drinking water.</p>	
8.2	Noise Assessment	
	When assessing noise impacts from a landfilling site as part of compatibility studies, reference should be made to the document titled Noise Guidelines for Landfill Sites (October 1998). This document also describes mitigation measures that may be considered specifically for landfills. To retrieve a copy of this document if one is needed, please contact the ministry's Environmental Permissions Branch. For contact information, see: http://www.infogo.gov.on.ca/infogo/home.html#orgProfile/183618/en .	
8.3	Controls and Monitoring for Adverse Effects	
	<p>Where appropriate based on the results of compatibility studies, planning authorities must require, as a condition of approval, that a proponent include mitigation measures to deal with potential adverse effects. This is consistent with Section 3.7 of this Guideline. Where mitigation measures are proposed, the planning authority should also require monitoring of mitigation measures and contaminant migration where necessary.</p> <p>Also, where the planning authority requires monitoring and inspections on private property, the planning authority should require that a contract be executed between the proponent and the planning authority, in the form of, or as part of, an agreement that may be registered on title.</p>	
Appendix F	Assessing Methane Hazards from Landfill Sites	
	The following is a replacement to the document D-4-1 Assessing Methane Hazards from Landfill Sites.	
	Introduction	
	This Appendix provides technical guidance to proponents and planning authorities on how to test for the presence and potential harm from methane in the subsurface originating from landfilled waste. The document does not address problems associated with gases other than methane or with asphyxiation when oxygen is displaced by gasses produced from buried waste. The requirements of this Appendix are intended to form a general basis for planning authority endorsement or advice.	
	General comments on technical assessments	

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<p>Methane will cause an explosion in an enclosed space, where it can be ignited, when accumulated to concentrations that range from the lower explosive limit (LEL) of 5% to the upper explosive limit (UEL) of 15% CH4 by volume of air. For this to occur, the landfill gas that enters the enclosed space must have:</p> <ul style="list-style-type: none">• a methane concentration between the LEL and UEL, and,• both a high enough entry rate, and a high enough accumulation time, such that the methane concentration will still be above the LEL and below the UEL, after dilution by ventilation of the enclosed space. <p>Based on these points, a complete assessment of hazard should include consideration of the volume of gas containing methane at a concentration nearing the LEL that is moving into the enclosed space per unit time, and ventilation of the enclosed space.</p> <p>However, assessing hazardous conditions using the flux method does not provide reliable results and the required degree of certainty. In practice, safe conditions can only be assured by maintaining the methane concentration below the LEL. This is discussed further in Appendix E.</p> <p>It is a relatively straightforward matter to install monitoring and alarm devices for methane in, beneath, and immediately adjacent to structures, and in any associated utility conduits and trenches. Furthermore, there is a high level of confidence that such devices will, if properly maintained, provide adequate warning. Therefore, these devices should be used where there is any doubt about whether or not methane could exceed 20% of the LEL at any time. Where gas control facilities are required to protect a structure, monitoring and alarm devices will be required, or recommended to ensure that the control facilities do maintain the methane concentrations below 20% of the LEL.</p> <p>Major changes in weather, such as thunderstorms, may cause sudden increases in the concentration of methane at a point of concern and may also cause power interruptions. Therefore, back-up power should be provided to ensure that methane detectors, and ventilation systems will continue to function as necessary.</p> <p>The assessment of landfill gas hazards is a specialized field and should be done by qualified individuals (e.g. a Professional Engineer). The assessment should include details on the equipment used as well as weather conditions on days when field work was conducted. However, proponents planning authorities should be aware of the following:</p> <ul style="list-style-type: none">• It is important to use the proper instrument for measuring methane concentration in the subsurface. Most of the liquid waste and hazardous waste equipment commonly used to detect methane concentrations less than the LEL incorporates catalytic sensors. Such devices do not function properly in an anaerobic atmosphere, as is often present in landfill monitoring wells, without a special attachment.• When methane concentrations greater than the LEL are expected, instruments using thermal conductivity sensors should be used. Such instruments are less sensitive than the catalytic type below the LEL.• The concentration of methane and the landfill gas gauge pressure that will be measured in a monitoring well in a landfill may be influenced by changes in barometric pressure. There may be a delay of several hours before the landfill gas pressure and escape rate equilibrate to a changed barometric pressure. This should be considered when assessing monitoring data. <p>Where studies are available that demonstrate that methane is not present in the landfilled waste at a concentration greater than 20% LEL, it can be assumed that methane from that landfill is not present on</p>	

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	<p>Adjacent Property at a higher concentration.</p> <p>Property near a landfill that might be threatened by landfill gas is called the Adjacent Property, even though other property may separate it from the landfill. Thus, it may not be necessary to assess all the property in the vicinity of a landfill to establish safe conditions for development.</p> <p>Various activities, such as the construction of utility conduits, ditches and trenches, creating new impervious surfaces such as parking lots, filling in existing perimeter ditches and ponds and groundwater pumping may provide new pathways for methane migration or change the rate at which methane is produced. The impact of such activities on methane production and migration should be considered in advance of these activities taking place.</p>	
	<p>Rationale for the requirements of the Guideline</p> <p>The minimum concentration of a particular combustible gas or vapor necessary to support its combustion in air is defined as the Lower Explosive Limit (LEL) for that gas. Below this level, the mixture is too “lean” to burn. For methane, 5% mixture in air is the LEL.</p> <p>The maximum concentration of a gas or vapor that will burn in air is defined as the Upper Explosive Limit (UEL). Above this level, the mixture is too “rich” to burn. For methane, 15% mixture in air is the UEL. The range between the LEL and UEL is known as the flammable range for that gas or vapor.</p> <p>To add a margin of safety, this Appendix considers concentrations greater than 20% of the LEL to warn conditions which could be potentially hazardous and gas control systems should be designed to maintain concentrations below this level. And, concentrations greater than 20% LEL may be associated with still higher concentrations, exceeding the LEL.</p> <p>However, if sufficient anaerobically decomposing organic material is present, the concentration of methane will be more than 10% LEL for many years and measuring methane concentrations within the landfilled waste may not prove to be a useful assessment method. Subsurface landfill gas monitoring at the landfill property line or within on-site or off-site structures (e.g., buried utilities, trenches, foundations, basements, etc.) is a more reliable method for assessment of the potential hazards.</p> <p>A number of factors may influence the migration and the concentration of methane in the subsurface, and several are dependent on both short term and seasonal weather conditions (e.g. barometric pressure trends, soil moisture and pH, temperature, frozen ground). Therefore, to safely assess the influence of seasonal variations and spatial and temporal distribution of methane, three hydrological cycles of monitoring and sampling with multiple samples across the weather seasons are normally required. The design of sampling and monitoring program should be site-specific and should be prepared and carried out by a qualified individual.</p> <p>The assessment of the concentration of methane in the subsurface on adjacent property (i.e., property located near a landfill) is more complex than is the assessment of its concentration within the waste and therefore longer periods of monitoring, including multiple samples across the weather seasons, are needed to assess the adjacent property. This is in part due to the fact that in the assessment of adjacent properties must consider the impact of weather conditions on both the production of methane and the migration of methane, as well as the complexity of the migration pathways must be considered.</p>	<p>Combustible gas trigger levels for landfilling sites are governed by Section 14.(2) of Ontario Regulation 232/98 (Landfilling Sites). There are two triggering levels respecting the subsurface migration of methane gas:</p> <p>a)The concentration of methane gas below the surface of the land at the boundary of the Site must be less than 2.5 per cent by volume; and,</p> <p>b) The concentration of methane gas from the Site must be less than 0.05 per cent by volume in any off-site building or enclosed structure, and in the area immediately outside the foundation or basement floor of the building or structure, if the building or structure is accessible to any person or contains electrical equipment or a potential source of ignition.</p> <p>Question – how does the 20%LEL “trigger” mentioned in the Land Use Compatibility Guideline relate to the trigger levels in O.Reg 232/98?</p>

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	Decommissioning and the installation of protective facilities	
	<p>The ministry would consider that landfill gas control, alarm and monitoring systems could be safely decommissioned under the following circumstances (Note Section 2.5 of this Appendix):</p> <ul style="list-style-type: none">• For developments that overlie buried waste—Where the initial concentration of methane was greater than 10% LEL, monitoring systems may be decommissioned if methane concentration remains less than 20% LEL for three years, with any active gas control facilities not functioning.• For developments that do not overlie buried waste—Where the initial concentration of methane was greater than 10% LEL, systems may be decommissioned if methane concentration remains less than 20% LEL for five years, with any active gas control facilities not functioning. Where the initial concentration of methane was less than 10% LEL, one year of monitoring, with any active gas control facilities not functioning, and showing methane concentration less than 10% LEL, would be needed. <p>Note however, that Appendix E of this Guideline requires compatibility studies, which must include landfill gas assessment, when sensitive land uses are proposed within the AOI of a landfill or dump (which is, in turn, determined on a case-by-case basis). Bear in mind also that a change in land use on the lands identified above may affect migration on adjacent lands.</p> <p>Passive gas control facilities, that is facilities that do not rely on air blower or gas suction equipment, cannot be “turned off” and require maintenance or periodic inspection for proper operation. Therefore, monitoring facilities cannot be decommissioned at sites that rely on passive gas control facilities for safety, unless it can be shown that maintenance and/or inspection is not necessary.</p> <p>There may be cases where a proponent wishes to proceed with development before all of the monitoring data that would be necessary to assess the site can be collected.</p> <p>Under such circumstances safe conditions can be achieved if protective facilities are installed that would warn of unsafe conditions and activate abatement. Initially, it should be assumed that worst case conditions are present, and the concentration of methane is greater than 20% LEL outside the structures that are to be protected. Facilities must then be designed and installed that will operate to prevent concentrations greater than 20% LEL from occurring outside these structures. When it can be shown that the concentration of methane is less than 20% LEL, the facilities may remain on standby. Monitoring, as outlined in this Guideline, would still be required and the responsibilities must be assumed by an appropriate authority.</p>	
	Alternatives to regulating by concentration	
	<p>The ministry uses the concentration of methane as the main criterion for providing protection. This approach has been criticized in that it could occasionally prohibit developments where no danger exists or require gas control facilities where none are needed. There are those who suggest that these restrictions could be avoided if a way could be found to provide protection by using the broader criterion known as flux or by using some other approach. This matter has been examined and it was concluded that there are serious drawbacks associated with each of the alternate approaches that have been proposed. These approaches and their drawbacks are as follows:</p> <p>Approach—Develop a means of measuring flux and allow exemptions where the flux is less than some safe upper limit. For example, where a building code requires minimum air exchange rates for ventilation in dwellings, allow a methane flux that would not create a hazard provided the requirements of the building code have been met.</p> <p>Drawback—Safe conditions cannot be related to the minimum number of air exchanges required for</p>	

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	<p>health and comfort in living areas. Even though the habitable space of a dwelling may have enough ventilation to dissipate a potentially hazardous flux of methane and provide safe conditions, there may still be enclosed spaces where explosive gas mixtures could develop. Examples are closets, cupboards, fuse boxes and basement cold rooms. Further, buildings are occasionally closed for a vacation or renovations. At such times, normal ventilation could be sufficiently reduced to allow dangerous concentrations of methane to develop in the interior. Therefore, the dividing line between non-hazardous and hazardous in terms of flux into living areas is not known.</p> <p>As for monitoring methane flux in the underground, no instrument capable of doing this has yet been developed to a satisfactory stage. Even if it were possible to measure the magnitude of a flux of methane in the underground, it would still be uncertain how much of a hazard that particular flux constituted under various circumstances in various locations.</p> <p>Approach–Seal the outsides of structures to prevent methane entry.</p> <p>Drawback–Even if all methane entry points into a building could be sealed, additional openings might develop later. For example, cracks may develop in the basement wall, or openings may be made for such things as utility conduits.</p> <p>Approach–Allow exemptions for sources of methane that, because of their size or the rate at which they produce methane, will not produce sufficient methane to be hazardous.</p> <p>Drawback–The various types of landfill sites cannot be distinguished by the amount of organic material or methane they contain, with possible exceptions being ash disposal sites and hazardous waste disposal sites. No method is available to determine the minimum amount of buried organic material that could pose a hazard in a landfill site. Even small amounts of buried organic material, such as soil or putrescible wastes, can produce methane at concentrations above the LEL. Such concentrations can occur in otherwise relatively clean soil fill. Therefore, the Ministry is unable to suggest a way to provide exemptions from safety restrictions on the basis of a minimal content of organic material.</p> <p>Approach–Allow exemptions where the soil type would prevent the movement of sufficient methane to be hazardous.</p> <p>Drawback–Hazardous amounts of methane will probably not move through saturated soils and unfractured clayey soils. However, near-surface clayey soils are commonly fractured. All soils are subject to possible de-watering by construction. For example, where a high-water table previously blocked methane migration, the construction of a new utility trench could lower the water table, and allow methane migration.</p> <p>For these reasons, the ministry does not believe that any of these proposed approaches provides reliable protection against explosion hazards from landfill gas. Therefore, the ministry must continue to regulate methane hazards on the basis of concentration even though in some cases this approach may be too restrictive. Where an applicant believes that restrictions based on concentration can be safely relaxed, supportive evidence on a case by case basis will be considered by the ministry. Where there are uncertainties, the ministry will allow them to be resolved through monitoring before development proceeds.</p>	
Appendix G	Glossary	

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	<p>Adverse effect(s): means one or more of:</p> <ul style="list-style-type: none">a) impairment of the quality of the natural environment for any use that can be made of it;b) injury or damage to property or plant or animal life;c) harm or material discomfort to any person;d) an adverse effect on the health of any person;e) impairment of the safety of any person;f) rendering any property or plant or animal life unfit for human use;g) loss of enjoyment of normal use of property; andh) interference with normal conduct of business (EPA) <p>Amenity Area: an outdoor space or facility that is used for the enjoyment of persons residing in or utilizing any building(s) on the property/premises.</p> <p>Area of Influence: an area surrounding the property boundary of an existing or planned major facility where adverse effects on surrounding sensitive land uses have a moderate likelihood of occurring. An alternate AOI may be determined by the planning authority based on a technical and scientific process similar to a compatibility study.</p> <p>Buffer: A method of control used to prevent or minimize the adverse effects of incompatible land uses and may be in the form of:</p> <ul style="list-style-type: none">1. a land area or intervening space sufficient to provide the necessary distance separation; or2. a natural or human-made feature such as a berm, wall, barrier, planting, topography, trench, fence or other structure or technical control (e.g. solid brick walls, triple-glazed windows to lessen the effect of noise); or3. a land use different from the 2 conflicting ones but compatible with each; or4. any combination of the above, interposed between conflicting land uses. <p>Compatibility Study(ies): a study that assesses potential adverse effects and recommends separation distances and mitigation measures, if needed, to limit impacts to surrounding land uses.</p> <p>Contaminant: means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them resulting directly or indirectly from human activities that causes or may cause an adverse effect (EPA).</p>	

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<p>Demonstration of Need: a study that determines whether there is an identified need for the proposed use in the proposed location, and if alternative locations for the use have been evaluated and there are no reasonable alternative locations.</p> <p>Discharge: when used as a verb, includes add, deposit, leak or emit and, when used as a noun, includes addition, deposit, emission or leak (EPA).</p> <p>Employment Area: areas designated in an official plan for clusters of business and economic activities including, but not limited to industrial uses, manufacturing, warehousing, offices, and associated retail and ancillary facilities (PPS).</p> <p>Environmental Assessment: a study which assesses the potential environmental effects (positive or negative) of an individual proposal. Key components of an EA include consultation with government agencies and the public; consideration and evaluation of alternatives; and, the management of potential environmental effects. Conducting an EA promotes good environmental planning before decisions are made about proceeding with a proposal.</p> <p>Environmental Compliance Approval: an approval issued under Part II.1 of the EPA.</p> <p>Fill Area: the area of a waste disposal site set aside for landfilling or dumping.</p> <p>Fugitive Dust: dust or suspended particulate matter that is generated due to mechanical disturbance of granular material (e.g. dirt, soil). Fugitive dust sources may be separated into two broad categories: process sources (e.g. rock crushing) and open dust sources (e.g. material handling/storage).</p> <p>Infilling: development on vacant lots or underdeveloped lots within a built-up area.</p> <p>Intensification: means the development of a property, site or area at a higher density than currently exists through:</p> <ul style="list-style-type: none">a) redevelopment, including the reuse of brownfield sites;b) the development of vacant and/or underutilized lots within previously developed areas;c) infill development; andd) the expansion or conversion of existing buildings (PPS). <p>Land Used for Waste Disposal Purposes: the land comprising the fill area, where landfilling or dumping has occurred, and the land which is being used or is to be used for the leachate buffer area and/or the gas buffer area; the land may be on- or off-site.</p> <p>Landfilling: the disposal of waste by deposit, under controlled conditions on land or on land covered by water and includes compaction of the waste into a cell and covering the waste with cover materials at regular intervals (Regulation 347).</p> <p>Major Facilities(y): facilities which may require separation from sensitive land uses, including but not limited to airports, manufacturing uses, transportation infrastructure and corridors, rail facilities, marine facilities, sewage treatment facilities, waste management systems, oil and gas pipelines, industries, energy generation facilities and transmission systems, and resource extraction activities (PPS).</p> <p>Major Transit Station Area: the area including and around any existing or planned higher order transit station or stop within a settlement area; or the area including and around a major bus depot in an urban core. Major transit station areas generally are defined as the area within an approximate 500 to 800 metre radius of a transit station, representing about a 10-minute walk (A Place to Grow).</p>	

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	<p>Minimum Distance Separation: means formulae and guidelines developed by the Province, as amended from time to time, to separate uses so as to reduce incompatibility concerns about odour from livestock facilities (PPS).</p> <p>Minimum Separation Distance: a recommended minimum distance within which adverse effects are highly likely to occur and incompatible development should not normally take place.</p> <p>Municipal Comprehensive Review: means new official plan, or an official plan amendment, initiated by an upper- or single-tier municipality under section 26 of the Planning Act that comprehensively applies the policies and schedules of A Place to Grow.</p> <p>Planning Authorities: means the various agencies that make decisions on land use planning. This includes the entity or body with planning approval authority under the Planning Act (e.g. The Minister of Municipal Affairs and Housing, the council of a municipality, a local board, and a planning board). Note that decisions of the Local Planning Appeal Tribunal when determining appeals of decisions made by a planning authority under the Planning Act must also be consistent with that Act and the PPS.</p> <p>Point of Reception: means any location on a noise sensitive land use where noise from a stationary source is received. Noise sensitive land uses may have one or more points of reception (NPC-300).</p> <p>Proponent: means any person who makes an application under the Planning Act. For the purpose of this Guideline, this includes developers of sensitive land uses and developers of major facilities. Proponent can also mean a person who makes an application for approvals under other legislation, such as the Environmental Assessment Act.</p> <p>Sensitive Land Uses: buildings, amenity areas or outdoor spaces where routine or normal activities occurring at reasonably expected times would experience one or more adverse effects from contaminant discharges generated by a nearby major facility. Sensitive land uses may be a part of the natural or built environment. Examples may include, but are not limited to: residences, day care centres, and educational and health facilities (PPS).</p> <p>Separation Distance: the distance between a sensitive land use and a major facility. This distance is usually measured from property line to property line, except as described in Section 2.4.</p> <p>Settlement Area: means urban areas and rural settlement areas within municipalities (such as cities, towns, villages and hamlets) that are:</p> <ul style="list-style-type: none">a) built-up areas where development is concentrated and which have a mix of land uses; andb) lands which have been designated in an official plan for development over the long-term planning horizon (A Place to Grow). <p>Vectors and Vermin: disease-carrying organisms, insects, rodents, birds (especially gulls) and other harmful creatures (e.g., bears).</p> <p>Warning Clause: Means a notification of or obligation to notify a potential purchaser or tenant of a potential annoyance due to an existing source of environmental noise. When circumstances warrant, agreements that are registered on title to the lands in question should incorporate provisions for using warning clauses. Warning clauses would be included in agreements of Offers of Purchase and Sale,</p>	

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	<p>lease/rental agreements and condominium declarations (NPC-300, with modifications).</p> <p>Waste Disposal Site: means,</p> <p> a) any land upon, into, in or through which, or building or structure in which, waste is deposited, disposed of, handled, stored, transferred, treated or processed, and</p> <p> b) any operation carried out or machinery or equipment used in connection with the depositing, disposal, handling, storage, transfer, treatment or processing referred to in clause (a) (EPA).</p> <p>Waste Management Systems: means sites and facilities to accommodate solid waste from one or more municipalities and includes recycling facilities, transfer stations, processing sites and disposal sites (PPS).</p>	
Appendix H	List of Abbreviations	

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APPENDIX H – LIST OF ABBREVIATIONS

Abbreviation	Definition
AAR	Acoustic Assessment Report
Air Emissions <u>EASR</u>	Ontario Regulation 1/17: Registrations Under Part II.2 of the Act – Activities Requiring Assessment of Air Emissions
<u>AQI</u>	<i>Area of Influence</i>
<u>BMPP</u>	Best Management Practices Plan
<u>CPPS</u>	Community Planning Permit System
<u>EAA</u>	Environmental Assessment Act
<u>EA</u>	Environmental Assessment
<u>EASR</u>	Environmental Activity and Sector Registry
<u>ECA</u>	Environmental Compliance Approval
EPA	Environmental Protection Act
A Place to Grow	A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020
Guideline(s) MDS	Land Use Compatibility Guideline Minimum Distance Separation (Ontario Ministry of Agriculture, Food and Rural Affairs')
<u>MMAH</u>	Ministry of Municipal Affairs and Housing
MSD	Minimum Separation Distance
<u>MTSA</u>	Major Transit Station Area
<u>NAICS</u>	North American Industrial Classification Standards
<u>NEE/NEP</u>	Noise Exposure Forecast/Noise Exposure Projection
<u>NEPPB</u>	Normal Farm Practices Protection Board
<u>OMAFRA</u>	Ontario Ministry of Agriculture, Food and Rural Affairs
OP	Official Plan
<u>OPA</u>	Official Plan Amendment
<u>OWRA</u>	Ontario Water Resources Act
<u>PNSM</u>	Primary Noise Screening Method
PPS	Provincial Policy Statement, 2020
The Ministry	Ministry of the Environment, Conservation and Parks

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Appendix I	Case Studies	
	Case Study 1: Importance of early and ongoing collaboration	
	<p>A municipality received a planning application to develop lands for mixed commercial and residential use adjacent to an existing manufacturing plant. The development consists of multi-level residential buildings with commercial uses on the lower floors. To permit the redevelopment in the area surrounding the plant, the municipality amended the OP and zoning by-law which include lands within 300 metres of the plant. The new development would fall within the AOI of the manufacturing plant.</p> <p>The plant has operated since the early 1960s and operates 24 hour per day, 7 days per week. Its operations produce noise, fugitive dust, and odour emissions. The plant has an ECA and has been inspected several times over the years with no compliance issues identified during the inspections. The plant does not have a history of noise or odour complaints.</p> <p>The plant owners raised concerns about the redevelopment in the area, and in particular, how its operations may result in noise and odour impacts at the new residential buildings.</p> <p>To help prepare for the eventual redevelopment in the area, the ministry worked collaboratively with all parties (i.e., municipality, plant owner and developer) to ensure that the area is developed in a manner that allows the plant to continue its operations.</p> <p>The plant owners conducted source testing to quantify the impacts of odour emissions from the plant. The results were used to assess and manage odours from the plant and the impact on the proposed residential development. A compatibility study addressing odour was jointly prepared by the plant owners and the developer.</p> <p>The plant owners and developers entered into a range of agreements to introduce noise and odour mitigation measures at the plant (at-source) and noise mitigation measures at the residential buildings (at receptor). The legally binding agreements ensured that the noise levels agreed to by all parties would be met and that noise control measures would be maintained for the long-term. The developers paid for a range of mitigation measures, and these were identified in agreements. Mitigation measures included:</p> <ul style="list-style-type: none">• At-source: modification or replacement of noise-generation equipment at the plant, additional odour controls to reduce odour emissions at the facility.• At-receptor: buildings designed and built with no openings or residential units that face the plant to minimize or eliminate the noise impacts <p>Over the years, a number of other residential and commercial developments have been built within the AOI and even the MSD of the site. The plant has maintained its practice of early and effective engagement with sensitive land uses and the municipality, and use of agreements, including three-party</p>	<p>Case Study 1 - uses an example that could be relatively common in Niagara. It also seems to be reliant on having participation from the Major Facility ownership. If this is not something that the Ministry can enforce, I'm not sure how interested a manufacturer is in coming to the table as a good future neighbour when the municipality made land use changes that bring sensitive uses into the MSD in particular. While it appears as though the developer would be on the hook for at-source improvements, the need for legally binding agreements seems to be a discouraging encumbrance on the Major Facility. It also seems as though more effort and expense would be required of the municipality for legal and other resources required to ensure everything is set in place. I would imagine the agreement would be require to register on title for the Major Facility (and the sensitive land use?). This facility specific approach would seem to include surrendering any potential future expansion on the site of the Major facility, which has implications to the facility owner and potentially encumber future potential. Furthermore, should the facility close or sell to a different industrial operator, the agreement would be part of due diligence and may limit potential buyer/occupant for purchase. How would an encumbrance of this nature be dealt with? If the operator of the major facility is within an Employment Area, it would seem to represent a concern given the intent of the Employment Areas is to allow operations without fear of sensitive land use encroachment. This case study does not represent protections, but rather introduces accountability on the MF through legal agreement. If I was a business owner, I would not be interested in voluntarily entering into a process such as this.</p> <p>The inclusion of the case studies is useful. This section could benefit from the use of illustrations or diagrams to provide more context (I.e. the illustrations included in the case studies for the OMAFRA Permitted Uses in Prime Agricultural Area Guidelines).</p>

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	<p>agreements that include the municipality as a signatory. The municipality's critical role in seeking land use compatibility at the site over the years has included but not been limited to: OPAs, secondary plan development, negotiating acceptable mitigation measures, amending the zoning by-law and being a signatory to some of the key agreements.</p> <p>Note: At receptor noise control measures are only acceptable in ministry permissions if the new development is designated by the municipality as a Class 4 Area (NPC-300).</p>	
	<p>Case Study 2: Importance of community relations</p> <p>A rendering plant has been operating for decades in a former industrial area and it is now surrounded by residential land uses. The closest residential unit is 80 meters from the plant; therefore, within the MSD of the plant. The plant operates 24 hours per day, 7 days per week and previously the ministry received hundreds of complaints about odours from the plant per year. The plant operated under an ECA and is in compliance with all zoning and municipal by-laws. The local public health department determined that the plant's emissions are not toxic and do not pose a health risk to the community.</p> <p>Over the years the company has made significant investments trying to mitigate the odours. The ministry monitors the odour issues and regularly visits the plant in response to complaints from local residents. The ministry asked the company to submit an odour abatement plan for approval. The company's plan included mitigation measures such as:</p> <ul style="list-style-type: none">• Increasing the height of the stacks on the roof to disperse the emissions;• Maintaining equipment;• Completing a ventilation assessment; and• Changing the method it uses to dispose of wastewater. <p>The company also installed new odour reduction technology.</p> <p>Throughout the odour reduction process, which took two years to complete, the company has maintained good community relations by attending public meetings held pursuant to various processes, such as Planning Act approvals for the surrounding residential developments when they were proposed. The company also communicated regularly with local politicians, area residents and ministry staff. Even today, the company frequently informs all parties on its progress to install and fine tune the new odour reduction technology, including reporting on any anticipated delays or issues. As such, they still communicate regularly, and mitigation measures are expected to be maintained over time. By maintaining good community relations, area residents responded well and provided the company with</p>	<p>Case Study 2 – This case study is unclear about the nature of the existing sensitive uses being established in the first place. Is this a scenario that would be more in line with longstanding incompatibility that was perhaps not subject to D-Series? Again, the premise includes MF cooperation when it is deemed to be in compliance. This is entirely a good neighbours reliance. Does the Ministry involve themselves at this level presently? Seems to describe their involvement in these Case Studies with more prominence in a facilitator role vs a regulatory / enforcement capacity, which I would think is more what they have acted in to date. The costs of some of the improvements would seem substantive for someone already compliant. Perhaps I am just out of touch with the level of involvement they presently perform. This would lean towards NPC-300 Class 4 status?</p>

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	<p>the opportunity to explain their operations and actions taken to reduce odours and address complaints (which have dropped considerably over time). Although considerable expenses were incurred, these would have been greater if the company had not made efforts in maintaining good community relations. The company's community relations program helped de-escalate the situation and allowed the company time to address the complaints. Conflicts between sensitive land uses and major facilities can often be avoided through open communication and with the use of best management practices.</p>	
	Case Study 3: Addressing Compatibility Near a Quarry	

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	<p>A development site is located near a 400-series highway on the periphery of a large municipality and is approximately 75 hectares in size, made up of three distinct parcels. The developer is proposing approximately 18 net hectares to be used for light (low- profile) industrial and employment generating uses and approximately 10 net hectares for retail uses. There is an active bedrock quarry adjacent to the site.</p> <p>The surrounding land uses include agricultural land abutting site to the north, an active bedrock quarry abutting the western boundary, a residential subdivision under development located to the east (adjacent to site, but across a municipal road) and a major retail center to the south east. The site is currently zoned Development Reserve (DR), is intended as a future location for appropriate zoning to implement the OP designation of Employment and Enterprise Area. The municipality recognizes the lands for future urban development.</p> <p>Applications for an OPA and zoning by-law amendment were received to facilitate the development of a business park. The applicant was looking to rezone from Development Reserve to a Business Park Industrial Zone (IP). The IP zone would have the effect of accommodating a range of office, light industrial and employment generating uses.</p> <p>An Aggregate Impact Assessment which took into account vibration from quarry blasting was completed as part of the application process (and at the request of the quarry operator) and recommended the prohibition of all sensitive land uses within 513 meters of the adjacent mineral aggregate resource ensuring only compatible non-sensitive land uses are located within 513 meters of the aggregate site. It took into account vibration from quarry blasting.</p> <p>The OP contains policies regarding aggregate resources, ensuring that they are close to markets, protected from incompatible land uses and that they have minimal negative impacts on communities. The applicant submitted an Aggregate Impact Assessment, which sought to identify suitable land uses within 500 meters of the existing quarry and exclude sensitive land uses that would otherwise be impacted by vibration from the quarry blasting.</p> <p>Findings of the assessment were that the sensitive land uses typically found within a zoning of IP would be prohibited by a provision until such time that a detailed vibration study could demonstrate that there will be no negative impacts from quarry. The standard uses that would be prohibited by this provision include uses such as day cares, hotels, places of assembly, etc.</p> <p>The detailed zoning by-law also requires that all sensitive land uses be prohibited within 513 meters of the existing bedrock quarry (including a 30-meter blasting setback, which was confirmed with the quarry operator's license), ensuring only compatible non- sensitive land uses are located in proximity to the aggregate operation.</p> <p>A private agreement was established between the applicant and quarry operator as part of the Planning Act approval and Aggregate Impact Assessment process. The agreement included holding provisions (i.e. a vibration study would need to be completed to allow any additional land uses in the future), limited land uses on adjacent land, and covenants on title to ensure that no future re-zoning applications in future years would negatively impact the quarry.</p>	<p>Case Study 3 – The impression from the description would be to establish the 10 hectares of retail immediately along the municipal road, but if there is already a major retail centre in the southeast, is there an actual need for more retail? Regardless, the transition of the uses would be most appropriate having retail closest to the residential and IP behind that and remaining area towards the quarry staying in holding. Also, not certain if use of agreements is currently a common practice. All three Case Studies so far have them in the mix as part of a solution, so what “requires” participation of any party? Quarry extraction does not talk about direction. Is it approaching of moving away? There seems to be much reliance on the vibration study. What limitations might be part of the consideration from other act or regulation such as that of the ARA and consideration of fly-rock?</p>

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	Case Study 4: Importance of Using AOIs	
	<p>A manufacturing plant opened in a small rural community in the early 1950s. The once isolated plant became surrounded by sensitive land uses including a housing development and daycare. The new neighbors complained to the ministry that they were being negatively impacted in their homes by the fumes and noise coming from the manufacturing plant.</p> <p>The ministry ordered the owner of the plant to assess noise, dust and odour emissions, develop an abatement plan and implement an enhanced complaint response procedure.</p> <p>The plant completed the studies, hosted a public meeting to report on its progress and established a public liaison committee.</p> <p>To address some of the neighbours' concerns, the plant also reduced its hours of operation, reformulated some of its raw materials and relocated some of its operations to another plant in the United States – resulting in a loss of jobs.</p> <p>The plant subsequently failed an inspection by the ministry as some regulations are based on the proximity of sensitive receptors (e.g. the new homes). As a result, the plant was charged with an offence under the EPA. The company investigated alternate production methods and at-source mitigation technology that would meet the environmental standards. The company decided that neither solution was economically feasible and moved all operations to the United States resulting in the loss of several hundred jobs.</p> <p>The municipality's decision to allow residential housing around the manufacturing plant did not serve the best interest of the community. Municipalities have to carefully consider how their land use planning decisions will impact their community, both now and in the future. Use of the AOI would have helped in this scenario; compatibility studies, had they been done early enough, would have shown the risks and potential impacts of approving this housing development.</p>	
	Case Study 5: Impacts from a Former Landfill	
	<p>This case study focuses on a landfill that was in operation between the 1950s and 1960s where due to lack of records the extent of its fill area was unknown. In the following years, the area experienced fast development, with various manufacturing operations and sensitive land uses such as residential developments being established adjacent and in close proximity to the closed landfill. These developments resulted in unsafe housing conditions and evacuation of some of the nearby houses, as well as leachate impacts to the groundwater which resulted in significant impacts to the municipality's water supply resulting in decades of costly remediation.</p> <p>To prevent these outcomes, approaches as described in Appendix D of this Guideline can assist the planning authority. Municipalities should consider factors discussed in Appendix D prior to approving a development near a closed or operating landfill. To prevent adverse effects and potential for explosion hazards from landfill gas migration, municipalities should require proponents proposing to locate near existing landfills to complete compatibility studies and consider factors such as landfill gases, primarily methane, as well as groundwater and surface water contamination by landfill leachate.</p>	

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Appendix K	Information on Sectors not Included in this Guideline	
	<p>This Guideline does not provide specific land use compatibility direction with regards to locating some major facilities, or their approvals, including: airports, transportation infrastructure and corridors (e.g., transit stations), rail facilities, marine facilities, oil and gas pipelines, energy generation facilities and transmission systems and some resource extraction activities. This Guideline, however, applies to encroachment of sensitive land uses on some of these facilities. This Guideline also does not address specific land uses which may not be major facilities, as defined by the PPS, but which may also have compatibility requirements, such as agricultural uses. Additionally, this Guideline does not apply to activities associated with major facilities that do not require land use approval under the Planning Act, such as temporary aggregate, asphalt or concrete facilities associated with the construction or rehabilitation of transportation facilities. However, these activities may require other approvals (e.g., ECA) to address potential adverse effects to nearby sensitive land uses. This section provides background information and resources related to these sectors, which may be helpful in considering land use compatibility for these uses. The information provided here is not inclusive of all resources and legislation that may exist for these sectors.</p>	
	Airports and Aerodromes	
	<p>Transport Canada uses Noise Exposure Forecast/Noise Exposure Projection contours to provide the actual and forecasted aircraft noise in the vicinity of airports and aerodromes. Where noise forecasting or projections have been developed, the contours for land use planning in the area should be used. Contact the airport authority or aerodrome operator for copies of the noise forecasts or projections.</p> <p>The best practice is for planning authorities to use noise contours to develop “airport operating areas” which are identified in OPs together with appropriate policies. This is a transparent way to share this information and to use more easily identifiable landmarks (e.g. roads, railways, valleys) to identify the noise contours themselves. Given the importance, rarity and economic significance of airports the need to ensure the potential for their future expansion, and the need to allow for 24-hour operation, a best practice is to consider protection to lower noise contour levels. For example, rather than the maximum 30 Noise Exposure Forecast/Noise Exposure Projection (NEF/NEP) used by Transport Canada, some planning authorities are restricting sensitive land uses down to 28 NEF/NEP. For more information on the NEF/NEP contours, please see Transport Canada’s website.</p> <p>For airports and aerodromes that do not have NEF/NEP contours, please refer to Transport Canada’s Aviation: Land Use in the Vicinity of Aerodromes (Reference Number TP1247E).</p>	
	Transportation Infrastructure and Corridors, Rail and Marine Facilities	
	<p>The construction of many major transportation infrastructure and corridors, including highways, transit corridors and arterial roads, has requirements under Ontario’s EA process. There are four different EA processes that may apply:</p> <ol style="list-style-type: none">1) Municipal Engineers Association Municipal Class EA – Provides a process for municipalities to assess the impacts of roads.2) Class EA for Provincial Transportation Facilities – Provides a process for the Ministry of Transportation to assess the impacts of provincial transportation facilities including highways.3) Guide to EA Requirements for Transit Projects – A document which outlines the process specified in Ontario Regulation 231/08: Transit Projects and Metrolinx Undertakings for the assessment of the impacts of transit projects.4) Individual EA – Project-specific process to assess the impacts of road or highway projects larger than those permitted to proceed under the Municipal Engineers Association Municipal Class EA or Ministry of Transportation Class EA.	

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	<p>EA documents can be reviewed for the potential adverse effects of transportation infrastructure and corridors when considering sensitive land use development in surrounding areas. The EAs may not have been completed recently, and therefore should not be fully relied upon in the preparation of detailed compatibility studies. The date of the studies should be considered and to see if new information is available that may impact the projections made at the EA stage, such as changes to traffic volumes, landscaping, lines-of-site, etc.</p> <p>When locating sensitive land uses near existing highways, roads and railways, the Ministry's Environmental Noise Guideline: Stationary and Transportation Sources – Approval and Planning NPC-300 and other applicable guidelines can assist in determining what the noise impacts of these transportation corridors are.</p> <p>In addition, anyone planning to construct on or adjacent to a provincial highway may require a permit from the Ministry of Transportation. The Ministry of Transportation issues permits under the Public Transportation and Highway Improvement Act for entrances, buildings, signs, and encroachment either onto or adjacent to provincial highways to manage access and preserve the function of provincial transportation corridors.</p> <p>The Ministry of Transportation's Highway Corridor Management Manual contains policies, guidelines, best practices and specifications for managing building and land use, encroachments, access and signs within the Ministry's controlled area under the Public Transportation and Highway Improvement Act and applications for permits are submitted through the Highway Corridor Management System.</p> <p>The Ministry of Transportation's Freight-Supportive Guidelines can be consulted for advice on planning for transportation facilities and corridors in a way that supports safe and efficient movement of freight while integrating and balancing the compatibility of surrounding land uses and needs of other transportation system users.</p> <p>When considering new development near railways, the Federation of Canadian Municipalities and the Railway Association of Canada's Guideline for New Development in Proximity to Railway Operations should be consulted. This Guideline provides information on common issues, mitigation, barriers and review processes for new development and infilling near railways.</p> <p>When considering new development near marine facilities, the Canada Marine Act and Canadian Environmental Protection Act should be consulted.</p>	
	Oil and Gas Pipelines	
	<p>Proponents can consult the guide "Land use planning for pipelines: A guideline for local authorities, developers, and pipeline operators" for guidance on land use compatibility for oil and gas pipelines.</p> <p>The ministry's Guideline D-3 Environmental Considerations for Gas or Oil Pipelines and Facilities also outlines the environmental considerations that the Ministry advises the Ontario Energy Board and/or the National Energy Board to take into account when they give approval to gas or oil pipelines and facilities under their jurisdiction.</p>	
	Energy Generation Facilities and Transmission systems	

Land Use Compatibility Guideline		Niagara Region Review Comments
	<p>The following legislation governs the planning of energy generation facilities and transmission facilities:</p> <ul style="list-style-type: none">• Ministry of Environment, Conservation and Parks: Green Energy Act• O. Reg. 359/09 under the Electricity Act• Ontario Energy Board Act (Board approves construction of new transmission/distribution facilities) <p>ECAs under the EPA govern noise, odour and contaminant emissions from these facilities/systems.</p> <p>The Canadian Nuclear Safety Commission regulates all stages of the life of each nuclear power plant in Canada, from the EA required before plant construction, to the decommissioning of the facility once operations are ended.</p>	
	Resource Extraction related to Petroleum and Salt Production	
	<p>Oil, natural gas, and salt are produced in southwestern Ontario using wells licenced by the Ministry of Natural Resources and Forestry under the Oil, Gas and Salt Resources Act.</p> <p>Records for oil, natural gas, or salt mining wells licences are housed at the Oil, Gas and Salt Resources Library in London, Ontario and are also available online at www.ogsrlibrary.com. Basic well information, including location, is available free of charge.</p> <p>In addition to licenced wells, there are many wells predating licencing requirements that have long since ceased to be used and have no identifiable operator. Their location is often unknown as no records were required at the time. Orphan wells such as these that are encountered during development can present a hazard to human or environmental health or safety and may need to be plugged.</p> <p>For more information, and to obtain a licence to plug an orphan well, please contact the Ministry of Natural Resources and Forestry's Petroleum Operations Section by calling 519-873-4634 or emailing POSRecords@ontario.ca.</p>	
	Resource Extraction related to Mining	
	<p>The Ministry of Energy, Northern Development and Mines has issued two guidance papers on municipal planning near mines. The first, Provincial Policy Statement 2.4 Mineral Resources and Municipal Planning provides guidance on the protection and access to mineral resources.</p> <p>The second guidance paper, Provincial Policy Statement 3.2 Mining-Related Hazards and Municipal Planning provides guidance on municipal planning near former or current mining operations due to related hazards such as open shafts, deep pits or unstable ground.</p> <p>To obtain copies of these documents please contact the local Ministry of Energy, Northern Development and Mines office.</p>	
	Agricultural Uses	

Land Use Compatibility Guideline		Niagara Region Review Comments
	<p>Agricultural uses are not considered major facilities in the PPS and as such are not specifically referenced under this Guideline. Instead, compatibility for this broad suite of land uses is addressed through various other tools that are developed and implemented by different levels of government depending on the topic. Other policies of the PPS also speak to agricultural uses and compatibility.</p> <p>Prime agricultural areas are intended to be the places in Ontario where all types of agricultural uses can prosper. To support this, the PPS recognizes a wide variety of agricultural uses and associated normal farm practices should be promoted and protected in accordance with provincial standards. Provincial land use policies permit agricultural uses in prime agricultural areas and rural lands. Municipalities may also choose to permit agricultural uses in additional land use planning designations and zones.</p> <p>Certain ancillary activities also form part of the agricultural use if they are considered “value-retaining”, such as drying, cleaning and sorting.</p> <p>In the context of considering compatibility for agricultural uses, a number of guidelines and best practices inform provincial standards, including: Minimum Distance Separation (MDS) Document: Formulae and Guideline for Livestock Facility and Anaerobic Digester Odour Setbacks, 2016</p> <p>In prime agricultural areas and rural lands, the policies of the PPS direct that new land uses, including new or expanding livestock facilities, shall comply with the MDS formulae.</p> <p>MDS is a land use planning tool implemented by municipalities to calculate reciprocal setback distances between livestock facilities, anaerobic digesters and other surrounding land uses. The tool is intended to address odour compatibility for livestock facilities and anaerobic digesters. It does not apply to other agricultural uses, such as mushroom or cannabis operations. Nor was it designed or intended to address other potential disturbances from livestock facilities and anaerobic digesters such as noise, dust, or flies, etc. For more information on MDS, please refer to the Minimum Distance Separation (MDS) Document, 2017.</p>	<p>Does an agricultural use include agriculture-related and on-farm diversified uses that might be considered industrial in nature? How are these Guidelines applied to those uses, if at all?</p>
	Nutrient Management Act, 2002	
	<p>While “Industrial Anaerobic Digestion Facilities” are identified in this Guideline, some anaerobic digestion facilities are located on farms and are considered agricultural uses, not major facilities. Some of the considerations for the agricultural nature of an anaerobic digestion facility may include that some of the feedstocks are agricultural source materials; or that the facility is located on an agricultural operation and is integrated into the activities of the agricultural operation.</p> <p>Some anaerobic digesters, as well as certain greenhouses and livestock facilities, are subject regulations under the Nutrient Management Act, 2002. For more information on nutrient management, please refer to this website on the topic by OMAFRA</p>	

Land Use Compatibility Guideline		Niagara Region Review Comments
	Farming and Food Production Protection Act, 1998	
	<p>The Farming and Food Production Protection Act (FFPPA) establishes a process to ensure that agricultural operations can appropriately engage in normal farm practices. More specifically, the Act enables the Normal Farm Practices Protection Board (NFPPB) to hear matters related to:</p> <ol style="list-style-type: none">1) Practices carried out by an agricultural operation which may result in noise, dust and odour, light, vibration, smoke or flies; and,2) Municipal by-laws that potentially restrict an agricultural operation from carrying out normal farm practices. <p>The NFPPB is responsible for determining whether an activity in a particular location constitutes a normal farm practice, or whether a municipal by-law restricts a normal farm practice.</p> <p>Decisions issued by the NFPPB must be consistent with any directives, guidelines or policy statements issued by the Minister of Agriculture, Food and Rural Affairs in relation to agricultural operations or normal farm practices.</p> <p>The act defines a normal farm practice as one that:</p> <ol style="list-style-type: none">1) “is conducted in a manner consistent with proper and acceptable customs and standards, as established and followed by similar agricultural operations under similar circumstances, or2) makes use of innovative technology in a manner consistent with proper advanced farm management practices.” <p>Consequently, there is no definitive list of normal farm practices. Relevant information on best management practices related to a specific farm practice may be considered, such as:</p> <ul style="list-style-type: none">• Understanding and Reducing Noise Nuisance From Stationary Farm Equipment• Using Propane-Fired Cannons to Keep Birds Away From Vineyards• Wind Machines for Minimizing Cold Injury to Horticultural Crops <p>Some agricultural uses may involve activities that are normal farm practices but may not be fully understood or accepted by neighbours or visitors (e.g., the use of propane bird bangers and wind machines for growing tender fruit and grapes, or the spreading of manure as part of raising livestock and maintaining soil nutrients). As a first step, when a complaint is received, OMAFRA staff will offer mediation services in an attempt to address the issue. If a resolution is not successful, then the matter may proceed to the NFPPB for a hearing. Where the NFPPB determines an agricultural operation is following normal farm practices, the Farming and Food Production Protection Act permits an agricultural operation to continue the activity despite potential disturbances. The Farming and Food Production Protection Act does not provide agricultural operations the authority to violate other applicable legislation (e.g. EPA, Pesticides Act, Health Protection and Promotion Act, OWRA). This provides the assurance and flexibility necessary for agricultural operations to succeed in prime agricultural areas while balancing</p>	

Land Use Compatibility Guideline		Niagara Region Review Comments
	the needs of rural Ontario with regard to provincial health, safety and environmental concerns. For additional information on normal farm practices, please refer to OMAFRA's website on the topic.	
	Agricultural Impact Assessment Guidance Document	
	Provincial land use plans for the Greater Golden Horseshoe may require an Agricultural Impact Assessment for certain proposed non-agricultural uses in prime agricultural areas (e.g., settlement area boundary expansions, infrastructure and mineral aggregate operations). This guidance document discusses how to undertake an Agricultural Impact Assessment to improve compatibility between agricultural and non-agricultural uses. It focuses on how a proposed use can avoid or, if avoidance is not possible, minimize and mitigate adverse impacts to the agricultural system. Please refer to OMAFRA's website for more information.	
	Guideline on Permitted Uses in Ontario's Prime Agricultural Areas	
	To support the implementation of the PPS, the Province has issued guidance on the various land uses that are permitted in prime agricultural areas. These guidelines contain information on agricultural uses, as well as direction on how to improve compatibility for agriculture-related uses (e.g. commercial grain dryers) and on-farm diversified uses (e.g. a welding or woodworking shop). For more information on permitted uses, please refer to the Guideline on Permitted Uses in Ontario's Prime Agricultural Areas.	
	Cannabis Production Facilities	

Land Use Compatibility Guideline		Niagara Region Review Comments
	<p>For the purposes of this Guideline, cannabis production is the term used to refer to the entire cultivation process (i.e. growing plants, harvesting, drying and storing), whereas cannabis processing refers, for example, to the subsequent manufacturing of edible cannabis, cannabis extracts and cannabis topicals. Sorting and packaging may fall into either category depending on the scale, extent and type of the packaging.</p> <p>The Guideline applies to indoor cannabis production facilities in areas zoned for industrial uses within settlement areas, and all cannabis processing facilities as these facilities are considered industrial uses.</p> <p>Cannabis production facilities may be considered agricultural uses (e.g. the growing of crops and associated value-retaining uses) and are therefore subject to PPS, 2020 policies 2.3.3.2 and 1.1.5.2 d) respectively, which permits agricultural uses and normal farm practices in accordance with provincial standards in prime agricultural areas and on rural lands. Cannabis production facilities in settlement areas and zoned industrial, and cannabis processing facilities are addressed by these guidelines, see more information in Appendix D.</p> <p>The Farming and Food Production Protection Act establishes a process to determine whether a specific agricultural activity is considered a normal farm practice when considering disturbances such as noise, odour, and light. For more information, please refer to OMAFRA's website on the Normal Farm Practices Protection Board.</p>	

Appendix B – Case Study Application

As proposed, the draft Land Use Compatibility Guideline will adjust the classifications of industrial facilities from three to five, as well as significantly increase both the minimum separation distance (MSD) and area of influence (AOI) associated to all types of employment uses. Regional staff acknowledge that these changes are intended to address the evolving needs of major facilities and constraints experienced by these uses due to encroaching sensitive land uses. However, the proposed changes do not address the implementation challenges that exist with the current D-Series Guidelines.

A major challenge that will persist for municipalities relates to the ability to plan for the integration of employment uses within and/or close to areas planned for intensification and strategic growth. For instance, the Growth Plan sets out for upper-tier municipalities to identify employment areas within settlement areas as a means to protect clusters of existing and planned traditional employment uses (i.e., manufacturing, industrial, transportation, and warehousing) within the urban area.

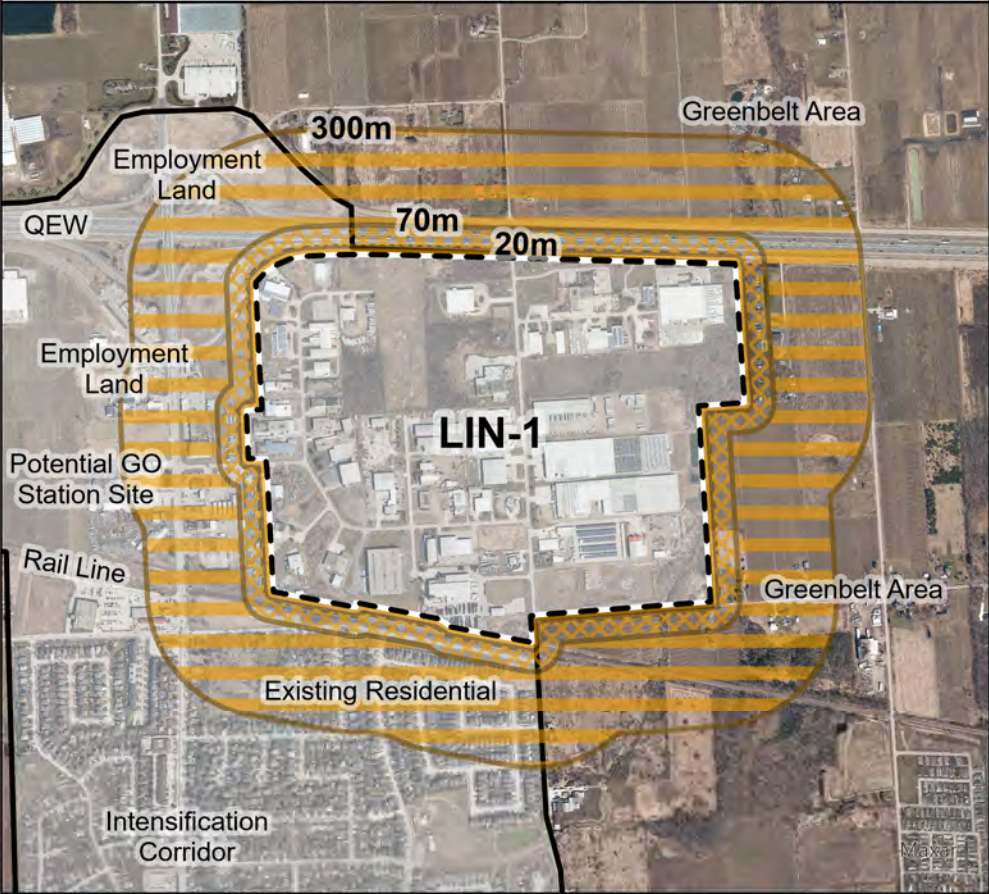
The Niagara Region is in the late stages of identifying its draft employment areas as part of its ongoing municipal comprehensive review (MCR) work program, which is expected for completion in 2022. The Region's MCR recognizes that not all employment is the same. As such, the Region has worked closely with local municipalities and industry stakeholders to sub-group each identified draft employment area into 1 of 3 categories: Knowledge and Innovation, Dynamic, or Core. The purpose of these sub-groups is to reflect the existing and planned employment uses envisioned to occur within them, as well as respect the nearby existing and planned function of the surrounding area.

Based on work completed to date, many draft employment areas are identified for the potential to contribute jobs and support employment in close proximity to strategic growth areas, including Urban Growth Centre ("UGC") and Major Transit Station Areas ("MTSAs"). All identified employment areas have been carefully considered based on existing D-Series MSD and AOI guidance, balancing Provincial and Regional interests, and providing for compatible live work communities.

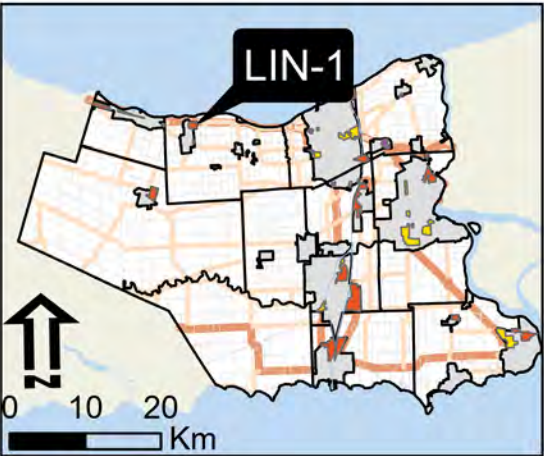
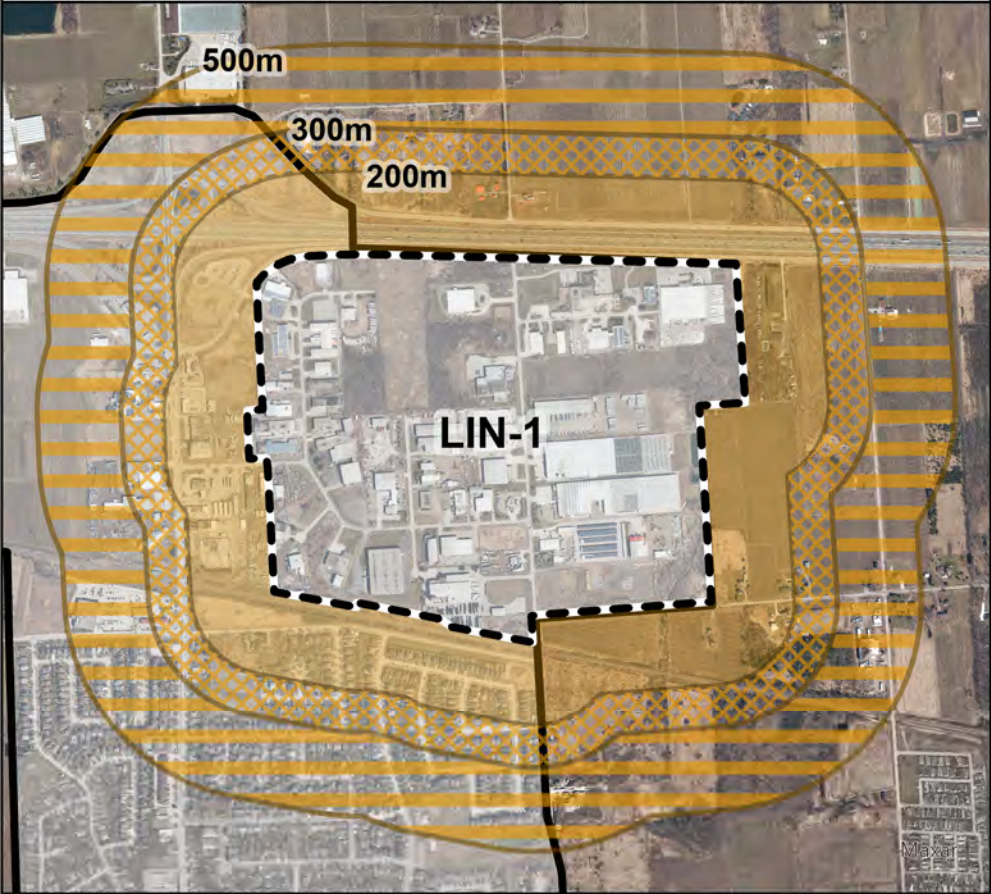
Comparisons of the existing MSD and AOI (under the current D-6 Guidelines) and the proposed MSD and AOI (under the proposed Land Use Compatibility Guideline), for four municipalities within the Niagara Region (Town of Lincoln, City of St. Catharines, City of Thorold, and Township of West Lincoln), are provided below.

Case Example 1: LIN-1 Draft Employment Area

Existing D-6 Minimum Separation Distance Extent



Proposed Land Use Compatibility Guideline Minimum Separation Distance Extent



Context / Issue

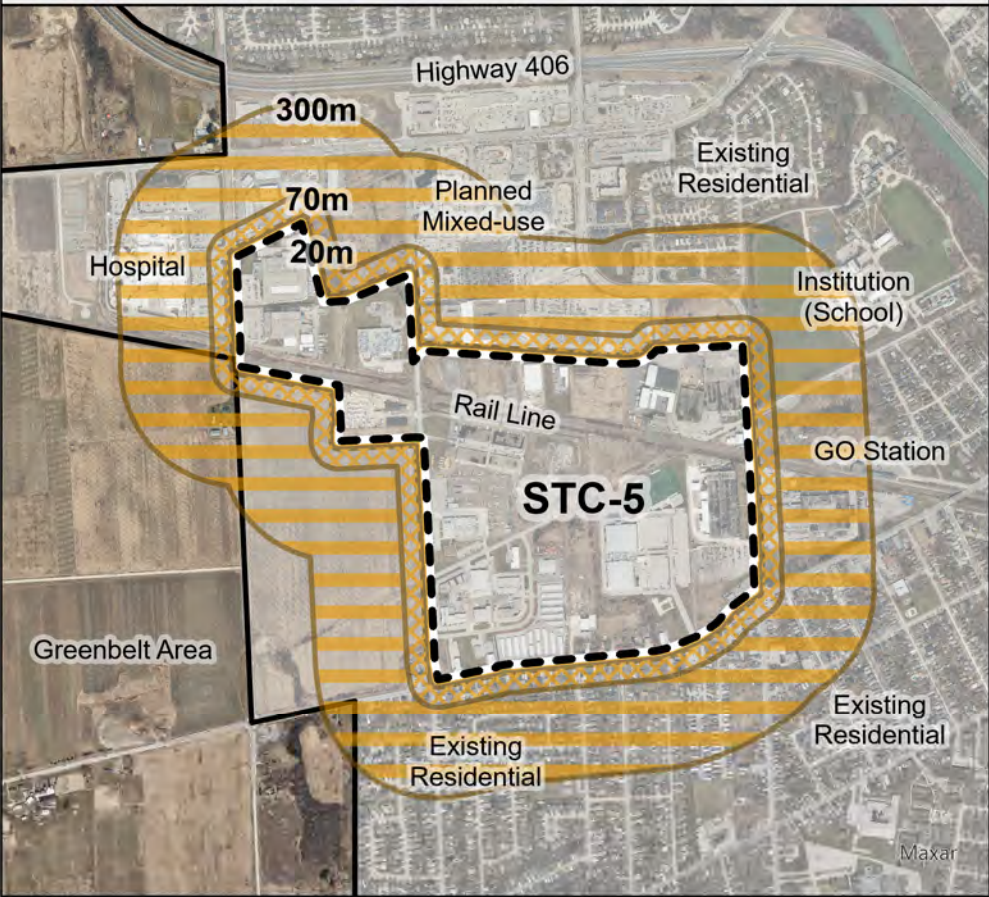
The draft LIN-1 Employment Area is located within the Beamsville GO Secondary Plan Area of the Town of Lincoln. The Town and Region recognize the importance to protect this employment area due to limited employment land supply within the Town, as well as its increased conversion pressures due to its proximity to a future potential GO Station site and QEWS. As it exists, the draft employment area is mostly comprised of manufacturing, wholesale trade, construction, and retail trade employment uses. Given the presence of these uses, the proposed Guideline MSDs will add red tape that may impede the ability to develop transit-supportive densities within the secondary plan area.

Legend

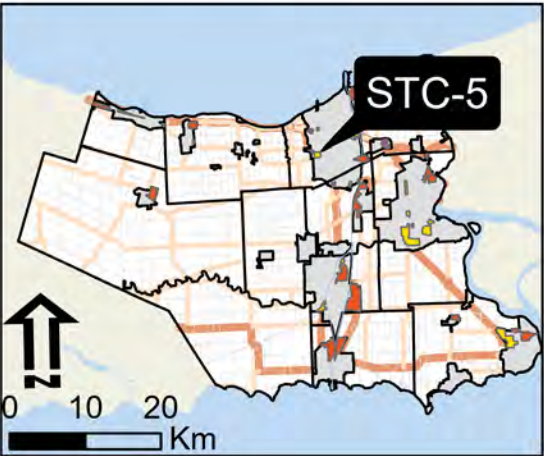
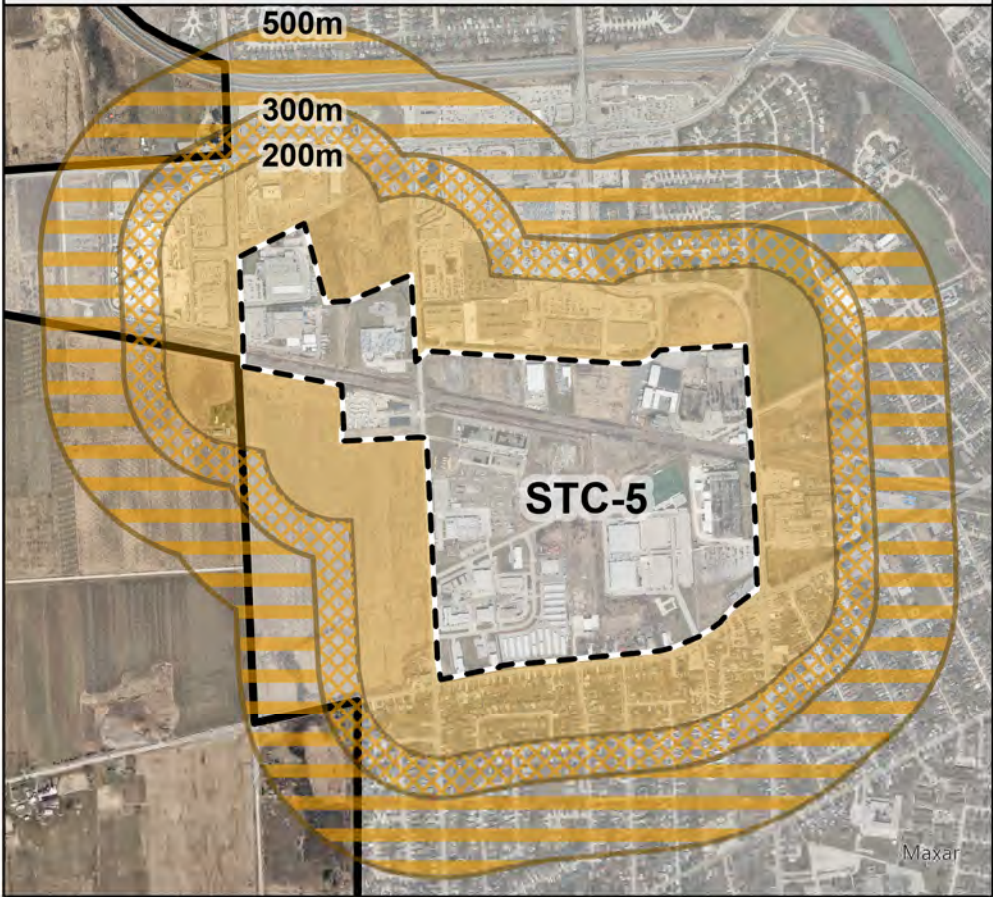
- Urban Area Boundary
- LIN-1 Draft Employment Area
- Minimum Separation Distance**
 - Class I
 - Class II
 - Class III through V

Case Example 2: STC-5 Draft Employment Area

Existing D-6 Minimum Separation Distance Extent



Proposed Land Use Compatibility Guideline Minimum Separation Distance Extent



Context / Issue

The draft STC-5 Employment Area is located within the St. Catharines Transit Station Secondary Plan Area. The City and Region recognize the importance of protecting this employment area due to the City's limited employment land supply. These lands are desirable to a range of employment uses due to their proximity to population services (hospital), Downtown amenities, and transportation infrastructure (GO Station and Highway 405). The secondary plan plans for employment uses that compliment this Major Transit Station Area. As proposed, the new Land Use Compatibility Guideline MSDs will significantly impact the viability / marketability of these employment lands, as well as the ability to accommodate transit-supportive densities within secondary plan area vicinity.

Legend

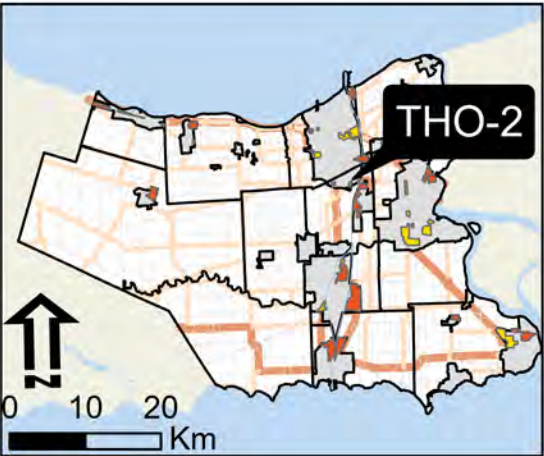
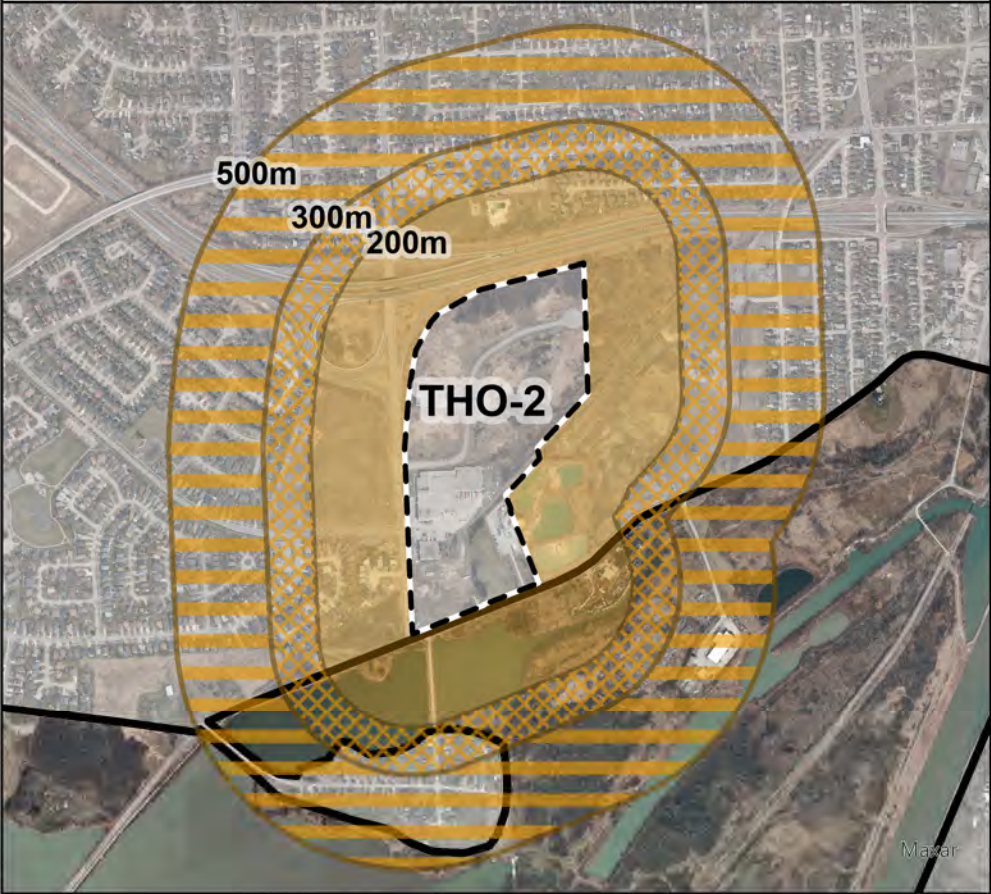
- Urban Area Boundary
- STC-5 Draft Employment Area
- Minimum Separation Distance**
 - Class I
 - Class II
 - Class III through V

Case Example 3: THO-2 Draft Employment Area

Existing D-6 Minimum Separation Distance Extent



Proposed Land Use Compatibility Guideline Minimum Separation Distance Extent



Context / Issue

The draft THO-2 Employment Area is located within the City of Thorold. The draft employment area consists of mostly vacant and unencumbered employment lands with advantageous access to Highway 58. Its envisioned function is to accommodate primarily Class I and Class II facilities, though historically it occupied Class III facilities. These lands are experiencing encroachment from planned sensitive lands uses. Under the current Guidelines for Class I and II facilities, nearby planned sensitive uses experience limited impact from expected MSD requirements. Under the proposed Guideline, planned sensitive uses are nearly entirely captured within the expected MSDs. The proposed Guideline must include mechanisms that recognize existing approvals and development applications that are deemed complete in order to resolve instances of conflict within the new MSDs.

Legend

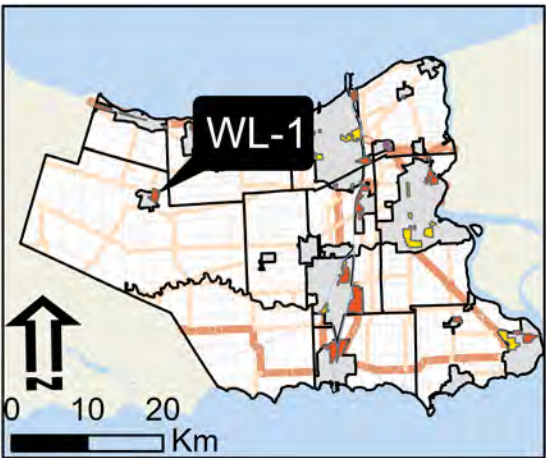
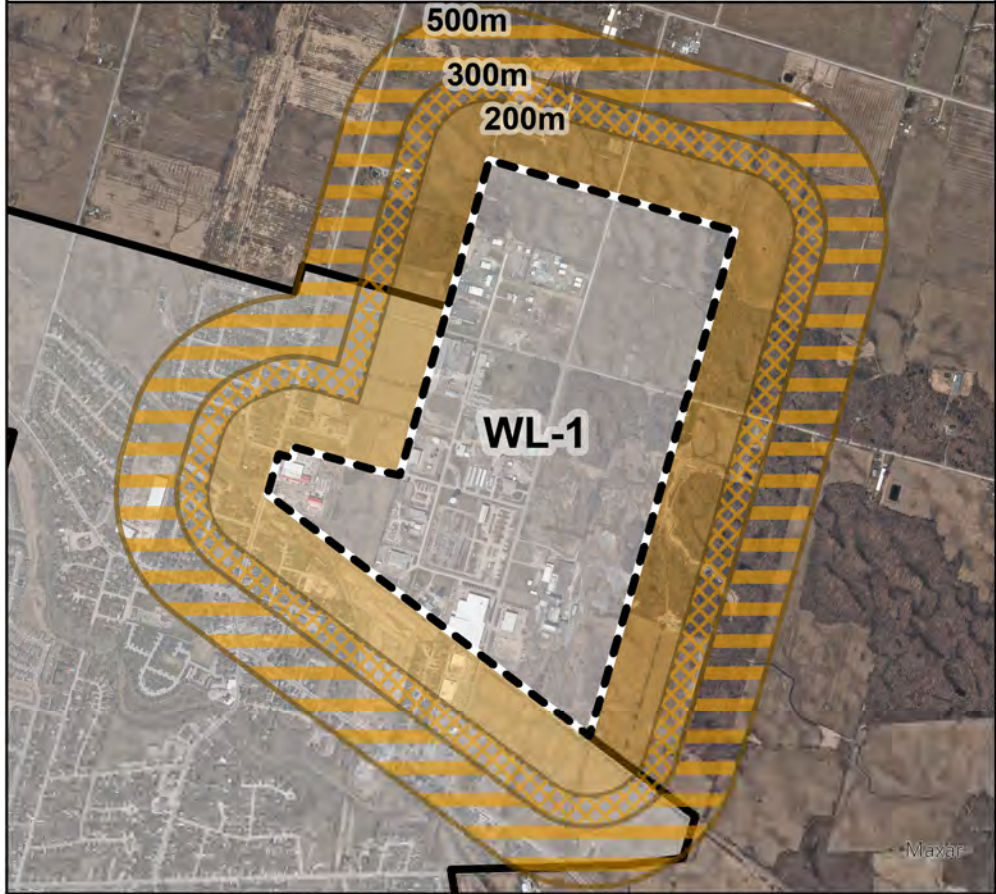
- Urban Area Boundary
- THO-2 Draft Employment Area
- Minimum Separation Distance**
 - Class I
 - Class II
 - Class III through V

Case Example 4: WL-1 Draft Employment Area

Existing D-6 Minimum Separation Distance Extent



Proposed Land Use Compatibility Guideline Minimum Separation Distance Extent



Context / Issue

The draft WL-1 Employment Area is located within the Smithville Industrial Park and to the north of the proposed East Smithville Secondary Plan Area in the Township of West Lincoln. Given that the Smithville Industrial Park is the only designated employment area in the Township, Region and Township staff recognize that this area is important for protection. Existing permissions in this area encourage a broad range of industrial employment and prestige employment, which align with existing Class I to Class III major facilities in the D-Series Guidelines. The draft WL-1 employment area consists of largely manufacturing, storage and industrial supply uses. Given the existing uses, and proposed mixed use development of the draft East Smithville Secondary Plan Area to the south, the proposed Land Use Compatibility Guideline Minimum Separation Distances could significantly impede the ability to develop in the East Smithville Secondary Plan Area and impact the ability of future major facilities to be located within the Smithville Industrial Park.

Legend

- Urban Area Boundary
 - WL-1 Draft Employment Area
 - Minimum Separation Distance**
 - Class I
 - Class II
 - Class III through V
- Page 114 of 121

Niagara's Draft Employment Areas (Visual 1)

The Region is in the midst of completing its MCR in support of the new Niagara Official Plan.

As directed by the Growth Plan, the Region is responsible to identify and map employment areas within its Official Plan. The ROP in its current state is outdated and does not map Niagara's existing employment areas.

As part of the MCR work program over the last 3 - 4 years, the Region has worked closely with local municipalities and industry stakeholders to identify and map Niagara's employment areas for incorporation into the MCR for the new Niagara Official Plan. To date, the Region has identified 34 draft employment areas – all of which are located within Niagara's urban areas – that are comprised entirely of clusters of local official plan designated employment lands with existing or planned employment uses. The Region's draft employment areas are shown on the visual titled "Map 1 – Niagara's Draft Employment Areas".





Recognizing that not all employment lands are the same, the Region's MCR further analyzed and categorized each identified draft employment areas into 1 of 3 sub-groups (Knowledge and Innovation; Dynamic; or Core) based on their envisioned role, function, and surrounding contexts. The purpose of this exercise is to ensure that each employment areas is sufficiently protected for appropriate and long-term employment uses that are compatible with their surrounding land use contexts.

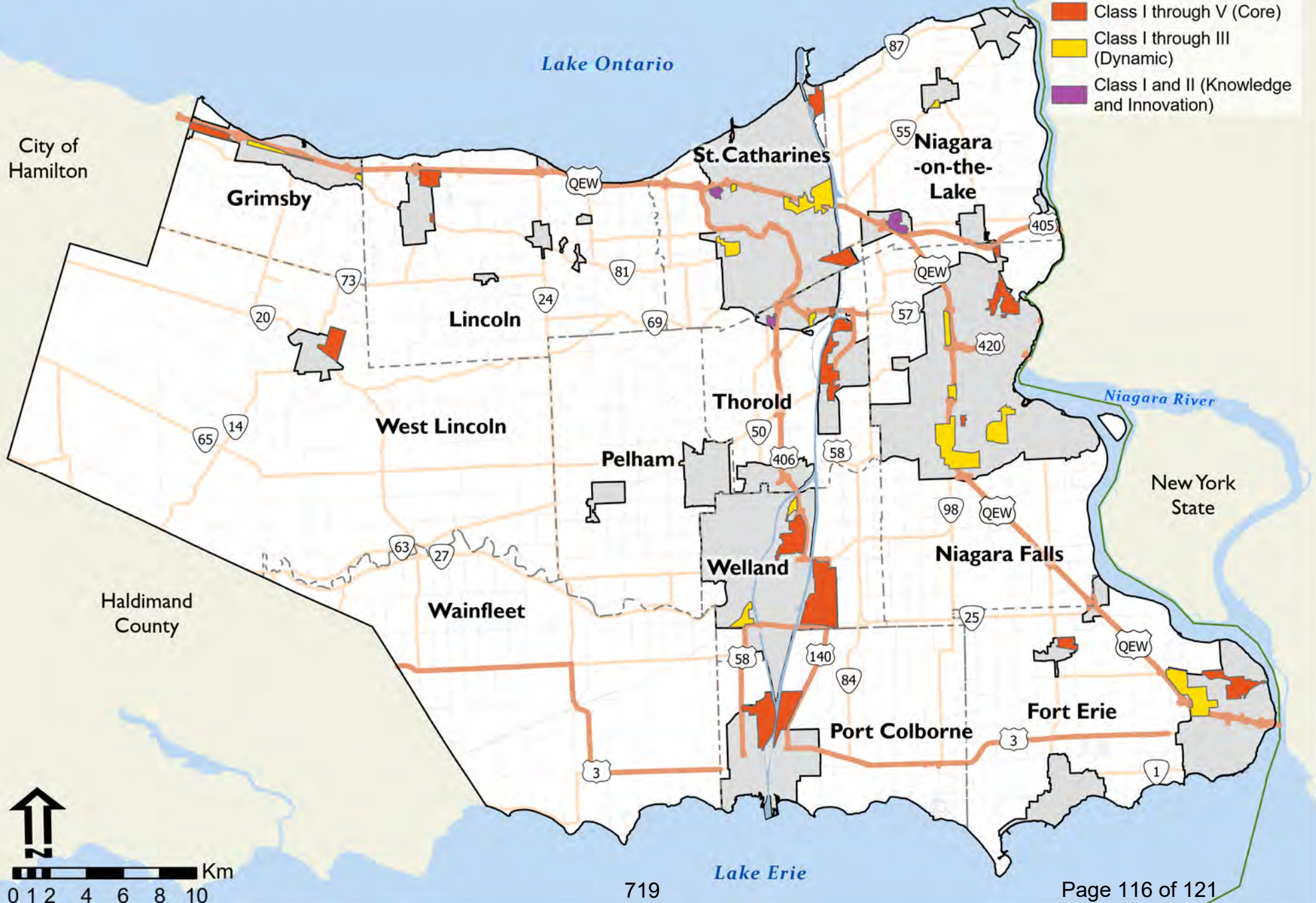
For example, "Knowledge and Innovation" employment areas are envisioned for employment uses that are compatible and can co-exist with sensitive land uses (i.e., Class I and II facilities). Whereas "Core" employment areas are envisioned for solely for all types of employment uses and require distance separation from sensitive land uses in order to operate (i.e., Class I, II, and III facilities).

As proposed, the new Guideline will significantly alter the means by which the Region and local municipalities consider and plan for employment within their respective official plans. As proposed, the new AOI and MSD buffers vastly broaden the catchment area of any type of designated employment land, irrespective to it being within or outside of an employment area.

Map 1 – Niagara's Draft Employment Areas

Legend

-  Urban Area Boundary
- Draft Employment Areas**
 -  Class I through V (Core)
 -  Class I through III (Dynamic)
 -  Class I and II (Knowledge and Innovation)



Niagara's AOI and MSD Coverage: Current & Proposed LUC Guidelines (Visual 2 and Visual 3).

The visuals titled, "Map 2 – Existing D-6 Guideline Distances Applicable to Niagara's Employment Areas" and "Map 3 – Proposed Land Use Compatibility Guideline Distances Applicable to Niagara's Employment Areas" demonstrate the coverage of AOI and MSD based on current distances and the proposed Land Use Compatibility Guideline, respectively.

These maps illustrate the worst-case scenarios of all employment facility classes for current and proposed Land Use Compatibility Guidelines based on Niagara's draft employment area mapping. The AOIs and MSDs match the employment area's sub-group (Knowledge and Innovation; Dynamic; or Core) as determined through the Region's ongoing MCR work.

The purpose of these maps is to show the change in Niagara's urban area coverage based on AOIs and MSDs under current and proposed Land Use Compatibility Guidelines. It is important to note that these maps do not include locally designated employment lands located outside of draft employment areas. In theory, these omitted locally designated employment lands would contribute to an even greater AOI and MSD coverage of total urban area. For the purpose of this submission, only impacts attributed by Niagara's draft employment areas are being assessed.

Tables 1 and 2, below, quantitatively compare the Region's urban area coverage shown on Maps 2 and 3 based on draft employment areas and their associated AOI and MSDs with respect to the current distances and proposed Land Use Compatibility Guideline.

It is noted that these numbers do not factor all technical components that would normally be considered through a municipal land needs assessment methodology. Instead, the quantities involve a cumulative total of all lands and do not differentiate between developable lands (i.e., designated greenfield areas) and non-developable lands (i.e., core natural heritage systems; hydro corridors; cemeteries; etc.).

Table 1 - Niagara's Approximate Urban Area and Draft Employment Area Lands.

Niagara's Total Urban Area Lands	34,535 ha (85,338 acres)
Niagara's Total Draft Employment Area Lands	4,001 ha (9,886 acres) <i>12% urban area coverage</i>

Table 2 - Niagara's Total Urban Area Impacted by Draft Employment Areas and Associated Worst-Case Scenario AOIs and MSDs.

Coverage Type	Urban Area Coverage Based On Current Guidelines	Urban Area Coverage Based On Proposed Guidelines	Total Change in Urban Area Coverage
AOI Coverage (AOI + Total Draft Employment Area Lands)	52% 17,883 ha (44,189 acres)	68% 23,490 ha (58,044 acres)	+ 16% + 5,607 ha (+ 13,855 acres)
MSD Coverage (MSD + Total Draft Employment Area Lands)	21% 8,240 ha (20,362 acres)	32% 11,161 ha (27,582 acres)	+ 9% + 2,921 ha (+ 7,220 acres)

As shown in visuals 2 and 3, as well as within Tables 1 and 2 above, the proposed Guidelines will result in approximately 68% of Niagara's total urban area lands being captured within an AOI associated to a single or multiple draft employment area(s). This coverage represents a 16% increase in total urban area coverage in comparison to the current Guideline.

Similarly, the proposed Guideline will result in approximately 32% of Niagara's total urban area lands being captured within a single or multiple MSD coverages associated to a single or multiple draft employment area(s). The coverage represents a 9% increase in total urban areas coverage in comparison to the current Guideline.

To provide context behind these numbers, Niagara's historical urban settlement patterns and employment / industrial uses have a tendency to be located in areas with advantageous to access major goods movement facilities and corridors (i.e., Welland Canal, QEW, Highway 406, etc.). A review of visuals 2 and 3, as well as the previous four Case Examples demonstrate that the proposed Guideline will significantly impact the Region's urban areas, including capturing many well-established residential areas and planned strategic growth areas. The proposed Guideline will prove challenging to both municipalities and the development industry alike, as it will inevitably result in reviewing planning justification that analyzes competing Provincial interests without a clearly distinguished priority between them.

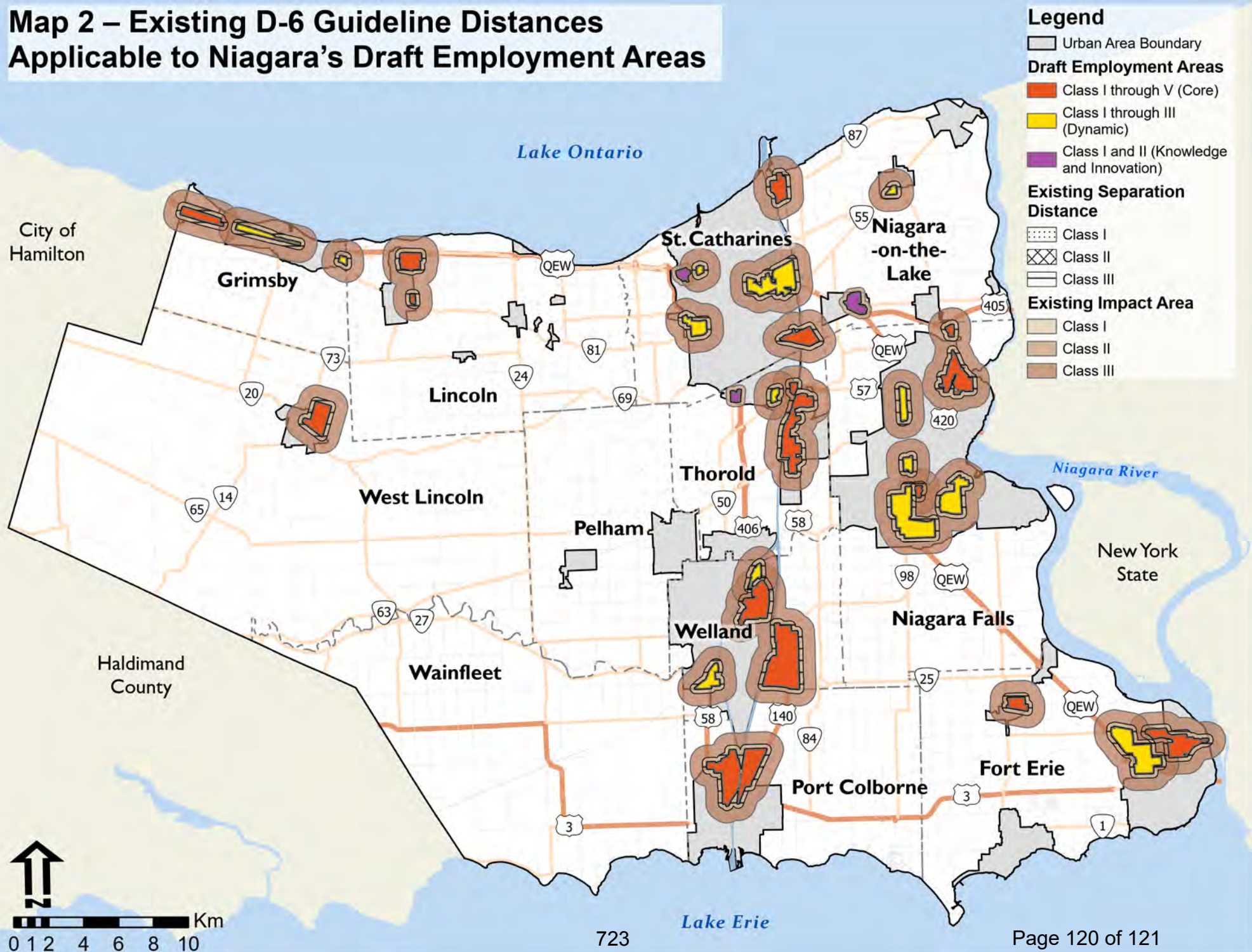
For example, Provincial policies direct for municipalities to plan for complete communities that enable improved quality of living through providing a range of jobs,

connectivity, community services, affordable housing and housing options, and amenities. Proposed AOIs and MSDs will make it challenging for municipalities to plan for and achieve complete communities that offer more than just population-related employment. Further, additional study requirements (i.e., Demonstration of Need Study) also introduced through the proposed Guideline will add complexity and uncertainty to the development review and approval process, as approximately 68% of Niagara's urban area is impacted by the AOI.

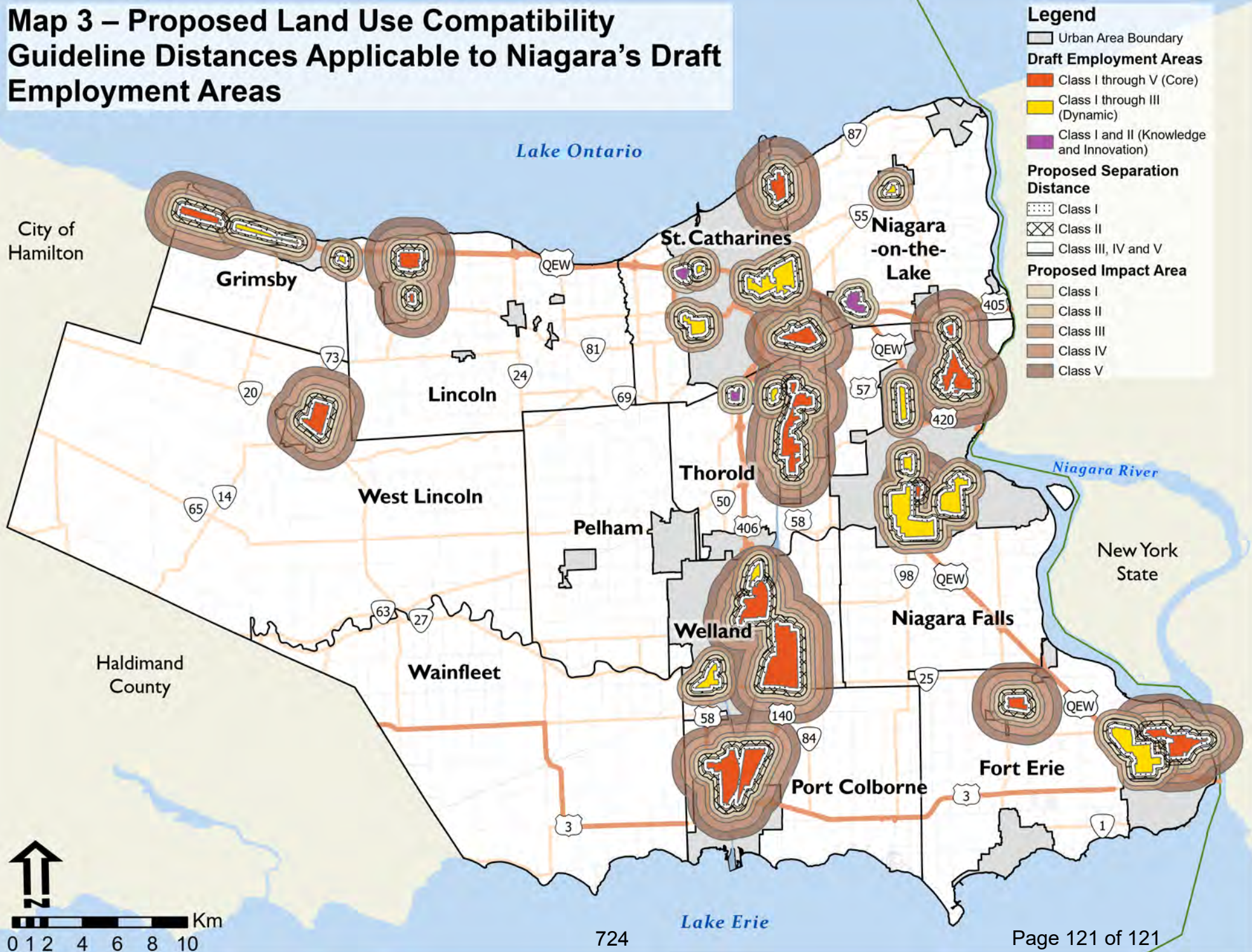
Another potential consequence of the proposed Guideline may occur with respect to the sterilization of locally designated employment lands outside of draft employment areas. The increased AOIs and MSDs may inadvertently harm the viability and marketability of these employment lands by limiting the types / classes of facilities that can occur on them. For example, employment lands located within an established urban area will likely be limited to only cater to accommodating Class I facilities, whereas in reality, Niagara has many examples of existing Class I, II, and III facilities located within the urban fabric based on long-standing historical uses.

Additionally, matters are further complicated when considering that current Provincial policies allow for employment area conversions and employment land redevelopment. Both scenarios involve introducing non-employment uses to lands that are solely designated for employment uses. Seemingly, the direction of the proposed Guidelines intends to increase the distance between employment uses and sensitive land uses. However, so long as Provincial policies continue to provide for mechanisms that enable the introduction of non-employment uses into employment areas or onto designated employment lands, these employment parcels will continue to be vulnerable to rapid encroachment / pressures of sensitive lands uses. For instance, a single employment area conversion could, in theory, completely sterilize the remaining employment area due to AOI and MSD requirements based on existing and planned industrial facility classes within the employment area.

Map 2 – Existing D-6 Guideline Distances Applicable to Niagara's Draft Employment Areas



Map 3 – Proposed Land Use Compatibility Guideline Distances Applicable to Niagara's Draft Employment Areas



Subject: Update on Niagara Official Plan-Further Draft Policy Development

Report to: Planning and Economic Development Committee

Report date: Wednesday, August 11, 2021

Recommendations

1. That Report PDS 32-2021 **BE RECEIVED** for information; and
2. That a copy of Report PDS 32-2021 **BE CIRCULATED** to the Local Area Municipalities.

Key Facts

- This report provides an update on consultation and ongoing policy work for the Niagara Official Plan (NOP) since Committee's consideration of the Joint Consolidated May Report- (PDS 17-2021).
- This report follows a similar structure to the Joint Consolidated May Report (PDS 17-2021) with Executive Overviews prepared for the new draft policy sections. The draft sections include Source Water Protection, Excess Soils, Petroleum and Mineral Resources, and Performance Indicators and Monitoring will be provided for consultation up until October 1, 2021.
- Updates on policy development such as the Introduction Chapter, Natural Environment System, Watershed Planning, Climate Change, Niagara Escarpment Plan Area, Open Space, Economic Prosperity, Cultural Heritage and Implementation are provided.
- A separate report at the August 2021 PEDC meeting, Report PDS 33-2021, provides a revised Land Needs Assessment based on feedback received and work undertaken since May 2021.
- Draft Natural Environment System policies, and Region-wide mapping will be available for review and comment in Fall 2021.

Financial Considerations

Council approved the resources to complete the new Niagara Official Plan (NOP) over a 5 year period as part of the 2017 Budget Process, predominantly funded through Development Charges.

Analysis

In the Joint Consolidated May Report (PDS 17-2021), detailed information was provided on the purpose of an Official Plan, the importance of a new Official Plan and the Pillar Statements and Directives. Also included for further consultation were draft policies pertaining to growth management and supporting draft policies on Infrastructure, Transportation, District and Secondary Planning and Urban Design for the Niagara Official Plan.

This report has three parts:

1. An update on consultation since the release of the May PDS 17-2021 report;
2. Draft policy sections completed since Report PDS 17-2021 including; Source Water Protection; Excess Soils; Petroleum and Mineral Resources; and Performance Indicators and Monitoring; and
3. Updates on ongoing policy development for other Chapters/Sections of the NOP such as the Introduction Chapter, Natural Environment System, Watershed Planning, Climate Change, Open Space, Economic Prosperity, Cultural Heritage and Implementation.

4. Update on Consultation

Prior to the release of the Joint Consolidated May Report PDS 17 2021

As detailed in Appendix 1 of the Joint Consolidated May Report (PDS 17-2021), hundreds of consultation events have occurred since 2017. Work for the NOP has been informed by consultation from the public, stakeholder groups, local Councils, agencies, Indigenous communities, local municipal planners, local planning workshops, and meetings with the Planning Advisory Committee.

The Region's Planning and Economic Development Committee has been informed by more than 35 Administrative Reports between 2018 and 2021 on the NOP. These

reports and presentations provided updates on the work program, individual sections of the Plan, and consultation.

After the release of the Joint Consolidated May Report PDS 17 2021

At the time of writing this report, consultations on the Niagara Official Plan have been ongoing with the Province, Conservation Authority, several Indigenous Groups (local and treaty rights groups), and the Planning Advisory Committee. In addition, planning staff are in the process of setting up consultation sessions with younger adult groups.

Local municipal planning staff have been and will continue to be engaged on growth management, expansions, technical boundary adjustments, site-specific policy areas and other matters that necessitate detailed discussion.

Updates and information continue to be made available through newsletters and the official plan website.

This Report themes key comments/questions received from Public Information Centres and comments received on the content of the Joint Consolidated May Report (PDS 17-2021).

A detailed consultation report, including all comments received on the May PDS 17-2021 report and staff responses to the comments, will be provided at the September 15, 2021 PEDC Meeting. Received submissions and a summary of comments will be available on the Region's website on or before August 11, 2021. This will allow members of Council or the public to review comments submitted prior to the PEDC's consideration of the more detailed Consultation Report in September 2021.

The exception to the above are comments received relating to the land needs assessment, expansion and urban boundary requests, made between May and July 2021. Those are detailed in Report PDS 33-2021 and will be available in early August, or sooner.

June 2021 Public Information Centres

Throughout the month of June, five virtual Public Information Centres were held, with each session focusing on policy topics from a different Chapter of the Niagara Official Plan, being; Growing Region, Sustainable Region, Competitive Region, Connected

Region and Vibrant Region. Draft policy and background information was shared to inform the public and gather feedback.

Across the five sessions, there were 238 attendees, and 204 questions and comments submitted. The majority of questions were answered live by staff during the webinar, however, comments and questions left unanswered due to lack of time or available information, will be posted to the Niagara Official Plan website by approximately August 11, 2021. Additionally, recordings of the PICs will also be placed on the Niagara Official Plan website: <https://www.niagararegion.ca/official-plan/public-information-centres.aspx>

A brief summary of the key themes or questions received include the following:

Chapter/Session	Consistent/Key Comment or Question
Chapter 2: Growing Region	<ul style="list-style-type: none"> - Requests for clarity and more information regarding the process, timelines and proposed locations of settlement area boundary expansions. - Lack of affordable housing options in Niagara. - The implications of potential boundary expansions on the natural environment and agricultural lands.
Chapter 6: Vibrant Region	<ul style="list-style-type: none"> - Support for low impact development strategies for future developments (urban design). - Coordination with local area municipalities on mapping and implementation of the new Archaeological Management Plan.
Chapter 4: Competitive Region	<ul style="list-style-type: none"> - Support for protection of existing Specialty Crop Areas and enhanced designation of Prime Agricultural Areas. - Consideration of allowances for Greenhouses and other Agricultural structures to be built on top of Specialty Crop Area. - Comments on Employment Area categorizations. - Approach to recognizing Special Policy Areas in agricultural areas.
Chapter 5: Connected Region	<ul style="list-style-type: none"> - Concern with accessibility and trip lengths of Regional Transit services.

	<ul style="list-style-type: none"> - Concerns with stormwater pollution and quantity, and support for reduction strategies through green infrastructure. - Concerns over lateral connections to services outside the settlement area boundary within Specialty Crop areas.
Chapter 6: Sustainable Region	<ul style="list-style-type: none"> - Information regarding species, planting areas, and public involvement in the Regional Greening Initiative. - Clarification on timelines for draft policy and mapping for the Natural Environment System. - Support for climate change mitigation and integration of climate change policy into various areas of the Plan.

Received Submissions

Staff have received numerous written submissions from agencies, stakeholders and the public since Joint Consolidated May Report PDS 17-2021 was brought forward to PEDC. At the time of writing this report, 73 submissions were received between May and mid-July 2021. The key comments/questions raised are summarized in the chart below:

Themes Emerging From Feedback On Joint Consolidated May Report PDS 17-2021

Chapter	Consistent/Key Comment or Question
Chapter 2: Growing Region	<p>2.1- Growth Allocations and Land Needs</p> <ul style="list-style-type: none"> • Some municipalities suggested higher populations may be more appropriate for them and there were private sector submissions suggesting different distributions. <p>2.2- Regional Structure</p> <ul style="list-style-type: none"> • Requests for clarification on concepts and policies. <p>2.3- Housing</p>

	<ul style="list-style-type: none"> Concerns for appropriate housing mix, separation between dwellings, and secondary dwelling units. <p>SABR</p> <ul style="list-style-type: none"> Various requests for urban boundary expansions/adjustments in Niagara, including Niagara Falls, West Lincoln, Pelham, Fort Erie, Thorold, Welland, and St. Catharines.
Chapter 3: Sustainable Region	<p>3.1- Natural Environment System</p> <ul style="list-style-type: none"> Questions about balance of protecting natural environment with urban boundary expansions. Emphasis on protection of natural spaces, including trails and parks. <p>3.5- Climate Change</p> <ul style="list-style-type: none"> The importance of making climate change prominent throughout the plan to address transit, watershed planning, natural heritage system and agriculture. The need to protect mature trees in addition to planting new trees across the region.
Chapter 4: Competitive Region	<p>4.1- Agriculture</p> <ul style="list-style-type: none"> Requests to expand agricultural areas, as well as requests for removal of land in the Greenbelt Plan area. Comments on recognizing agricultural infrastructure in the NOP. <p>4.2- Employment Areas</p> <ul style="list-style-type: none"> Specific requests to remove employment areas and letters of support for employment conversions.

	<p>4.3- Aggregates</p> <ul style="list-style-type: none"> • Questions with respect to technical studies required for new aggregate operations, haul routes, and rehabilitation requirements. • Concern over local and regional amendments for new operations and concern over haul route and rehabilitation policies
Chapter 5: Connected Region	<p>5.1- Transportation</p> <ul style="list-style-type: none"> • Concern with heavy truck traffic along the Niagara Escarpment crossing to QEW. • Support for lands designated as Major Transit Station Areas and growth surrounding those areas. • Requests for clarity local-regional jurisdictional matters <p>5.2- Infrastructure</p> <ul style="list-style-type: none"> • Specific request with respect to servicing outside the urban area. • Requests for clarity local-regional jurisdictional matters
Chapter 6: Vibrant Region	<p>6.1- District and Secondary Planning</p> <ul style="list-style-type: none"> • Comments on requirements to add secondary plan policies into local official plans. • Concern over expanded scope and study for Secondary Plans. <p>6.2- Urban Design</p>

	<ul style="list-style-type: none"> • Comments on local and regional urban design guidelines. • Concern over regions oversight relative to urban design matters. <p>6.3- Archaeology</p> <p>Questions regarding when archaeological assessments should be required and exemptions.</p>
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5. New Draft Policy Sections

Since the Joint Consolidated May Report PDS 17-2021, additional technical policy sections have been drafted for circulation and comment. These are outlined below by Chapter for the Niagara Official Plan.

As with Report PDS 17-2021, draft policies are accompanied by Executive Overviews (EOs), both of which are attached as Appendices.

Chapter 3- Sustainable Region

Section 3.3- Source Water Protection

The *Source Protection Plan* for the Niagara Peninsula Source Protection Area (SPP) protects existing and future sources of drinking water in Niagara by ensuring activities identified as drinking water threats under the *Clean Water Act* and associated regulations either never become a *significant threat*, or cease to be a *significant threat* to drinking water.

Based on the 2014 Source Water Protection Plan, Niagara Region prepared an amendment to include source protection policies in the existing Regional Official Plan in 2015. For the new Niagara Official Plan, there are minimal changes being made to this section as the SPP (2014) remains in effect.

The EO and draft policies are attached as Appendices 1.1 and 1.2 respectively. A draft Schedule D for Source Water Protection is attached as Appendix 1.3.

Section 3.7- Excess Soils

Excess soil is a growing concern for rural municipalities as there have been cases of illegal dumping, impacts to ground or surface water quality, and impacts to natural and agricultural land. *Excess soil* is soil that is not required at a construction or development site and must be moved to a new, off-site location.

The policies of this section encourage local municipalities to create or update their site-alteration and fill by-laws in order to address the Best Management Practices on Excess Soil.

The EO and draft policies are attached as Appendices 2.1 and 2.2 respectively.

Chapter 4- Competitive Region

Section 4.3.2- Petroleum and Mineral Resources

Petroleum resources, such as oil, gas, and salt resources extracted through the drilling of wells, are located throughout Niagara region. Mineral resources, including metallic minerals and non-metallic minerals, but not including mineral aggregate resources, have few possible deposits identified across Niagara Region.

Petroleum and mineral resources are finite and must be protected from incompatible land uses or uses that would limit their extraction in the future. Proper and regulated decommissioning of wells is integral to ensuring potential hazards are avoided.

The EO and draft policies are attached as Appendices 3.1 and 3.2 respectively. A draft Petroleum Resource Schedule H is attached as Appendix 3.3

Chapter 7-Implementation

The Implementation Chapter is very important to carrying out the policies of the Official Plan. Policies for this Chapter are more easily developed as the draft policies associated with other Chapters are finalized.

The EO attached as Appendix 4.1 provides an overview and update on the policy development of the Sections of this Chapter.

Draft policies specific to this report have been developed for performance indicators and monitoring to assist with and compliment the policy direction of Chapter 2: Growing Region.

Section 7.3 Performance Indicators and Monitoring

The policies of the NOP will identify a comprehensive monitoring program to help implement the Plan. A list of indicators will measure progress to ensure that the Plan's policies continue to meet its vision and objectives. Monitoring will also help to identify emerging trends, track progress towards specific targets, and confirm NOP policies remain relevant. Consistent and regular monitoring of the NOP's performance will be key to ensuring its success.

The draft policies are attached as Appendix 4.2

Glossary of Terms

The Glossary of Terms provided in the Joint Consolidated May Report PDS 17-2021 has been updated to define new terms mentioned in these draft policy sections (shown in bold). These definitions align with existing regional Official plan definitions and or provincial definitions.

The updated Glossary of Terms is attached as Appendix 5.

6. Update on Other Policy Sections

Policies still under development will be incorporated into the final consolidated draft Official Plan for the end of the year. Further consultation will take place on the final consolidated draft Official Plan with the public, agencies and stakeholder groups.

The following are those policy chapters that will be completed later this year.

Chapter 1-Introduction

The Introduction will establish the following:

- i) The planning context for Niagara;
- ii) Challenges and opportunities centred on managing the inevitable growth coming to Niagara in a manner that provides better housing affordability, protects our natural environment and addresses our changing climate;
- iii) The two-tier planning framework;
- iv) Pillar statements and directives; and
- v) The legislative basis and structure of the Niagara Official Plan.

Planning staff have undertaken consultation with Indigenous groups (both local and treaty rights groups). An acknowledgement of their contributions to the development of the NOP around their areas of interest including archaeology, natural environment, climate change, affordable housing and future consultation will be included as a precursor to the Plan. The Archaeological Master Plan being prepared to inform the NOP will provide the important Indigenous historical context.

Chapter 3 Sustainable Region

Section 3.1-Natural Environment System

The objective of the Natural Environment Work Program (NEWP) is to develop a Regional-scale natural heritage and water resource system. Together these systems will be collectively known as the integrated natural environment system (NES).

PDS 17-2021 which contained the staff recommendation for the preferred NES option was presented to Planning and Economic Development Committee (PEDC) on Wednesday May 12th, 2021. At the Regional Council Meeting on Thursday May 20th, 2021 staff were directed to move forward with both NES Option 3B and 3C. Regional Council will be requested to make a decision on the NES option at a future date.

The next step in the NEWP is to prepare detailed criteria and definitions for each of the components of the system. This information will be documented in a technical report – which will also include a methodology for mapping the system. It is important that the criteria and methodology are documented before the mapping work is undertaken. The detailed criteria and methodology will be an important tool for the ongoing implementation of the NES once the new Official Plan has been approved.

At the same time the detailed policy sets will be written while the detailed mapping is developed for both Options 3B and 3C. Both mapping and policy development of the NES will involve significant consultation with the Local Municipalities and NPCA.

Additional consultation with the public and other stakeholders will be undertaken. This includes the 3rd Point of Engagement once the draft NES maps and policies are prepared.

It is expected that a draft of the technical report, policies, and Region-wide NES mapping will be available for review and comment in Fall 2021. Council will need to make a decision on an Option to move forward with at that time.

Section 3.2-Watershed Planning

Watershed planning is a methodology used to support the protection or restoration of natural resources (with an emphasis on water resources) within a watershed through the development of management plans, policies, and other related tools.

The updated Provincial Growth Plan and Greenbelt Plan place a greater emphasis on the need for watershed planning to inform land-use planning. To ensure that the Niagara Official Plan is informed by watershed planning in accordance with Provincial direction the Niagara Watershed Plan (NWP) project is underway. On June 16th, 2021, a report and presentation were made to PEDC.

The NWP is being published in three volumes. Following the June PEDC meeting, a draft of Volume 1 (Characterization) and Volume 2 (Management) were made available for review by the Public and other stakeholders. Comments were requested by July 30th, 2021. Planning Staff and the Consulting Team are in the process of reviewing all of the input that was received and will be finalizing in the NWP in Fall 2021.

Volume 3 of the NWP will analyze various growth scenarios as part of the overall Official Plan work program and is currently being completed. A draft of Volume 3 will be made available for review and comment for finalization in September/October.

Sections 3.4- Stewardship and 3.5- Climate Change

The objective of the Climate Change Work Program is to build and broaden climate change goals, objectives and policies in the Niagara Official Plan, working towards the development of resilient communities.

The Climate Change Work Program is comprised of three pillars: climate change policies for the NOP, climate modeling and projections, and a regional greening initiative.

The climate change section of the NOP will have policies to reduce greenhouse gas emissions and adapt to the impacts of climate change, support for other priority areas of

the NOP including Regional Structure, Infrastructure (servicing and transportation), District and Secondary Plans, Natural Environment System, and Urban Design.

PDS-C 31-2021 provided an update on the progress of the Niagara Climate Modeling and Projections Project. At the end of July, a preliminary results session was held with our local municipal partners and the NPCA. The consultant team for the project is currently reviewing comments and feedback. A draft climate projections report is anticipated for September, with the project set to conclude in October 2021.

The Regional Greening Initiative, most recently reported on in July 2021 (PDS-C 44-2021), will be a project connected to the NOP work through the Sustainable Region chapter, including connections to the Natural Environment System (s. 3.1), Stewardship (s. 3.4) and Climate Change (s. 3.5) sections.

The goal of the greening initiative is to enhance vegetative cover across the Region. Staff are preparing material for consultation later this year.

Section 3.6- Niagara Escarpment Plan

Planning staff have been developing an approach to integrate the Niagara Escarpment Plan (NEP) with the NOP. This approach will include identifying the NEP area on key schedules.

This Section of the NOP will acknowledge the NEP plan policies apply within the NEP area, in addition to where Regional planning staff would request more detailed regional policies for a development permit application, such as the Natural Environment System or Infrastructure policies. This approach will be discussed further with Area Planners and Niagara Escarpment Commission staff and refined as appropriate.

Chapter 4- Competitive Region

Section 4.4-Economic Prosperity

This section will pull together and reflect the policies of other Sections in this Chapter and other Chapters with the goal of providing focus on opportunities for greater economic prosperity in relation to land use. For example, cultural heritage and natural heritage landscapes and features can, in a more passive way, provide economic benefits.

These policies will be developed with input from the Region's Economic Development Department and receive input from other stakeholder groups.

Chapter 5-Connected Region

Section 5.3-Public Spaces, Recreation, Parks, Trails and Open Spaces

This section will provide policy that provide context to the importance of open space, trails, and public spaces as part of vibrant places, complete communities, reducing car dependency, and active healthy lifestyles.

Chapter 6-Vibrant Region

Section 6.4- Cultural Heritage

Policies will be developed encouraging the protection of significant built heritage and cultural heritage landscapes and districts. Cultural heritage contributes to preservation of history, contributions to vibrant communities and can provide economic opportunities.

Alternatives Reviewed

There are no alternatives to this report. This report is for information purposes providing an update on certain policy sections. Draft policies on certain Official Plan sections are attached to inform Council and provide the opportunity to receive input from the public, stakeholders, Indigenous communities, local area municipalities, and the Province.

Relationship to Council Strategic Priorities

The Niagara Official Plan will support the following Strategic Priority Objectives:

Objective 1.1: Economic Growth and Development

- Enhance integration with local municipalities' economic development and planning departments to provide supports and improve interactions with businesses to expedite and navigate development processes.
- Forward thinking approach to economic development in Niagara through long term strategic planning and leveraging partnerships with post-secondary institutions.

Objective 1.4: Strategically Target Industry Sectors

- Define Niagara's role in tourism including areas such as sport, eco, agricultural and culture tourism.

Objective 2.3: Addressing Affordable Housing Needs

- Retain, protect and increase the supply of affordable housing stock to provide a broad range of housing to meet the needs of the community.

Objective 3.2: Environmental Sustainability and Stewardship

- A holistic and flexible approach to environmental stewardship and consideration of the natural environment, such as in infrastructure, planning and development, aligned with a renewed Official Plan.
- Drive environmental protection and addressing climate change such as through increasing waste diversion rates and reducing our carbon footprint.

Objective 3.3: Maintain Existing Infrastructure

- Sound asset management planning to ensure sustainable investments in the infrastructure needed to support existing residents and businesses, as well as future growth in Niagara.

Other Pertinent Reports

- Joint Consolidated May Report PDS 17-2021:
<https://www.niagararegion.ca/official-plan/consolidated-policy-report.aspx>
- PDS 33-2021, Niagara Official Plan: Land Needs Assessment and Settlement Area Boundary Review Update

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Appendices

Appendix 1.1	Source Water Protection Executive Overview
Appendix 1.2	Draft Source Water Protection Policies
Appendix 1.3	Draft Schedule D: Source Water Protection
Appendix 2.1	Excess Soil Executive Overview
Appendix 2.2	Draft Excess Soil Policies
Appendix 3.1	Petroleum and Mineral Resources Executive Overview
Appendix 3.2	Draft Petroleum and Mineral Resources Policies
Appendix 3.3	Draft Schedule H: Petroleum and Mineral Resources Areas
Appendix 4.1	Implementation Executive Overview
Appendix 4.2	Draft Performance Indicators and Monitoring Policies
Appendix 5	Glossary of Terms

EXECUTIVE OVERVIEW

CHAPTER 3.3 – Source Water Protection

SUMMARY

The *Source Protection Plan* for the Niagara Peninsula Source Protection Area (SPP) protects existing and future sources of drinking water in Niagara by ensuring activities identified as drinking water threats under the *Clean Water Act* and associated regulations either never become a *significant threat*, or cease to be a *significant threat* to drinking water.

The Ministry approved and in-effect SPP (2014) evaluated six water treatment plants and determined there were *significant threats* related to land uses for the Decew Falls Water Treatment Plant, Port Colborne Water Treatment Plant, and the Niagara Falls Water Treatment Plant *intake protection zones*.

In 2015, source protection policies were added for the in-effect Official Plan (an exercise known as ROPA 5). The Niagara Official Plan predominantly carries forward those policies and mapping.

- The NPCA is the Source Protection Authority (SPA) in Niagara under the *Clean Water Act*. The SPA provides administrative and technical support to the Source Protection Committee (SPC) and the source protection planning process.
- Responsibility for source water protection planning is that of the SPC with staff support from the NPCA. The Province is the approval authority for Source Protection Plans prepared by the SPC.
- The Niagara Peninsula Source Protection Plan, including the technical Assessment Report and Explanatory Document is in effect as of October 1, 2014.
- ROPA 5- 2015 implemented the *significant threat* policies for Decew Falls, Port Colborne, and Niagara Falls water treatment plants *intake protection zones* in the Regional Official Plan.
- Source water protection policies only apply to municipal drinking water sources. All drinking water in Niagara is from surface water.
- The SPC is currently updating the assessment report and SPP, anticipated to be completed in 2023. Once approved, an amendment to the Niagara Official Plan, Local Official Plans and Local Zoning By-laws will be required.



A Draft Policy set and schedule is provided with this sub-section document.

Integration Guide for Sub-sections Reported in PDS 32-2021

<input checked="" type="checkbox"/> Regional Structure	<input type="checkbox"/> Archaeology
<input type="checkbox"/> Housing	<input checked="" type="checkbox"/> Employment
<input checked="" type="checkbox"/> Land Needs	<input checked="" type="checkbox"/> Agriculture
<input type="checkbox"/> SABR	<input type="checkbox"/> Aggregates
<input type="checkbox"/> Transportation	<input type="checkbox"/> Natural Heritage incl.
<input checked="" type="checkbox"/> Infrastructure	<input checked="" type="checkbox"/> Water Systems Options
<input checked="" type="checkbox"/> District/Secondary Plans	<input checked="" type="checkbox"/> Watershed Planning
<input type="checkbox"/> Urban Design	<input type="checkbox"/> Climate Change

OVERVIEW

The creation of the *Clean Water Act* (2006) was in direct response to an inquiry led by Justice Dennis O'Connor into the May 2000 Walkerton tragedy and more broadly to the safety of Ontario's drinking water. The CWA established 38 source protection areas within the Province based on Conservation Authority boundaries. Source protection plans are now in place within 38 source protection areas, representing approximately 90 percent of the population.

The purpose of the CWA is to ensure communities are able to protect their municipal drinking water supplies at the source through identifying potential risks to local water supply quality and quantity and create a plan to reduce or eliminate these risks.

In Niagara, the NPCA is the Source Protection Authority (SPA), providing administrative and technical support to the Source Protection Committee (SPC). The SPC is responsible for the source protection process, which includes the development of a Source Protection Plan (SPP) for the Niagara Peninsula Source Protection Area.

An assessment report outlining the vulnerable zones, vulnerability scores, and *significant threats* was prepared, followed by the SPP outlining policies to address *significant threats*, implementation timelines and responsibilities.

The Niagara Peninsula Source Protection Plan evaluated six water treatment plants in Niagara and determined there were *significant threats* for three water treatment plants: Decew Falls, Port Colborne, and Niagara Falls. The SPP was approved by the Province and has been in effect since October 1, 2014.

As required under the CWA and through the SPP, Niagara Region prepared an amendment to include source protection policies in the Regional Official Plan in 2015

(process known as ROPA 5-2015). The amendment included policies to address *significant threats* identified through the SPP for the Decew Falls, Port Colborne, and Niagara Falls water treatment plant *intake protection zones*. The policies also require local municipalities to incorporate source water protection policies into their local official plans and zoning by-laws. A municipal guidance document was prepared to provide a framework for local municipalities to translate Regional Official Plan policy related to source protection, and implement those policies into local Official Plans and associated planning and building processes.

For the new Niagara Official Plan, there are minimal changes being made to this section as the SPP (2014) remains in effect. However, the SPC is currently updating the Assessment Report and SPP for the Niagara Peninsula Source Protection Area. The SPP is anticipated to be completed in 2023, subject to Ministry approval. Once approved and in effect, the Niagara Official Plan and Local Official Plans and Zoning By-laws will require an amendment to conform to the policies of the new SPP.

The attached draft policy and mapping, **Appendix 1.2** and **Appendix 1.3** respectively, predominantly carries forward policies and mapping approved through ROPA 5-2015. For more information on source protection planning in Niagara, please visit the [Niagara Peninsula Drinking Water Source Protection website](https://www.sourceprotection-niagara.ca/) (https://www.sourceprotection-niagara.ca/)

CHAPTER 3 - SUSTAINABLE REGION

Section 3.3 Source Water Protection

The Source Protection Plan for the Niagara Peninsula Source Protection Area (SPP) protects existing and future sources of drinking water in Niagara by ensuring activities identified as drinking water threats under the *Clean Water Act* and associated regulations either never become a *significant threat*, or cease to be a *significant threat* to drinking water. The *Source Protection Plan* evaluated six water treatment plants and determined there are *significant threats* related to land uses associated with the DeCew Falls water treatment plant in the City of Thorold, Port Colborne water treatment plant in the City of Port Colborne, and the Niagara Falls water treatment plant in the City of Niagara Falls. The following *source water* protection policies are organized according to the water treatment plant *intake protection zones* for which *significant drinking water threats* have been identified in the *Source Protection Plan*. These water treatment plants and associated *intake protection zones* are identified as an overlay on Schedule D to this Plan. The underlying land use designations on Schedule D continue to apply.

The policies of Section 3.3 must be read with the Niagara Official Plan in its entirety and in conjunction with the Niagara Peninsula *Source Protection Plan*, the Assessment Report and the Explanatory Document which provides the context and rationale for the land use policies and in identifying *significant threats* and eliminating these drinking water threats for the DeCew Falls, Port Colborne and Niagara Falls water treatment plant *intake protection zones*. The policies of Section 3.3 must also be read in conjunction with other applicable plans and legislation.

Update to the Source Protection Plan for the Niagara Peninsula Source Protection Area

The SPP was approved by the Ministry of the Environment, Conservation and Parks and is effective as of October 1, 2014.

Under the Clean Water Act, municipal official plans must be amended to conform to the *significant threat* policies within the SPP.

The Source Protection Authority is currently updating the Assessment Report and the SPP for the Niagara Peninsula Source Protection Area. The SPP is anticipated to be completed in 2023, subject to Ministry approval. Once approved, the Niagara Official Plan, Local Official Plans, and Local Zoning By-laws will require an amendment to conform to the policies of the new SPP.

3.3.1 To protect the water source for the DeCew Falls Water Treatment Plant to ensure activities identified as significant threats cease to be significant threats.

3.3.1.1 The placement of untreated septage to land is considered a *significant drinking water threat* in the DeCew Falls *Intake Protection Zone 1*. New *waste disposal sites* for the application of untreated septage to land shall not be permitted within the DeCew Falls *Intake Protection Zone 1*.

3.3.1.2 The discharge from new *stormwater management facilities* is considered a *significant threat* where the storm sewer drainage area is at least 100 ha in size with the predominant land use being commercial or industrial. New *stormwater management facilities*, which meet these criteria, are not permitted to discharge within the DeCew Falls *Intake Protection Zone 1*. New industrial or commercial land uses which meet the 100 ha storm sewer drainage criteria are not permitted within the DeCew Falls *Intake Protection Zone 1*. For the purposes of this policy, new industrial or commercial land uses include industrial or commercial uses which are not currently designated as such in the local municipal Official Plan.

Untreated septage

Properties where untreated septage is applied to land are considered *waste disposal sites* under Part V of the Environmental Protection Act (EPA). Untreated septage is typically produced from the clean-out of residential septic system tanks.

- 3.3.1.3 The discharge from *wastewater treatment plants* or combined sewer overflows, or discharge of industrial effluent is considered a *significant threat* as defined under the applicable circumstances as outlined by the Ministry of Environment in Table 22 and Table 48 in Appendix C of the Assessment Report (2013). New *combined sewers, wastewater treatment facilities, and industrial effluent systems* are not permitted where they would be a *significant threat* within the DeCew Falls *Intake Protection Zone 1*.

Niagara Peninsula Source Protection Plan

[The Niagara Peninsula Source Protection Plan, Assessment Report and Explanatory Document](http://www.sourceprotection-niagara.ca/) are available at: (<http://www.sourceprotection-niagara.ca/>)

- 3.3.1.4 Any planning or building application made for a land use other than Residential in the DeCew Falls *Intake Protection Zone 1* may require a Section 59 notice from the *Risk Management Official*. The requirements of the notice will be determined through the application screening process.

Application Screening Process for Section 59 Notice from Risk Management Official

The application screening process will look at whether an application may relate to the application of agriculture source material, the storage of *agriculture source material*, livestock grazing/pasturing and farm animal outdoor confinement areas in DeCew Falls *IPZ 1* or; the storage of pesticides in Port Colborne *IPZ 1* or for the application of pesticides in the Port Colborne *IPZ 1* and *IPZ 2*.

3.3.2 To protect the water source for the Port Colborne Water Treatment Plant to ensure activities identified as significant threats cease to be significant threats.

- 3.3.2.1 The placement of untreated septage to land is considered a *significant drinking water threat* in the Port Colborne *Intake Protection Zone 1* and *Intake Protection Zone 2*. New *waste disposal sites* for the application of untreated septage to land shall not be permitted within the Port Colborne *Intake Protection Zone 1* and *Intake Protection Zone 2*.
- 3.3.2.2 Any planning or building application made for a land use other than Residential in the Port Colborne *Intake Protection Zone 1* and *2* may require a Section 59 notice from the *Risk Management Official*. The requirements of the notice will be determined through the application screening process.

- 3.3.2.3 The storage of road salt is considered a *significant threat* in the Port Colborne *Intake Protection Zone 1*, if stored outside with no cover, in amounts greater than 5,000 tonnes. Future open storage of road salt greater than 5,000 tonnes is not permitted within the Port Colborne *Intake Protection Zone 1*.
- 3.3.2.4 The storage of snow, and the contaminants associated with it, is considered a *significant threat* in the Port Colborne *Intake Protection Zone 1* if stored in quantities greater than 1 hectare in area. Future storage of snow greater than 1 hectare in area is not permitted within the Port Colborne *Intake Protection Zone 1*.
- 3.3.2.5 The discharge from *wastewater treatment plants* or combined sewer overflows, or discharge of industrial effluent is considered a *significant threat* as defined under the applicable circumstances as outlined by the Ministry of Environment in Table 20, Table 21, Table 46, and in Table 47 in Appendix C of the Assessment Report (2013). New *combined sewers, wastewater treatment facilities, and industrial effluent systems* are not permitted where they would be a *significant threat* within the Port Colborne *Intake Protection Zone 1* and *Intake Protection Zone 2*.
- 3.3.2.6 The discharge from *stormwater management facilities* is a *significant threat* where the storm sewer drainage area is at least 10 ha in size with the predominant land use being commercial or industrial. An application for commercial or industrial *development* or the expansion, extension, or alteration of existing *stormwater management facilities* or the expansion of an existing commercial or industrial *development*, in instances where the *Risk Management Official* and the Region's Chief Planning Official deem such an expansion may pose a *significant threat* to municipal drinking water, within the Port Colborne *Intake Protection Zone 1* and *Intake Protection Zone 2*, shall be accompanied by a stormwater management plan that demonstrates and implements best management practices related to managing stormwater runoff to the satisfaction of the Region's Chief Planning Official and City of Port Colborne, in consultation with the *Risk Management Official*, such that the development does not pose a *significant threat* to municipal drinking water.

- 3.3.2.7 The storage, and application to land of *agricultural source material*, and the lands used for livestock grazing/pasturing, farm animal yards and outdoor confinement areas, are considered *significant threats* in the Port Colborne *Intake Protection Zone 1 and Intake Protection Zone 2*. New agricultural land uses are not permitted within the Port Colborne *Intake Protection Zone 1 and Intake Protection Zone 2*.

3.3.3 To protect the water source for the Niagara Falls Water Treatment Plant to ensure activities identified as significant threats cease to be significant threats.

- 3.3.3.1 The application of untreated septage to land is considered a *significant drinking water threat* in the Niagara Falls *Intake Protection Zone 1*. New *waste disposal sites* for the application of untreated septage to land shall not be permitted within the Niagara Falls *Intake Protection Zone 1*.

- 3.3.3.2 The discharge from new *stormwater management facilities* is considered a *significant threat* where the storm sewer drainage area is at least 100 ha in size with the predominant land use being commercial or industrial. New *stormwater management facilities*, which meet these criteria, are not permitted to discharge within the Niagara Falls *Intake Protection Zone 1*. New industrial or commercial land uses which meet the 100 ha storm sewer drainage criteria are not permitted within the Niagara Falls *Intake Protection Zone 1*. For the purposes of this policy, new industrial or commercial land uses only includes industrial or commercial uses which are not currently designated as such in the local municipal Official Plan.
- 3.3.3.3 The discharge from wastewater treatment plants or combined sewer overflows, or discharge of industrial effluent is considered a *significant threat* as defined under the applicable circumstances as outlined by the Ministry of Environment in Table 22 and Table 48 in Appendix C of the Assessment Report (2013). New combined sewers, *wastewater treatment facilities*, and *industrial effluent systems* are not permitted where they would be a *significant threat* within the Niagara Falls *Intake Protection Zone 1*.
- 3.3.3.4 The storage, handling, and application to land of *agricultural source material*, and the lands used for livestock grazing/pasturing, farm animal yards and outdoor confinement areas, are considered *significant threats* in the Niagara Falls *Intake Protection Zone 1*. New agricultural land uses are not permitted within the Niagara Falls *Intake Protection Zone 1*.

3.3.4 To provide direction to local municipalities and monitor significant threats

- 3.3.4.1 Local municipal Official Plans and Zoning By-laws shall conform to the policies of Section 3.3 of this Plan in accordance with the Niagara Peninsula *Source Protection Plan*.
- 3.3.4.2 The Region will monitor and report on the measures taken to implement the significant threat policies annually in accordance with the Niagara Peninsula *Source Protection Plan*, which shall address the following:

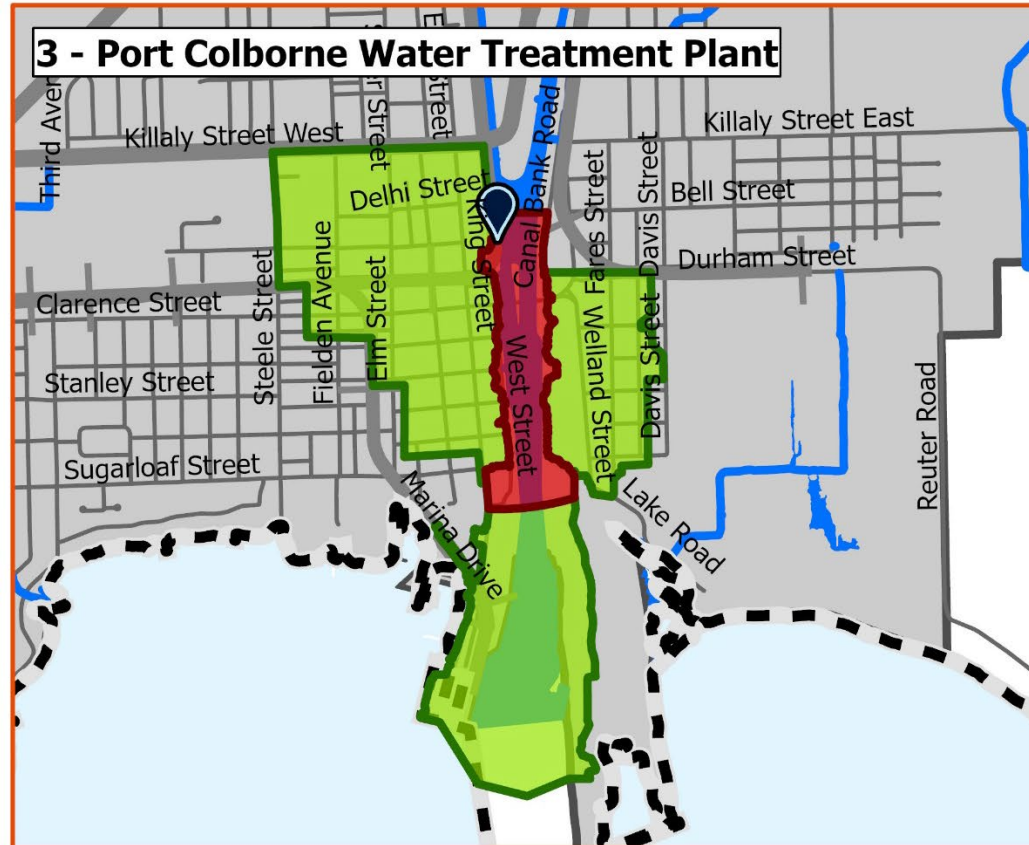
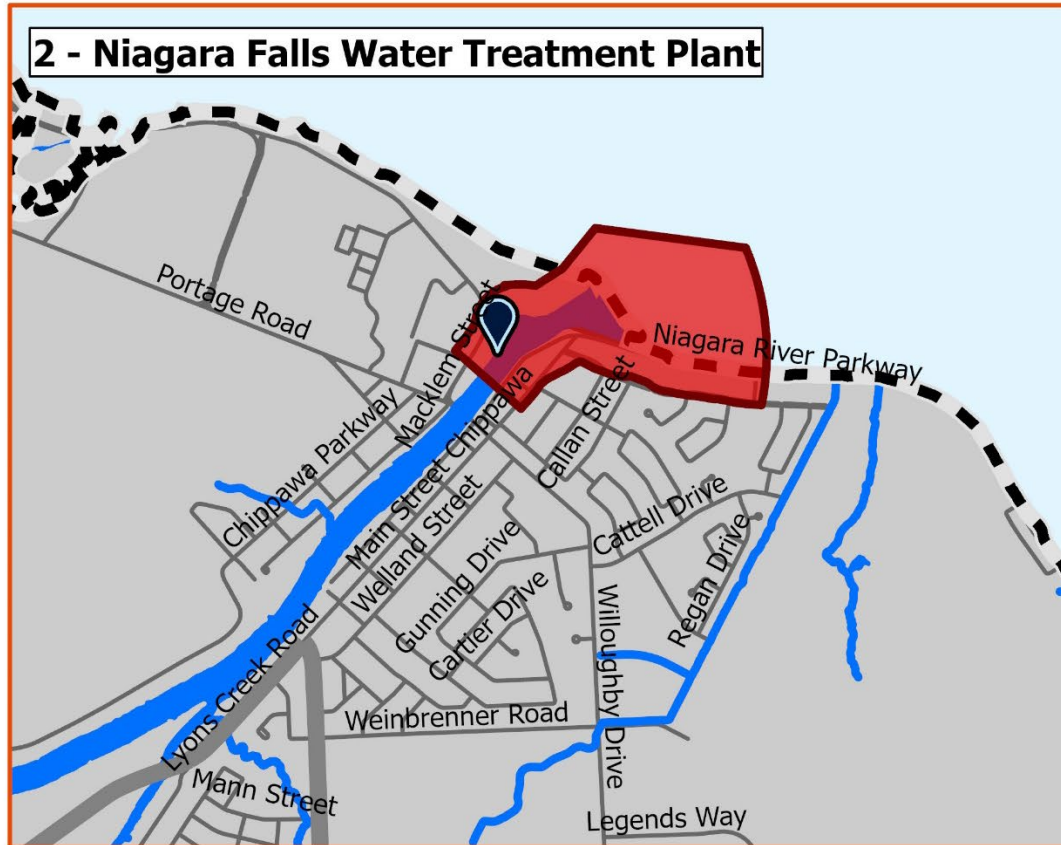
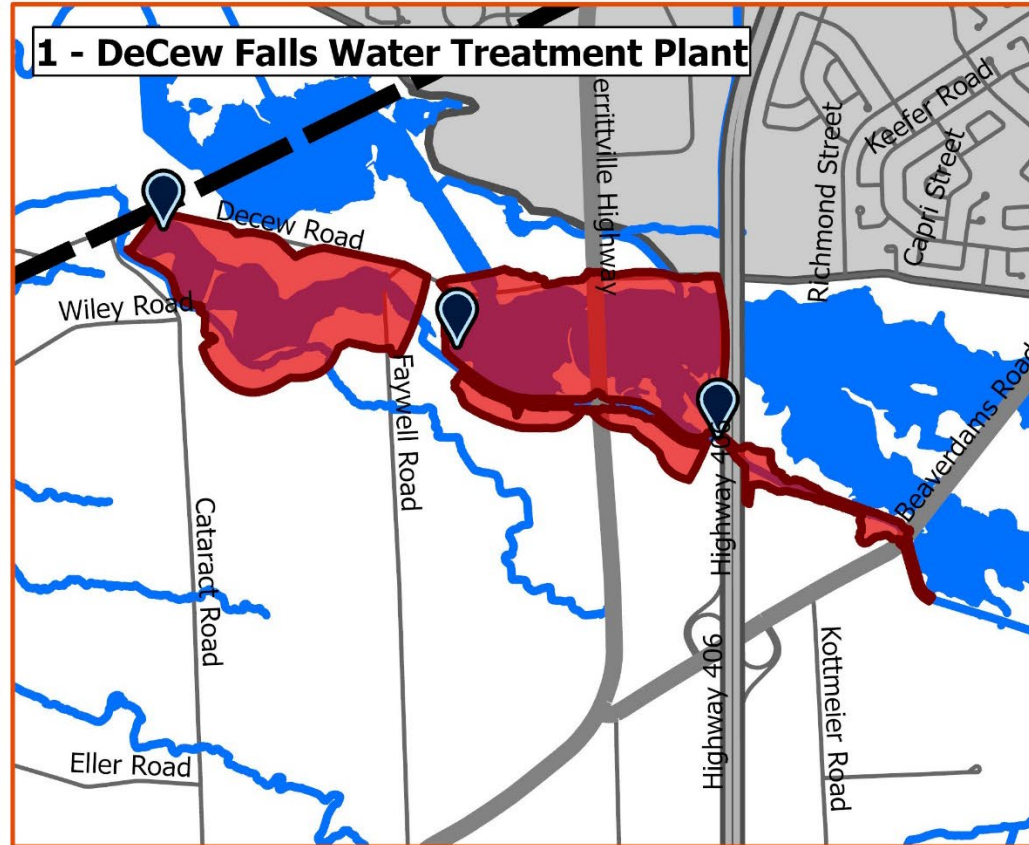
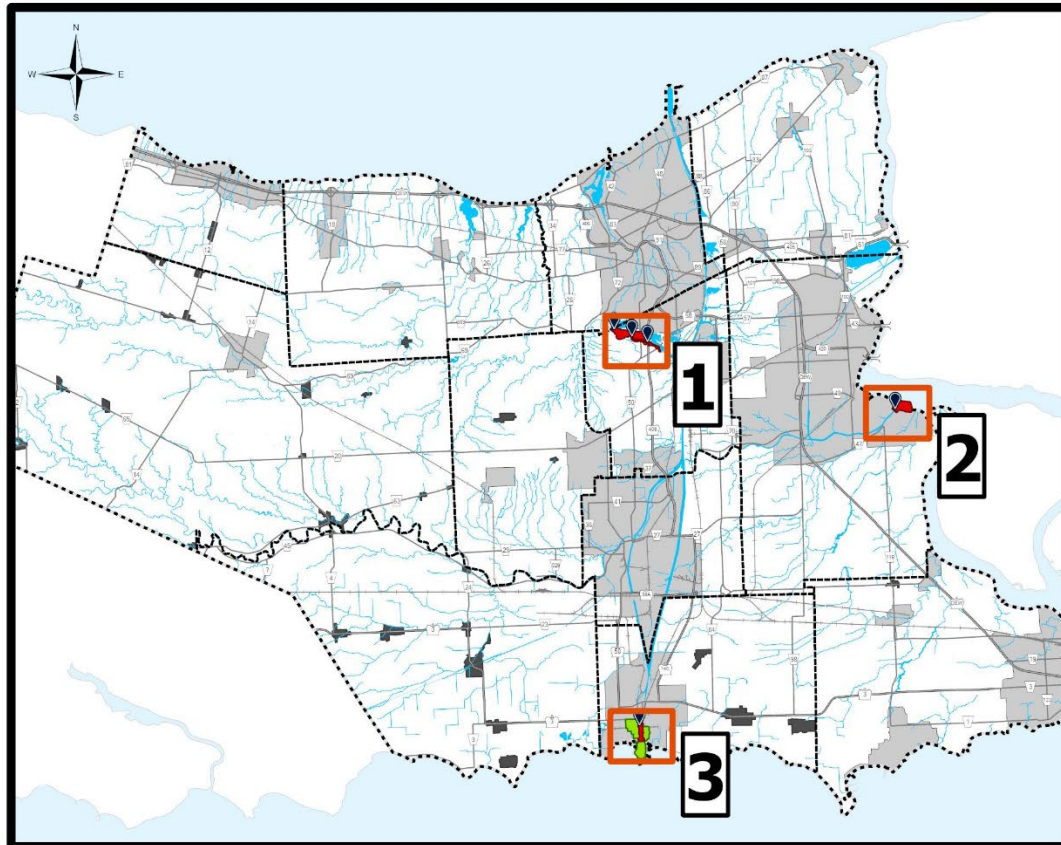
- a) Total number and type of *development* applications in *Intake Protection Zones*;
- b) Pre-consultation meetings related to the Niagara Peninsula *Source Protection Plan*;
- c) Number of *Risk Management Plans* reviewed and approved;
- d) The number and type of development applications in *Intake Protection Zones* with the potential for the creation or modification of a *transport pathway*; and
- e) Steps taken to improve education and research.

Monitoring development applications with potential for creation or modification of a transport pathway

Transport pathways are a change in land caused by human activity that increases the vulnerability of a drinking water source.

Examples include storm sewers, discharge pipes, utility trenches, ditches, swales, drainage works or any other types of drain.

Transport pathways are captured in the delineation of *IPZs*, however if any have been added to areas around *IPZs*, there is the possibility of contamination to the intake.



- INTAKE PROTECTION ZONE TYPE**
- IPZ-1
 - IPZ-2
 - SURFACE WATER INTAKE
 - NIAGARA REGION
 - MUNICIPAL BOUNDARY
 - PROVINCIAL ROAD
 - REGIONAL ROAD
 - LOCAL ROAD
 - RAILWAY
 - URBAN AREAS
 - RURAL SETTLEMENTS

0 5 10 20
Kilometers

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EXECUTIVE OVERVIEW

CHAPTER 3 – 3.7 Excess Soil Management

SUMMARY

The management of *excess soil* is critical to protect human health and the environment as our communities grow. *Excess soil* is soil that is not required at a construction or development site and must be moved to a new, off-site location. In some cases, *excess soil* may be temporarily stored at another location before being brought to a receiving site.

Provincial direction encourages on-site and local reuse of *excess soil* and requires best management practices for *excess soil*. Provincial direction for *excess soil* is new and has not been previously addressed in the Regional Official Plan.

- Excess soil is a multidisciplinary issue with implications for growth and development, agricultural land, the natural environment system, and transportation.
- The Provincial Excess Soil Management Policy Framework (2016) proposed a number of policy changes to create a life-cycle management approach to *excess soil* management. This includes placing greater responsibility on source sites, where soil is excavated and recognizing opportunities for *excess soil* re-use.
- Ontario Regulation 406/19: On-Site and Excess Soil Management established rules for when excess soil is not a waste and outlines soil quality standards for beneficial reuse. The implementation of this regulation is staggered beginning in January 2021.
- The policies in the Niagara Official Plan for excess soil management implement best management practices as outlined in the Province's Management of Excess Soil- A Guide for Best Management Practices (BMP).
- Policy direction for this chapter includes reusing excess soil on-site or locally where possible during development or site alteration and direction to local municipalities to implement best management practices and update site alteration and fill by-laws in accordance with the Municipal Act.

A Draft Policy set is provided with this sub-section document.

Integration Guide for Sub-sections Reported in PDS 32-2021			
<input checked="" type="checkbox"/>	Regional Structure	<input type="checkbox"/>	Archaeology
<input type="checkbox"/>	Housing	<input type="checkbox"/>	Employment
<input type="checkbox"/>	Land Needs	<input checked="" type="checkbox"/>	Agriculture
<input type="checkbox"/>	SABR	<input checked="" type="checkbox"/>	Aggregates
<input checked="" type="checkbox"/>	Transportation	<input type="checkbox"/>	Natural Heritage incl.
<input checked="" type="checkbox"/>	Infrastructure	<input type="checkbox"/>	Water Systems Options
<input type="checkbox"/>	District/Secondary Plans	<input type="checkbox"/>	Watershed Planning
<input type="checkbox"/>	Urban Design	<input checked="" type="checkbox"/>	Climate Change



OVERVIEW

Excess soil is defined as soil, or soil mixed with rock, that has been excavated as part of a project and removed from the project area for the project (O.Reg 406/19). The need to properly manage excess soil has arisen due to the large quantities of soil being generated through site alteration and construction activities in Ontario.

Excess soil is a growing concern for rural municipalities as there have been cases of illegal dumping, impacts to ground or surface water quality, and impacts to natural and agricultural land. Other issues arising from excess soil include contaminated soil when not properly managed, transportation of excess soil causing damage to roads and increased greenhouse gas emissions, and the introduction and spread of invasive species.

The Excess Soil Management Policy Framework document was prepared by the Ministry of the Environment, Conservation and Parks (MOECP) in 2016. This document identifies the need for a revised policy framework to manage excess soil with 22 key actions identified. Important to the updated policy framework is to provide for better life-cycle management, placing greater responsibility on the source sites, where soil is excavated.

Since the Excess Soil Management Policy Framework was published in 2016, there has been the introduction of excess soil re-use policies in Provincial planning documents, changes to the *Municipal Act*, a new regulation introduced under the *Environmental Protection Act (EPA)*.

Provincial land use policy direction emphasizes the need to incorporate best management practices into Official Plans for excess soil management. The Province prepared Management of Excess Soil- A Guide for Best Management Practices to provide guidance for handling excess soil when it is excavated, transported, received at a new site and where soil can be reused for a beneficial purpose.

Section 142 of the *Municipal Act, 2001* provides authority to local municipalities to establish by-laws to regulate the placement and dumping of fill. There are certain exemptions for sites licenced under the Aggregate Resources Act, normal farm practices, etc. However, changes have been made with respect to municipal site-alteration by-laws and conservation authority regulated areas. Municipal site-alteration by-laws now apply in conservation authority regulated areas, with repeal of section 142(8).

The policies of this chapter encourage local municipalities to create or update their site-alteration and fill by-laws in order to address the Best Management Practices on Excess Soil developed by the Province, changes to the *Municipal Act* in relation to conservation

authority regulated land, and the new excess soil management regulation under the *EPA*.

The attached Draft Policy, **Appendix 2.2** illustrates the direction the Niagara Official Plan is taking as it continues towards a completed final draft status.

CHAPTER 3- SUSTAINABLE REGION

Section 3.7 Excess Soil Management

The proper management of *excess soil* is critical to protect human health and the environment as our communities continue to grow. *Excess soil* is soil that is not required at a construction or development site and must be moved to a new location. In some cases, *excess soil* may be temporarily stored at another location before being brought to a final receiving site. Recent changes to Provincial legislation, beginning with the Excess Soil Management Policy Framework (2016) proposed a number of policy changes to create a life-cycle management approach to excess *soil* management. This includes placing greater responsibility on source sites, where soil is excavated and recognizing opportunities for *excess soil* re-use.

The manner for which *excess soil* is managed and disposed of has implications for greenhouse gas emissions, with trucks moving *excess soil* across communities. Other issues include the quality of *excess soil*, and the need to protect the environment, water, and agriculture. The beneficial re-use of *excess soil* locally can contribute to climate change mitigation goals and overall sustainability of soil.

The policies of Chapter 3.7 are intended to implement best management practices of *excess soil* for a beneficial re-use purpose where appropriate.

Best Management Practices for Excess Soil

Management of Excess Soil – A Guide for Best Management Practices (BMP) was prepared by the Province to provide guidance for handling excess soil when it is excavated, transported, received at a new site and where soil can be reused for a beneficial purpose.

The BMP is for municipalities, conservation authorities, and project site owners/operators.

3.7.1 Recognize and manage excess soil for new development, site alteration and infrastructure

- 3.7.1.1 *Excess soil* shall be managed in accordance with Ontario Regulation 406/19 under the *Environmental Protection Act*.
- 3.7.1.2 Best management practices for *excess soil* generated and fill received during *development, site alteration*, including *infrastructure development*, shall be implemented to ensure that:
 - a) *Excess soil* generated is to be reused on-site or locally to the maximum extent possible;
 - b) *Temporary storage sites* are encouraged to be permitted close to soil reuse sites to reduce transportation and environmental impacts such as greenhouse gas emissions; and
 - c) *Excess soil* placement at receiving sites are required to demonstrate that the activity will not have a negative impact on

existing land uses, the natural environment, surrounding land uses and cultural heritage resources.

- 3.7.1.3 *A soil management plan, meeting Provincial best practices is to be prepared as part of the Planning Act application process for new development.*

3.7.2 Provide direction to local municipalities managing excess soil

- 3.7.2.1 Local municipalities are encouraged to develop or update site alteration and fill by-laws in accordance with the *Municipal Act*.
- 3.7.2.2 Local municipalities shall incorporate best management practices for the management of *excess soil* generated and fill received during *development* or *site alteration*, including *infrastructure* development, to ensure that:
- a) Any *excess soil* is reused on-site or locally to the maximum extent possible;
 - b) Local official plans and zoning by-laws identify appropriate sites for *excess soil* storage and processing; and
 - c) Site plan approval is utilized for new or expanding soil storage or processing sites.

Soil Management Plans

Soil management plans are outlined in the Provincial BMPs for Excess Soil. A Soil Management Plan outlines the condition of the soil at the source site, to ensure soil suitability during construction projects and recommends the following:

- Detailed sampling and analysis plan for all excavated soil
- Estimated volume of excess soil to be managed off-site
- Site plan identifying areas to be excavated
- List of potential receiving sites for *excess soil*

EXECUTIVE OVERVIEW

Chapter 4 – Section 4.4 Petroleum and Mineral Resources

SUMMARY

Petroleum and mineral resources are non-renewable and finite across Niagara Region. These resources are protected for potential extraction and long-term use, but are not the same as mineral aggregate resources.

- The Province provides mapping of petroleum wells and petroleum pools for within the Niagara region. Petroleum pools will be depicted on Draft Schedule H.
- The Ministry of Northern Development, Mines, Natural Resources and Forestry regulates petroleum resources through the Oil, Gas and Salt Resources Act and provincial operating standards. This includes licensing of new wells, and overseeing decommissioning of existing wells.
- Proper and regulated decommissioning of wells is integral to ensuring potential hazards are avoided. Rehabilitation must be conducted according to the Oil, Gas and Salt Resources Act and its regulations and standards.
- Policy direction for this section is primarily focused on ensuring Petroleum resource operations in Niagara and any future possible mineral mining operations, will be protected from incompatible land uses, and the establishment of new operations as well as access to resources should not be hindered by development or activities on the resources or adjacent lands.

A Draft Policy set is provided with this sub-section document.

Integration Guide for Sub-sections Reported in PDS 32-2021			
<input checked="" type="checkbox"/>	Regional Structure	<input type="checkbox"/>	Archaeology
<input checked="" type="checkbox"/>	Housing	<input type="checkbox"/>	Employment
<input type="checkbox"/>	Land Needs	<input checked="" type="checkbox"/>	Agriculture
<input type="checkbox"/>	SABR	<input type="checkbox"/>	Aggregates
<input type="checkbox"/>	Transportation	<input checked="" type="checkbox"/>	Natural Heritage incl.
<input type="checkbox"/>	Infrastructure	<input type="checkbox"/>	Water Systems Options
<input type="checkbox"/>	District/Secondary Plans	<input type="checkbox"/>	Watershed Planning
<input type="checkbox"/>	Urban Design	<input type="checkbox"/>	Climate Change

OVERVIEW

Petroleum and mineral resources are finite non-renewable resources and must be protected from incompatible land uses or uses that would limit their extraction in the future.

Petroleum resources include oil, gas, and salt resources. These resources can be found trapped underground in layers of ancient sedimentary rock which underlie all of southern Ontario. Ontario's oil, natural gas and salt resources are extracted by the



drilling of wells. Petroleum Resource Operations is the term used for these wells, and associated facilities and other drilling operations. The Ministry of Northern Development, Mines, Natural Resources and Forestry (MNDMNRF) regulates petroleum resources through the Oil, Gas and Salt Resources Act (OGSRA) and provincial operating standards. This includes all licensing of new wells, and overseeing decommissioning of existing wells.

Wells may be privately owned or corporately owned, but are all required to be licensed and issued a licensing number accordingly through the MNDMNRF. When wells of all types are no longer needed for the purpose for which they were drilled, they are plugged according to standards in Oil, Gas and Salt Resources of Ontario Operating Standards. Proper and regulated decommissioning of wells, is integral to ensuring potential hazards are avoided.

All wells, whether active, suspended, or plugged and abandoned (i.e., rendered safe as part of site rehabilitation following cessation of production) should be respected in any decisions regarding new development. Namely, in accordance with the OGSRA, a restriction on new developments within 75m of a petroleum resource operation.

The province maps well locations as point features, where a well has been drilled into geological formations for purposes such as; production of oil and gas; injection, storage and withdrawal of oil, gas, brine or other hydrocarbons; or geological evaluation or testing of underground bedrock formations that may contain oil or gas. The province also provides mapping for petroleum pools; where there is a subsurface accumulation of oil and/or natural gas in porous and permeable rock whose presence has been proven by the drilling of petroleum wells and from which hydrocarbons have been or are being produced, or are capable of being produced in economic quantities. Petroleum pools will be mapped on Schedule H of this Plan.

Mineral resources, include metallic minerals; those minerals from which metals (e.g. copper, nickel, gold) are derived, and non-metallic minerals; those minerals that are of value for intrinsic properties of the minerals themselves and not as a source of metal (e.g. graphite, gypsum, mica). Mineral deposits in the Niagara Region are not as readily mapped or identified, although some mineral occurrences data is available from the MNDMNRF. However, mineral resources are protected in a similar fashion to petroleum resources, to ensure future resource extraction possibilities exist. The closest mineral mining operation is currently a Gypsum mine located in Haldimand County.

The attached draft policy and mapping, **Appendix 3.2** and **Appendix 3.3** respectively, illustrates the direction the Niagara Official Plan is taking as it continues towards completed final draft status.

CHAPTER 4 – COMPETITIVE REGION

Section 4.4 Petroleum and Mineral Resources

Known *Petroleum Resources* and *Petroleum Resource Operations*, including wells, are located across areas of the Niagara Region, and are protected for long-term use. Mineral Resources are both metallic and non-metallic *minerals*, but are different from *mineral aggregate resources* identified in Section 4.3 of this Plan. *Mineral deposits* may occur in Niagara region and must be protected for potential extraction. There are no known *Mineral Mining Operations* in Niagara.

4.4.1 Protect the Region's Mineral Deposits and Petroleum Resources

- 4.4.1.1 Schedule H of this Plan, identifies where petroleum pools are located in Niagara region, according to Provincial mapping.
- 4.4.1.2 *Petroleum resource operations* and any future *Mineral Mining Operations* shall be protected from *development* and activities that would preclude or hinder their expansion or continued use or which would be incompatible for reasons of public health, public safety or environmental impact.
- 4.4.1.3 No development shall occur within 75m of a *petroleum resource operation* unless the *petroleum resource operation* has been decommissioned and rehabilitated in accordance with applicable Provincial regulations and standards.
- 4.4.1.4 Development and activities in known *mineral deposits* or known *petroleum resources* or on adjacent lands which would preclude or hinder the establishment of new operations or access to the resources shall only be permitted if:
 - a) resource use would not be feasible; or

Petroleum Resource Operations

Petroleum Resource Operations is a term that encompasses wells, facilities, and other drilling operations associated with oil, gas, and salt resources.

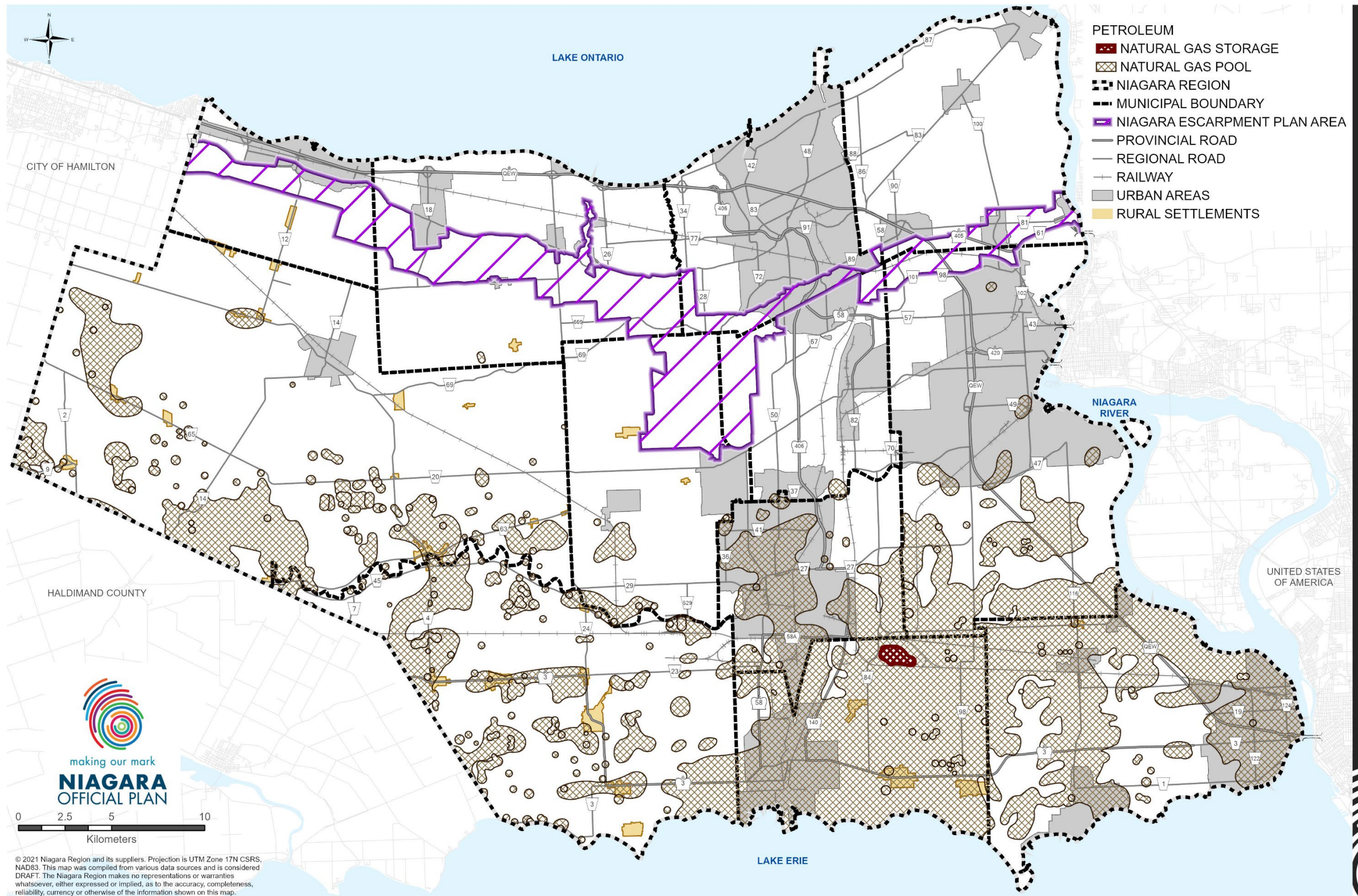
Over 2000 wells are identified in Niagara Region through provincial mapping. These wells are classified by types, including natural gas wells, storage wells, and dry exploratory holes.

- b) the proposed land use or development serves a greater long-term public interest; and
- c) issues of public health, public safety and environmental impact are addressed.

- 4.4.1.5 Petroleum and mineral resource extraction activities shall be conducted in accordance with the Oil, Gas and Salt Resources Act and its regulations and standards, as well as a licence from the Ministry of Northern Development, Mines, Natural Resources and Forestry.
- 4.4.1.6 Any proposal for a new *mineral mining operation* will require an amendment to this Plan.

Oil, Gas, and Salt Resources Act (OGSRA)

The Ministry of Northern Development, Mines, Natural Resources and Forestry regulates *petroleum resources* through the OGSRA and provincial operating standards. This includes all licensing of new wells, and overseeing decommissioning of existing wells.



EXECUTIVE OVERVIEW

CHAPTER 7 – Implementation

SUMMARY

The Implementation Chapter is very important to ensure the policy directions in the Niagara Official Plan are carried out efficiently and successfully. There are numerous important components for the implementation of NOP policy direction, namely:

- **7.1 Plan Interpretation**
 - How to read the Plan
- **7.2 Region and Local Roles**
 - Coordinating planning applications
 - Memorandum of Understandings- ensuring this process stays in effect and up to date
 - Exemptions to Regional approvals. An example would be the Region exempting Secondary Plans from Regional approval under certain conditions.
 - Guidance documents
- **7.3 Performance Indicators and Monitoring**
 - Monitor intensification and density targets
 - Land developed
 - Natural environment mapping updates
 - Archaeological Management Plan (AMP) potential mapping updates
- **7.4 Phasing**
 - Local municipalities phasing growth
 - Excess lands
- **7.5 Health Impact Assessment**
 - Establish criteria in Secondary Plans
- **7.6 Asset Management Plan**
 - Assessing the full life cycle costs of infrastructure. The financial sustainability of infrastructure is a Growth Plan objective.
- **7.7 Complete Applications**
 - Identifies the studies required to be submitted with various applications
- **7.8 Review / Updates /Amendments to OP**



- Incorporation and carry over of existing site-specific policy areas.
- **7.9 Consultation and engagement- outline approach for:**
 - Public consultation
 - Consulting with other governments
 - Engaging local municipalities
 - Engaging Indigenous partners

Integration Guide for Sub-sections Reported in PDS 32-2021	
<input checked="" type="checkbox"/> Regional Structure	<input checked="" type="checkbox"/> Archaeology
<input checked="" type="checkbox"/> Housing	<input checked="" type="checkbox"/> Employment
<input checked="" type="checkbox"/> Land Needs	<input checked="" type="checkbox"/> Agriculture
<input checked="" type="checkbox"/> SABR	<input checked="" type="checkbox"/> Aggregates
<input checked="" type="checkbox"/> Transportation	<input checked="" type="checkbox"/> Natural Heritage incl.
<input checked="" type="checkbox"/> Infrastructure	<input checked="" type="checkbox"/> Water Systems Options
<input checked="" type="checkbox"/> District/Secondary Plans	<input checked="" type="checkbox"/> Watershed Planning
<input checked="" type="checkbox"/> Urban Design	<input checked="" type="checkbox"/> Climate Change

OVERVIEW

Policies for this Chapter are more easily developed as the draft policies associated with other Chapters come to fruition. Most policies for this section will be similar to the policy direction in the existing Regional Official Plan with the exception of new policy direction for performance indicator and monitoring, phasing, health impact assessment, asset management and certain consultation elements such as consultation with Indigenous communities.

One section for the Implementation Chapter that has been drafted is the Performance Indicators and Monitoring (Section 7.3). Draft policies have been developed on performance indicators and monitoring early to assist with, and compliment the policy direction within Chapter 2: Growing Region.

Monitoring the implementation of this Plan is critical to:

- a) analyze the effectiveness of the policies in this Plan in meeting its overall goals and objectives;
- b) confirm targets are being met;
- c) respond to trends; and
- d) identify and confirm if the direction of the Plan remains constant or if updates are required.

The policies identify the topic areas that will require monitoring, as well as Regional and Local municipal roles in the monitoring process.

Planning staff have initiated work on other Sections of the Implementation Chapter. For example Regional Planning staff are discussing with all local planning staff which existing site specific policy areas can be removed as they are no longer necessary and which should be carried over into the Niagara Official Plan.

The Draft policies on Performance Indicators and Monitoring are attached as **Appendix 4.2**.

CHAPTER 7- IMPLEMENTATION

Section 7.3 Performance Indicators and Monitoring

7.3.1 Ensure objectives are met and targets achieved

- 7.3.1.1 The Region, in collaboration with local municipalities, the Niagara Peninsula Conservation Authority and any other identified stakeholders, as appropriate, will comprehensively monitor and measure the performance of the policies of this Plan.
- 7.3.1.2 Monitoring the implementation of this Plan is critical to:
- a) analyze the effectiveness of the policies in this Plan in meeting its overall goals and objectives;
 - b) confirming targets are being met;
 - c) responding to trends; and
 - d) Identifying and confirming if the direction of the Plan remains constant or if updates are required.
- 7.3.1.3 The Region shall:
- a) Establish a program to monitor, measure, and evaluate performance of this Plan;
 - b) Identify a series of both qualitative and quantitative indicators;
 - c) Prepare regular monitoring reports as set out in Policy XX that measures the success of this Plan; and
 - d) Work in cooperation with local municipalities to establish common measuring and reporting tools to monitor:
 - i) The Growing Region through:
 - Distribution of population and employment allocations to local municipalities as set out in Table 1, Section 2.1;
 - Density targets for *designated greenfield area*, *strategic growth areas*, and *employment areas*;
 - Implementation of local intensification rates as set in Table 2, policy 2.2.6.1; and

- Mix, range, and affordability of housing units, including achievement of the Region's affordable housing target stated in Policy 2.3.2.3;
- ii) The Sustainable Region through:
 - Health of the Natural Heritage System and Water Resource System; and
 - Progress towards climate change mitigation and adaptation measures.
- iii) The Competitive Region through:
 - State of aggregates;
 - Protection of agricultural areas; and
 - Economic development.
- iv) The Connected Region through:
 - Performance of Regional infrastructure; and
 - Performance of Regional transportation facilities.
- v) The Vibrant Region through:
 - The creation of Secondary Plans;
 - Excellence in Urban Design; and
 - The recognition and protection of cultural and archaeological resources.
- vi) Other policies identified through the monitoring program, which requires regular monitoring.

7.3.2 Provide clear direction for local municipalities to coordinate monitoring efforts

7.3.2.1 Local municipalities shall:

- a) Establish indicators to monitor local implementation of Provincial, Region, and local policy;
- b) Provide data to support the Region's monitoring program, as required; and
- c) Work with the Region to establish common measuring and reporting tools to monitor.

7.3.2.2 Local municipalities shall prepare local monitoring programs and regularly provide updates to the Region at intervals determined through the program.

Glossary of Terms

Active Transportation

Any form of self-propelled transportation that relies on the use of human energy such as walking, cycling, inline skating, jogging, or travel with the use of mobility aids, including motorized wheelchairs and other power-assisted devices at a comparable speed.

(*Growth Plan*, 2020)

Affordable

1. in the case of ownership housing, the least expensive of:
 - a) housing for which the purchase price results in annual accommodation costs which do not exceed 30 per cent of gross annual household income for low and moderate income households; or
 - b) housing for which the purchase price is at least 10 per cent below the average purchase price of a resale unit in the regional market area;
2. in the case of rental housing, the least expensive of:
 - a) a unit for which the rent does not exceed 30 per cent of gross annual household income for low and moderate income households; or
 - b) a unit for which the rent is at or below the average market rent of a unit in the regional market area. (*Growth Plan*, 2020)

Agricultural Impact Assessment

A study that evaluates the potential impacts of non-agricultural development on agricultural operations and the Agriculture System and recommends ways to avoid, or, if avoidance is not possible, minimize and mitigate adverse impacts. (*Greenbelt Plan*, 2017)

Agriculture-Related Uses

Those farm-related commercial and farm-related industrial uses that are directly related to farm operations in the area, support agriculture, benefit from being in close proximity to farm operations, and provide direct products and/or services to farm operations as a primary activity (*PPS*, 2020).

Agricultural Source Material

Treated or untreated materials, as defined by the Nutrient Management Act, other than compost that meets the Compost Guidelines, or a commercial fertilizer, if they are capable of being applied to land as nutrients.

Agricultural System

The system mapped and issued by the Province, comprised of a group of inter-connected elements that collectively create a viable, thriving agricultural sector. It has two components:

- a) an agricultural land base comprised of prime agricultural areas, including specialty crop areas, and *rural lands* that together create a continuous, productive land base for agriculture; and
- b) an *agri-food network*, which includes infrastructure, services and assets important to the viability of the agri-food sector. (*Greenbelt Plan*, 2017)

Agricultural Uses

Growing of crops or raising of animals; includes associated on-farm buildings and structures; all types, sizes and intensities; normal farm practices are promoted and protected (e.g. cropland, pastureland, barns and other associated buildings and structures).

Agri-food Network

Within the agricultural system, a network that includes elements important to the viability of the agri-food sector such as regional infrastructure and transportation networks; on-farm buildings and infrastructure; agricultural services, farm markets, distributors, and primary processing; and vibrant, agriculture-supportive communities. (*PPS*, 2020)

Agri-Tourism Uses

Those farm-related tourism uses, including limited accommodation such as a bed and breakfast, that promote the enjoyment, education or activities related to the farm operation (*PPS*, 2020).

Airports

All Ontario *airports*, including designated lands for future *airports*, with Noise Exposure Forecast (NEF)/Noise Exposure Projection (NEP) mapping. (*PPS*, 2020)

Archaeological Resources

Includes artifacts, archaeological sites, marine archaeological sites, as defined under the *Ontario Heritage Act*. The identification and evaluation of such resources are based upon archaeological fieldwork undertaken in accordance with the *Ontario Heritage Act*.

Areas of Archaeological Potential

Areas with the likelihood to contain archaeological resources. Criteria to identify archaeological potential are established by the Province. The *Ontario Heritage Act* requires archaeological potential to be confirmed by a licensed archaeologist.

Brownfields

Undeveloped or previously developed properties that may be contaminated. They are usually, but not exclusively, former industrial or commercial properties that may be underutilized, derelict or vacant. (*PPS*, 2020)

Built Form

The function, shape, and configuration of buildings, as well as their relationship to streets and open spaces.

Built-Up Areas

The limits of the developed *urban areas* as defined by the Minister in consultation with affected municipalities for the purpose of measuring the minimum intensification target in this Plan. Built-up areas are delineated in **Schedule B**.

Climate Change

Changes in weather patterns at local and regional levels, including extreme weather events and increased climate variability. (Based on the *PPS*, 2020 and modified for this Plan)

Combined Sewers

A sewer designed to convey both sanitary sewage and storm water through a single pipe to a sewage treatment plant.

Community Infrastructure

Lands, buildings, and structures that support the quality of life for people and communities by providing public services for health, education, recreation, socio-cultural activities, security and safety, and affordable housing.

Compact Built Form

A land-use pattern that encourages the efficient use of land, walkable neighbourhoods, mixed land uses (residential, retail, workplace and institutional) all within one neighbourhood, active transportation, proximity to transit and reduced need for infrastructure. Compact built form can include detached and semi-detached houses on small lots as well as townhouses and walk-up apartments, multistorey commercial developments, and apartments or offices above retail. Walkable neighbourhoods can be

characterized by roads laid out in a well-connected network, destinations that are easily accessible by transit and active transportation, sidewalks with minimal interruptions for vehicle access, and a pedestrian-friendly environment along roads to encourage active transportation.

Compatible

A development, building and/or land use that can co-exist or occur without conflict with surrounding land uses and activities in terms of its uses, scale, height, massing and relative location.

Complete Communities

Places such as mixed-use neighbourhoods or other areas within cities, towns, and settlement areas that offer and support opportunities for people of all ages and abilities to conveniently access most of the necessities for daily living, including an appropriate mix of jobs, local stores, and services, a full range of housing, transportation options and public service facilities. Complete communities are age-friendly and may take different shapes and forms appropriate to their contexts. (*Growth Plan*, 2020)

Complete Streets

Streets that are planned to balance the needs of all road users, including pedestrians, cyclists, transit-users, and motorists, and are designed for the safety of people of all ages and abilities (Based on *Growth Plan*, 2020 and modified for this Plan)

Complete Streets Design Manual

Guidelines developed as part of the Niagara Region's Transportation Master Plan which define Regional Road typologies and provide guidance on the implementation of complete streets elements that fall within the public right-of-way.

Community Housing

Housing owned and operated by non-profit housing corporations, housing co-operatives and municipal governments, or district social services administration boards. Community housing providers offer subsidized or low-end-of market rents.

Community Hubs

Public service facilities that offer co-located or integrated services such as education, health care and social services.

Conservation Authority

Refers to the Niagara Peninsula Conservation Authority

Conserved

The identification, protection, management and use of built heritage resources, cultural heritage landscapes and archaeological resources in a manner that ensures their cultural heritage value or interest is retained. This may be achieved by the implementation of recommendations set out in a conservation plan, archaeological assessment, and/or heritage impact assessment that has been approved, accepted or adopted by the relevant planning authority and/or decision maker. Mitigative measures and/or alternative development approaches can be included in these plans and assessments.

Cultural Heritage Resources

Built heritage resources, cultural heritage landscapes and archaeological resources that have been determined to have cultural heritage value or interest for the important contribution they make to our understanding of the history of a place, an event, or a people. While some cultural heritage resources may already be identified and inventoried by official sources, the significance of others can only be determined after evaluation. (*Greenbelt Plan*, 2017)

Designated Greenfield Areas

Lands within *urban areas* but outside of built-up areas that have been designated in an official plan for development and are required to accommodate forecasted growth to the horizon of this Plan. Designated greenfield areas do not include excess lands, and are identified in **Schedule B**.

Development

The creation of a new lot, a change in land use, or the construction of buildings and structures requiring approval under the *Ontario Planning Act*, but does not include:

- a) activities that create or maintain *infrastructure* authorized under an environmental assessment process; or
- b) works subject to the *Drainage Act*.

(Based on *PPS*, 2020 and modified for the *Growth Plan*)

Employment Areas

Areas designated in an Official Plan for clusters of business and economic activities including, but not limited to manufacturing, warehousing, offices, and associated retail and ancillary facilities. (*PPS*, 2020)

Employment Land

Lands that are designated in local official plans or zoning by-laws for employment uses. Employment lands may be within and outside of employment areas.

Excess Lands

Vacant, unbuilt but developable lands within settlement areas but outside of built-up areas that have been designated in an Official Plan for development but are in excess of what is needed to accommodate forecasted growth to the horizon of this Plan. (*Growth Plan*, 2020)

Excess Soil

Soil, or soil mixed with rock that has been excavated as part of a project and removed from the project area for the project as defined under O.Reg 406/19 under the *Environmental Protection Act*.

Freight-Supportive

In regard to land use patterns, means transportation systems and facilities that facilitate the movement of goods. This includes policies or programs intended to support efficient freight movement through the planning, design and operation of land use and transportation systems. Approaches may be recommended in guidelines developed by the Province or based on municipal approaches that achieve the same objectives. (*PPS*, 2020)

Frequent Transit

A public transit service that runs at least every 15 minutes in both directions throughout the day and into the evening every day of the week.

Fringe Lands

Fringe land is the area between the agricultural/rural countryside and the built-up city/suburbs. It can further be described as the edge of the urban region where patterns of building development and non-development interweave. The urban fringe is often an area with contrasting land uses and compatibility conflicts. Urban design can play a role in mitigating conflicts and transitioning land uses in these fringe areas.

Green Infrastructure

Natural and human-made elements that provide ecological and hydrologic functions and processes. Green infrastructure can include components such as natural heritage features and systems, parklands, stormwater management systems, street trees, urban forests, natural channels, permeable surfaces, and green roofs. (*PPS*, 2020)

Greyfield Sites

Previously developed properties that are not contaminated. They are usually, but not exclusively, former commercial properties that may be underutilized, derelict, or vacant. (*Growth Plan*, 2020 Consolidation)

Hamlets

Small, *rural settlements* that are long-established and identified in official plans. These communities are serviced by individual private on-site water and/or private wastewater services, contain a limited amount of undeveloped lands that are designated for development and are subject to official plan policies that limit growth.

Higher Order Transit

Transit that generally operates in partially or completely dedicated rights-of-way, outside of mixed traffic, and therefore can achieve levels of speed and reliability greater than mixed-traffic transit. Higher order transit can include heavy rail (such as subways and inter-city rail), light rail, and buses in dedicated rights-of-way. (*Growth Plan*, 2020)

Individual On-Site Sewage Service

A sewage disposal system, other than a holding tank, that is designed and constructed in accordance with applicable Provincial requirements and owned, operated, and managed by the owner of the property upon which the system is located.

Individual on-site water service

An individual, autonomous water supply system that is designed and constructed in accordance with the Ministry of the Environment Guidelines or other guidelines approved by the municipality and owned, operated, and managed by the owner of the property upon which the system is located.

Industrial Effluent System

Systems which convey and discharge the by-product from an industrial process that can contain contaminants from non-domestic wastes.

Infrastructure

Physical structures (facilities and corridors) that form the foundation for development. Infrastructure includes: municipal services, septage treatment systems, stormwater management systems, waste management systems, electricity generation facilities, electricity transmission and distribution systems, communications/telecommunications, transit and transportation corridors and facilities, oil and gas pipelines and associated facilities. (*PPS*, 2020)

Intake Protection Zone

Plan for the Niagara Peninsula Source Protection Area that surrounds a municipal surface water intake and within which it is desirable to regulate or monitor drinking water threats. Where a conflict in mapping arises, the Source Protection Plan shall prevail.

Intensification

The development of a property, site or area at a higher density than currently exists through:

- a) redevelopment, including the reuse of brownfields;
- b) the development of vacant and/or underutilized lots within previously developed areas;
- c) infill development; and
- d) the expansion or conversion of existing buildings. (*PPS*, 2020)

Interface

The physical relationship between two or more uses, such as, a building and street. It is the intent of urban design to reinforce this relationship and increase its impacts positively on the public realm.

Lateral Connection

The point at which a sewer or water line coming out from homes and businesses connects to the municipal sewer or water line.

Legal or Technical Reasons

Severances for purposes such as easements, corrections of deeds, quit claims, and minor boundary adjustments, which do not result in the creation of a new lot (*PPS*, 2020).

Low and Moderate Income Households

In the case of ownership housing, households with incomes in the lowest 60 per cent of the income distribution for the regional market area; or in the case of rental housing, households with incomes in the lowest 60 per cent of the income distribution for renter households for the regional market area. (*Growth Plan*, 2020)

Low Impact Development

An approach to stormwater management that seeks to manage rain and other precipitation as close as possible to where it falls to mitigate the impacts of increased runoff and stormwater pollution. It typically includes a set of site design strategies and

distributed, small-scale structural practices to mimic the natural hydrology to the greatest extent possible through infiltration, evapotranspiration, harvesting, filtration, and detention of stormwater. Low impact development can include, for example: bio-swales, vegetated areas at the edge of paved surfaces, permeable pavement, rain gardens, green roofs, and exfiltration systems. Low impact development often employs vegetation and soil in its design, however, that does not always have to be the case and the specific form may vary considering local conditions and community character. (*Growth Plan*, 2020)

Major Facilities

Facilities which may require separation from sensitive land uses, including but not limited to airports, manufacturing uses, transportation infrastructure and corridors, rail facilities, marine facilities, sewage treatment facilities, waste management systems, oil and gas pipelines, industries, energy generation facilities and transmission systems, and resource extraction activities. (*PPS*, 2020)

Major Goods Movement Facilities and Corridors

Transportation facilities and corridors associated with the inter- and intra-provincial movement of goods. Examples include: inter-modal facilities, ports, airports, rail facilities, truck terminals, freight corridors, freight facilities, and haul routes and primary transportation corridors used for the movement of goods. Approaches that are freight-supportive may be recommended in guidelines developed by the Province or based on municipal approaches that achieve the same objectives. (*PPS*, 2020)

Major Institutional Uses

Major trip generators that provide essential services for every stage of life and benefit from being close to urban services and amenities. Generally, major institutional uses are considered post-secondary institutions (i.e., colleges, universities, and trade schools), health care facilities and research centres (i.e., hospitals); and corporate government headquarters.

Major Office Use

Freestanding office buildings of approximately 4,000 square metres of floor space or greater, or with 200 jobs or more. (*Growth Plan*, 2020 Consolidation)

Major Retail / Major Commercial Uses

Large-scale or large-format stand-alone retail stores or retail centres that have the primary purpose of commercial activities. (based on *Growth Plan*, 2020 Consolidation)

Major Transit Station Areas

The area including and around any existing or planned higher order transit station or stop within a settlement area; or the area including and around a major bus depot in an urban core. Major transit station areas generally are defined as the area within an approximate 500 to 800 metre radius of a transit station, representing about a 10-minute walk. (PPS, 2020)

Major Trip Generators

Origins and destinations with high population densities or concentrated activities which generate many trips (e.g., urban growth centres and other downtowns, *major office* and *office parks*, *major retail / major commercial*, *employment areas*, community hubs, large parks and recreational destinations, post-secondary institutions and other *public service facilities*, and other mixed-use areas). (based on *Growth Plan*, 2020 Consolidation)

Marine Facilities

Ferries, harbours, ports, ferry terminals, canals and associated uses, including designated lands for future *marine facilities*. (PPS, 2020)

Minerals

Metallic minerals and non-metallic minerals as herin defined, but does not include *mineral aggregate resources* or *petroleum resources*.

Metallic minerals means those minerals from which metals (e.g. copper, nickel, gold) are derived.

Non-metallic minerals means those minerals that are of value for intrinsic properties of the minerals themselves and not as a source of metal. They are generally synonymous with industrial minerals (e.g. asbestos, graphite, kyanite, mica, nepheline syenite, salt, talc, and wollastonite) (PPS, 2020).

Mineral Aggregate Operation

- a) lands under license or permit, other than for wayside pits and quarries, issued in accordance with the *Aggregate Resources Act*;
- b) for lands not designated under the *Aggregate Resources Act*, established pits and quarries that are not in contravention of municipal zoning by-laws and including adjacent land under agreement with or owned by the operator, to permit continuation of the operation; and
- c) associated facilities used in extraction, transport, beneficiation, processing or recycling of mineral aggregate resources and derived products such as asphalt and concrete, or the production of secondary related products. (PPS, 2020)

Mineral Deposits

Areas of identified *minerals* that have sufficient quantity and quality based on specific geological evidence to warrant present or future extraction (*PPS*, 2020).

Mineral Mining Operation

Mining operations and associated facilities, or, past producing mines with remaining mineral development potential that have not been permanently rehabilitated to another use (*PPS*, 2020).

Minimum Distance Separation Formulae

The formulae and guidelines developed by the *Province*, as amended from time to time, to separate uses so as to reduce incompatibility concerns about odour from livestock facilities. (*PPS*, 2020)

Multimodal Transportation System

A transportation system which may include several forms of transportation such as automobiles, walking, trucks, cycling, buses, rapid transit, rail (such as commuter and freight), air and marine. (*PPS*, 2020)

Municipal Comprehensive Review

A new official plan, or an official plan amendment, initiated by an upper-or single-tier municipality under section 26 of the *Ontario Planning Act* that comprehensively applies the policies and schedules of this Plan. (*Growth Plan*, 2020 Consolidation)

Municipal Water and Wastewater Systems/Services

Municipal water systems/services are all or part of a drinking-water system:

- a) that is owned by a municipality or by a municipal service board established under section 195 of the *Municipal Act*, 2001;
- b) that is owned by a corporation established under section 203 of the *Municipal Act*, 2001;
- c) from which a municipality obtains or will obtain water under the terms of a contract between the municipality and the owner of the system; or
- d) that is in a prescribed class of municipal drinking-water systems as defined in regulation under the *Safe Drinking Water Act*, 2002.

And, municipal wastewater systems/services are any sewage works owned or operated by a municipality. (*Growth Plan*, 2020 Consolidation and modified for this Plan)

Natural Heritage Features and Areas

Features and areas, including significant wetlands, significant coastal wetlands, other coastal wetlands, fish habitat, significant woodlands and significant valleylands, habitat of endangered species and threatened species, significant wildlife habitat, and significant areas of natural and scientific interest, which are important for their environmental and social values as a legacy of the natural landscapes of an area.

Natural Heritage System

A system made up of natural heritage features and areas, and linkages intended to provide connectivity (at the regional or site level) and support natural processes which are necessary to maintain biological and geological diversity, natural functions, viable populations of indigenous species, and ecosystems. The system can include key natural heritage features, key hydrologic features, federal and provincial parks and conservation reserves, other natural heritage features and areas, lands that have been restored or have the potential to be restored to a natural state, associated areas that support hydrologic functions, and working landscapes that enable ecological functions to continue. (*Growth Plan*, 2020)

Niagara Economic Gateway

The total geographic area of the local municipalities a part of the Gateway Economic Centre or Gateway Economic Zone.

Normal Farm Practices

A practice, as defined in the *Farming and Food Production Protection Act*, 1998, that is conducted in a manner consistent with proper and acceptable customs and standards as established and followed by similar agricultural operations under similar circumstances; or makes use of innovative technology in a manner consistent with proper advanced farm management practices. Normal farm practices shall be consistent with *the Nutrient Management Act*, 2002 and regulations made under that Act (*PPS*, 2020).

Office Parks

Employment areas or areas where there are significant concentrations of offices with high employment densities. (*Growth Plan*, 2020 Consolidation)

On-Farm Diversified Uses

On a farm; secondary use; limited in area; includes, but is not limited to, home occupations, home industries, agri-tourism uses and value-added uses; compatible with surrounding agricultural operations.

Petroleum Resources

Oil, gas, and salt (extracted by solution mining method) and formation water resources which have been identified through exploration and verified by preliminary drilling or other forms of investigation. This may include sites of former operations where resources are still present or former sites that may be converted to underground storage for natural gas or other hydrocarbons (PPS, 2020).

Petroleum Resource Operation

Oil, gas and salt wells and associated facilities and other drilling operations, oil field fluid disposal wells and associated facilities, and wells and facilities for the underground storage of natural gas and other hydrocarbons (PPS, 2020).

Place-Making

The purposeful planning, and design of buildings, public realm, and transportation systems to achieve attachment to a place.

Planned Corridors

Corridors or future corridors which are required to meet projected needs, and are identified through this Plan, preferred alignment(s) determined through the Environmental Assessment Act process, or identified through planning studies where the Ministry of Transportation, Ministry of Energy, Northern Development and Mines, Metrolinx, or Independent Electricity System Operator (IESO) or any successor to those Ministries or entities, is actively pursuing the identification of a corridor. Approaches for the protection of planned corridors may be recommended in guidelines developed by the *Province*. (*Growth Plan*, 2020 Consolidation)

Prime Agricultural Area

Areas where prime agricultural lands predominate. This includes areas of prime agricultural lands and associated Canada Land Inventory Class 4 through 7 lands, and additional areas where there is a local concentration of farms which exhibit characteristics of ongoing agriculture. Prime agricultural areas may be identified by the Ontario Ministry of Agriculture and Food using guidelines developed by the Province as amended from time to time. A prime agricultural area may also be identified through an alternative agricultural land evaluation system approved by the Province (*PPS*, 2020).

Prime Agricultural Land

Means *specialty crop areas* and/or Canada Land Inventory Class 1, 2, and 3 lands, as amended from time to time, in this order of priority for protection (*PPS*, 2020).

Province

The Province of Ontario or the relevant Minister of the Provincial government.

Provincially Significant Employment Zones (PSEZs)

Areas defined by the Minister in consultation with affected municipalities for the purpose of long-term planning for job creation and economic development. *Provincially significant employment zones* can consist of *employment areas* as well as mixed-use areas that contain a significant number of jobs. (*Growth Plan*, 2020 Consolidation)

Public Realm

The publicly owned places and spaces that are accessible by everyone. These can include municipal streets, lanes, squares, plazas, sidewalks, trails, parks, open spaces, waterfronts, public transit systems, conservation areas, and civic buildings and institutions.

Public Service Facilities

Lands, buildings and structures for the provision of programs and services provided or subsidized by a government or other body, such as social assistance, recreation, police and fire protection, health and educational programs, long-term care services, and cultural services. Public service facilities do not include infrastructure. (*PPS*, 2020)

Public Works Projects

Construction projects, such as roads, highways or dams, bridges and waterworks financed by public funds and constructed by or under contract with the Region or local municipality for the benefit or use of the public.

Rail Facilities

Rail corridors, rail sidings, train stations, inter-modal facilities, rail yards and associated uses, including designated lands for future rail facilities. (*PPS*, 2020).

Redevelopment

The creation of new units, uses or lots on previously developed land in existing communities, including brownfield sites.

Regional Market Area

An area that has a high degree of social and economic interaction. The boundaries of the Niagara Region will serve as the regional market area for the purposes of assessing housing market conditions. (*PPS*, 2020 and modified for this Plan)

Residence Surplus to a Farming Operation

An existing habitable farm residence that is rendered surplus as a result of farm consolidation (the acquisition of additional farm parcels to be operated as one farm operation). (*PPS*, 2020).

Resilience

Definition to be added.

Risk Management Official

A person appointed under Part IV of the Clean Water Act, 2006, by the Council of a municipality that has authority to pass by-laws respecting water production, treatment, and storage under the Municipal Act, 2001 (Source Protection Plan for the Niagara Source Protection Area).

Rural Areas

A system of lands within local municipalities that may include rural settlements, rural lands, prime agricultural areas, natural heritage features and areas, and resource areas. (*PPS*, 2020)

Rural Lands

Lands which are located outside settlement areas and which are outside prime agricultural areas. (*PPS*, 2020)

Rural Settlements

Existing hamlets that are delineated in Schedule B of the Niagara Official Plan. These communities are serviced by individual private on-site water and/or private wastewater systems, contain a limited amount of undeveloped lands that are designated for development and are subject to Official Plan policies that limit growth. All settlement areas that are identified as hamlets in the Greenbelt Plan, or as minor urban centres in the Niagara Escarpment Plan are considered rural settlement areas for the purposes of this Plan, including those that would not otherwise meet this definition. (*Growth Plan*, 2020 Consolidation and modified for this Plan)

Sense of Place

The emotional attachments, meanings and identities people develop or experience in particular locations and environments. It is also used to describe the distinctiveness or unique character of a place.

Sensitive Land Uses

Buildings, amenity areas, or outdoor spaces where routine or normal activities occurring at reasonably expected times would experience one or more adverse effects from contaminant discharges generated by a nearby major facility. Sensitive land uses may be a part of the natural or built environment. Examples may include, but are not limited to: residences, day care centres, and educational and health facilities. (*PPS*, 2020)

Settlement Areas

Urban areas and *rural settlements* within *local municipalities* (such as cities, towns, villages and hamlets) that are:

- a) built up areas where development is concentrated and which have a mix of land uses; and
- b) lands which have been designated in an Official Plan for development in accordance with the policies of this Plan. Where there are no lands that have been designated for development, the settlement area may be no larger than the area where development is concentrated.

(*Growth Plan*, 2020 Consolidation and modified for this Plan)

Sewage Works

Any works for the collection, transmission, treatment and disposal of sewage or any part of such works but does not include plumbing to which the *Building Code Act*, 1992 applies. For the purposes of this definition: Sewage includes, but is not limited to drainage, storm water, residential wastes, commercial wastes and industrial wastes.

Significant

In regard to cultural heritage and archaeology, resources that have been determined to have cultural heritage value or interest. Processes and criteria for determining cultural heritage value or interest are established by the Province under the authority of the *Ontario Heritage Act*.

Significant drinking water treats or significant threat

A threat that, according to a risk assessment, poses or has the potential to pose a significant risk to the quality of municipal drinking water (Based on the Source Protection Plan for the Niagara Source Protection Area).

Site Alteration

The removal of topsoil and activities such as filling, grading and excavation that would change the landform, grade of the land and natural vegetative

characteristics of the land. This does not include the reconstruction, repair or maintenance of a drain approved under the Drainage Act.

Smart City

Definition to be added.

Soil Management Plan

A plan completed by a professional engineer or geoscientist that outlines the condition of soil at a source site where soil is excavated. (Best Management Practices for Excess Soil and modified for this Plan)

Source Protection Plan

A drinking water source protection plan prepared under of the Clean Water Act, 2006 (Source Protection Plan for the Niagara Source Protection Area).

Source Water

Water in its natural or raw state, prior to being drawn into a municipal drinking water system (Source Protection Plan for the Niagara Source Protection Area).

Specialized Housing Needs

Any housing, including dedicated facilities, in whole or in part, that is used by people who have specific needs beyond economic needs, including but not limited to, needs such as mobility requirements or support functions required for daily living. Examples include, but are not limited to, long-term care homes, adaptable and accessible housing, and housing for persons with disabilities such as physical, sensory or mental health disabilities, and housing for older persons. (Based on the *PPS*, 2020 and modified for this Plan)

Specialty Crop Area

Areas designated using guidelines developed by the Province, as amended from time to time. In these areas, specialty crops are predominantly grown such as tender fruits (peaches, cherries, plums), grapes, other fruit crops, vegetable crops, greenhouse crops, and crops from agriculturally developed organic soil, usually resulting from:

- a) soils that have suitability to produce specialty crops, or lands that are subject to special climatic conditions, or a combination of both;
 - b) farmers skilled in the production of specialty crops; and
 - c) a long-term investment of capital in areas such as crops, drainage, infrastructure and related facilities and services to produce, store, or process specialty crops.
- (*PPS*, 2020).

Specialty Crop Guidelines

Guidelines developed by the Region or Province, as amended from time to time
(Developed from the *PPS* definition of specialty crop area and modified for this Plan).

Stormwater management facility

A facility for the treatment, retention, infiltration or control of stormwater.

Stormwater master plan

A long-range plan that assesses existing and planned stormwater facilities and systems and outlines stormwater infrastructure requirements for new and existing development within a settlement area. Stormwater master plans are informed by watershed planning and are completed in accordance with the environmental assessment processes under the *Environmental Assessment Act* 1990, as amended.

Strategic Growth Areas

Within settlement areas, nodes, corridors, and other areas that have been identified in Schedule B to be the focus for accommodating intensification and higher-density mixed uses in a more compact built form. Strategic growth areas include urban growth centres, major transit station areas, and other major opportunities that may include infill, redevelopment, brownfield sites, the expansion or conversion of existing buildings, or greyfields. Lands along major roads, arterials, or other areas with existing or planned frequent transit service or higher order transit corridors may also be identified as strategic growth areas. (*Growth Plan*, 2020)

Subwatershed

An area that is drained by a tributary or some defined portion of a stream.

Sustainable

Definition to be added.

Sustainable Design

The design of the urban environment that is resilient to the impacts of climate change, (achieves complete communities, low impact development, active transportation, and complete streets, reduces consumption of non-renewable resources, minimizes waste, supports energy conservation and efficiency, reduces greenhouse gas emissions, and improves air quality), and reduces or eliminates other negative environmental impacts.

Temporary Storage Site

Sites owned or controlled by the owner/operator of a source site or receiving site, at which excess soil is temporarily stored for 2 years or less. Includes sites to

treat, remediate and transfer excess soil to other sites for final placement or disposal (Best Management Practices for Excess Soil and modified for this Plan).

Transit-supportive

Relating to development that makes transit viable and improves the quality of the experience of using transit. It often refers to compact, mixed-use development that has a high level of employment and residential densities. Transit-supportive development will be consistent with Ontario's Transit Supportive Guidelines. (*Growth Plan*, 2020)

Transport pathway

In respect of an *intake protection zone*, means works or any other thing that reduces the time it takes for a contaminant to reach a surface water intake and may include storm sewers, discharge pipes, utility trenches, ditches, swales, drainage works or any other types of drain (2017 Technical Rules under the Clean Water Act).

Transportation System

A system consisting of corridors and rights-of-way for the movement of people and goods, and associated transportation facilities including transit stops and stations, cycle lanes, bus lanes, high occupancy vehicle lanes, rail facilities, park-and-ride lots, service centres, rest stops, vehicle inspection stations, inter-modal terminals, harbours, and associated facilities such as storage and maintenance.

Urban Agriculture

Within *urban areas*, agricultural production of food and non-food products accessory to the principle use of a property. Examples of urban agriculture include community, school, and rooftop gardens, ground-based outdoor community and urban market gardens, urban livestock, and hydroponic farms.

Urban Areas

Lands located within a defined boundary as identified in Schedule B. Urban areas are made up of built-up areas, designated greenfield areas and excess lands and does not include *hamlets*.

Utility

Any system, works, plant, pipeline, or equipment providing a service necessary to the public interest including but not limited to electric power generation and transmission, stormwater management, water supply, sewage treatment and disposal, waste management, communications and telecommunications, and oil and gas pipelines and associated facilities.

Waste Disposal Sites

The application of untreated septage, the storage, treatment, and discharge of tailings from mines and waste disposal sites as defined under Part V of the *Ontario Environmental Protection Act*, 1990 with respect to Source Water Protection.

Waste Management

Waste management includes the activities and actions required to manage waste from its inception to its final disposal. This includes the collection, transport, treatment, and disposal of waste, together with monitoring and regulation of the waste management process.

Wastewater Treatment Plant/Facility

The part of a sewage works that treats or disposes of sewage but does not include the part of the sewage works that collects or transmits sewage.

Wastewater Services

Any works provided by the municipality for the collection, lateral connection, transmission, and treatment of sewage that are connected to a centralized wastewater treatment facility.

Water Budget

An accounting of the inflow to, outflow from, and storage changes of water in a hydrologic unit.

Water Services

Any works provided by the municipality for the distribution, lateral connection, transmission, and treatment of drinking water.

Watershed Planning

Planning that provides a framework for establishing goals, objectives, and direction for the protection of water resources, the management of human activities, land, water, aquatic life, and resources within a watershed and for the assessment of cumulative, cross-jurisdictional, and cross-watershed impacts. Watershed planning typically includes: watershed characterization, a water budget, and conservation plan; nutrient loading assessments; consideration of the impacts of a changing climate and severe weather events; land and water use management objectives and strategies; scenario modelling to evaluate the impacts of forecasted growth and servicing options, and mitigation measures; an environmental monitoring plan; requirements for the use of environmental best management practices, programs, and performance measures; criteria for evaluating the protection of quality and quantity of water; the identification

and protection of hydrologic features, areas, and functions and the inter-relationships between or among them; and targets for the protection and restoration of riparian areas.

Subject: Economic Development Quarterly Update

Report to: Planning and Economic Development Committee

Report date: Wednesday, August 11, 2021

Recommendations

1. That Report ED15-2021 **BE RECEIVED** for information.

Key Facts

- Economic Development provided monthly COVID-19 Response and Business Continuity reports to Planning and Economic Development Committee (PEDC) from June 2020 until May 2021.
- Going forward we will revert to providing quarterly updates. The purpose of this report is to provide PEDC with an update on the Division's activities for the second quarter (Q2) of 2021.
- Economic Development activities continue to implement the Economic Recovery Plan and support the Economic Development Strategy and Action Plan approved by PEDC in March 2019.
- Economic Development functional activities include: Trade and Investment; Expedited Services for Business; Strategic Economic Initiatives and Strategic Marketing.

Financial Considerations

The activities described in this report have are within the Council approved 2021 Economic Development operating budget.

Analysis

Niagara Economic Development in collaboration with local businesses, industry associations, community stakeholders and post-secondary education institutions developed a five-year Strategic Action Plan 2019-2024. The Action Plan priorities are a result of extensive stakeholder engagement conducted throughout 2018. The success of Niagara Economic Development Strategic Action Plan is dependent upon meaningful partnerships and collaboration with our partners across Niagara.

Seven themes emerged from the development of the Economic Development Strategic Action Plan:

- Economic Development: Supporting Business Growth and Diversification across Niagara Region
- Employment Land Strategy: Identifying and Creating a Provincially Significant Employment Zone
- Marketing Niagara Region: Raising the Profile of Niagara as a Place to Live and Do Business
- Streamline Planning Processes: Expediting Approvals Process
- Increase Niagara's Competitiveness: Addressing Unnecessary Regulatory Burdens on Businesses
- Workforce: Meeting Current and Future Talent, Professional, Skilled Trades and Labour Needs
- Advocacy: Improving Transportation Infrastructure Ensuring Niagara Remains Competitive in Global Economy

Economic Development: Supporting Business Growth and Diversification across Niagara Region.

Niagara Economic Development provides on-going assistance to the local municipalities to support their economic development functions. This includes: the services of the Niagara Foreign Trade Zone Manager to engage companies in federal programs and encourage export activity; economic and business research and analysis; expedited development services; strategic economic initiatives; support to the local area municipalities without economic development offices on regionally significant projects; and sector support to tourism and agribusiness.

Economic Development Officer (Support for 4 (plus temporary support to Grimsby) Local Area Municipalities (LAM's) and sector support for tourism and agri-business.)

Stakeholder meetings: 15 meetings with stakeholders including:

Local Economic Development offices, OMAFRA, Venture Niagara, Niagara College, Brock University, and local entrepreneurship service providers.

Agribusiness: 21 meetings with stakeholders including:

- Direct outreach support to food processing businesses during Phase 1 Vaccine Implementation to schedule employees for first dose vaccinations.
- Stakeholder meetings to research and develop potential food processing education series to address issues.
- Attendance at Local Food Conference (virtually) addressing issues and examples of success, challenges and resilience in agri-business and agri-tourism.
- Engagement with viticulture stakeholders including Wine Growers Association, Ontario Craft Wineries (sponsorship at annual conference).
- Partnership with Grape Growers of Ontario in their Sustainability Project to allow local wineries to access a new and emerging market and educate consumers of the value of certified sustainable wines.
- Attendance at the OMAFRA Community Economic Development sessions to inform work of the rural Local Area Municipalities on programs and services.
- Engagement with Brock Research to support Research on Agri-Innovation and dissemination of resulting report.
- Golden Horseshoe Food and Farming Alliance (GHFFA) project advancement: working group meetings and strategic planning sessions with consultants to set future work plan.

Tourism: 47 meetings with multiple stakeholders including:

- Support, evaluation and outreach to facilitate the administration of the Tourism Adaptation and Recovery Fund and ongoing support to Project Management in working with funding recipients to ensure accuracy of reporting to the funder.
- Presentation to Niagara Circle Route and Transportation Committee to support tourism attraction of the cycling community.
- Niagara Gateway Information Centre reporting January – December 2020: traffic to the kiosk for the full year totaled 6,024 visitors. The Centre was closed from May 19, 2020 to August 3, 2020 and again after December 18, 2020 due to COVID restrictions. Volunteers donated more than 520 hours of time to the operations of the kiosk and more than 15,571 brochures were distributed. From April 1 to June 30, 2021, 29,708 total views on Google search have been documented;
- Additional meetings include: Niagara-on-the-Lake Tourism Task Force, Niagara Tourism Network, facilitation of West Niagara municipalities to support collaborative tourism development, and Tourism Industry Association of Ontario (TIAO) stakeholder meetings.

Local Area Municipality Economic Development: 51 meetings touching 10 local area municipalities:

- On-going support to 7 site selection opportunities and engagement with municipal planning applications.
- Ongoing advisory support to LAM staff on economic development initiatives;
- Strategic Advisory Council team meetings.
- Economic Response and Recovery calls (ERRT).
- Additional work includes Rural Economic Development grant writing and submission, moderation of West Niagara Town Hall, business retention and expansion support, West Lincoln Chamber Business Awards Committee, information sharing and outreach to Chambers, BIA's and DMO's, administration of Local Area Municipality fund application for economic development projects/initiatives, interview and onboarding assistance, support for Shop Local campaigns, outreach to businesses for COVID support.

Information requests, referrals, and stakeholder engagement: 190 inquiries and requests from businesses and stakeholders. Examples include support to business applications and reporting for Tourism Recovery and Adaptation Fund, grant programs and business support programs related to COVID, sector based programs, stakeholder introductions, sector research and referrals, as per Appendix 1.

Manager, Economic Research & Analysis (support to LAMs through research undertaken, support to Niagara Economic Development investment, trade and sector activities).

Research Projects:

- Niagara COVID-19 Business Impact Survey – Part 3 (completed)
- Niagara Active Economic Research Report with Brock University (in progress)
- Niagara Economic Update 2020 (completed)
- Niagara Trade and FDI Research Report (in progress)
- Niagara Economic Base Analysis for Economic Development Strategy (in progress)

Research Inquiries:

- Total: 66
- Brock University: 3
- Niagara College: 2

- Internal (Niagara Region): 28
- Businesses: 12
- Stakeholders (ex. Greater Niagara Chamber of Commerce, Niagara Industrial Association, Hamilton-Oshawa Port Authority, media, government, etc.): 9
- Local Area Municipalities: 12 (St. Catharines: 1, Grimsby: 3, Welland: 2, Thorold: 3, Fort Erie: 2, Niagara Falls: 1)

Public Engagement Presentations:

- GNCC Government Affairs Council (Economic Update presentation)
- Niagara Industrial Association (Economic Update presentation)
- South Niagara Chambers of Commerce (Economic Update presentation)
- Mastermind Business Group (Economic Update presentation)
- ERRT Task Force (Niagara COVID-19 Business Impact Survey presentation)
- GNCC Espresso Live (Niagara COVID-19 Business Impact Survey presentation)
- GNCC Women In Niagara Hackathon (labour force characteristics presentation)
- Niagara College Research & Innovation (Niagara COVID-19 Business Impact survey presentation)

Niagara Foreign Trade Zone Coordinator (export diversification for Niagara companies, outreach, marketing, implementation of the NFTZ strategy).

- Participation in the Trade Accelerator Program (TAP) regional session planning and promotion. Attended and facilitated 10 meetings to inform and recruit Niagara businesses for the program. Secured 3 participants for the regional session.
- 31 Foreign Trade Zone Inquiries focused on expedited processes for the importation of goods into Niagara, exportation of good and services from the Region including 21 follow up meetings with Trade related stakeholders to resolve inquiry and/or connect the client to available resources.
- Attended and participated in 6 Market Development & Research Opportunities Webinars
- 1 Three day trade conference – LATAM Start Ups w/ 37 One on One Client Meetings and three follow up business relocation / development opportunities.
- Business Development & Stakeholder meetings: 15 meetings with 9 different stakeholders including: Export Development Canada, Global Affairs Canada, Canada Revenue Agency, Ministry of Economic Development, Job Creation & Trade, Hamilton Oshawa Port Authority, local entrepreneurship service providers, area economic development departments, and consultants.

- The EDO completed a two month redeployment as an essential services emergency support worker in Linhaven Long Term Care home.
- The EDO participated in a temporary secondment as a Spanish translator to support the vaccination efforts at the Seymour Hannah location to help vaccinate over 3000 temporary migrant workers against the spread of Covid-19.

Manager, Trade and Investment:

Throughout the second quarter of 2021 the position of Manager, Trade and Investment has remained vacant. However, Eric Chou has now been appointed to this position and will start on August 3rd. Eric joins us from the Scotiabank Convention Centre (SBCC) in Niagara Falls, where he was the International Accounts Director. His sales experience in bringing new business to Niagara will be valuable in his new role, as well as the relationships he has with local industry and academic staff in the Region. Representing the SBCC internationally he has developed an understanding of Niagara's assets and competitive advantage.

In the meantime the Manager, Business Development and Expedited Services has assumed the responsibilities. Over the second half of Q2 2021 the Economic Development Officer, Trade and Investment has played an integral role in ensuring the on-going activities of the Trade and Investment portfolio.

- On Wednesday, May 19, 2021 in partnership with the Hamilton Niagara Partnership a RFP was issued for: An Investigation of Potential Foreign Direct Investment [FDI] Markets in 6 Countries in the Americas – with Qualified Lead Generation. The submission deadline closed on Thursday, June 10, 2021 and attracted five bidders. The successful proponent will be selected in Q3 2021 and it is expected that the contract will be completed by Q4 2021.
- Over much of Q2 2021, the EDO-Trade & Investment updated the status of all of the leads listed on the CRM system and continued the FDI re-engagement strategy contacting over 75 previous established clients.
- Q2 2021 was dedicated to closing a Q3 & Q4 2020 FDI Qualified Leads contract with Research on Investment International (ROI). Ten qualified lead meetings were completed with the majority of the meetings coming from the Manufacturing and Agri-business sectors based in the Pacific Northwest U.S. (Washington and Oregon); the Pacific Southwest (California, Arizona, New Mexico and Texas); and the Southeast U.S. States of North & South Carolina, Georgia and Florida.
- Independent of the FDI lead generation contract, the Division received 10 additional investment leads that led to 17 follow up meetings examples include: program

information, financial assistance options, grant programs, stakeholder introductions, sector research and referrals.

Manager, Business Development and Expedited Services:

- In Q2 2021 the Manager, Business Development and Expedited Services has received seven site selection requests by businesses and site selectors considering Niagara as a potential destination for investment. This resulted in scheduling a site tour of Niagara in Q3 2021 when pandemic restrictions have eased.
- As a result of these inquiries one referral to the Ontario Ministry of Economic Development, Job Creation, and Trade was made for more information on the South Western Ontario Development Fund.
- A gateway application for Abatement Technologies expansion in the Town of Fort Erie was approved. This will result in an estimated 190 jobs being either created or retained and a financial investment in excess of \$27 million. This is expected to be a phased project over 15 years that will result in the creation of 110,000 new square feet of manufacturing space.
- Beginning in Q2 2021 support has been provided in advisory services to the Town of Grimsby's Economic Development Strategy Advisory Council on the development of the Town's new Economic Development Strategy.
- To ensure that the Niagara Region is competitive in attracting new investment KPMG was retained to complete an assessment on specific Niagara Region Incentive programs. The findings helped inform the larger and on-going Grants and Incentives Review to assess the effectiveness of programs to meet Council's Strategic Priorities.
- Participated in two panel discussions to promote the Niagara Region.

Associate Director:

Economic Recovery Plan

Work continues on the implementation of the Economic Recovery Plan. The actions not addressed to date are longer term and will be incorporated into the 10 Year Economic Development Strategy. Biweekly calls continue to the broad ERRT stakeholder group in collaboration with our colleagues in Public Health to ensure that businesses have the latest information on public health protocols, as per Appendix 1.

10 Year Economic Development Strategy

Work has started on the longer-term economic development strategy under the guidance of the Strategy Advisory Council. The Council has representation from all the municipalities. A complete update on the strategy's progress will be provided in a separate report to PEDC in September.

Tourism Adaption and Recovery Fund

Led by the project manager and supported by the EDO, work is ongoing to distribute federal funding grants to tourism dependant businesses in Niagara. At the time of writing this report, 160 purchase orders had been issued, 6 projects were completed and full payment made and 119 businesses have received partial payment pending the completion of their projects and final reports received. The administration also includes reporting to Fed Dev on the project's progress.

Canada Summer Games

The development and coordination of the Niagara Region's 13 for 13 cultural event to be held on August 14th 2022 during the Canada Summer Games, working with the event organizer and in partnership with Destination Ontario.

Promotion of Canada Summer Games RFPs to local businesses.

Employment Land Strategy: Identifying and Creating Regionally Significant Employment Lands.

Existing employment lands in Niagara, which are located throughout the Region, are generally smaller sites, which has limited the ability to create a truly regional employment area. Niagara Region Planning and Development, with support from Niagara Region Economic Development, is reviewing the opportunity to create a large provincially significant regional employment zone.

Manager, Business Development and Expedited Services:

- In collaboration with Planning and Development Services the Manager, Business Development and Expedited participated in four meetings related to the identification

and creation of a Provincially Significant Employment Zone in Niagara. This resulted in a briefing note being drafted for a meeting with the Minister of Economic Development, Job Creation, and Trade at the Association of Municipalities of Ontario Conference and AGM.

Marketing Niagara Region: Raising the Profile of Niagara as a Place to Live and Do Business

The success of the Niagara Region, in terms of economic and population growth, is dependent on successfully marketing the Region to target audiences. There are two distinct marketing initiatives. The first initiative is aimed at foreign and domestic companies and promotes Niagara as a competitive location in which to do business. The second initiative is focused on attracting new and recent immigrants to Ontario, to the Region to increase the population and workforce and achieve long-term sustainable growth.

Manager, Strategic Marketing:

- In collaboration with Innovate Niagara and the Local Area Municipalities, a comprehensive digital and print marketing campaign was launched in the National Post to support and encourage residents to visit downtown storefronts.
- Updated Regional photography and videography are underway to create new assets to support FDI efforts and showcase Niagara's strategic advantages.
- Working in collaboration with Niagara Health, and Niagara Region Planning, Economic Development's Business Directory will be used to prepare for South Niagara Project's upcoming RFP process to encourage as much Niagara-based resourcing as possible.
- Together with Niagara Region Transportation and Communications divisions, Economic Development is aiding in the promotion of the new Niagara Regional Transit routes. This is in effort to support local businesses to attract consumers and also provide options for potential employees by offering consistent and reliable public transportation options to remote municipalities.

Streamline Planning Processes: Expediting Approvals Process

Niagara Region has been proactive in supporting business growth and economic prosperity. Niagara Economic Development will continue to identify and reduce barriers to facilitate new investment opportunities.

Manager, Business Development and Expedited Services:

- In collaboration with Real Estate Services and the City of St. Catharines the Niagara Region has continued to receive inquiries about the surplus lands at 401A Lakeshore.
- The Manager, Business Development and Expedited Services was contacted by the City of Thorold to help resolve an issue resulting in delayed approvals regarding signage permits.

Increase Niagara's Competitiveness: Addressing Unnecessary Regulatory Burdens on Businesses

Niagara Economic Development supports the Province's initiative to reduce the regulatory burden on business. In Niagara, the development approval process is two-tiered and the complexity of planning policies can be challenging depending on the project. This may have the effect of increasing the difficulty of manufacturers and agribusiness to do business that affects Niagara's competitiveness.

Manager, Business Development and Expedited Services:

- Over the course of Q2 2021 three requests were received from manufacturers in the Niagara Region looking for clarification and insight into COVID-19 restrictions and COVID-19 vaccination protocols. These requests were conveyed to Public Health for more information and the available information was conveyed to both businesses and the Niagara Industrial Association.
- To assist in the redevelopment of the former Police HQ on 68 Church Street, St. Catharines the Manager has worked closely with Corporate Services and Planning and Development Services. This has included participating in a Design Charrette to estimate potential development options and building massing. This support will result in fewer delays and expedited future planning approvals.

Workforce: Meeting Current and Future Talent, Professional, Skilled Trades and Labour Needs

Access to a talented, professional, skilled and educated workforce is increasingly a concern for businesses and essential to ensure the continued growth of the regional economy.

Niagara Economic Development recently convened a meeting with Niagara Workforce Planning Board, Niagara Industrial Association, Employment Agencies and Academia to discuss labour issues in Region.

Economic Development Officer:

Participation in the OTEC Tourism Skillsnet Regional Working Group. The group objectives are: I. Identify tourism workforce development priorities, challenges and opportunities in Niagara; II. Review a new industry-recognized, locally-customized, employment training for job seekers; III. Support planning of a regional coordination model that enables employers to: *a. Adapt and deploy available HR technology solution to access “right fit” talent b. Access training opportunities available for incumbent workers* and IV. Share best practices, resources, tools and research to inform tourism workforce development strategy and implementation in Niagara.

Alternatives Reviewed

None applicable.

Relationship to Council Strategic Priorities

Economic development activities described in this report directly support three of Council's 2019-2022 Strategic Priorities:

- Supporting Businesses and Economic Growth
- Responsible Growth and Infrastructure Planning
- Sustainable and Engaging Government

Other Pertinent Reports

ED 11-2020 COVID-19 Response and Business Continuity in Economic Development
ED 12-2021 Economic Recovery Plan Update 4

Prepared by:

Valerie Kuhns
Associate Director
Economic Development

Recommended by:

George Spezza, Ec.D., CEcD
Director
Economic Development

Submitted by:

Ron Tripp, P. Eng.
Acting Chief Administrative Officer

This report was prepared in consultation with all regional economic development staff.

Appendices

Appendix 1 Economic Development and Business Engagement

ECONOMIC DEVELOPMENT AND BUSINESS ENGAGEMENT

Niagara Region Economic Development supports local businesses through regionally significant projects. As laid out in the current MOU with the Local Area Municipalities, those offices have responsibility for Business Retention and Expansion and are the point of contact for businesses in their individual municipalities. Our core mandate is investment attraction, external marketing, business development and expedited services and strategic economic initiatives.

However, throughout COVID-19, work has pivoted to be focused more on support to businesses locally where there was a need and it was appropriate for the work to be done at the regional level.

ECONOMIC RAPID RESPONSE TEAM (ERRT)

The ERRT was announced by the Chair and the Mayors in March 2020. It is a collaboration between the Region and the Municipal Economic Development Offices but the work is carried out by the Regional Team on behalf of the group.

- Biweekly calls to a group of over 90 stakeholders, including economic development offices, chambers, industry associations, BIAs, DMOs, Small Business Enterprise Centres, Brock University, Niagara College, Niagara Workforce Planning Board and Employment groups. The regular attendance is 25-30 but the information is disseminated to the whole group. Working with Public Health, the objective is to inform businesses about COVID-19 protocols and provide an update on the Economic Recovery Plan.
- Support for municipal 'Buy Local' campaigns through marketing initiatives.
- Development of an online Business Directory to expand the local supply chain and opportunities for local businesses. It is currently being used by Niagara Health to source suppliers for the South Niagara Hospital. Also used to promote Canada Summer Games RFPs to local businesses.
- Niagara Canada website provides a portal for federal and provincial government information on funding and support for business.
- Together with Niagara Region Transportation and Communications Divisions, Economic Development is helping to promote the new Niagara Regional Transit routes. This is in effort to support local businesses not only to bring consumers but also provide options for potential employees by offering consistent and reliable public transportation options to our more remote municipalities.
- In collaboration with Innovate Niagara and the Local Area Municipalities, a comprehensive digital and print marketing campaign was launched in the National Post to support and encourage residents to visit downtown storefronts in the region.

TOURISM ADAPTION AND RECOVERY FUND

The ERRT, led by Niagara Economic Development, stepped in at the request of the federal government to administer funding support to tourism-dependant businesses in Niagara. The fund of \$2 million is being distributed through an application and evaluation process with reporting mechanisms in place, to over 160 businesses. This is providing much needed support to the tourism sector, helping to keep businesses open and able to conform to public health protocols through the pandemic.

RESEARCH AND ANALYSIS

Economic updates are provided semi-annually, in the spring and the fall. They coincide with regional data becoming available.

Reports:

- Niagara COVID-19 Business Impact Survey - Part 1 (April 14, 2020)
- Niagara COVID-19 Business Impact Survey - Part 2 (June 22, 2020)
- Niagara COVID-19 Business Impact Survey - Part 3 (June 16, 2021)
- Niagara Economic Update (May 13, 2020)
- COVID-19 Impact on Investment and Development in Niagara (October 14, 2020)
- Niagara Economic Update (November 9, 2020)
- Niagara Economic Update (April 14, 2021)

Presentations/Engagements:

- Interview: Niagara Business Impact Survey results with Tim Denis on 610am (April 15, 2020)
- Interview: Business Impact Survey with Gord Howard, Niagara Dailies (April 15, 2020)
- Presentation: Transport Canada/McMaster Institute of Transportation and Logistics on COVID-19 impacts on trade and logistics sector in Niagara (June 17, 2021)
- Interview: Niagara COVID-19 Business Impact Survey – Part 2 with Matt Holmes on 610am (June 24, 2020)
- Presentation: Brock University/Niagara Community Observatory Policy Brief regarding Transportation and Logistics Sector in Niagara (July 7, 2020)
- Interview: COVID-19 Impacts on Investment and Development in Niagara with Tim Denis (October 15, 2021)

- Presentation: Manufacturing update for Hamil Group of Companies (Dec. 3, 2021)
- Presentation: Niagara Economic and Manufacturing Update for Niagara Industrial Association (March 18, 2021)
- Presentation: Niagara Economic Update for South Niagara Chambers of Commerce (March 30, 2021)
- Presentation: Niagara Economic Update for GNCC Government Affairs Council (April 16, 2021)
- Presentation: COVID-19 Business Impact Survey – Part 3 results for South Niagara Chambers of Commerce podcast (May 14, 2021)
- Presentation: Niagara Economic Update for Mastermind Business Group (May 19, 2021)
- Presentation: COVID-19 Business Impact Survey results for ERRT Task Force (Niagara COVID-19 Business Impact Survey – Part 3 presentation (May 19, 2021)
- Presentation: COVID-19 Business Impact Survey – Part 3 for GNCC Espresso Live webinar (June 9, 2021)
- Presentation: COVID-19 Impacts on Women Employment in Niagara for GNCC Women In Niagara Hackathon (June 15, 2021)
- Presentation: COVID-19 Business Impact Survey for Niagara College Research & Innovation division (June 9, 2021)
- Economic Development Overview presentations to Brock University Senior Management and Niagara College focussed on partnerships and collaboration.
- Workshop on supporting local businesses with the South Niagara Chamber of Commerce.
- Supporting Grimsby on a new Economic Development Strategy

SECTOR SUPPORT (AGRIBUSINESS AND TOURISM)

Sector support is ongoing, below are some examples of recent outreach.

- Direct outreach to food processing businesses during Phase 1 of the Vaccine Implementation program to arrange appointments.
- Tourism Adaption and Recovery Fund (described above).

EXPORTING SUPPORT THROUGH THE NIAGARA FOREIGN TRADE ZONE (NFTZ)

- Providing direct outreach to the Regional trade community by connecting Niagara's businesses to Trade Incentives and Programs offered by the Regional, Provincial & Federal Governments including: Trade Accelerator Program, Export Development's Global Connections Program, Global Affairs Canada Trade

Commissioners Service, Ontario Ministry of Economic Development, and Job Creation and Trade's Foreign Service Program.

NIAGARA'S WORK FORCE

Working with employment groups, Niagara Economic Development is aware of labour market issues and supports programs and funding applications to address them.

- Niagara Economic Development recently convened a meeting with Niagara Workforce Planning Board, Niagara Industrial Association, Employment Agencies and Academia to better understand labour issues in Region.

Subject: Updated Land Acknowledgement Statements

Report to: Regional Council

Report date: Thursday, August 26, 2021

Recommendations

1. That the short, long and documents versions of Land Acknowledgement Statements outlined in Report CAO 15-2021 **BE APPROVED** and that the short version be recited at Council and Committee meetings on a go forward basis;
2. That the Region's Land Acknowledgement Statements **BE REVIEWED** and updated as new understandings of treaties and agreements in the Niagara Region evolve; and
3. That this report **BE SHARED** by the Regional Clerk with Local Area Municipalities.

Key Facts

- Land Acknowledgement Statements are increasingly being used as a practice of reconciliation aimed at recognizing the traditional or treaty territories of Indigenous peoples. The statements are typically made at the introduction of meetings, gatherings, events, or presentations
- Various versions of a Land Acknowledgement are currently in use by the Local Area Municipalities and the Region
- At the request of community members and the Local Area Municipalities, and as one step in demonstrating the Region's commitment to advancing the recommendations in the Creating our Way Forward Indigenous Engagement report (<https://www.niagararegion.ca/health/equity>) and Niagara's Community Safety and Well-Being Plan (<https://www.niagararegion.ca/projects/community-safety-well-being/>), a consultation was undertaken with multiple Indigenous organizations to develop an updated Land Acknowledgement for the Region
- There are diverse perspectives surrounding the treaties relevant to Niagara. Due to these complexities, there is not consensus among First Nations to the treaties and the historical details relevant to the proposed Land Acknowledgement
- It is proposed that the Region's Land Acknowledgement be reviewed and updated as new understandings of treaties and agreements in relation to the Niagara region evolve

- Staff have created three versions of the Land Acknowledgement for different purposes (long, short, and documents versions)

Financial Considerations

There are no financial considerations associated with this report.

Analysis

Traditional land acknowledgement statements are increasingly being used in Canada by governments, schools, post-secondary institutions, non-governmental organizations, and other civil institutions as a practice of reconciliation aimed at recognizing the traditional or treaty territories of Indigenous peoples. The statements are typically made at the introduction of meetings, gatherings, events, or presentations. Some are featured on organization websites or event description pages. Understanding and recognizing Indigenous history, and an individual's personal and ancestral relationship to this history, is the foundation of respect and reciprocity, which are the building blocks of reconciliation between settlers and First Nations.

Updating the Land Acknowledgement is one step among many that the Region has committed to as a means to improve local understanding and relationships with First Nations communities and those living off-reserve in Niagara. Additional events slated for this Fall will provide opportunities for senior-level staff, Regional Council and Local Area Municipal Councils to engage, learn, and work together with local Indigenous organizations and First Nation governments.

Through consultation with the Mississaugas of the Credit First Nation, Six Nations of the Grand River Elected Council, and leaders from the Niagara Indigenous Community Executives, staff have developed an updated Land Acknowledgement. The history of this land is complex and there are diverse perspectives surrounding the treaties. Due to these complexities, there is not consensus among First Nations to the treaties relevant in Niagara and the historical details relevant to the Land Acknowledgement.

The Land Acknowledgement is a dynamic, living document and should be reviewed on a regular basis as new understandings of treaties and agreements in relation to the Niagara Region evolve.

Feedback from Indigenous community members encourages any person reading or using an acknowledgement to take time to consider its content so that it is not

something that is said and forgotten, or checked off an agenda, but requires thought and intention. The statement should also be part of an integrated process of moving words to action by establishing meaningful relationships and a path towards reconciliation with First Nations, Métis, and Inuit people and organizations in the area.

Staff strongly recommend that everyone who uses a Land Acknowledgement receive locally relevant Indigenous Cultural Safety Training so that the terms, treaties, history, and Nations included become familiar and staff feel comfortable using it. Supports and reference material are being developed. Staff reading the Acknowledgement should practice the pronunciation of the Nations.¹

Proposed Land Acknowledgement

Staff have created three versions of the Land Acknowledgement for different purposes. The short version of the Acknowledgement was designed to fit on a presentation slide and would be used by Niagara Regional Council and related Committee meetings and events. This can be used for official openings, large public gatherings, and at any event when a prominent Indigenous person (Chief or Band Councillor), or political representative of the Provincial or Federal government is present. The long version has more details and can be read at the beginning of other meetings, presentations, or gatherings where you would like to provide a bit more context. The document option is the most direct and can be used in written documents (such as strategies, engagement reports, etc), job postings, newsletters, training sessions, websites, and in email signatures.

Long version

As we take a moment today to reflect on the importance of the land on which we gather, our provider and sustainer, we look to understand the history of the land. Niagara Region is situated on treaty land. These lands are steeped in the rich history of the First Nations such as the Hattiwendaronk, the Haudenosaunee, and the Anishinaabe, including the Mississaugas of the Credit First Nation.

¹ You can watch a video on how to pronounce Anishinaabe here, <https://www.youtube.com/watch?v=RHFqWyZQ4T0>. You can watch a video on how to pronounce Haudenosaunee here, <https://www.youtube.com/watch?v=jKV9u-pEevk>

Intended to guide the relationship between the First Nations and Europeans, the Two Row Wampum is an important symbol of everlasting equality, peace, and friendship. It remains the foundation upon which Canada was built, and we recognize that this mutually respectful relationship between nations is essential for reconciliation today.

There are many First Nations, Métis, and Inuit people from across Turtle Island that live and work in Niagara today. The Regional Municipality of Niagara stands with all Indigenous people, past and present, in promoting the wise stewardship of the lands on which we live. We recognize that we must do more to learn about the history and current situation of Indigenous people. This will help us better understand our roles and take responsibility towards reconciliation as treaty people, residents, and caretakers.

Short version

Niagara Region is situated on treaty land. This land is steeped in the rich history of the First Nations such as the Hatiwendaronk (Hat-i-wen-DA-ronk), the Haudenosaunee (Hoe-den-no-SHOW-nee), and the Anishinaabe (Ah-nish-ih-NAH-bey), including the Mississaugas of the Credit First Nation. There are many First Nations, Métis, and Inuit people from across Turtle Island that live and work in Niagara today. The Regional Municipality of Niagara stands with all Indigenous people, past and present, in promoting the wise stewardship of the lands on which we live.

Documents

Niagara Region is situated on treaty land. This land has a rich history of First Nations such as the Hatiwendaronk, the Haudenosaunee, and the Anishinaabe, including the Mississaugas of the Credit First Nation. There are many First Nations, Métis, and Inuit people from across Turtle Island that live and work in Niagara today.

Alternatives Reviewed

Land Acknowledgements established by other municipalities that fall within the traditional territory of the respective First Nations were consulted to ensure consistency and accuracy of Indigenous history and language is reflected in the new Niagara Region Land Acknowledgement.

Relationship to Council Strategic Priorities

The Land Acknowledgement relates to the strategic priority of Sustainable and Engaging Government by providing a statement that is supported by the local Indigenous community.

Other Pertinent Reports

[CAO 12-2021](#) – Niagara's Community Safety and Well-Being Plan 2021-2025

Prepared by:

Cassandra Ogunniyi
Diversity, Equity, and Inclusion Program
Manager
Corporate Strategy and Innovation

Recommended by:

Natalie Early
Director
Corporate Strategy and Innovation

Submitted by:

Ron Tripp, P.Eng.
Acting Chief Administrative Officer

This report was prepared in consultation with Gina van den Burg, Government and Stakeholder Relations Specialist, and Michelle Johnston, Community Safety and Well-being Program Manager, Mississaugas of the Credit First Nation, Six Nations of the Grand River Elected Council, leaders from the Niagara Indigenous Community Executives, ASI Heritage Consultants, and reviewed by Ann-Marie Norio, Regional Clerk.

MEMORANDUM

CAO 16-2021

Subject: Planning for Return to the Workplace and Gradual Re-opening

Date: August 26, 2021

To: Regional Council

From: Ron Tripp, P.Eng., Acting Chief Administrative Officer

After more than a year and a half of the COVID-19 pandemic, we are starting to see a cautious and gradual re-opening of our communities. I'm proud of the work we've accomplished over the past 18 months and the resilience of Niagara Region staff to adapt to changing working conditions. While some of our staff are working virtually from home, the vast majority continue to deliver essential services at our various facilities with the support of enhanced cleaning, screening and other public health protocols.

As we monitor Provincial announcements, and in accordance with Stage 3 of the Province's Reopening Plan, the Corporate Leadership Team (CLT) is planning for the eventual re-opening of our in-person public-facing services. We recognize that this will require us to return more staff to our facilities. We intend to do this gradually with the eventual transition of staff who have been working from home, and where still appropriate, to a hybrid working model of both in-person and virtual working arrangements.

Assessing the health and safety of our workspaces

The health and safety of staff continues to be our foremost concern. Infection Prevention and Control (IPAC) plans are already in place for a number of work locations. For the balance of August and into September, managers and directors will be updating existing plans and preparing new plans to safely accommodate the phased return of more staff to the workplace. IPAC plans are developed with the assistance of Human Resources and Facilities, and in consultation with the Joint Health and Safety Committee and Public Health. These plans will help us prioritize the reopening of in-person public services and the number of staff that can safely return to in-person work while minimizing any risk of infection.

Transition Phase – September 20 to November 26

In accordance with a transition plan being prepared by CLT, staff working remotely may be requested to return to their work location, continue to work remotely, or a combination of both. Following this transition period, CLT will look to fully implement a new hybrid working model.

We need to be nimble given the uncertainty posed by the pandemic and possible future waves. We will continue to incorporate the advice and guidance from Public Health and the health and safety staff from Human Resources

Electronic Participation in Meetings

Staff are continuing to review both short and long-term solutions for the continued support of hybrid meetings and options for a gradual transition to in-person participation are under consideration. A hybrid meeting is a meeting where some individuals participate in person and others participate electronically from a remote location. This is the format that has been used since the start of the pandemic, with the Regional Chair and Standing Committee Chairs (and at time Vice Chairs) taking part in the meeting from the Council Chamber.

The size of the Council Chamber limits the number of attendees that can be present with the current requirement to maintain two metres between attendees. A cautious approach must be taken that considers the optics of allowing Councillors to meet in person and the public being unable to attend in the same format.

Any return to in-person meetings will be done in accordance with any applicable regulations or public health requirements. It is anticipated that these requirements will continue to evolve over the coming months and staff are closely monitoring this to ensure compliance. Health and safety measures will need to be put in place for meetings that will impact Councillors and eventually the public, entering Niagara Region facilities.

Staff will be considering a transition plan for Advisory Committees when there is greater certainty about how public health measures will affect meeting requirements long term.

Any return to in-person meetings will be considered in alignment with the re-opening of Niagara Region Headquarters and the return of staff to the workplace.

Respectfully submitted and signed by

Ron Tripp, P. Eng
Acting, Chief Administrative Officer

MEMORANDUM

CAO 17-2021

Subject: COVID-19 Vaccination Policy Update

Date: August 26, 2021

To: Regional Council

From: Ron Tripp, P.Eng., Acting Chief Administrative Officer

This memo is to provide an update on the Region's efforts concerning the Ontario Provincial Government (the "Province") making COVID-19 vaccination policies mandatory for high-risk settings.

Background

As members of Council are aware, on August 17, 2021, the Province announced its intention to require businesses operating in certain high-risk settings to implement COVID-19 vaccination policies. In addition, and citing concerns about the transmissibility of the Delta variant, the Province also announced, among other things, that it was pausing the it's exit from the Roadmap to Reopen.

The Province cites this direction is intended to protect vulnerable patients and staff in settings where the risk of contracting and transmitting COVID-19 and the Delta variant is higher, as a result the Chief Medical Officer of Health has issued a directive mandating hospitals and home and community care service providers to have a COVID-19 vaccination policy for employees, staff, contractors, students and volunteers, and for ambulance services to have a COVID-19 vaccination policy for paramedics.

The vaccination policy must be effective no later than September 7, 2021, and at a minimum will require these individuals to provide proof of one of three things:

- Full vaccination against COVID-19;
- A medical reason for not being vaccinated against COVID-19; or
- Completion of a COVID-19 vaccination educational session.

Individuals who do not provide proof of full vaccination against COVID-19 will be required to undertake regular antigen testing. Businesses will be required to track and report on the implementation of their policies to the Province. This is similar to the vaccination policy requirements currently in place for long-term care homes, which have already been in effect since July 1, 2021.

Vaccination policies will also be required to be implemented in other higher-risk settings such as:

- Public funded schools and private schools;
- Licensed child care settings;
- Post-secondary institutions;
- Licensed retirement homes;
- Women's shelters; and
- Congregate group homes and day programs for adults with developmental disabilities, children's treatment centres and other services for children with special needs, and licensed children's residential settings.

Lastly, the directive also requires businesses to collect, maintain, and disclose statistical (non-identifiable) information as requested by the Province.

Region Next Steps

In order to achieve compliance to the Province's directive, a working group has been established with staff representation from each of our identified high risk settings; with the support of staff from Human Resources, Legal Services, and Public Health. The focus of this group is to establish, implement, and ensure compliance with a COVID-19 vaccination policy and procedures. I have been in discussions with the Local CAO group, kept them apprised of our direction, including have committed to keep the lines of communication on this issue open with them.

The vaccination policy and procedures will require staff, contractors, volunteers, and students to provide one of the following:

1. Proof of full vaccination against COVID-19 (i.e. proof of having received the full series of a vaccine or combination of vaccines approved by the World Health Organization, and having received the final dose of the vaccine at least 14 days ago);
2. Written proof of a medical reason, provided by a physician or registered nurse in the extended class that sets out: (i) a documented medical reason for not being fully vaccinated against COVID-19, and (ii) the effective time-period for the medical reason; or
3. Proof of completing an educational session about the benefits of COVID-19 vaccination prior to declining vaccination for any reason other than a medical reason. Such education session may be one prepared by the Region or another

one that must be approved by the Region and, at minimum, address the following topics:

- a. How COVID-19 vaccines work;
- b. Vaccine safety related to the development of the COVID-19 vaccines;
- c. The benefits of vaccination against COVID-19;
- d. Risks of not being vaccinated against COVID-19; and
- e. Possible side effects of COVID-19 vaccination.

Further, under the directive, Region's policy must also require that where staff, contractors, volunteers, or students do not provide proof of being fully vaccinated, they must submit to regular antigen point of care testing for COVID-19 and demonstrate a negative result at least once every seven days, or more frequently as may be determined by the Region. Outside of long term care, the Region will not be providing this test. As a result, the onus will fall on staff, contractors, volunteers, or students to provide the Region with verification of the negative test in a prescribed manner that enables the Region to confirm the result.

It should be noted that the directive provides for accommodation of unvaccinated individuals who provide a medical basis for their unvaccinated status, the more general duty to accommodate under the Human Rights Code (the "Code") can be triggered for reasons other than disability. For instance, creed is also a protected ground under the Code. Where, for example, an individual provides a religious basis for being unvaccinated, the duty to accommodate under the Code may be triggered. These considerations will be captured in our policy, and are still being reviewed at this time.

Finally, the policy will ensure that the required statistical data will be recorded and maintained.

We are still awaiting further details to be released from the Province, including more information and clarity from the various ministries. We are aware that the City of Toronto, the Province, and perhaps additional municipalities will soon also announce they are implementing vaccination policies that apply to all employees. At the moment our focus remains on following the Province's directive that businesses operating in identified high-risk settings will require policies to be implemented by September 7, 2021. That said, our focus on the development of a vaccination policy and procedures will also remain nimble in the event it is determined appropriate to pivot and act quickly to implement such a policy in other areas, including as far as including all Region staff, contractors, volunteers, or students. Council will continued to be provided any updates as appropriate.

Respectfully submitted and signed by

Ron Tripp, P.Eng.
Acting Chief Administrative Officer

RECRUITMENT OF PERMANENT MEDICAL OFFICER OF HEALTH

WHEREAS Niagara Region has been without a permanent Medical Officer of Health since January of 2018;

WHEREAS the handling of the current worldwide COVID-19 pandemic and locally-declared states of emergency have contributed to the delay in the recruitment of a Chief Medical Officer of Health for the Niagara Region; and

WHEREAS Ontario has now entered into Step 3 of its COVID-19 Reopening Framework and work is well underway to recruit a Chief Administrative Officer for the Regional Municipality of Niagara.

NOW THEREFORE BE IT RESOLVED:

1. That staff **BE DIRECTED** to initiate the recruitment process for a permanent Medical Officer of Health for the Niagara Region; and
2. That staff **EXPEDITE** the hiring of this position so that Niagara Region may be well prepared for the future.

Request to Review and Amend Section 128 (Rate of Speed)
of the Highway Traffic Act

WHEREAS street design for safe driving behaviour, which includes features such as narrow lane widths, is the most important factor in creating safe streets, but lowering vehicle speeds is another important tool to improve road safety; and

WHEREAS pedestrian and cyclist fatalities increase as vehicle speed goes up and research studies have found that higher speed leads to more collisions involving children, who are more often injured in pedestrian and cycling injuries and casualties and that children are usually injured mid-block, often on residential streets, and in front of their home or a park; and

WHEREAS municipal, provincial, state, and federal governments across North America have invested in active transportation, complete streets design, and healthy community initiatives which has resulted in an increased number of pedestrians and cyclists that need to coexist with vehicles on roads, placing more pressure on setting appropriate speed limits; and

WHEREAS several municipalities across North America, including Edmonton, Toronto, Seattle, Portland, New York and hundreds of others, have reduced speed limits on local roads.

NOW THEREFORE BE IT RESOLVED:

That the Region of Niagara **SUPPORT** the motion brought forward by the City of St. Catharines and request the province (Ministry of Transportation Ontario) to review and amend Section 128 (Rate of Speed) of the Highway Traffic Act to adopt Vision Zero principles and reduce the statutory speed limit on a highway within a local municipality or within a built-up area from 50 kilometres per hour to 40 kilometres per hour.

NATIONAL DAY FOR TRUTH AND RECONCILIATION

WHEREAS the Truth and Reconciliation Commission (TRC) released its final report on June 2, 2015, which included 94 Calls to Action to redress the legacy of residential schools and advance the process of Canadian reconciliation;

WHEREAS the recent discoveries of remains and unmarked graves across Canada have led to increased calls for all levels of government to address the recommendations in the TRC's Calls to Action;

WHEREAS all Canadians and all orders of government have a role to play in reconciliation;

WHEREAS Recommendation #80 of the Truth and Reconciliation Commission called upon the federal government, in collaboration with Indigenous peoples, to establish, as a statutory holiday, a National Day for Truth and Reconciliation to ensure that public commemoration of the history and legacy of residential schools remains a vital component of the reconciliation process; and

WHEREAS the Federal Government has announced September 30, 2021, as the first National Day for Truth and Reconciliation (National Orange Shirt Day) and a statutory holiday.

NOW THEREFORE BE IT RESOLVED:

1. That the Council of the Regional Municipality of Niagara does hereby **COMMIT** to recognizing September 30, 2021, as the National Day for Truth and Reconciliation (National Orange Shirt Day) by sharing the stories of residential school survivors, their families, and communities.

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. <>

A BY-LAW TO ACCEPT, ASSUME AND DEDICATE PART OF
TOWNSHIP LOT 90, IN THE TOWN OF NIAGARA-ON-THE-LAKE AS
PART OF REGIONAL ROAD NO. 100 (FOUR MILE CREEK ROAD)

WHEREAS it is in the interest of Council for The Regional Municipality of Niagara to accept a road widening from DRJ Holdings Ltd.;

WHEREAS it is deemed expedient to accept, assume and dedicate the lands hereinafter described as part of the public highway being Regional Road No. 100 (Four Mile Creek Road).

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

1. That the following land be and the same is hereby accepted, assumed and dedicated as public highway forming part of the said Regional Road No. 100 (Four Mile Creek Road):

Part Township Lot 90, Geographic Township of Niagara, now Town of Niagara-on-the-Lake, Regional Municipality of Niagara designated as Part 2 on Reference Plan 30R-15540.

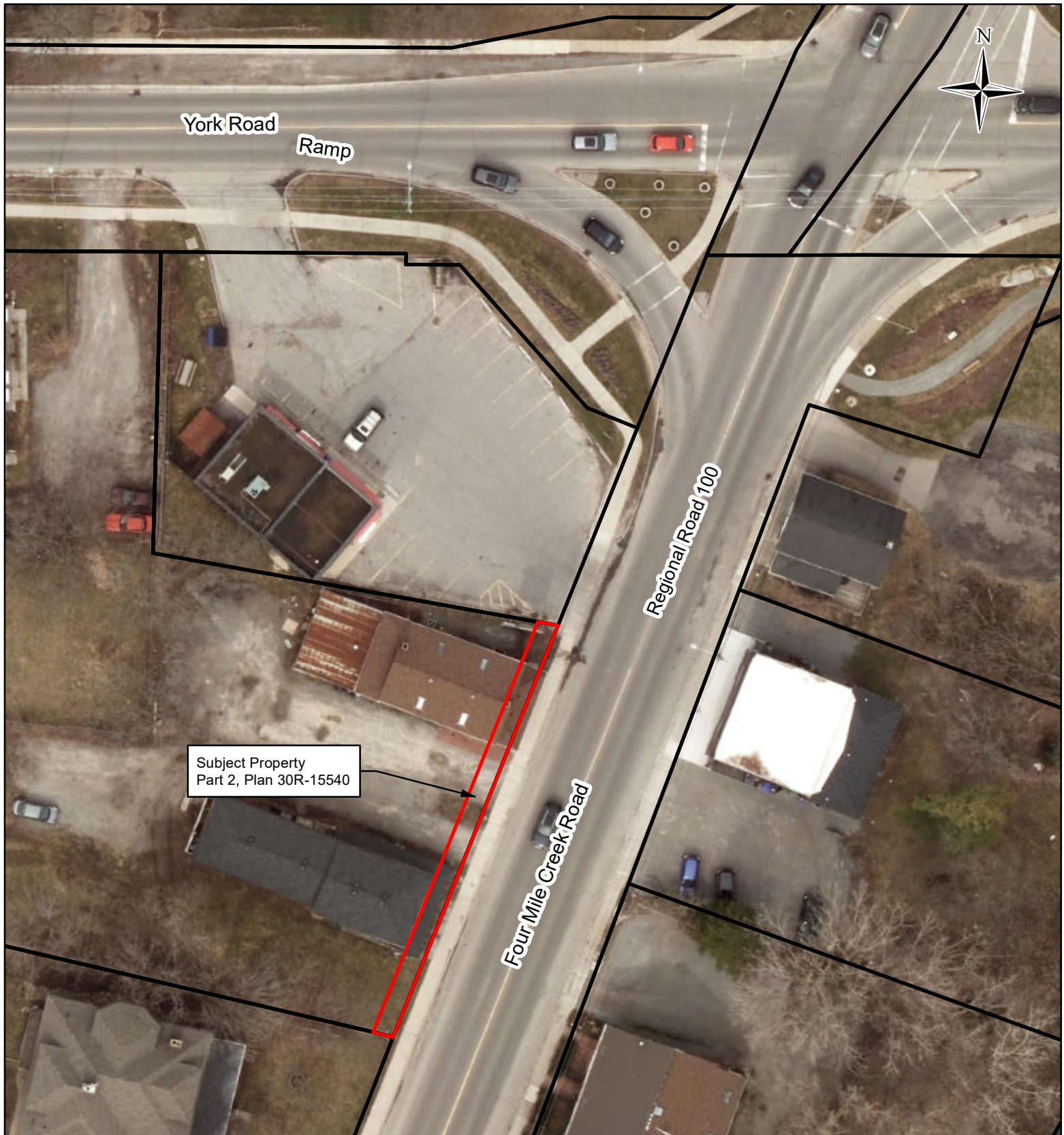
2. That this by-law shall come into force and effect on the day upon which it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

James Bradley, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed:




**ILLUSTRATION SHOWING APPROXIMATE LOCATION OF ROAD WIDENING
ALONG REGIONAL ROAD 100 (FOUR MILE CREEK ROAD) SOUTH OF YORK ROAD
TOWN OF NIAGARA ON THE LAKE**

LEGEND:

CAUTION:

 - DENOTES TERANET MAPPING

- This is not a Plan of Survey

 - DENOTES SUBJECT PROPERTY

DISCLAIMER

This map was compiled from various sources and is current as of 2020.
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SCALE 1:500
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Niagara Region

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Transportation Services
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IR-21-249 Date: 2021-07-09

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. <>

A BY-LAW TO ACCEPT, ASSUME AND DEDICATE PART OF
TOWNSHIP LOT 90, IN THE TOWN OF NIAGARA-ON-THE-LAKE AS
PART OF REGIONAL ROAD NO. 81 (YORK ROAD)

WHEREAS it is in the interest of Council for The Regional Municipality of Niagara to accept a road widening from DRJ Holdings Ltd.;

WHEREAS it is deemed expedient to accept, assume and dedicate the lands hereinafter described as part of the public highway being Regional Road No. 81 (York Road).

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

1. That the following land be and the same is hereby accepted, assumed and dedicated as public highway forming part of the said Regional Road No. 81 (York Road):

Part Township Lot 90, Geographic Township of Niagara, now Town of Niagara-on-the-Lake, Regional Municipality of Niagara designated as Part 1 on Reference Plan 30R-15540.

2. That this by-law shall come into force and effect on the day upon which it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

James Bradley, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed:



ILLUSTRATION SHOWING APPROXIMATE LOCATION OF ROAD WIDENING
ALONG REGIONAL ROAD 81 (YORK ROAD) WEST OF REGIONAL ROAD 100 (FOUR MILE CREEK ROAD)
TOWN OF NIAGARA ON THE LAKE

LEGEND:

- DENOTES TERANET MAPPING
- DENOTES SUBJECT PROPERTY

CAUTION:

- This is not a Plan of Survey

DISCLAIMER
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SCALE 1:500
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Niagara Region

Internal Use Only

Transportation Services
Surveys & Property Information
IR-21-250 Date: 2021-07-09

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. <>

A BY-LAW TO LICENCE, REGULATE AND GOVERN
OWNERS, DRIVERS AND BROKERS OF TAXICABS AND
TRANSPORTATION NETWORK COMPANY BUSINESSES

WHEREAS the Council of The Regional Municipality of Niagara considers it in the public interest to enact a by-law to licence, regulate and govern various classes of businesses and to repeal the existing Business Licensing By-law No. 2018-75, as amended;

AND WHEREAS Section 9 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person;

AND WHEREAS Section 11 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides The Regional Municipality of Niagara with exclusive jurisdiction to enact by-laws for the licensing, regulating and governing of owners and drivers of taxicabs, taxicab brokers and vehicles used for hire within the Region;

AND WHEREAS Part IV LICENCES (more specifically sections 150 – 165) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, authorizes The Regional Municipality of Niagara to regulate and govern businesses, meaning any business wholly or partly carried on within the Region, even if the business is being carried on from a location outside the Region;

AND WHEREAS Section 151 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides The Regional Municipality of Niagara with the power to provide for a system of licences with respect to a business, and may prohibit the carrying on or engaging in the business without a licence; refuse to grant a licence or to revoke or suspend a licence; impose conditions as a requirement of obtaining, continuing to hold or renewing a licence; impose special conditions on a business in a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a licence; impose conditions, including special conditions, as a requirement of continuing to hold a licence at any time during the term of the licence; and licence, regulate or govern real and personal property used for the business and the persons carrying it on or engaged in it;

AND WHEREAS the Council of the Regional Municipality of Niagara has determined that it is appropriate and desirable to licence taxicabs, transportation network

companies and taxicab brokers for the purposes of ensuring the health and safety of both passengers and drivers, for the protection of persons and property, to ensure consumer protection, and to ensure that efficient taxicab and transportation vehicle network services are available to all persons within the Region;

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

PART I DEFINITIONS

1. In this By-law, unless context otherwise requires:

"Accessible Taxicab" means a passenger vehicle, other than a school bus, that is designed or modified to be used for the purpose of transporting Persons with disabilities and is used for that purpose, in accordance with Ontario Regulation 629 of the *Highway Traffic Act*, R.S.O. 1990, c. H. 8, as amended, and the Standards Council of Canada Standard D409-M84, as amended, and is licenced as a Taxicab by a municipality;

"Accessible Taxicab Service" means the dispatching and use of an Accessible Taxicab for the conveyance of one (1) or more Passengers with disabilities;

"Applicant" means any Person who has applied for a Permit and/or Licence under this By-law;

"Broker" means any person who operates, controls or accepts calls in any manner for the dispatch of either Taxicab Services or TNC Services;

"Controlled Drugs and Substances Act" means the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, as amended, or any successor legislation;

"Council" means the Council of The Regional Municipality of Niagara;

"Criminal Code" means the *Criminal Code*, R.S.C. 1985, c. C-46, as amended, or any successor legislation;

"Dispatch" means the act or service of sending or directing a Taxicab or TNC Vehicle, by electronic or any other means, to a Person or Persons who have requested Taxicab Services or TNC Services, but does not include a request made directly to a Taxicab Driver, and "Dispatched" and "Dispatching" shall have corresponding meaning;

"Driver" means the Person licenced under this By-law who drives and has care and control of a Taxicab or TNC Vehicle licenced under this By-law;

"Fees and Charges By-law" means a by-law passed by Council of The Regional Municipality of Niagara pursuant to section 391 of the *Municipal Act, 2001*, establishing fees and charges for services and activities provided by the Region and for the use of its property, as amended, and replaced from time to time.

"GPS" or "Global Positioning System" means a global navigation system that provides the geographic location, velocity and time synchronization of a Person or thing using signals from satellites;

"Highway" means a highway as defined in the *Highway Traffic Act*, R.S.O. 1990, c. H. 8;

"Highway Traffic Act" means the *Highway Traffic Act*, R.S.O. 1990, c. H. 8, as amended, or any successor legislation;

"Human Rights Code" means the *Human Rights Code*, R.S.O. 1990, c. H-19, as amended, or any successor legislation;

"Licence" means an authorization issued under this By-law to carry on a business specified therein and the document, certificate or card issued shall provide evidence of such authority as the content may allow;

"Licensee" means a Person holding a Licence in accordance with this By-law;

"Licensing Appeals Committee" or "Committee" means the all citizen tribunal appointed by Council to conduct hearings under this by-law;

"Licensing Officer" means the Manager of Business Licensing for The Regional Municipality of Niagara or their designate;

"Ministry of Transportation" means the Ministry of Transportation of Ontario or any successor ministry, department or other government body;

"Motor Vehicle" means a motor vehicle as defined in the *Highway Traffic Act*;

"Municipal Act, 2001" means the *Municipal Act, 2001*, S.O. 2001, c.25, as amended from time to time;

“Municipal Law Enforcement Officer” means a municipal law enforcement officer appointed by Council, or an officer, employee or agent of the Region whose responsibilities include the enforcement of this By-law;

“Officer” means a Municipal Law Enforcement Officer, Licensing Officer, or Police Officer;

“Passenger” means any individual travelling in a Taxicab or TNC Vehicle other than the Driver;

“Permit” means a temporary authorization issued under this By-law to carry on a business specified therein and the document, certificate or card issued shall provide evidence of such authority as the content may allow;

“Person” includes an individual, partnership, or corporation;

“Police Officer” means a police officer as defined by the *Police Services Act*, R.S.O. 1990, c. P.15;

“Provincial Licence” means any form of licence or certification required to be held by the Licensee pursuant to applicable Provincial laws in order to carry on a business of a Taxicab Service or TNC Service;

“Public Vehicles Act” means the *Public Vehicles Act*, R.S.O. 1990, c. P. 54, as amended, or any successor legislation;

“Region” means The Regional Municipality of Niagara, as a municipal corporation and, where the context requires, its geographic area;

“Spare Vehicle” means a Motor Vehicle owned by a Licensee that has been authorized by the Licensing Officer for temporary use in the place of and instead of a Taxicab or TNC Vehicle licenced under this By-law;

“Statutory Holiday” means New Year’s Day, Family Day, Good Friday, Easter Sunday, Victoria Day, Canada Day, August Civic Holiday, Labour Day, Thanksgiving Day, Christmas Day, Boxing Day, and any other day fixed as a public holiday by the Federal Government or Ontario Provincial Government;

“Taxicab” means a Motor Vehicle used for transportation of Passengers from place to place, that has a Taxicab Meter;

“Taxicab Meter” means a mechanical or electronic device used to measure time and distance for the purpose of calculating a fare;

“Taxicab Plate” means the Taxicab Licence Plate that is issued by the Licensing Officer under this By-law, and includes the following subclasses of Taxicab Plates: (1) Standard; (2) Accessible; and (3) Spare Vehicle;

“Taxicab Service” means the use or operation of a Taxicab licenced under this By-law for the conveyance of one or more Passengers in exchange for a fee or other consideration, and may include an Accessible Taxicab Service;

“Transportation Network Company” or **“TNC”** means any person who offers, operates, or facilitates pre-arranged transportation services for compensation using any software or application or telecommunications platform to communicate with Passengers, but does not include a Taxicab Owner;

“TNC Vehicle” means a Motor Vehicle that is used for the provision of a TNC Service;

“TNC Service” means the use of a Motor Vehicle licenced under this By-law for the conveyance of one or more Passengers in exchange for a fee or other consideration through a Transportation Network Company;

PART II LICENCE CLASSES

2. (1) The Licensing Officer shall issue Licences for the following classes:
 - i. Taxicab Broker;
 - ii. Taxicab Plate;
 - iii. Taxicab Vehicle;
 - iv. Taxicab Driver;
 - v. TNC Broker;
 - vi. TNC Vehicle; and,
 - vii. TNC Driver;
- (2) The Licensing Officer shall issue Licences for the following sub-classes:
 - i. Taxicab Spare Vehicle;
 - ii. Spare Vehicle Taxicab Plate;

- iii. Standard Taxicab Plate; and,
 - iv. Accessible Taxicab Plate.
3. (1) No Person shall carry on or engage in the provision of a Taxicab or TNC Service in the Region unless that Person holds a valid and current Licence permitting them to do so.
- (2) All Licences are valid for a twelve (12) month period from the date of issuance. For Licence renewals only, if deemed necessary for administrative purposes by the Licensing Officer, the term of a Licence may be adjusted, for example, to align with the term of other Provincial Licences held by the Licensee for the Business, and the Licence fee may be pro-rated accordingly.
- (3) Unless otherwise provided for in this By-law, all Licences issued under this By-law are personal to the Licensee, are only transferrable upon approval by the Licensing Officer, and remain the property of the Region.

PART III TAXICAB BROKER LICENCE

Prohibitions

4. No Person shall dispatch a Taxicab for the provision of Taxicab Services without first having obtained a Taxicab Broker Licence in accordance with this By-law.

Taxicab Broker Licence Application

5. Every application for a Taxicab Broker Licence or renewal of such a Licence shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application shall include the following:
- (1) The full legal name, municipal address, email address and telephone number of each Applicant;
 - (2) If the Applicant is a partnership, the full legal name, address, email address and telephone number of each partner;
 - (3) If the Applicant is a corporation, all current articles of incorporation for the corporation;
 - (4) All current legal documents showing the registered business name of the Applicant, if applicable;

- (5) The full legal names, addresses and dates of birth for all officers and directors of the Applicant, if applicable;
- (6) The full legal names and signatures of all Persons having signing authority for the Applicant corporation, if applicable, including a letter outlining the number of signatures required for financial and administrative functions;
- (7) The full legal names of all Taxicab Vehicle Licensees and Taxicab Driver Licensees who currently use or will use the Applicant as their Taxicab Broker;
- (8) A Certificate of Insurance identifying and confirming the following minimum insurance requirements:

Commercial General Liability Insurance ("CGL")

CGL insurance for all services and operations to a limit of not less than FIVE MILLION DOLLARS (\$5,000,000) per occurrence.

The policy will be extended to include:

- a. bodily injury, death and property damage;
- b. cross liability and severability of interest;
- c. blanket contractual;
- d. premises and operations;
- e. personal and advertising injury;
- f. products and completed operations;
- g. owner's and contractors protective;
- h. non-owned Automobile to a limit of not less than TWO MILLION DOLLARS (\$2,000,000).

The policy shall be endorsed to:

- a. include The Regional Municipality of Niagara as an Additional Insured; and,

- b. contain an undertaking by the insurers to give thirty (30) days prior written notice in the event that there is a material change in the foregoing policies or coverage affecting the additional insured(s) or cancellation of coverage before the expiration date of any of the foregoing policies.

Policy Requirements

All policies of insurance shall:

- a) be written with an insurer licensed to do business in Ontario;
- b) be non-contributing with, and will apply only as primary and not excess to any other insurance or self-insurance available to Niagara Region.

Certificates of Insurance

Certificates of insurance originally signed by authorized insurance representatives shall be delivered to the Region prior to issuance of the Licence, on a form of Certificate of Insurance which is acceptable to the Region. The Certificate of Insurance must comply with these insurance requirements and must be on the Region's form of Certificate of Insurance, which can be found on the Region's website – www.niagararegion.ca/business/fpr/cert-insurance.aspx. If the Certificate of Insurance is provided in a non-original form (e.g. a facsimile, photocopy or scanned electronic copy), the Applicant acknowledges and agrees that the Region is fully entitled to treat any such Certificate as an original and that the Applicant will be responsible for the accuracy and validity of the information contained therein. All subsequent policy renewals and certificates of insurance thereafter, during the time that the Licence is in force, shall be forwarded to the Region within fifteen (15) days of their renewal date.

- (9) Information on whether the Applicant, or any officer or director of the Applicant, has had a licence in regard to the provision of Taxicab Services suspended or revoked in the Region or in any other municipality within Canada;

- (10) Information on whether the Applicant, or any officer or director of the Applicant, has been convicted of an offence under any previously repealed by-law of the Region or any other municipality within Canada governing the licensing of Taxicab Services;
- (11) A Criminal Record and Judicial Matters check for the Applicant or any officer or director of the Applicant, obtained within sixty (60) days from the date of application, which shall be reviewed in accordance with the criteria in Schedule "A" to this By-law; and,
- (12) Payment in full of the prescribed fee in accordance with the Fees and Charges By-law.

Taxicab Broker Licence Requirements

6. Every Taxicab Broker licenced under this By-law shall:

- (1) Have a physical business premises and telephone number associated with the Taxicab Broker for the benefit of customers who wish to make contact with the Taxicab Broker;
- (2) Have a digital dispatch system and GPS that allows the Taxicab Broker to communicate with and locate a Taxicab that operates through the Taxicab Broker;
- (3) Maintain a written or electronic record for a period of twelve (12) months for each Taxicab trip that is dispatched by the Taxicab Broker;
- (4) Have a minimum of one (1) Taxicab licenced under this By-law, associated or affiliated exclusively with the Taxicab Broker;
- (5) Ensure that each Person holding a Taxicab Vehicle Licence or Taxicab Driver Licence who operates in association with the Taxicab Broker Licensee is trained in regard to the proper operation of a Taxicab and the provisions of this By-law;
- (6) Ensure that each Person holding a Taxicab Driver Licence who operates in association with the Taxicab Broker Licensee has completed driver and sensitivity training that includes the following topics:
 - i. The safe operation of a Motor Vehicle including safe operation during inclement weather;

- ii. The proper operation of Taxicab equipment and devices which may include a Taxicab meter, dispatch system and credit card/debit card machine, as applicable;
 - iii. The proper response to an emergency situation which includes passenger illness and Motor Vehicle accidents;
 - iv. The provision of Taxicab Services in a manner that respects the dignity and independence of persons with disabilities; and,
 - v. The provision of Taxicab Services in a manner that is free of discrimination and is in compliance with the *Human Rights Code*;
- (7) Ensure that each Taxicab Driver Licensee with an Accessible Taxicab Plate, who operates in association with the Taxicab Broker Licensee, has completed the accessibility training as designated by the Licensing Officer;
- (8) Take all reasonable steps to ensure that all Taxicab Vehicle Licensees and or Taxicab Driver Licensees who operate in association with the Taxicab Broker Licensee comply with the requirements of this By-law;
- (9) Give priority to persons with disabilities when dispatching Accessible Taxicabs;
- (10) Not charge a surcharge or charges exceeding those contained within the Taxicab Meter tariff rates, as established by the Licensing Officer from time to time to be posted on the Region's website, to Persons with disabilities;
- (11) Report to the Licensing Officer, within twenty-four (24) hours, any known contravention of this By-law by a Taxicab Vehicle Licensee or Taxicab Driver Licensee who is associated with the Taxicab Broker Licensee;
- (12) Report to the Licensing Officer, within twenty-four (24) hours, any known:
- i. Investigation, charge or conviction pursuant to the *Criminal Code*, *Controlled Drugs and Substances Act* or *Highway Traffic Act*; or
 - ii. Ontario driver's licence suspension;
 - iii. Expiry, suspension, revocation or conditions imposed on a Provincial Licence of a Taxicab Driver Licensee who is associated with the Taxicab Broker Licensee;

- (13) Report to the Licensing Officer, within twenty-four (24) hours:
 - i. Any known motor vehicle accident that is reportable pursuant to section 199 of the *Highway Traffic Act* or any successor provision; or
 - ii. Personal injury; or
 - iii. Cancellation of insuranceinvolving a Taxicab that is associated with the Taxicab Broker Licensee;
- (14) Report within twenty-four (24) hours, to the Licensing Officer if the Taxicab Broker has terminated any Taxicab Vehicle Licensees or Taxicab Driver Licensees that are associated with the Taxicab Broker Licensee; and
- (15) Provide the Licensing Officer, by the fifteenth (15th) day of every month, the following statistical information for the preceding month in relation to Taxicab Services provided through the Taxicab Broker Licensee:
 - i. The total number of Taxicab trips provided and Passengers conveyed;

The total number of Accessible Taxicab trips and Standard Taxicab trips for each Accessible Taxicab, if applicable; and,
 - ii. For those Taxicab Brokers that provides a pre-arranged Taxicab Service through an on-line enabled application, website or telephone, a written or electronic record showing that the passenger accepted the fare or rate to be charged prior to the commencement of the pre-arranged Taxicab Service.

Taxicab Broker Licence Transfer

- 7. The Licensing Officer may approve the transfer of a Taxicab Broker Licence from one Person to another upon the parties providing to the Licensing Officer:
 - (1) A completed transfer application;
 - (2) The transfer application fee as prescribed in the Fees and Charges By-law; and,

- (3) Confirmation that the new Applicant meets the application requirements for a Taxicab Broker Licence, as set out in Part III of this By-law.

PART IV TAXICAB VEHICLE LICENCE AND TAXICAB PLATE

Prohibition

8. (1) No Person shall provide Taxicab Services without first having obtained a:
- i. Taxicab Vehicle Licence for the Motor Vehicle used for the provision of such services; and
 - ii. Taxicab Plate to be affixed to the Motor Vehicle used for the provision of such services;
- (2) No Person shall allow or permit another Person to provide or attempt to provide a Taxicab Service using a Motor Vehicle licenced as a Taxicab under this By-law unless such Person holds a valid Taxicab Driver Licence and the Taxicab Plate is affixed to the Motor Vehicle in compliance with this By-law.
9. No Licensee shall affix or permit any other Person to affix their Taxicab Plate to another Motor Vehicle other than the Taxicab for which the Taxicab Plate was issued under this By-Law.

Licence Application

10. Every application for a Taxicab Vehicle and/or Taxicab Plate Licence and renewal Licence shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application for a Taxicab Vehicle Licence and Taxicab Plate Licence, or a renewal of either Licence shall include the following:
- (1) The full legal name, municipal address, email address and telephone number of each Applicant;
 - (2) If the Applicant is a partnership, the full legal name, address, email address and telephone number of each partner;
 - (3) If the Applicant is a corporation, all current articles of incorporation for the corporation;

- (4) All current legal documents showing the registered business name of the Applicant, if applicable;
- (5) The full legal names, addresses and dates of birth for all officers and directors of the Applicant, if applicable;
- (6) The full legal names and signatures of all Persons having signing authority for the Applicant corporation, if applicable, including a letter outlining the number of signatures required for financial and administrative functions;
- (7) The make, model, fuel type, vehicle identification number, production year and Ontario licence plate number for the Applicant's Taxicab;
- (8) A valid Motor Vehicle permit in the Applicant's full legal name for the Taxicab as issued by the Ministry of Transportation;
- (9) If leased from a leasing company, a copy of the leasing agreement including an authorization for the leased Motor Vehicle to be used as a Taxicab;
- (10) Based on the year appearing on the Motor Vehicle permit or ownership as issued by the Ministry of transportation, if the Taxicab is:
 - i. Less than two (2) years of age and has less than 20,000 kilometers on its odometer, a safety inspection is not required;
 - ii. Between two (2) and seven (7) years of age or has more than 20,000 kilometers on the odometer, a valid Motor Vehicle Inspection Certificate, issued not less than thirty-six (36) days from the date submitted to the Licensing Officer, confirming the Taxicab has passed the applicable safety inspection, is required annually; or,
 - iii. Greater than seven (7) years of age, or has more than 140,000 kilometers on the odometer, a valid Motor Vehicle Inspection Certificate, issued not less than thirty-six (36) days from the date submitted to the Licensing Officer, confirming the Taxicab has passed the applicable safety inspection, is required every six (6) months;

- (11) If the Taxicab operates with propane or natural gas as its primary or secondary fuel source, satisfactory evidence that is no older than thirty (30) days from date of the application that the Taxicab has passed all applicable propane and natural gas safety inspections;
 - (12) Proof of automobile insurance in accordance with the requirements set out in section 12 of this By-law;
 - (13) A declaration signed by a Taxicab Broker confirming the Applicant's affiliation or employment with that Taxicab Broker. A declaration is required from each Taxicab Broker that the Applicant is affiliated with or employed by;
 - (14) Confirmation that the Applicant, or any officer or director of the Applicant, has not had a licence in regard to the ownership of a Taxicab suspended or revoked by the Region or other municipality in Canada within three (3) years of the current application;
 - (15) Confirmation the Applicant, or any officer or director of the Applicant, has not been convicted of an offence under any Taxicab by-law of the Region or other municipality in Canada in regard to the ownership of a Taxicab in the three (3) year period prior to the date of the application;
 - (16) A Criminal Record and Judicial Matters check for the Applicant or any officer or director of the Applicant, obtained within sixty (60) days from the date of application, which shall be reviewed in accordance with the criteria in Schedule "A" to this By-law; and,
 - (17) Payment of the prescribed fee in accordance with the Fees and Charges By-law.
11. (1) The Licensing Officer may set a limit or quota on the number of Taxicab Plates that may be issued within the Region.
- (2) If a quota or limit as referenced in subsection (1) is put in place, there shall be no waiting list maintained. Any new Taxicab Plates to be issued by the Licensing Officer will be offered to Applicants who meet the application requirements for a Taxicab Vehicle Licence set out in section 10 of this By-law, in order of when completed Applications were received.

- (3) Any quotas or limits that may be implemented shall remain in effect according to the time limit as determined by the Licensing Officer, not to exceed three (3) years, after which time the Licensing Officer shall conduct a review to determine whether these quotas or limits should be revised.

Taxicab Vehicle Licence and Plate Requirements

12.
 - (1) Every Taxicab Vehicle Licensee shall maintain on file with the Region a certificate of insurance for each Taxicab licenced under this By-law, identifying and confirming a minimum limit of liability of TWO MILLION DOLLARS (\$2,000,000.00) per occurrence, exclusive of interest and costs, against liability resulting from bodily injury to or the death of one or more persons, and loss or damage to property; and
 - (2) Evidence of insurance shall be provided annually through a Certificate of Insurance and, in addition to the limits indicated in subsection (1), shall include evidence of an O.E.F. 6A—Permission to Carry Passengers for Compensation Endorsement.
13. Every Taxicab licenced under this By-law shall be equipped with an operational:
 - (1) Taxicab Meter that meets the requirements of this By-law;
 - (2) Illuminated top sign on the roof of the Taxicab that is capable of illuminating when the Taxicab is unoccupied by a Passenger;
 - (3) GPS that sets out and records the location of the Taxicab; and,
 - (4) Dispatch system that allows communication between the Driver and Taxicab Broker.
14. Every Person that holds a Taxicab Plate shall display:
 - (1) The Taxicab Plate on the rear of the licensed Taxicab; and
 - (2) Two (2) decals that are a minimum of 200 square centimeters each in area in visible locations on the exterior of the licensed Taxicab that visibly displays in large print the name or trademark of their Taxicab Broker.
15. Every Taxicab Vehicle Licensee shall ensure that their Licence is kept within the Taxicab and is available for inspection upon request by Passengers or Persons authorized to enforce this By-law.

16. A Taxicab Vehicle Licence is specific to the Taxicab for which it has been issued. When a Taxicab is replaced with another Taxicab, the Taxicab Plate that is associated with the previous Taxicab may be transferred to the replacement Taxicab, provided:
 - (1) The Licensee applies to the Licensing Officer for a new Taxicab Vehicle Licence and meets the applicable requirements under this By-law for such a Licence;
 - (2) A Taxicab Vehicle Licence is issued for the replacement Taxicab; and,
 - (3) The Licensee pays the transfer fee in accordance with the Fees and Charges By-law.
17. A Taxicab Plate may be leased to another Taxicab Vehicle Licensee provided the Taxicab Plate holder first provides the Licensing Officer with the details of the lease arrangement including the term of the lease and confirmation that the Owner of the Taxicab Plate remains responsible for compliance with the requirements of this By-law, and that the lessee meets the requirements for a Taxicab Plate holder as set out in this By-law.
18. The Licensing Officer may approve a transfer of ownership of a Taxicab Plate from one Person to another upon the parties providing to the Licensing Officer:
 - (1) A completed transfer application, in a form provided by the Licensing Officer;
 - (2) A transfer application fee as prescribed in the Fees and Charges By-law; and,
 - (3) Confirmation that the new Applicant meets all applicable requirements for the Taxicab Plate under this By-law.
19. Notwithstanding any other provision of this By-law, a Licensing Officer may provide approval for the transfer of a Taxicab Plate in the event of the plate holder's death, subject to the completion and approval of the required transfer application within thirty (30) days, failing which, the Taxicab Licence Plate shall be surrendered.

20. A Taxicab Vehicle Licence and Taxicab Plate shall only be issued to an Applicant who is associated or affiliated with a Taxicab Broker that is licenced under this By-law. A Taxicab Vehicle Licence and Taxicab Plate may not be associated with multiple Taxicab Brokers.
21. A Licensee may hold multiple Taxicab Vehicle Licences and/or Taxicab Plates.
22. All Taxicab Plates that are expired are deemed revoked by the Licensing Officer and must be returned to the Licensing Officer. A replacement fee shall be charged to the Plate holder if the Taxicab Plate is not returned.
23.
 - (1) A Licensee may apply for a non-use status designation of a Taxicab Plate for a period of up to sixty (60) days in a calendar year. This application must be approved by the Licensing Officer and all appropriate fees, in accordance with the Fees and Charges By-law, must be paid.
 - (2) No Person shall operate, or permit to be operated, any Taxicab that bears a Taxicab Plate that has been designated for non-use status.
 - (3) Taxicab Plates that have been designated for non-use status for more than sixty (60) days in a calendar year shall be returned to the Licensing Officer.

Spare Vehicle Licence and Spare Vehicle Plates

24.
 - (1) A Taxicab Vehicle Licensee may apply to the Licensing Officer for a Licence for a Spare Vehicle to be used on a temporary basis in place of a Taxicab that is licenced under this By-law, when that Taxicab is, for any reason, unable to be operated.
 - (2) No Taxicab Vehicle Licensee shall use a Spare Vehicle in place of a Taxicab licenced under this By-law unless a Spare Vehicle Licence and Spare Vehicle Plate have been issued by the Licensing Officer.
 - (3) The Licensing Officer may approve a Motor Vehicle for temporary use as a Spare Vehicle upon the Licensee providing to the Licensing Officer:
 - i. A completed Spare Vehicle application;
 - ii. The Spare Vehicle application fee as prescribed in the Fees and Charges By-law; and

- iii. Confirmation the application requirements for a Taxicab Vehicle Licence, as set out in Part IV of this By-law, are met with respect to the proposed Spare Vehicle.
 - (4) Upon approval of the application, a Spare Vehicle Licence and a Spare Vehicle Plate, to be affixed to the Spare Vehicle, will be issued to the Applicant.
 - (5) The Licensing Officer may renew the Spare Vehicle Licence upon the Licensee submitting to the Licensing Officer all of the documentation and fees set out in subsection (3).
 - (6) The Licensee shall notify the Licensing Officer by electronic mail or voicemail within twenty-four (24) hours of the use of the Spare Vehicle in the place of a Taxicab licenced under this By-law.
 - (7) The Licensee shall notify the Licensing Officer by electronic mail or voicemail within twenty-four (24) hours of the resumption of the use of the regular licenced Taxicab and cessation of the use of the Spare Vehicle.
 - (8) A Motor Vehicle used as a Spare Vehicle must comply with all requirements of a Taxicab licenced under this By-law.
25. Despite section 24, a Taxicab Vehicle Licensee may apply to the Licensing Officer for temporary use of a Spare Vehicle, in addition to the Licensee's other licenced Taxicabs, for a specified period of time in order to provide increased Taxicab Services, subject to the following conditions:
- (1) An application for temporary use of a Spare Vehicle shall be presented to the Licensing Officer at least five (5) business days prior to the proposed date for use;
 - (2) The Applicant has submitted the appropriate application and paid the appropriate fees in accordance with the Fees and Charges By-law;
 - (3) The Applicant has identified on the application the times and dates for which the Spare Vehicle will be used; and
 - (4) The Applicant has provided confirmation that all of the application requirements for a Taxicab Vehicle Licence, as set out in section 10 of this By-law, are met with respect to the proposed Spare Vehicle.

26. Upon approval of the request and registration of the Spare Vehicle, the Licensing Officer shall provide to the Licensee temporary approval to use both the main Taxicab Plate and the Spare Vehicle Plate for the approved period of time.

PART V TAXICAB DRIVER LICENCE

Prohibition

27. (1) No Person shall drive or operate a Taxicab for the purpose of providing a Taxicab Service unless that Person is the holder of a current Taxicab Driver Licence.
- (2) No Driver shall provide or attempt to provide a Taxicab Service unless they are affiliated with a Taxicab Broker.

Licence Application

28. Every application for a Taxicab Driver Licence and renewal Licence shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application for a Taxicab Driver Licence or a renewal shall include the following:
- (1) The Applicant's full legal name, address, telephone number, email address and date of birth;
 - (2) Proof of a valid, unrestricted, Class G driver's licence issued by the Province of Ontario with at least two (2) years driving experience;
 - (3) Two (2) pieces of government issued identification, one being photo identification;
 - (4) Confirmation that the Applicant is legally eligible to work in Canada;
 - (5) Confirmation that the Applicant has not had a Taxicab Driver Licence revoked, suspended or denied within three (3) years of the date of application;
 - (6) A Criminal Record and Judicial Matters Check for the Applicant obtained within sixty (60) days from the date of application, which shall be reviewed in accordance with the criteria in Schedule "A" of this By-law;
 - (7) A Ministry of Transportation three (3) year driver's abstract;

- (8) A declaration signed by the Applicant confirming they do not have any current outstanding police investigations, *Highway Traffic Act* or criminal charges or warrants pending before any courts;
 - (9) A declaration signed by a Taxicab Broker Licensee confirming the Applicant's affiliation or employment with that Taxicab Broker. A declaration is required from each Taxicab Broker that the Applicant is affiliated with or employed by; and,
 - (10) Confirmation from the Applicant's affiliated Taxicab Broker that the Applicant has successfully completed required driver training.
29. An Applicant for a Taxicab Driver Licence shall submit to a photograph being taken of them for use on the Taxicab Driver Licence.

General Licence Requirements

30. Every Taxicab Driver Licensee, while operating a Taxicab licenced under this By-law:
- (1) Shall display their Licence in a location that is clearly visible to all Passengers and shall verbally advise any Passenger of their Taxicab Driver Licence number upon request;
 - (2) Shall ensure the Taxicab Vehicle Licence is in the Taxicab at all times;
 - (3) Shall display the approved Taxicab Meter tariff rates, as established by the Licencing Officer from time to time and posted on the Region's website, in their Taxicab so that they are clearly visible to all Passengers;
 - (4) Shall verbally advise a Passenger of the approved Taxicab Meter tariff rates, as established by the Licensing Officer from time to time and posted on the Region's website, upon request;
 - (5) Shall ensure the proof of Motor Vehicle insurance slip is in the Taxicab;
 - (6) Shall ensure all proof of Motor Vehicle ownership documentation is in the Taxicab; and,
 - (7) Shall ensure the Taxicab Plate is affixed to the Taxicab as prescribed in this By-law.

31. Every Taxicab Driver Licensee, while operating a Taxicab licenced under this By-law, shall ensure that the GPS and dispatch system for the Taxicab are operational.
32. No Taxicab Driver Licensee shall:
- (1) Verbally solicit any Person for the purposes of providing a Taxicab Service;
 - (2) Obstruct the use of any sidewalk, access way, street, roadway, driveway or highway with a Taxicab licenced under this By-law;
 - (3) Permit their Taxicab as licenced under this By-law to remain idling:
 - i. For a period that exceeds ten (10) minutes when the outdoor temperature is between ten (10) degrees Celsius and twenty (20) degrees Celsius; or
 - ii. When the Taxicab is not occupied by a Passenger;
 - (4) Permit their Taxicab, as licenced under this By-law, to remain standing on any sidewalk, access way, street, roadway, driveway or highway, other than in designated parking areas, unless for the immediate purpose of:
 - i. Taking on a Passenger or Passengers who have already engaged the Taxicab; or
 - ii. Discharging a Passenger or Passengers from the Taxicab;
 - (5) Carry a number of Passengers during a Taxicab trip that exceeds the manufacturer's rating of seating capacity and available seat belts for the Taxicab;
 - (6) Smoke tobacco or cannabis or permit tobacco or cannabis to be smoked in the Taxicab as licenced under this By-law;
 - (7) Consume or be under the influence of any alcohol while operating a Taxicab licenced under this By-law;
 - (8) Consume, possess or be under the influence of any controlled substance as defined in the *Controlled Drugs and Substances Act* while operating a Taxicab licenced under this By-law;

- (9) Use an electronic cigarette or permit the use of electronic cigarettes in the Taxicab as licenced under this By-law; or,
 - (10) Operate a Taxicab that is not licensed under this By-law.
33. Every Taxicab Driver Licensee that is operating an Accessible Taxicab with an Accessible Taxicab Plate shall give priority to Persons with disabilities.
34. Every Taxicab Driver Licence holder that is operating an Accessible Taxicab shall securely fasten all mobility devices of any Passengers while the Accessible Taxicab is in motion.
35. (1) Every Taxicab Driver Licence holder shall notify the Licensing Officer within twenty-four (24) hours of any charge or conviction they have received that is in contravention of Schedule "A" criteria of this By-law or of any Motor Vehicle accident involving a Taxicab licenced under this By-law.
- (2) Every Taxicab Driver Licence-holder shall notify the Licensing Officer within twenty-four (24) hours of any police investigation, charge or conviction relating to the Licensee pursuant to the *Criminal Code*, *Highway Traffic Act*, or the *Controlled Drugs and Substances Act* with all particulars relating to the investigation, charge or conviction.
- (3) If the Licensing Officer has reasonable grounds to believe that any of the information that was provided in the Licensee's application for a Taxicab Driver Licence has changed without the Licensee advising of the change, the Licensing Officer may, upon demand, request the Licensee produce an updated:
- i. Criminal Record and Judicial Matters check; or
 - ii. A three (3) year Ontario Driver's Abstract.
36. Every Person who holds a Taxicab Driver Licence while operating a Taxicab shall turn off the illuminated top sign when the Taxicab is engaged in a Taxicab Service.

37. (1) Every Person who holds a Taxicab Driver Licence, while providing a Taxicab Service, shall ensure that:
- i. Their Taxicab Meter is fully operational and accurate;
 - ii. Their Taxicab Meter is sealed;
 - iii. Their Taxicab Meter conforms to the maximum fees as prescribed in the approved Taxicab Meter tariff rates as established by the Licensing Officer from time to time and posted on the Region's website;
 - iv. Their Taxicab Meter is located where it is visible to all Passengers; and,
 - v. The fee charged to the Passenger or Passengers shall be no greater than the fee appearing on the Meter at the end of the Taxicab Service.
- (2) Subsection (1)(v) of the above section shall not apply where the Taxicab Service is being carried out pursuant to:
- i. An ongoing written contract between the Taxicab Broker and the Passenger or a third party on behalf of the Passenger for repeated Taxicab Services or Accessible Taxicab Services; or
 - ii. A pre-arranged Taxicab Service through an on-line enabled application, website or telephone number provided that a written or electronic record is maintained showing that the Passenger accepted the fare or rate prior to commencement of the pre-arranged Taxicab Service, and the Passenger is provided a written or electronic receipt at the conclusion of the pre-arranged Taxicab Service that sets out all rates, fees and surcharges charged, total amount paid, date and time of the Taxicab Service, location of the commencement and conclusion of the Taxicab Service, and the total time and distance of the Taxicab Service.
38. A Taxicab Driver Licensee shall immediately report to the Licensing Officer any malfunctioning Taxicab Meter or any tampering of the Taxicab Meter's seal, and shall cease to provide any Taxicab Service or Accessible Taxicab Service using that Taxicab.

39. The fee for the testing or retesting of a Taxicab Meter shall be in accordance with the Fees and Charges By-law and shall be payable by the Taxicab Plate holder.
40. (1) A Taxicab Driver Licensee who is engaged in providing a Taxicab Service shall not start their Taxicab Meter until after a Passenger's personal property has been placed in the vehicle, if applicable, and the Passenger is seated in the Taxicab.
- (2) A Taxicab Driver Licensee, who is engaged in providing a Taxicab Service, shall deactivate their Taxicab Meter upon arrival at their Passenger's requested stop. The Taxicab Meter shall not be left running while the Passenger unloads their personal property from the vehicle once at the requested stop.
- (3) Notwithstanding subsection (1), if a Passenger has requested a Taxicab at a specific location, at a specific time, a Taxicab Driver Licensee may charge the applicable Waiting Time Rate, in accordance with the approved Taxicab Meter Tariff Rates as established by the Licensing Officer from time to time and posted on the Region's website, upon arriving at the requested location at the requested time. The Taxicab Meter may not be engaged until the Passenger is seated in the Taxicab.
- (4) No Taxicab Driver Licensee shall charge a surcharge or charges exceeding the approved Taxicab Meter Tariff Rates, as established by the Licensing Officer, from time to time, and posted on the Region's website, to a person with a disability.
- (5) Every Taxicab Driver Licensee shall use the most direct route reasonably possible to the Passenger's requested destination in the circumstances, and in the most efficient manner, unless otherwise directed by the Passenger.

PART VI TRANSPORTATION NETWORK COMPANY (TNC) BROKER LICENCE

Prohibition

41. No Person shall act as a TNC Broker without first having obtained a TNC Broker Licence in accordance with this By-law.

TNC Broker Licence Application

42. Every application for a TNC Broker Licence or renewal of such a Licence shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application shall include the following:

- (1) The full legal name, municipal address, email address and telephone number of each Applicant;
- (2) If the Applicant is a partnership, the name, address, email address and telephone number of each partner;
- (3) If the Applicant is a corporation, all current articles of incorporation for the corporation;
- (4) All current legal documents showing the registered business name of the Applicant, if applicable;
- (5) The full legal names, addresses and dates of birth for all officers and directors of the Applicant, if applicable;
- (6) The full legal names and signatures of all Persons having signing authority for the Applicant corporation, if applicable, including a letter outlining the number of signatures required for financial and administrative functions;
- (7) The full legal names, addresses, contact information and driver's licence numbers of all TNC Driver Licensees who currently use or will use the Applicant as their TNC Broker;
- (8) A Certificate of Insurance identifying and confirming the following minimum insurance requirements:

Commercial General Liability Insurance ("CGL")

CGL insurance for all services and operations to a limit of not less than FIVE MILLION DOLLARS (\$5,000,000) per occurrence.

The policy will be extended to include:

- a. bodily injury, death and property damage;
- b. cross liability and severability of interest;

- c. blanket contractual;
- d. premises and operations;
- e. personal and advertising injury;
- f. products and completed operations;
- g. owner's and contractors protective;
- h. non-owned Automobile to a limit of not less than TWO MILLION DOLLARS (\$2,000,000).

The policy shall be endorsed to:

- a. include The Regional Municipality of Niagara as an additional insured; and,
- b. contain an undertaking by the insurers to give thirty (30) days prior written notice in the event that there is a material change in the foregoing policies or coverage affecting the Additional Insured(s) or cancellation of coverage before the expiration date of any of the foregoing policies.

Policy Requirements

All policies of insurance shall:

- a. be written with an insurer licensed to do business in Ontario;
- b. be non-contributing with, and will apply only as primary and not excess to any other insurance or self-insurance available to Niagara Region;

Certificates of Insurance

Certificates of insurance originally signed by authorized insurance representatives shall be delivered to the Region prior to issuance of the Licence, on a form of Certificate of Insurance which is acceptable to the Region. The Certificate of Insurance must comply with these insurance requirements and must be on the Region's form of Certificate of Insurance, which can be found on the Region's website –

www.niagararegion.ca/business/fpr/cert-insurance.aspx. If the Certificate of Insurance is provided in a non-original form (e.g. a facsimile, photocopy or scanned electronic copy), the Applicant acknowledges and agrees that the Region is fully entitled to treat any such Certificate as an original and that the Applicant will be responsible for the accuracy and validity of the information contained therein. All subsequent policy renewals and certificates of insurance thereafter, during the time that the Licence is in force, shall be forwarded to the Region within fifteen (15) days of their renewal date.

- (9) Information on whether the Applicant, or any officer or director of the Applicant, has had a licence in regard to the provision of a TNC Service suspended or revoked in the Region or in any other municipality within Canada;
- (10) Information on whether the Applicant, or any officer or director of the Applicant, has been convicted of an offence under any previously repealed by-law of the Region or other municipality within Canada governing the licensing of TNC Services;
- (11) A Criminal Record and Judicial Matters check for the Applicant or any officer or director of the Applicant, obtained within sixty (60) days from the date of application, reviewed in accordance with the criteria in Schedule "A"; and,
- (12) Payment in full of the prescribed fee in accordance with the Fees and Charges By-law.

TNC Broker Licence Requirements

43. Every TNC Broker licenced under this By-law shall:

- (1) Have a telephone number, email address or on-line enabled application associated with the TNC Broker for the benefit of customers who wish to make contact with the TNC Broker;
- (2) Have an application-based dispatch system which includes a GPS that allows the TNC Broker to communicate with and locate a TNC Vehicle Licensee that operates through the TNC Broker;
- (3) Have a minimum of one (1) TNC Vehicle licenced under this By-law that operates exclusively through the TNC Broker;

- (4) Maintain a written or electronic record for a period of twelve (12) months for each TNC trip that is dispatched by the TNC Broker;
- (5) Report to the Licensing Officer, by the fifteenth (15th) day of every month, the total number of all TNC trips provided in the previous month, broken down by trips per day. These reports will act as the official record to audit monthly payments as required under subsection (6) below;
- (6) Remit to the Licensing Officer, by the fifteenth (15th) day of every month, the per trip fee payment in accordance with the Fees and Charges By-law, for every trip provided within the Region as reported in subsection (5) above;
- (7) Submit an updated list of the full legal names, dates of birth, contact information, driver's licence numbers and TNC Driver Licence number of all TNC Driver Licensees who are affiliated with the TNC Broker;
- (8) Ensure that each TNC Vehicle Licensee or TNC Driver Licensee who operates through the TNC Broker is trained in regard to the proper operation of a TNC Vehicle and the provisions of this By-law;
- (9) Ensure that each TNC Driver Licensee who operates through the TNC Broker has completed driver and sensitivity training that includes the following topics:
 - i. The safe operation of a Motor Vehicle including safe operation during inclement weather;
 - ii. The proper operation of TNC equipment and devices including an online application;
 - iii. The proper response to an emergency situation which includes Passenger illness and Motor Vehicle accidents;
 - iv. The provision of TNC Services in a manner that respects the dignity and independence of persons with disabilities; and,
 - v. The provision of TNC Services in a manner that is free of discrimination and is in compliance with the *Human Rights Code*;
- (10) Take all reasonable steps to ensure that each TNC Vehicle Licensee or TNC Driver Licensee who operates through the TNC Broker complies with the requirements of this By-law;

- (11) Report to the Licensing Officer, within twenty-four (24) hours, any known contravention of this By-law by a TNC Vehicle Licensee or TNC Driver Licensee who operates through the TNC Broker;
- (12) Report to the Licensing Officer, within twenty-four (24) hours, any known:
- i. Investigation, charge or conviction pursuant to the *Criminal Code*, *Controlled Drugs and Substances Act* or *Highway Traffic Act*; or
 - ii. Ontario driver's licence suspension; or
 - iii. expiry, suspension, revocation or conditions imposed on a Provincial Licence;
- of a TNC Driver Licensee who operates through that TNC Broker;
- (13) Report to the Licensing Officer, within twenty-four (24) hours:
- i. Any known motor vehicle accident that is reportable pursuant to section 199 of the *Highway Traffic Act* or any successor provision; or
 - ii. Personal injury; or
 - iii. Cancellation of insurance
- involving a TNC Vehicle or TNC Driver licenced under this By-law that operates through that TNC Broker.
- (14) Report within twenty-four (24) hours, to the Licensing Officer if the TNC Broker has terminated any TNC Vehicle Licensee or TNC Driver Licensee that operates through the TNC Broker; and
- (15) Provide the Licensing Officer, by the fifteenth (15th) day of every month, the following statistical information for the preceding month in relation to TNC Services provided through the TNC Broker:
- i. The total number of Passengers conveyed; and,
 - ii. a written or electronic record confirming each Passenger accepted the fare or rate to be charged prior to the commencement of the pre-arranged TNC Service.

- (16) Provide access to their online TNC Service application platform, at no cost, to the Licensing Officer and any Municipal Law Enforcement Officer for the purpose of enforcement of this By-law.
44. The Licensing Officer may approve the transfer of a TNC Broker Licence from one Person to another upon the parties providing to the Licensing Officer:
- i. A completed transfer application;
 - ii. The transfer application fee as prescribed in the Fees and Charges By-law; and,
 - iii. Confirmation that the new Applicant meets the application requirements for a TNC Broker Licence, as set out in Part VI of this By-law.

PART VII TRANSPORTATION NETWORK COMPANY VEHICLE LICENCE

Prohibition

45. No Person shall cause or permit a Motor Vehicle to be used for the provision of a TNC Service without first having obtained a TNC Vehicle Licence for that Motor Vehicle.
46. No Person shall allow or permit another Person to provide or attempt to provide a TNC Service using a Motor Vehicle that has a TNC Vehicle Licence unless such Person holds a valid TNC Driver Licence.

TNC Vehicle Licence Application

47. Every application for a TNC Vehicle Licence and renewal Licence shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application for a TNC Vehicle Licence or a renewal of such a Licence shall include the following:
- (1) the full legal name, municipal address, email address and telephone number of each Applicant;
 - (2) If the Applicant is a partnership, the name, address, email address and telephone number of each partner;
 - (3) If the Applicant is a corporation, all current articles of incorporation for the corporation;

- (4) All current legal documents showing the registered business name of the Applicant, if applicable;
- (5) The full legal names, addresses and dates of birth for all officers and directors of the Applicant, if applicable;
- (6) The full legal names and signatures of all Persons having signing authority for the Applicant corporation, if applicable, including a letter outlining the number of signatures required for financial and administrative functions;
- (7) The make, model, fuel type, vehicle identification number, production year and Ontario licence plate number for the Motor Vehicle to be licenced;
- (8) A valid Motor Vehicle permit in the Applicant's full legal name for the Motor Vehicle to be licenced, as issued by the Ministry of Transportation;
- (9) If leased from a leasing company, a copy of the leasing agreement for the Motor Vehicle to be licenced, including an authorization for the leased Motor Vehicle to be used for the provision of a TNC Service;
- (10) If the Applicant is not the owner or Lessee of the Motor Vehicle to be used in the provision of TNC Services, written authorization from the Motor Vehicle's owner or Lessee allowing the Motor Vehicle to be used by the Applicant for the provision of TNC Services;
- (11) Based on the year appearing on the permit or ownership as issued by the Ministry of Transportation for the Motor Vehicle to be licenced, if the Motor Vehicle is:
 - i. less than two (2) years of age and has less than 20,000 kilometers on its odometer, a safety inspection is not required;
 - ii. Between two (2) and seven (7) years of age or has more than 20,000 kilometers on the odometer, a valid Motor Vehicle Inspection Certificate, issued not less than thirty-six (36) days from the date submitted to the Licensing Officer, confirming the Motor Vehicle has passed the applicable safety inspection, is required annually; or,

- iii. Greater than seven (7) years of age, or has more than 140,000 kilometers on the odometer, a valid Motor Vehicle Inspection Certificate, issued not less than thirty-six (36) days from the date submitted to the Licensing Officer, confirming the Motor Vehicle has passed the applicable safety inspection, is required every six (6) months;
- (12) If the Applicant's Motor Vehicle operates with propane or natural gas as its primary or secondary fuel source, satisfactory evidence that is no older than thirty (30) days from date of the application that the Motor Vehicle has passed all applicable propane and natural gas safety inspections;
- (13) Proof of automobile insurance in accordance with the requirements set out in section 48 of this By-law;
- (14) A declaration signed by a TNC Broker Licensee confirming the Applicant operates through the TNC Broker Licensee. A declaration is required from each TNC Broker Licensee that the Applicant is affiliated with or employed by;
- (15) Confirmation that the Applicant, or any officer or director of the Applicant, has not had a licence in regard to the ownership of a TNC Vehicle suspended or revoked by the Region or other municipality in Canada within three (3) years of the current application;
- (16) Confirmation the Applicant, or any officer or director of the Applicant, has not been convicted of an offence under any TNC By-law of the Region or other municipality in Canada in regard to the ownership of a TNC Vehicle in the three (3) year period prior to the date of the application;
- (17) A Criminal Record and Judicial Matters check for the Applicant or any officer or director of the Applicant, obtained within sixty (60) days from the date of application, which shall be reviewed in accordance with the criteria in Schedule "A" to this By-law; and,
- (18) Payment of the prescribed fee in accordance with the Fees and Charges By-law.

TNC Vehicle Licence Requirements

48. (1) Every TNC Vehicle Licensee shall maintain on file with the Region a certificate of insurance for each TNC Vehicle licenced under this By-law, identifying and confirming a minimum limit of liability of TWO MILLION DOLLARS (\$2,000,000.00) per occurrence, exclusive of interest and costs, against liability resulting from bodily injury to or the death of one or more persons, and loss or damage to property; and
- (2) Evidence of insurance shall be provided annually through a Certificate of Insurance and, in addition to the limits indicated in subsection (1), shall include evidence of an O.E.F. 6A—Permission to Carry Passengers for Compensation Endorsement.
49. Every TNC Vehicle licenced under this By-law shall be equipped with an operational:
- (1) GPS or application that sets out and records the location of the Motor Vehicle; and,
- (2) Dispatch system that allows communication between the TNC Driver and TNC Broker.
50. Every TNC Vehicle Licensee shall display a decal for each TNC Broker Licensee that the Licensee operates through, which is a minimum of 125 square centimeters in area, to be placed in the front right windshield to be visible from the exterior of the Motor Vehicle, which displays the logo and/or trademark of the TNC Broker Licensee.
51. A TNC Vehicle that is licenced under this By-law and is providing a TNC Service shall not have a top sign attached to the exterior of the TNC Vehicle, nor shall it have an illuminated sign inside, projecting outside the TNC Vehicle.
52. A TNC Vehicle that is licenced under this By-law shall not be parked or stopped at a Taxicab stand.
53. Every TNC Vehicle Licensee shall ensure that the TNC Vehicle Licence is kept within the TNC Vehicle and is available for inspection upon request by Passengers or Persons authorized to enforce this By-law.

54. A TNC Vehicle Licence is specific to the TNC Vehicle for which it has been issued. When a Licensee replaces a TNC Vehicle, the Licensee shall apply to the Licensing Officer for a new TNC Vehicle Licence. A TNC Vehicle Licence shall be issued for the replacement TNC Vehicle provided:
- (1) The replacement TNC Vehicle meets the applicable requirements for a TNC Vehicle Licence under this By-law; and,
 - (2) The Licensee pays the applicable fee in accordance with the Fees and Charges By-law.
55. A TNC Vehicle Licence shall only be issued to an Applicant who provides a TNC Service through a TNC Broker that is licenced under this By-law. A TNC Vehicle Licence may be affiliated with multiple TNC Brokers licenced under this By-law.
56. A Licensee may hold multiple TNC Vehicle Licences.

PART VIII TRANSPORTATION NETWORK COMPANY (TNC) DRIVER LICENCE

Prohibition

57. (1) No Person shall provide or attempt to provide a TNC Service unless that Person is the holder of a TNC Driver Licence.
- (2) No Person shall provide or attempt to provide a TNC Service unless they are affiliated with a TNC Broker.

TNC Driver Licence Application

58. Every application for a TNC Driver Licence and renewal Licence shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application for a TNC Driver Licence or a renewal shall include the following:
- (1) The Applicant's full legal name, address, telephone number, email address and date of birth;
 - (2) Proof of a valid, unrestricted, Class G Province of Ontario driver's licence and at least two (2) years driving experience;
 - (3) Two (2) pieces of government issued identification, one being photo identification;

- (4) Confirmation that the Applicant is legally eligible to work in Canada;
 - (5) Confirmation that the Applicant has not had a TNC Driver Licence revoked, suspended or denied within three (3) years of the date of application;
 - (6) A Criminal Record and Judicial Matters check for the Applicant, obtained within sixty (60) days from the date of application, which shall be reviewed in accordance with the criteria in Schedule "A" to this By-law;
 - (7) A Ministry of Transportation three (3) year driver's abstract;
 - (8) A declaration signed by the Applicant confirming they do not have any current outstanding police investigations, *Highway Traffic Act* or criminal charges or warrants pending before any courts;
 - (9) A declaration signed by a TNC Broker Licensee confirming the Applicant operates through that TNC Broker Licensee. A declaration is required from each TNC Broker Licensee that the Applicant is affiliated with or employed by; and,
 - (10) Confirmation from the Applicant's affiliated TNC Broker Licensee that the Applicant has successfully completed required driver training.
59. An Applicant for a TNC Driver Licence shall submit to a photograph being taken of them for use on the TNC Driver Licence.

General Licence Requirements

60. Every TNC Driver Licensee, while operating a TNC Vehicle licenced under this By-law for the provision of TNC Services:
- (1) Shall display their Licence in a location that is clearly visible to all Passengers and shall verbally advise any Passenger of their TNC Driver Licence number, upon request;
 - (2) Shall ensure the TNC Vehicle Licence is in the TNC Vehicle at all times;
 - (3) Shall ensure the proof of the required Motor Vehicle insurance is in the TNC Vehicle at all times;
 - (4) Shall ensure all proof of ownership documentation is in the TNC Vehicle; and,

- (5) Shall ensure the TNC Broker decal, as required under section 50 of this By-law, is displayed in the front right windshield of the licenced TNC Vehicle.
61. Every TNC Driver Licensee, while operating a TNC Vehicle licenced under this By-law, shall ensure that the TNC Vehicle's GPS and dispatch system are operational.
62. No TNC Driver Licensee shall:
- (1) Verbally solicit any Person for the purposes of providing a TNC Service;
 - (2) Accept any Passengers who have not engaged the Licensee for pre-arranged TNC Services through an online application service operated by the associated TNC Broker;
 - (3) Obstruct the use of any sidewalk, access way, street, roadway, driveway or highway with a TNC Vehicle licenced under this By-law while providing a TNC Service;
 - (4) Park, stop, or stand a TNC Vehicle in any Taxicab Stand while providing a TNC Service in accordance with this By-law;
 - (5) Charge a fee or attempt to charge a fee to a Passenger or any other Person unless it is the fee or is in accordance with the fee structure that was accepted or agreed to by the Passenger as part of the pre-arranged TNC Service;
 - (6) Permit their TNC Vehicle, while providing a TNC Service, to remain idling:
 - i. For a period that exceeds ten (10) minutes when the outdoor temperature is between ten (10) degrees Celsius and twenty (20) degrees Celsius; or
 - ii. When the TNC Vehicle is not occupied by a Passenger;
 - (7) Permit their TNC Vehicle, while providing TNC Services, to remain standing on any sidewalk, access way, street, roadway, driveway or highway, other than in designated parking areas, unless for the immediate purpose of:
 - i. Taking on a Passenger or Passengers who have already engaged the TNC Service; or

- ii. Discharging a Passenger or Passengers from the TNC Vehicle;
- (8) Carry a number of Passengers that exceeds the manufacturer's rating of seating capacity and available seat belts for the TNC Vehicle licenced under this By-law that is being used to provide the TNC Service;
 - (9) Smoke tobacco or cannabis or permit tobacco or cannabis to be smoked in the TNC Vehicle licenced under this By-law, while providing a TNC Service;
 - (10) Consume or be under the influence of any alcohol while providing a TNC Service in accordance with this By-law;
 - (11) Consume, possess or be under the influence of any controlled substance, as defined in the *Controlled Drugs and Substances Act*, while providing a TNC Service in accordance with this By-law; or
 - (12) Use an electronic cigarette or permit the use of electronic cigarettes in a TNC Vehicle, while providing a TNC Service in accordance with this By-law.
69. (1) Every TNC Driver Licensee shall notify the Licensing Officer within twenty-four (24) hours of any charge or conviction they have received that is in contravention of the criteria set out in Schedule "A" to this By-law or of any Motor Vehicle accident involving a TNC Vehicle licenced under this By-law.
- (2) Every TNC Driver Licensee shall notify the Licensing Officer within twenty-four (24) hours of any police investigation, charge or conviction relating to the Licensee pursuant to the *Criminal Code* or the *Controlled Drugs and Substances Act* with all particulars relating to the investigation, charge or conviction.
- (3) If the Licensing Officer has reasonable grounds to believe that any of the information that was provided in the Licensee's application for a TNC Driver Licence has changed without the Licensee advising of the change, the Licensing Officer may, upon demand, request the Licensee produce an updated:
- i. Criminal Record and Judicial Matters check; or
 - ii. A three (3) year Ontario Driver's Abstract.

70. Every TNC Driver Licensee shall provide a written or electronic receipt to a Passenger at the conclusion of the TNC Service trip that sets out all rates, fees and surcharges charged, total amount paid, date and time of the TNC Service, location of the commencement and conclusion of the TNC Service, and the total time and distance of the TNC Service.
71. Every TNC Driver Licensee shall use the most direct route reasonably possible to the Passenger's requested destination in the circumstances, and in the most efficient manner, unless otherwise directed by the Passenger.

PART IX GENERAL LICENCE REQUIREMENTS

72. The Licensing Officer shall issue a Licence or a renewal of a Licence to an Applicant that has satisfied the requirements of this By-law, based on the appropriate Licence class and subclass, if applicable, as set out in subsection 2(2) of this By-law.
73. Every Applicant shall provide payment in full, at the time the Application is submitted, of the appropriate fee, as prescribed in accordance with the Fees and Charges Bylaw.
74. Every application for a renewal of a Licence must be received by the Licensing Officer, in full, within thirty (30) days of the expiry date of the Licence.
75.
 - (1) No Applicant shall knowingly misstate or provide false information to the Licensing Officer.
 - (2) All Applicants shall provide the Licensing Officer with such other information and documentation as requested by the Licensing Officer.
 - (3) Every Applicant and Licensee shall report to the Licensing Officer within twenty-four (24) hours after the event, of any change in any information, including contact and address information and insurance, that was provided to the Licensing Officer pursuant to this By-law.
76.
 - (1) Every Licensee shall hold such Licence subject to the requirements and criteria as imposed in this By-law, including compliance with the criteria set out in Schedule "A" to this By-law.
 - (2) In the event a Licensee cannot meet the requirements as set out in subsection (1), the Licensee shall surrender the applicable Licence to the Licensing Officer within twenty four (24) hours of the non-compliance.

- (3) Any Licences that have been surrendered to the Licensing Officer pursuant to subsection (2) shall be returned to the Licensee upon the Licensee providing proof of compliance with the applicable requirements of the application for the Licence in issue.
77. Every Licensee shall comply with all applicable Federal laws, Provincial laws, and Municipal by-laws, while operating Taxicab or TNC Business.
78. (1) No Person shall alter, erase, or modify, or permit the alteration, erasure or modification of any Licence or any part thereof issued under this By-law.
- (2) If a Licence is defaced, destroyed, or lost, the Licensee shall apply to the Licensing Officer for a replacement and, on payment of the prescribed fee in accordance with the Fees and Charges By-law, may be issued a replacement Licence, as required.
79. Any report to the Licensing Officer that is required pursuant to this By-law may be made during a Statutory Holiday, before or after business hours by submitting the report via email or leaving a voicemail message for the Licensing Officer, to the email address or telephone number of the Licensing Officer posted on the Region's website from time to time.

PART X DISCRIMINATION

80. No Licensee shall discriminate against any Person because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability, or otherwise contravene the *Human Rights Code*, in relation to the provision of a Taxicab or TNC Service.
81. Without limiting section 80 of this By-law, no Licensee shall charge:
- (1) A higher fare or an additional fee for Persons with disabilities than for Persons without disabilities for the same trip; or
- (2) A fee for the storage of mobility aids or mobility assistive devices in relation to a Taxicab or TNC Service.

PART XI INSPECTIONS

82. Every Licensee shall allow the Licensing Officer, a Municipal By-Law Enforcement Officer or Police Officer, upon demand, to enter upon and inspect a Taxicab Broker premises and/or a Motor Vehicle licenced under this By-law to ensure that all provisions of this By-law have been satisfied.
83. Upon inspection, every Person shall produce all relevant Licences and permits, invoices, vouchers or like documents, trip records, Provincial Licences and all documents required to be kept and maintained under this By-law, which may be removed for the purpose of photocopying and returned to the Licensee within forty eight (48) hours of removal.
84. No Person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer from carrying out an inspection or withhold, destroy, conceal or refuse to furnish any information or thing required by the Officer inspecting for the purpose of this inspection.

PART XII POWERS OF THE LICENSING OFFICER

85. The power and authority to issue or renew a Licence, refuse to issue or refuse to renew a Licence, to revoke or suspend a Licence, to impose terms and conditions, including special conditions, on a Licence are delegated to the Licensing Officer.
86. When an application for a Licence or for a renewal of a Licence is made in accordance with the provisions of this By-law and the Applicant meets all the requirements of this By-law, the Licensing Officer shall issue a Licence.
87. The Licensing Officer may refuse to issue, refuse to renew, revoke or suspend a Licence, or impose a term or condition on a Licence on the following grounds:
- (1) The conduct of the Applicant or Licensee, or where the Person is a corporation, the conduct of the corporation's officers, directors, employees or agents, affords reasonable cause to believe that the Person will not carry on or engage in the provision of Taxicab Services or TNC Services, as applicable, in accordance with any applicable Federal law, Provincial law or Municipal By-law, or with honesty and integrity;
 - (2) The Licensing Officer has reasonable cause to believe that the granting, renewal or continuation of a Licence under this By-law would pose a danger to the health or safety of any Person or the public in general;

- (3) The Applicant or Licensee is carrying on activities that are in contravention of this By-law;
 - (4) There are reasonable grounds to believe that an application or other documents provided to the Licensing Officer by or on behalf of the Applicant or Licensee contains a false statement;
 - (5) Any information contained in the original application form or any other information provided to the Licensing Officer has ceased to be accurate and the Licensee has not provided up-to-date accurate information to allow the Licensing Officer to conclude that the Licence should continue;
 - (6) An Applicant does not meet, at any time, one or more of the requirements of this By-law or any conditions imposed on a Licence;
 - (7) An Applicant or Licensee is not in compliance with any applicable Federal law, Provincial law or Municipal By-law, including but not limited to this By-law and any requirement to obtain and maintain a valid Provincial Licence; or
 - (8) The Applicant or Licensee has a police investigation or been charged or been convicted of a criminal or *Highway Traffic Act* offence which provides reasonable grounds for the Licensing Officer to believe it would not be in the interest of public health and safety and/or consumer protection to issue or maintain such a licence.
88. Notwithstanding any other provision of this By-law, the Licensing Officer may impose conditions, including special conditions, on any Licence at issuance, renewal or at any time during the term of the Licence, as are deemed reasonably necessary in the opinion of the Licensing Officer to give effect to this By-law.
89. Where the Licensing Officer has made a decision to deny, suspend, revoke or place conditions, including special conditions, on a licence, the Licensing Officer's written notice of that decision shall:
- (1) Set out the grounds for the decision;
 - (2) Give reasonable particulars of the grounds;
 - (3) Be signed by the Licensing Officer; and,

- (4) State that the Applicant or Licensee is entitled to request a hearing before the Licensing Appeals Committee if the Applicant or Licensee delivers a request for a hearing, in writing, accompanied by the applicable fee set out in the Fees and Charges By-law, to the Licensing Officer, within thirty (30) calendar days after the notice is served.
90. (1) Where notice to an Applicant or Licensee is required under this By-law, it is sufficiently given if delivered personally to the Applicant or Licensee, sent by electronic mail, or sent by registered mail to the address provided on the application or Licence, as applicable, of the Applicant or Licensee.
- (2) Where service is effected by registered mail under subsection (1), notice shall be deemed to have been made on the fifth (5th) day after the date of mailing. Service is deemed effective by email at the time it is sent. Personal Service is deemed effective at the time it is given.
91. Where no appeal is registered within the required time period, the decision of the Licensing Officer shall be final.
92. Where a Licence issued under this By-law has been suspended or revoked or special conditions have been placed on the Licence, the Licensee shall return the applicable Licence to the Licensing Officer within twenty four (24) hours of service of written notice.

Appeal

93. The power and authority to conduct hearings of appeals under this By-law are hereby delegated to the Licensing Appeals Committee.
94. The provisions of sections 5 to 15 and 21 to 24 of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S. 22, as amended, shall apply to all hearings conducted by the Committee under this By-law.
95. (1) When an Applicant is denied a Licence or has their Licence revoked or suspended, or has conditions, including special conditions, placed on their Licence, they may request an appeal hearing before the Licensing Appeals Committee, within thirty (30) calendar days of service of the notice described in section 90 of this By-law, for review of this decision. This request for an appeal shall be made in writing, be sent to the Licensing Officer, and set out the relief sought and the reasons for the appeal.

- (2) When a request for a hearing under subsection (1) and the applicable fee for filing an appeal, as set out in the Region's Fees and Charges By-law, have been received, a hearing shall be scheduled before the Licensing Appeals Committee and notice of the hearing date shall be given to the Applicant or Licensee.
- (3) A notice of hearing shall include:
 - i. A statement of the time, date, location, and purpose of the hearing; and,
 - ii. A statement that if the Applicant or Licensee does not attend the hearing, the Licensing Appeals Committee may proceed in their absence without notice to them.
- (4) After conducting a hearing under subsection (2) above, the Committee may uphold or vary the decision of the Licensing Officer, or make any decision that the Licensing Officer was entitled to make in the first instance.
- (5) Notice of the Committee's decision, with reasons, shall be provided in writing and served in accordance with the service provisions contained in section 90 of this By-law.
- (6) The Licensing Appeal Committee's decision in respect of refusing, suspending, revoking or attaching conditions to a Licence is final.

PART XIII ORDERS

96. (1) If the Licensing Officer or a Municipal By-Law Enforcement Officer is satisfied that a contravention of this By-law has occurred, the Licensing Officer or Municipal By-Law Enforcement Officer may make an Order requiring the Person who contravened this By-law or who caused or permitted the contravention to discontinue the contravening activity.
- (2) An Order under subsection (1) shall set out:
 - i. Reasonable particulars of the contravention adequate to identify the contravention; and,
 - ii. The date by which there must be compliance with the Order.

- (3) An Order issued under this By-law shall be served in accordance with the service provisions contained in section 90 of this By-law.
97. Every Person shall comply with an Order issued under the authority of this By-law.

PART XIV ADMINISTRATION AND ENFORCEMENT

Penalty

98. Every Person who contravenes any provision of this By-law or an Order under this By-law is guilty of an offence and upon conviction is liable to a fine as provided for by the *Provincial Offences Act*, R.S.O. 1990, Chapter P. 33, as amended.
99. A director or officer of a corporation who knowingly concurs in the contravention of any provision of this By-law or an Order made under this By-law is guilty of an offence.
100. (1) Notwithstanding section 98 of this By-law, each day on which a Person contravenes any provision of this By-law shall be deemed to constitute a continuing offence under this By-law as provided for in section 429(2) of the *Municipal Act, 2001*. For clarity, in the case of an Order, a contravention continues for every day or part of a day past the date set out in the Order by which the work must be complete or action taken, as the case may be.
- (2) For each day or part of a day that the offence continues, the minimum fine shall be ONE HUNDRED DOLLARS (\$100.00) and the maximum fine shall be FIVE THOUSAND DOLLARS (\$5,000.00), and the total of all daily fines for the offence is not limited to ONE HUNDRED THOUSAND DOLLARS (\$100,000.00).
101. If any section of this By-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the By-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted or may impose conditions.

Administration and Enforcement

102. (1) The Licensing Officer shall have all necessary authority to carry out the administration and enforcement of this By-law.
- (2) Without limiting subsection (1) of this section, the Licensing Officer shall, at their sole discretion, have the authority to:
- i. prescribe administrative forms, registers and electronic data software required under this By-law;
 - ii. establish policies, procedures, operational protocols, inspection criteria and frequency, Licence criteria, and operational hours;
 - iii. receive and process all applications for all Licences and renewals of licences under this By-law;
 - iv. pro-rate any licensing or administrative fees that may be charged under this By-law;
 - v. issue any Licence where the Applicant meets criteria and conditions under this By-law;
 - vi. renew, deny, suspend, revoke, restrict or place special conditions on any Licence issued pursuant to this By-law;
 - vii. designate any accessibility training or other required training pursuant to this By-law;
 - viii. verify any information provided by an Applicant or Licensee;
 - ix. demand from a Licensee any records, information, documentation, licences or any other thing pursuant to the administration and enforcement of this By-law; and,
 - x. Establish Taxicab Meter tariff rates under this By-law.
103. Any Licensee that refuses or otherwise does not supply records, information or any other thing as demanded by the Licensing Officer shall have their Licence suspended. The Licensing Officer may re-instate a Licence if the Licensee supplies the information, record or other thing as demanded.

104. This By-law may be enforced by the Licensing Officer, a Municipal By-Law Enforcement Officer appointed by Council to enforce this By-law, or any Police Officer.
105. Any Person who obstructs or interferes with an Officer in the discharge of their duties under this By-law shall be considered in violation of this By-law.
106. Any Person who provides false information to an Officer shall be deemed to have obstructed or interfered with that Officer in the execution of their duties, and shall be considered in violation of this By-law.

Survival

107. If any section or part of this By-law is found by any court of competent jurisdiction to be illegal or beyond the power of Council to enact, such section or part shall be deemed to be severable and all other sections or parts of this By-law shall be deemed to be separate and independent therefrom and shall continue in full force and effect unless and until similarly found illegal.

Citation

108. This By-law may be cited as the "Taxicab and TNC By-law".

By-law Commencement / Transition

109. (1) By-Law No. 2018-75, being a by-law to licence, regulate and govern vehicles for hire (Taxi's, Transportation Network Company Vehicles, Specialty Vehicles, Auxiliary Services Vehicles, Shuttle Buses, Sightseeing Vehicles, Caleche, Tow Trucks) and Businesses (Second-Hand Good Stores and Dealers, Salvage Yards, Auto-Wrecking Yards and Taxicab Brokers) and all amendments thereto, is hereby repealed.
- (2) Notwithstanding subsection (1), By-law No. 2018-75, as amended, shall continue to apply to proceedings in respect of offences that occurred before its repeal date.
- (3) Notwithstanding subsection (1), all Taxicab and TNC Service-related Licences issued under By-law No. 2018-75, including any suspensions, revocations, denials, renewals or special conditions imposed on Licensees, that are in effect at the time said by-law is repealed, shall be deemed to be Licences as issued under this By-law, together with any such suspensions, revocations, denials, renewals or special conditions,

and all the rules, requirements and regulations of this By-law shall apply with necessary modification.

- (4) All Persons holding Taxicab and TNC Service-related licences issued under the provisions of By-law No. 2018-75 must come into compliance with all provisions of this By-law upon the renewal date of their Licence or within twelve (12) months from the date this By-law comes into force, whichever date is later.
- (5) A Licensee that fails to come into compliance with all provisions of this by-law upon the renewal date of their Licence shall have their Licence revoked.

110. This by-law shall come into force and effect on the date that it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

James Bradley, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: < >

Schedule "A"

Standard Character Criteria

An application for or renewal of a Licence under this By-law shall be denied where the Applicant:

(Parts 1 to 7 apply to all applicants)

1. Has an undertaking, recognizance, peace bond, probation order or other court or police issued document where the conditions prohibit the applicant from performing the functions of the licence being applied for;
2. Has been convicted of a criminal offence which provides reasonable grounds for the Licensing Officer to believe it would not be in the interest of public health and safety and/or consumer protection to issue or maintain such a Licence. Such offences include, but are not limited to: sexual-based offences, child pornography, trafficking in persons, kidnapping, hostage taking, abduction, crimes against persons under 18 years of age, assault with a weapon, assault causing bodily harm, and, aggravated assault any assault against a Peace Officer;
3. Has been found guilty and convicted of any criminal offence, in the preceding twenty (20) years from the date of the application, where the term of incarceration imposed exceeded ten (10) years;
4. Has been found guilty and convicted of any criminal offence, in the preceding ten (10) years from the date of the application, where the term of incarceration imposed was between two (2) and ten (10) years;
5. Has been found guilty and convicted of any criminal offence, in the preceding five (5) years from the date of the application, where the term of incarceration imposed was less than two (2) years;
6. Has outstanding criminal charges before the courts and is awaiting trial and sentencing; or
7. Is the subject of a current police criminal investigation.

Schedule "A"

Standard Character Criteria

(Parts 8, 9 and 10 shall only apply to Driver Licence applicants)

8. Has been found guilty of any of the following *Highway Traffic Act* offences, in the preceding five (5) years from the date of the application:
 - a. Careless Driving;
 - b. Racing or Stunt Driving; or
 - c. Exceeding the Speed Limit by 50 km/hour or more;
9. Has accumulated nine (9) or more demerit points or six (6) or more convictions under the *Highway Traffic Act* on their driving record abstract within three (3) years from the date of the application; or
10. Has had their driver's licence, issued in any province or territory, suspended under the *Highway Traffic Act* or Criminal Code within three (3) years of the date of application.

Paragraphs 2, 3, 4 and 5 shall not apply if the Applicant or Licensee has received a Record Suspension or Pardon for the offence by the Parole Board of Canada.

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. <>

A BY-LAW TO LICENCE, REGULATE AND GOVERN
VEHICLES USED FOR HIRE (SPECIALTY VEHICLES,
SHUTTLE BUSES, SIGHTSEEING VEHICLES, CALECHE)

WHEREAS the Council of The Regional Municipality of Niagara considers it in the public interest to enact a by-law to licence, regulate and govern various classes of businesses and to repeal the existing Business Licensing By-law No. 2018-75, as amended;

AND WHEREAS Section 9 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person;

AND WHEREAS Section 11 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides The Regional Municipality of Niagara with exclusive jurisdiction to enact by-laws for the licensing, regulating and governing of owners and drivers of vehicles used for hire within the Region;

AND WHEREAS Part IV LICENCES (more specifically sections 150 – 165) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, authorizes The Regional Municipality of Niagara to regulate and govern businesses, meaning any business wholly or partly carried on within the Region, even if the business is being carried on from a location outside the Region;

AND WHEREAS Section 151 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides The Regional Municipality of Niagara with the power to provide for a system of licences with respect to a business, and may prohibit the carrying on or engaging in the business without a licence; refuse to grant a licence or to revoke or suspend a licence; impose conditions as a requirement of obtaining, continuing to hold or renewing a licence; impose special conditions on a business in a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a licence; impose conditions, including special conditions, as a requirement of continuing to hold a licence at any time during the term of the licence; and licence, regulate or govern real and personal property used for the business and the persons carrying it on or engaged in it;

AND WHEREAS the Council of The Regional Municipality of Niagara has determined that it is appropriate and desirable to licence vehicles used for hire, including specialty vehicles, shuttle buses, sightseeing vehicles and caleches, for the purposes of ensuring the health and safety of both passengers and drivers, for the protection of persons and property and to ensure consumer protection, and to ensure that efficient vehicle-for-hire services are available to all persons within the Region;

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

PART I DEFINITIONS

1. In this By-law, unless context otherwise requires:

“Accessible Vehicle for Hire” means a motor vehicle which is equipped and used to transport persons with physical, emotional or mental disabilities, as well as their equipment, in exchange for a fee or other consideration and which is in compliance with Ontario Regulation 629 of the *Highway Traffic Act*, R.S.O. 1990, c. H. 8, as amended and the Standards Council of Canada Standard D409-M84, as amended;

“Applicant” means a Person applying for a Licence or a renewal of a Licence under this By-law;

“Area Municipality” means any one of the municipalities or corporations 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/or Township of West Lincoln;

“Caleche” means a horse-drawn vehicle used on sightseeing trips or otherwise for hire;

“Controlled Drugs and Substances Act” means the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, as amended, or any successor legislation;

“Council” means the Council of The Regional Municipality of Niagara;

“Criminal Code” means the *Criminal Code*, R.S.C. 1985, c. C-46, as amended, or any successor legislation;

"Driver" means the person licenced under this By-law who drives and has care and control of a Vehicle for Hire licenced under this By-law;

"Fees and Charges By-law" means a by-law passed by Council of the Regional Municipality of Niagara pursuant to section 391 of the *Municipal Act, 2001* establishing fees and charges for services and activities provided by the Region and for the use of its property, as amended and replaced from time to time;

"GPS" means a global positioning system that allows a person to determine the exact geographic location of a vehicle licenced under this by-law;

"Highway Traffic Act" means the *Highway Traffic Act*, R.S.O. 1990, c. H. 8, as amended, or any successor legislation;

"Human Rights Code" means the *Human Rights Code*, R.S.O. 1990, c. H-19, as amended, or any successor legislation;

"Licence" means an authorization issued under this By-law to carry on a business specified therein and the document, certificate or card issued shall provide evidence of such authority as the content may allow;

"Licensee" means a Person holding a Licence in accordance with this By-law;

"Licensing Appeals Committee" or "Committee" means the all citizen tribunal appointed by Council to conduct hearings under this By-law;

"Licensing Officer" means the Manager of Business Licensing for The Regional Municipality of Niagara or their designate;

"Ministry of Transportation" means the Ministry of Transportation of Ontario or any successor ministry, department or other government body;

"Motor Vehicle" means a motor vehicle as defined in the *Highway Traffic Act*;

"Municipal By-Law Enforcement Officer" means a municipal law enforcement officer appointed by Council, or an officer, employee or agent of the Region whose responsibilities include the enforcement of this By-law;

"Officer" means Municipal Law Enforcement Officer, Licensing Officer, or Police Officer;

"Passenger" means any individual travelling in a Vehicle for Hire other than the Driver;

"Person" includes an individual, a corporation, and a partnership;

"Police Officer" means a police officer as defined by the *Police Services Act*, R.S.O. 1990, c. P.15;

"Private Ambulance/Medical Transport" means a motor vehicle, licenced as a Vehicle for Hire, which has the job of transporting patients to, from or between places of medical treatment, such as hospital or dialysis center, for non-urgent care;

"Provincial Licence" means any form of Licence or certification required to be held by the Licensee pursuant to applicable Provincial laws;

"Region" means The Regional Municipality of Niagara as a municipal corporation and, where the context requires, its geographic area;

"Shuttle Vehicle" means a motor vehicle for hire for the transportation of passengers from place to place. A Shuttle Vehicle may include a Private Ambulance/Medical Transport and an Accessible Vehicle for Hire. A Shuttle Vehicle does not include a vehicle operated and controlled by a Municipality or the Province of Ontario and used as public transit.

"Sightseeing Vehicle" means a motor vehicle which is hired for the purpose of sightseeing to pick up and discharge its passengers and which has a route of travel that is not controlled by the passenger;

"Spare Vehicle" means a Vehicle owned by a Licensee that has been authorized by the Licensing Officer for temporary use in the place of and instead of a Vehicle for Hire licenced under this By-law;

"Specialty Vehicle" means a Vehicle for Hire including, but not limited to a limousine, a historical vehicle, a rickshaw or any other Vehicle which is approved by the Licensing Officer as a Specialty Vehicle;

"Statutory Holiday" means New Year's Day, Family Day, Good Friday, Easter Sunday, Victoria Day, Canada Day, August Civic Holiday, Labour Day, Thanksgiving Day, Christmas Day, Boxing Day, and any other day fixed as a public holiday by the Federal Government or Ontario Provincial Government;

“Taxicab” means a motor vehicle for hire for transportation of passengers from place to place and includes a Transportation Network Company Vehicle, but does not include a Vehicle for Hire;

“Transportation Network Company” or “TNC” means any person who offers, operates, or facilitates prearranged transportation services for compensation using any software or application or telecommunications platform or a digital network to connect passengers with TNC drivers, but does not include a licenced Taxicab

“Vehicle” means a vehicle as defined in the *Highway Traffic Act*;

“Vehicle for Hire” means a Motor Vehicle or non-motor assisted Vehicle that is used by a Person to offer, facilitate or operate a transportation service for one or more Passengers in exchange for a fee or other consideration, but does not include a Taxicab or Transportation Network Company;

“Vehicle for Hire Driver Licence” means a Vehicle for Hire Driver Licence as issued by the Licensing Officer under this By-law;

“Vehicle for Hire Business Licence” means a Vehicle for Hire Business Licence as issued by the Licensing Officer under this By-law;

“Vehicle for Hire Service” means the use of a Vehicle, either motorized or non-motor assisted, that is licenced as a Vehicle for Hire under this By-law, for the transportation of Passengers in exchange for a fee or other consideration;

“Vehicle for Hire Vehicle Licence” means a Vehicle for Hire Vehicle Licence as issued by the Licensing Officer under this By-law; and,

“Vehicle for Hire Vehicle Plate” or “Vehicle Plate” means a numbered metal plate that is issued by the Licensing Officer under this By-law, to be attached to a licenced Vehicle for Hire.

PART II LICENCE CLASSES

2. (1) The Licensing Officer shall issue Licences for the following classes:
 - (a) Vehicle for Hire Business;
 - (b) Vehicle for Hire Driver (covers all classes of Vehicles under this By-law);

- (c) Vehicle for Hire Vehicle; and,
 - (d) Vehicle for Hire Vehicle Plate.
- (2) The Licensing Officer shall issue Licences for the following sub-classes:
 - (a) Sightseeing Business;
 - (b) Sightseeing Vehicle;
 - (c) Sightseeing Vehicle Plate;
 - (d) Specialty Business;
 - (e) Specialty Vehicle;
 - (f) Specialty Vehicle Plate;
 - (g) Shuttle Business;
 - (h) Shuttle Vehicle;
 - (i) Shuttle Vehicle Plate;
 - (j) Caleche Business;
 - (k) Caleche Coach Operator;
 - (l) Caleche Carriage Plate; and,
 - (m) Caleche Horse.
- 3.
 - (1) No Person shall carry on or engage in the provision of a Vehicle for Hire Service or business in the Region unless that Person holds a valid and current Licence permitting them to do so.
 - (2) All Licences are valid for a twelve (12) month period from the date of issue, unless otherwise stated in this By-law. For Licence renewals, if deemed necessary for administrative purposes by the Licensing Officer, the term of a Licence may be adjusted, for example, to align with the term of other Provincial Licences held by the Licensee for the Business, and the Licence fee may be pro-rated accordingly.

- (3) Unless otherwise provided for in this By-law, all Licences issued under this By-law are personal to the Licensee, are only transferable upon approval by the Licensing Officer, and remain the property of the Region.

PART III VEHICLE FOR HIRE BUSINESS LICENCE

Prohibition

4. No Person shall operate as a Vehicle for Hire Business without first having obtained a Vehicle for Hire Business Licence in accordance with this By-law.

Licence Application

5. Every application for a Vehicle for Hire Business Licence and renewal Licence shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application for a Vehicle for Hire Business Licence or a renewal shall include the following:
 - (1) The full legal name, municipal address, email address and telephone number of each Applicant;
 - (2) If the Applicant is a partnership, the full legal name, address, email address and telephone number of each partner;
 - (3) If the Applicant is a corporation, all current articles of incorporation for the corporation;
 - (4) All current legal documents showing the registered business name of the Applicant, if applicable;
 - (5) The full legal names dates of birth, and addresses for all officers and directors of the Applicant, if applicable;
 - (6) The full legal names and signatures of all Persons having signing authority for the Applicant corporation, if applicable, including a letter outlining the number of signatures required for financial and administrative functions;
 - (7) The full legal names of all Persons who hold a Vehicle for Hire Vehicle Licence and Vehicle for Hire Driver Licence who currently use or will use the Applicant as their Vehicle for Hire Business;

- (8) A Certificate of Insurance identifying and confirming the following minimum insurance requirements:

Commercial General Liability Insurance ("CGL")

CGL insurance for all services and operations to a limit of not less than FIVE MILLION DOLLARS (\$5,000,000) per occurrence.

The policy will be extended to include:

- a. bodily injury, death and property damage;
- b. cross liability and severability of interest;
- c. blanket contractual;
- d. premises and operations;
- e. personal and advertising injury;
- f. products and completed operations;
- g. owner's and contractors protective;
- h. non-owned Automobile to a limit of not less than TWO MILLION DOLLARS (\$2,000,000).

The policy shall be endorsed to:

- a. include The Regional Municipality of Niagara as an Additional Insured; and,
- b. contain an undertaking by the insurers to give thirty (30) days prior written notice in the event that there is a material change in the foregoing policies or coverage affecting the Additional Insured(s) or cancellation of coverage before the expiration date of any of the foregoing policies.

Policy Requirements

All policies of insurance shall:

- a) be written with an insurer licensed to do business in Ontario;

- b) be non-contributing with, and will apply only as primary and not excess to any other insurance or self-insurance available to Niagara Region;

Certificates of Insurance

Certificates of insurance originally signed by authorized insurance representatives shall be delivered to the Region prior to issuance of the Licence, on a form of Certificate of Insurance which is acceptable to the Region. The Certificate of Insurance must comply with these insurance requirements and must be on the Region's form of Certificate of Insurance, which can be found on the Region's website – www.niagararegion.ca/business/fpr/cert-insurance.aspx. If the Certificate of Insurance is provided in a non-original form (e.g. a facsimile, photocopy or scanned electronic copy), the Applicant acknowledges and agrees that the Region is fully entitled to treat any such Certificate as an original and that the Applicant will be responsible for the accuracy and validity of the information contained therein. All subsequent policy renewals and certificates of insurance thereafter, during the time that the Licence is in force, shall be forwarded to the Region within fifteen (15) days of their renewal date;

- (9) Information on whether the Applicant, or any officer or director of the Applicant, has had a licence in regard to a Vehicle for Hire Business suspended or revoked in the Region or any other municipality in Canada;
 - (10) Information on whether the Applicant, or any officer or director of the Applicant, has been convicted of an offence under any previously repealed Vehicle for Hire by-law of the Region or other municipality in Canada in regard to a Vehicle for Hire Business;
 - (11) A Criminal Record and Judicial Matters check for the Applicant or any officer or director of the Applicant, obtained within sixty (60) days from the date of application, which shall be reviewed in accordance with the criteria in Schedule "A"; and
 - (12) Payment in full of the prescribed fee in accordance with the Fees and Charges By-law.
6. The Licensing Officer shall issue a Vehicle for Hire Business Licence to an Applicant that has satisfied the requirements of this By-law, based on the appropriate Business Licence subclass as set out in subsection 2 (2).

General Licence Requirements

7. Every Vehicle for Hire Business licenced under this By-law shall:
- (1) Have a physical business premises and telephone number associated with the Vehicle for Hire Business, for the benefit of customers who wish to make contact with the Vehicle for Hire Business;
 - (2) Have a digital dispatch system and automated vehicle locator system (GPS) that allows the Vehicle for Hire Business to communicate with and locate a Vehicle for Hire that operates through the Vehicle for Hire Business;
 - (3) Maintain a written or electronic record for a period of twelve (12) months for each Vehicle for Hire trip that is dispatched by the Vehicle for Hire Business;
 - (4) Ensure that each Person holding a Vehicle for Hire Vehicle Licence or Vehicle for Hire Driver Licence who operates through the Vehicle for Hire Business is trained in regard to the proper operation of a Vehicle for Hire and the provisions of this By-law;
 - (5) Ensure that each Person holding a Vehicle for Hire Driver Licence who operates through the Vehicle for Hire Business has completed driver and sensitivity training that includes the following topics:
 - (a) The safe operation of a Motor Vehicle including safe operation during inclement weather;
 - (b) The proper operation of Vehicle for Hire equipment and devices which may include a, PA system, dispatch system and credit card/debit card machine, as applicable;
 - (c) The proper response to an emergency situation which includes a passenger illness and Motor Vehicle accident;
 - (d) The provision of Vehicle for Hire Services in a manner that respects the dignity and independence of persons with disabilities; and,
 - (e) The provision of Vehicle for Hire Services in a manner that is free from discrimination and is in compliance with the *Human Rights Code*;

- (6) Ensure that each Person holding a Vehicle for Hire Driver Licence who operates through the Vehicle for Hire Business and provides an Accessible Vehicle for Hire Service has completed the accessibility training as designated by the Licensing Officer;
- (7) Take all reasonable steps to ensure that each Vehicle for Hire Vehicle Licensee or Vehicle for Hire Driver Licensee who operates through the Vehicle for Hire Business complies with the requirements of this By-law;
- (8) Report to the Licensing Officer, within twenty-four (24) hours, any known contravention of this By-law by a Person holding a Vehicle for Hire Vehicle Licence or Vehicle for Hire Driver Licence who operates through the Vehicle for Hire Business;
- (9) Report to the Licensing Officer, within twenty-four (24) hours, any known:
 - (a) charge or conviction pursuant to the Criminal Code, *Controlled Drugs and Substances Act* or *Highway Traffic Act*; or
 - (b) Ontario driver's licence suspension; or
 - (c) expiry, suspension, revocation or conditions imposed on a Provincial Licence;of any Vehicle for Hire Driver Licensee who operates through that Vehicle for Hire Business;
- (10) Report to the Licensing Officer, within twenty-four (24) hours:
 - (a) any known motor vehicle accident that is reportable pursuant to section 199 of the *Highway Traffic Act*, or any successor provision; or
 - (b) personal injury; or,
 - (c) cancellation of insurance;involving a Vehicle for Hire that operates through the Vehicle for Hire Business.

- (11) Report within twenty-four (24) hours, to the Licensing Officer if the Vehicle for Hire Business has terminated any Person who holds a Vehicle for Hire Vehicle Licence or Vehicle for Hire Driver Licence and is affiliated with the Vehicle for Hire Business; and
- (12) Provide the Licensing Officer, by the fifteenth (15th) day of every month, the following statistical information for the preceding month in relation to Vehicle for Hire Services provided through the Vehicle for Hire Business:
 - (a) The total number of Vehicle for Hire trips provided and Passengers conveyed;
 - (b) The total number of Accessible Vehicle for Hire trips and non-accessible Vehicle for Hire trips for each Accessible Vehicle for Hire, if applicable; and,
 - (c) For those Vehicle for Hire Businesses that provides a pre-arranged Vehicle for Hire Service through an on-line enabled application, website or telephone, a written or electronic record showing that the Passenger accepted the fare or rate to be charged prior to the commencement of the Pre-arranged Vehicle for Hire Service.

Vehicle for Hire Business Licence Transfer

- 8. The Licensing Officer may approve the transfer of a Vehicle for Hire Business Licence from one Person to another upon the parties providing to the Licensing Officer:
 - (1) A completed application for transfer of a business in a form provided by the Licensing Officer;
 - (2) The transfer application fee as prescribed in the Fees and Charges By-law; and,
 - (3) Confirmation of that the new Applicant meets the application requirements for a Vehicle for Hire Business Licence, as set out in Part III of this By-law.

**PART IV VEHICLE FOR HIRE VEHICLE LICENCE AND VEHICLE FOR HIRE
VEHICLE PLATES****Prohibition**

9. (1) No Person shall cause or permit a Vehicle to be used as a Vehicle for Hire without first having obtained a:
- (a) Vehicle for Hire Vehicle Licence for the Vehicle; and
 - (b) Vehicle for Hire Vehicle Plate to be affixed to the Vehicle.
- (2) No Person shall allow or permit another Person to provide or attempt to provide a Vehicle for Hire Service using a Vehicle licenced as a Vehicle for Hire unless:
- (a) such Person holds a valid Vehicle for Hire Driver Licence; and
 - (b) the Vehicle for Hire Vehicle Plate is affixed to the Vehicle.
10. No Licensee shall affix or permit any other Person to affix a Vehicle Plate to any Vehicle other than the Vehicle for Hire for which the Vehicle Plate was issued under this By-Law.

Licence Application

11. Every application for a Vehicle for Hire Vehicle and/or Vehicle Plate Licence and renewal Licence shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application for a Vehicle for Hire Vehicle Licence, Vehicle for Hire Vehicle Plate Licence, or a renewal of either Licence shall include the following:
- (1) The full legal name, municipal address, email address and telephone number of each Applicant;
 - (2) If the Applicant is a partnership, the full legal name, address, email address and telephone number of each partner;
 - (3) If the Applicant is a corporation, all current articles of incorporation for the corporation;
 - (4) All current legal documents showing the registered business name of the Applicant, if applicable;

- (5) The full legal names, dates of birth and addresses for all officers and directors of the Applicant, if applicable;
- (6) The full legal names and signatures of all Persons having signing authority for the Applicant corporation, if applicable, including a letter outlining the number of signatures required for financial and administrative functions;
- (7) The make, model, fuel type, vehicle identification number, production year and Ontario licence plate number for the Applicant's Vehicle for Hire;
- (8) A valid vehicle permit in the Applicant's full legal name for the Vehicle for Hire as issued by the Ministry of Transportation;
- (9) If leased from a leasing company, a copy of the leasing agreement including an authorization for the leased vehicle to be used as a Vehicle for Hire;
- (10) For vehicles holding seven (7) passengers or less, exclusive of the driver, and based on the year appearing on the vehicle permit, if the Vehicle for Hire is:
 - (i) Between zero and three (3) years of age with less than 40,000 kilometres, a safety inspection is not required;
 - (ii) Between three (3) and seven (7) years of age or has more than 75,000 kilometres, a valid Ontario Motor Vehicle Inspection Certificate, issued not less than 36 days from the date submitted to the Licensing Officer, showing that the Vehicle for Hire has passed the applicable safety inspection, is required; or,
 - (iii) Greater than seven (7) years of age, a valid Ontario Motor Vehicle Inspection Certificate, issued not less than 36 days from the date submitted to the Licensing Officer, showing that the Vehicle for Hire has passed the applicable safety inspection, is required every six (6) months.
- (11) For vehicles holding eight (8) or more passengers, either a six (6) month or twelve (12) month Ontario Motor Vehicle Inspection Certificate is required. The Vehicle can only operate if the inspection certificate dates are valid while the Vehicle is operating;

- (12) If the Vehicle for Hire operates with propane or natural gas as its primary or secondary fuel source, satisfactory evidence that is no older than thirty (30) days from date of issue that the Vehicle for Hire has passed all applicable propane and natural gas safety inspections;
 - (13) Proof of automobile insurance in accordance with the requirements set out in section 14 of this By-law;
 - (14) A declaration signed by a Vehicle for Hire Business Licensee confirming the Applicant's affiliation or employment with the Vehicle for Hire Business. A declaration is required from each Vehicle for Hire Business that the Applicant is affiliated with or employed by;
 - (15) Confirmation that the Applicant, or any officer or director of the Applicant, has not had a licence in regard to the ownership of a Vehicle for Hire of any class suspended or revoked by the Region or other municipality in Canada within three (3) years of the current application;
 - (16) Confirmation the Applicant, or any officer or director of the Applicant, has not been convicted of an offence under any Vehicle for Hire by-law of the Region or other municipality in Canada in regard to the ownership of a Vehicle for Hire of any class in the three (3) year period prior to the date of the application;
 - (17) A Criminal Record and Judicial Matters check for the Applicant or any officer or director of the Applicant, obtained within sixty (60) days from the date of application, which shall be reviewed in accordance with the criteria in Schedule "A"; and
 - (18) Payment in full of the prescribed fee in accordance with the Fees and Charges By-law.
12. (1) The Licensing Officer shall issue a Vehicle for Hire Vehicle Licence and Vehicle Plate to an Applicant that has satisfied the requirements of this By-law, based on the appropriate Licence subclasses as set out in subsection 2 (2) of this By-law.
- (2) A Vehicle for Hire Vehicle Licence and Vehicle Plate Licence may be issued for a term of one (1) month; six (6) months; or twelve (12) months.
13. (1) The Licensing Officer may set a limit or quota on the number of Vehicle for Hire Plates that may be issued within the Region.

- (2) If a quota or limit as referenced in subsection (1) is put in place, there shall be no waiting list maintained. Any new Vehicle for Hire Plates to be issued by the Licensing Officer will be offered to Applicants who meet the application requirements for a Vehicle for Hire Vehicle Licence set out in section 11 of this By-law, in order of when completed applications are received.
- (3) Any quotas or limits that may be implemented shall remain in effect according to the time limit as determined by the Licensing Officer not to exceed three (3) years, after which time the Licensing Officer shall conduct a review to determine whether these quotas or limits should be revised.

General Licence and Plate Requirements

- 14. (1) Every Vehicle for Hire Vehicle Licensee shall maintain on file with the Region a Certificate of Insurance for each Vehicle for Hire identifying and confirming the following minimum insurance requirements:
 - (a) Up to seven (7) passengers requires a minimum limit of liability of TWO MILLION DOLLARS (\$2,000,000.00) per occurrence;
 - (b) Eight (8) to twelve (12) passengers requires FIVE MILLION DOLLARS (\$5,000,000.00) per occurrence; and,
 - (c) Thirteen (13) or more passengers requires EIGHT MILLION DOLLARS (\$8,000,000.00) per occurrence.
 - (2) The amounts listed in subsection (1) are exclusive of interest and costs, against liability resulting from bodily injury to or the death of one or more persons, and loss or damage to property.
 - (3) Evidence of insurance shall be provided annually through a Certificate of Insurance and, in addition to the limits indicated in subsection (1), shall include evidence of an O.E.F. 6A—Permission to Carry Passengers for Compensation Endorsement.
- 15. Every Vehicle for Hire licenced under this By-law shall be equipped with an operational:
 - (1) GPS that sets out and records the location of the Vehicle for Hire;

- (2) Dispatch system that allows communication between the Driver and Vehicle for Hire Business; and,
 - (3) Fire extinguisher and first aid kit to be stored within the Vehicle at all times.
16. Every Person that holds a Vehicle for Hire Vehicle Plate shall display:
- (1) The Vehicle for Hire Vehicle Plate on the rear of the Vehicle for Hire with the exception of limousines, historic vehicles, and vehicles approved by the Licensing Officer. For these Vehicles, the Plate must be kept in the Vehicle and made readily available for inspection on demand by a Passenger or an Officer; and
 - (2) Two (2) decals that are a minimum of 200 square centimeters each in area in visible locations on the exterior of the Vehicle for Hire that visibly displays in large print the name or trademark of their Vehicle for Hire Business.
17. Every Person that holds a Vehicle for Hire Vehicle Licence shall ensure that their Licence is kept within the Vehicle for Hire and is available for inspection upon request by Passengers or an Officer.
18. A Vehicle for Hire Vehicle Licence is specific to the Vehicle for Hire for which it has been issued. When a Vehicle for Hire Vehicle is replaced with another Vehicle, the Vehicle Plate that is associated with that Vehicle for Hire may be transferred to the replacement vehicle, provided:
- (1) The Licensee applies to the Licensing Officer for a new Vehicle for Hire Vehicle Licence and meets the applicable requirements for a Vehicle for Hire Vehicle Licence under this By-law;
 - (2) A Vehicle for Hire Vehicle Licence is issued for the replacement vehicle; and,
 - (3) The Licensee pays the transfer fee in accordance with the Fees and Charges By-law.

19. The Licensing Officer may approve a transfer of ownership of the Vehicle for Hire Vehicle Licence and/or Vehicle for Hire Plate from one Person to another upon the parties providing to the Licensing Officer:
 - (1) A completed application for transfer of a business in a form provided by the Licensing Officer;
 - (2) A transfer application fee as prescribed in the Fees and Charges By-law; and
 - (3) Confirmation that the new Applicant meets the applicable requirements for Vehicle for Hire Vehicle Licence and/or Vehicle for Hire Plate under this By-law.
20. Notwithstanding any other provision of this By-law, a Licensing Officer may provide approval for the transfer of a Vehicle for Hire Plate in the event of the plate holder's death, subject to completion and approval of the required transfer application within thirty (30) days, failing which, the Vehicle for Hire Plate shall be surrendered.
21. A Vehicle for Hire Vehicle Licence and Vehicle for Hire Plate shall only be issued to an Applicant who has the use of or is affiliated with a Vehicle for Hire Business that is licenced under this By-law.
22. A Vehicle for Hire Vehicle Licence and Vehicle for Hire Plate may be associated, loaned, leased or rented to one or more Vehicle for Hire Businesses licenced under this By-law.
23. A Licensee may hold multiple Vehicle for Hire Vehicle Licences and Vehicle for Hire Plates.
24. All Vehicle for Hire Vehicle Plates that are expired are deemed revoked by the Licensing Officer and must be returned to the Licensing Officer. A replacement fee shall be charged to the Plate holder if the Vehicle for Hire Plate is not returned.

Special Licence Requirements

25. (1) A Licensee may apply for a non-use status designation of a Vehicle for Hire Vehicle Plate for a period of up to sixty (60) days in a calendar year. This application must be approved by the Licensing Officer and all appropriate fees, in accordance with the Fees and Charges By-law, must be paid.

- (2) No Person shall operate, or permit to be operated, any Vehicle for Hire that bears a Vehicle for Hire Vehicle Plate that is has been designated for non-use status.
 - (3) Vehicle for Hire Vehicle Plates that have been designated for non-use status for more than sixty (60) days in a calendar year shall be returned to the Licensing Officer.
26. A Vehicle for Hire operating as a Sightseeing Vehicle must have an operating PA system.
27. In order to be granted a Licence under subsections 2(2)(j),(k), and (m) of this By-law and be permitted operate a Caleche business; the Applicant/Licensee shall demonstrate and ensure that every horse utilized in the Caleche business is:
- (a) free of any disease or sores, in good health, and fit to pull a Caleche in an urban setting without posing a danger to the public or itself as certified by a veterinarian;
 - (b) clean;
 - (c) shod on all four (4) hooves;
 - (d) readily identifiable/distinguishable form other horses by an appropriate marker in a manner that does not wound or harm the horse;
 - (e) properly fed provided with adequate clean drinking water;
 - (f) allowed to rest after each ride to preserve its health and passengers' safety;
 - (g) properly hitched up, namely to ensure that the horse can breathe and move freely;
 - (h) equipped with a leather harness free from cracks or rough patches that could cause injury;
 - (i) hitched up, at most 9 hours, from the time the horse was taken out (the maximum duration prescribed includes the time required to get to and from the stable and the site of the Caleche operations);
 - (j) protected with a blanket while at a stand, from November 1 to April 30, unless the outside temperature exceeds 15°C;

- (k) equipped with a bag for droppings, affixed to the harness in such a way that the horse is neither injured, nor hindered in its movements, and that the content is out of passengers' sight.
28. Every Licensee under subsections 2(2)(j),(k), and (m) of this By-law must submit, by April 1 and September 1 of every year, a certificate signed by a veterinarian, for each horse utilized in the Caleche business, stating that the horse is free of any disease or sores, is in good health and that it is fit to pull a Caleche in an urban setting without posing a danger to the public or itself. The veterinarian examination must take place within the two weeks prior to the date of the certificate being submitted.
29. Every Licensee under subsections 2(2)(j),(k), and (m) of this By-law must ensure that when the outside temperature reaches -20°C or below, excluding wind chill, or when it reaches 28°C or above, excluding humidex, the Caleche operations are immediately halted and all horses are returned to their stables . Should it be impossible to obtain the recorded temperature in accordance with the first paragraph, the temperature must be obtained from Environment Canada.
30. The Licensing Officer may order a Licensee to immediately cease Caleche operations and that the horses utilized in the Caleche operations be returned to the stable in the following cases:
- (a) The horse harnessed to it does not meet the requirements of this By-law;
 - (b) The Caleche does not meet the requirements of this By-law;
 - (c) The outside temperatures listed in section 29 of this By-law are reached.
31. The Licensing Officer may order a Licensee to have a horse utilized in Caleche operations examined by a veterinarian at the Licensee's expense and refrain from using the horse in Caleche operations until a veterinarian certificate indicating that the horse is fit for work, to the satisfaction of the Licensing Officer, is received.
32. A Caleche that is being used as a Vehicle for Hire and that is associated with a Caleche Carriage Plate must be in good service and have all necessary operating and safety equipment, including a brake and a slow moving vehicle sign.
33. No person shall cause or permit the operation of a Caleche that does not meet the requirements of this By-law.

Spare Vehicle Registration

34. (1) A Vehicle for Hire Vehicle Licensee may apply to the Licensing Officer for a Spare Vehicle to be used on a temporary basis in place of a Vehicle for Hire that is licenced under this By-law, when that Vehicle for Hire is, for any reason, unable to be operated.
- (2) No Vehicle for Hire Vehicle Licensee shall use a Spare Vehicle in place of a Vehicle for Hire licenced under this By-law unless the Spare Vehicle Licence and Spare Vehicle Plate have been issued by the Licensing Officer.
- (3) The Licensing Officer may approve a Vehicle for temporary use as a Spare Vehicle upon the Licensee providing to the Licensing Officer:
- (a) A completed Spare Vehicle application;
 - (b) The Spare Vehicle application fee as prescribed in the Fees and Charges By-law; and
 - (c) Confirmation the application requirements for a Vehicle for Hire Vehicle Licence, as set out in Part IV of this By-law, are met with respect to the proposed Spare Vehicle;
- (4) Upon approval of the application, a Spare Vehicle Licence and Spare Vehicle Plate, to be affixed to the Spare Vehicle, will be issued to the Applicant.
- (5) The Licensing Officer may renew the Spare Vehicle Licence upon the Licensee submitting to the Licensing Officer all of the documentation and fees set out in subsection (3).
- (6) The Licensee shall notify the Licensing Officer by electronic mail or voicemail within twenty-four (24) hours of the use of the Spare Vehicle as a licenced Vehicle for Hire.
- (7) The Licensee shall notify the Licensing Officer by electronic mail or voicemail within twenty-four (24) hours of the resumption of the use of the regular licenced Vehicle for Hire and cessation of the use of the Spare Vehicle.

- (8) A Vehicle used as a Spare Vehicle must comply with all requirements of this By-law relating to the operation of Vehicles for Hire.
35. (1) Despite section 34 of this By-law, a Vehicle for Hire Business Licensee may apply to the Licensing Officer for temporary use of a Spare Vehicle, in addition to the Licensee's other licenced Vehicles for Hire, for a specified period of time in order to provide increased Vehicle for Hire Services, subject to the following conditions:
- (a) an application for temporary use of a Spare Vehicle shall be presented to the Licensing Officer at least five (5) business days prior to the proposed date for use;
 - (b) the Applicant has submitted the appropriate application and paid the appropriate fees in accordance with the Fees and Charges By-law;
 - (c) the Applicant has identified on the application the times and dates for which the Spare Vehicle will be used; and
 - (d) the Applicant has provided confirmation that all of the Application requirements for a Vehicle for Hire Vehicle Licence, as set out in section 11 of this By-law, are met with respect to the proposed Spare Vehicle.
- (2) Upon approval of the application set out in subsection (1) and registration of the Spare Vehicle, the Licensing Officer shall provide to the Licensee a temporary approval to use the main Vehicle for Hire Plate in addition to the Spare Plate for the approved period of time.

PART V VEHICLE FOR HIRE DRIVER LICENCE

Prohibition

36. (1) No Person shall provide or attempt to provide a Vehicle for Hire Service unless that Person is the holder of a Vehicle for Hire Driver Licence.
- (2) No Driver shall provide or attempt to provide a Vehicle for Hire Services unless they are affiliated with a Vehicle for Hire Business.

Licence Application

37. A Vehicle for Hire Driver Licence is valid for all classes of Vehicles licenced under this By-law.
38. Every application for a Vehicle for Hire Driver Licence and renewal Licence shall be made to the Licensing Officer in a format provided by the Licensing Officer. Without limitation, every application for a Vehicle for Hire Driver Licence or a renewal shall include the following:
- (1) The Applicant's full legal name, address, telephone number, email address and date of birth;
 - (2) For those Vehicles that require a valid driver's licence for operation, proof of a valid, unrestricted, Class G driver's licence issued by the Province of Ontario with at least two (2) years driving experience and proof the Person has the proper class of licence to drive the class of Vehicle for Hire being operated under this By-law;
 - (3) Two (2) pieces of government issued identification, one (1) being photo identification;
 - (4) Confirmation that the Applicant is legally eligible to work in Canada;
 - (5) Confirmation that the Applicant has not had a Vehicle For Hire Driver Licence revoked, suspended or denied within three (3) years of the date of application;
 - (6) A Criminal Record and Judicial Matters check for the Applicant, obtained within sixty (60) days from the date of application, which shall be reviewed in accordance with the criteria in Schedule "A";
 - (7) Ontario Ministry of Transportation three (3) year driver's abstract, if applicable;
 - (8) A declaration signed by the Applicant confirming that he or she does not have any current outstanding police investigations, charges or warrants pending before any courts pursuant to the *Criminal Code*, *Controlled Drugs and Substances Act* or the *Highway Traffic Act*;

- (9) A declaration signed by a Vehicle for Hire Business Licensee confirming the Applicant's affiliation or employment with the Vehicle for Hire Business. A declaration is required from each Vehicle for Hire Business that the Applicant is affiliated with or employed by; and,
 - (10) Confirmation from the Applicant's affiliated Vehicle for Hire Business that the Applicant has successfully completed required driver training.
39. An Applicant for a Vehicle for Hire Driver Licence shall submit to a photograph being taken of them for use on the Vehicle for Hire Driver Licence.
40. (1) The Licensing Officer shall issue a Vehicle for Hire Driver Licence to an Applicant that has satisfied the requirements of this By-law, based on the appropriate Driver Licence subclass as set out in subsection 2(2) above.
- (2) A Vehicle for Hire Vehicle Licence and Vehicle Plate Licence may be issued for a term of one (1) month; six (6) months; or twelve (12) months.

General Licence Requirements

41. Every Vehicle for Hire Driver Licensee, while operating a Vehicle for Hire licenced under this By-law:
- (1) Shall display their Licence in a location that is clearly visible to all Passengers and shall verbally advise any Passenger of their Vehicle for Hire Driver Licence number upon request;
 - (2) Shall ensure the Vehicle for Hire Vehicle Licence is in the Vehicle at all times;
 - (3) Shall ensure the Vehicle proof of insurance slip is in the Vehicle;
 - (4) Shall ensure the Vehicle ownership is in the Vehicle, if applicable;
 - (5) Shall ensure the Vehicle for Hire Plate is affixed to the Vehicle as prescribed in this By-law; and,
 - (6) Shall ensure an operational fire extinguisher and a first aid kit are both stored within the vehicle.
42. Every Vehicle for Hire Driver Licensee, while operating a Vehicle for Hire licenced under this By-law, shall ensure that the GPS, PA system and dispatch system for the Vehicle for Hire is operational, if applicable.

43. No Vehicle for Hire Driver Licensee shall:

- (1) Verbally solicit any Person for the purposes of providing a Vehicle for Hire Service;
- (2) Obstruct the use of any sidewalk, access way, street, roadway, driveway or highway with a Vehicle for Hire licenced under this By-law;
- (3) Permit their Vehicle for Hire as licenced under this By-law to remain idling:
 - (a) For a period that exceeds ten (10) minutes when the outdoor temperature is between ten (10) degrees Celsius and twenty (20) degrees Celsius; or
 - (b) When the Vehicle for Hire is not occupied by a Passenger;
- (4) Permit their Vehicle for Hire as licenced under this By-law to remain standing on any sidewalk, access way, street, roadway, driveway or highway, other than in designated parking areas, unless for the immediate purpose of:
 - (a) Taking on a Passenger or Passengers who have already engaged the Vehicle for Hire; or
 - (b) Discharging a Passenger or Passengers from the Vehicle for Hire;
- (5) Carry a number of Passengers during a Vehicle for Hire trip that exceeds the manufacturer's rating of seating capacity and available seat belts, if equipped, for the Vehicle for Hire;
- (6) Smoke tobacco or cannabis or permit tobacco or cannabis to be smoked in the Vehicle for Hire licenced under this By-law;
- (7) Consume or be under the influence of any alcohol while operating a Vehicle for Hire licenced under this By-law;
- (8) Consume, possess or be under the influence of any controlled substance as defined in the *Controlled Drugs and Substances Act* while operating a Vehicle for Hire licenced under this By-law;
- (9) Permit the consumption of any alcohol in the Vehicle for Hire licenced under this By-law;

- (10) Use an electronic cigarette or permit the use of an electronic cigarette in the Vehicle for Hire licenced under this By-law;
 - (11) Operate a Vehicle for Hire that is not licensed under this By-law.
44. Every Vehicle for Hire Driver Licensee that is operating an Accessible Vehicle for Hire shall give priority to Persons with disabilities.
45. Every Vehicle for Hire Driver Licensee providing an Accessible Vehicle for Hire Service shall securely fasten all mobility devices while the Accessible Vehicle for Hire is in motion.
46. (1) Every Vehicle for Hire Driver Licensee shall notify the Licensing Officer within twenty-four (24) hours of any charge or conviction they have received that is in contravention of Schedule “A” criteria of this By-law or of any Motor Vehicle accident involving a Vehicle for Hire licenced under this By-law.
- (2) Every Vehicle for Hire Driver Licensee shall notify the Licensing Officer within twenty-four (24) hours of any police investigation, charge or conviction relating to the Licensee pursuant to the *Criminal Code* or the *Controlled Drugs and Substances Act* or the *Highway Traffic Act* with all particulars relating to the investigation, charge or conviction.
- (3) If the Licensing Officer has reasonable grounds to believe that any of the information that was provided in the Licensee’s application for a Vehicle for Hire Driver Licence has changed without the Licensee advising of the change, the Licensing Officer may, upon demand, request the Licensee produce an updated:
- (i) Criminal Record and Judicial Matters check; or
 - (ii) A three (3) year Ontario Drivers Abstract.

Special Licence Requirements

47. No Vehicle for Hire Driver shall provide a Vehicle for Hire Service unless the service provided is for a minimum rate of charge, exclusive of HST, of not less than:
- (1) Ten dollars (\$10.00) for Sightseeing, Shuttle or Specialty Vehicle for Hire Services; and,

- (2) Five dollars (\$5.00) for Caleche Vehicle for Hire Services.

PART VI GENERAL

Prohibitions

48. No Person shall:

- (1) Hinder or obstruct, or attempt to hinder or obstruct the driver or the operation of a Vehicle for Hire licenced under this By-law;
- (2) Molest, startle or otherwise interfere with a horse being used for a Caleche licenced under this By-law;
- (3) Evade payment for a Vehicle for Hire Service once provided;
- (4) Obstruct a pick-up or drop off location for a Vehicle for Hire;
- (5) Give false or incorrect information for the purposes of obtaining or renewing a Licence;
- (6) Hinder or obstruct, or attempt to hinder or obstruct, either directly or indirectly, any Person who is exercising a power or performing a duty under this By-law, including carrying out an inspection;
- (7) Charge a higher fare or an additional fee for Persons with disabilities than for Persons without disabilities for the same trip; and,
- (8) Charge a fee for the storage of mobility aids or mobility assistive devices in relation to a Vehicle for Hire Service.

Licence Application Process

49. Every Applicant shall provide payment in full, at the time the application is submitted, of the applicable fee prescribed in accordance with the Fees and Charges By-law.
50. All Applicants shall provide the Licensing Officer with such other information and documentation as requested by the Licensing Officer.

51. Every Applicant and Licensee shall report to the Licensing Officer within twenty-four (24) hours after the event, of any change in any information, including contact, address and insurance information, that was provided to the Licensing Officer pursuant to this By-law.

Licence Requirements

52. (1) Every Licensee shall hold such Licence subject to the requirements and criteria as imposed in this By-law, including the compliance with criteria imposed in order to be licensed under Parts III, IV and V.
- (2) In the event a Licensee cannot comply with the requirements as set out in subsection (1) above, the Licensee shall cease to provide Vehicle for Hire Services immediately and surrender the applicable Licence to the Licensing Officer within twenty-four (24) hours of the non-compliance.
- (3) Any Licences that have been surrendered to the Licensing Officer pursuant to subsection (2) above, shall be deemed suspended; but may be reinstated and returned to the Licensee upon the Licensee providing satisfactory proof of compliance with all applicable requirements of the application for the Licence in issue.
53. If a Licence is defaced, destroyed, or lost, the Licensee shall apply to the Licensing Officer for a replacement and, on payment of the prescribed fee in accordance with the Fees and Charges By-law, may be issued a replacement Licence, as required.

Reporting

54. Any report to the Licensing Officer that is required pursuant to this By-law may be made during a Statutory Holiday, before or after business hours by submitting the report via electronic mail or leaving a voicemail message to the email address or telephone number for the Licensing Officer, as publicly posted on the Region's website from time to time.

PART VII INSPECTIONS

55. Every Licensee shall allow the Licensing Officer, a Municipal By-Law Enforcement Officer or Police Officer, upon demand, to enter upon and inspect a Vehicle for Hire Business premises and/ or a Vehicle for Hire to ensure that all provisions of this By-law have been satisfied.

56. Upon inspection, every Person shall produce all relevant Licences and permits, invoices, vouchers or like documents, trip records, and all documents required to be kept and maintained under this By-law, which may be removed for the purpose of photocopying and returned to the Licensee within forty eight (48) hours of removal.
57. No Person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer from carrying out an inspection or withhold, destroy, conceal or refuse to furnish any information or thing required by the Officer inspecting for the purpose of this inspection.

PART VIII POWERS OF THE LICENSING OFFICER

58. The power and authority to issue or renew a Licence, refuse to issue or refuse to renew a Licence, to revoke or suspend a Licence, to impose terms and conditions, including special conditions, on a Licence are delegated to the Licensing Officer.
59. When an application for a Licence or for a renewal of a Licence is made in accordance with the provisions of this By-law and the Applicant meets all the requirements of this By-law, the Licensing Officer shall issue a Licence.
60. The Licensing Officer may refuse to issue, refuse to renew, revoke or suspend a Licence, or impose a term or condition on a Licence on the following grounds:
 - (1) The conduct of the Applicant or Licensee, or where the Person is a corporation, that the conduct of the corporation's officers, directors, employees or agents, affords reasonable cause to believe that the Person will not carry on or engage in the operation of the business in accordance with any applicable Federal law, Provincial law, or Municipal by-law, or with honesty and integrity;
 - (2) The Licensing Officer has reasonable cause to believe that the granting, renewal or continuation of a Licence under this By-law would pose a danger to the health or safety of any Person or the public in general;
 - (3) The Applicant or Licensee is carrying on activities that are in contravention of this By-law;
 - (4) There are reasonable grounds to believe that an application or other documents provided to the Licensing Officer by or on behalf of the Applicant or Licensee contains a false statement;

- (5) Any information contained in the original application form or any other information provided to the Licensing Officer has ceased to be accurate and the Licensee has not provided up-to-date accurate information to allow the Licensing Officer to conclude that the Licence should continue;
 - (6) An Applicant does not meet, at any time, one or more of the requirements of this By-law or any conditions imposed on a Licence;
 - (7) An Applicant or Licensee is not in compliance with any applicable Federal law, Provincial law or Municipal by-law, including but not limited to this By-law, and any requirement to obtain and maintain a valid Provincial Licence; or
 - (8) The Applicant or Licensee has been convicted of a criminal offence which causes the Licensing Officer to believe it would not be in the interest of public safety and/or consumer protection to issue or maintain such a Licence.
61. Notwithstanding any other provision of this By-law, the Licensing Officer may impose conditions, including special conditions, on any Licence at issuance, renewal or at any time during the term of the Licence, as are necessary in the opinion of the Licensing Officer to give effect to this By-law.
62. Where the Licensing Officer has made a decision to deny, suspend, revoke or place conditions, including special conditions, on a Licence, the Licensing Officer's written notice of that decision shall:
- (1) Set out the grounds for the decision;
 - (2) Give reasonable particulars of the grounds;
 - (3) Be signed by the Licensing Officer; and,
 - (4) State that the Applicant or Licensee is entitled to request a hearing before the Licensing Appeals Committee if the Applicant or Licensee delivers a request for a hearing, in writing, accompanied by the applicable fee set out in the Fees and Charges By-law, to the Licensing Officer, within thirty (30) calendar days after the notice is served.
63. (1) Where notice to an Applicant or Licensee is required under this By-law, it is sufficiently given if delivered personally to the Applicant or Licensee, sent by electronic mail, or sent by registered mail to the address provided on the application or Licence, as applicable, of the Applicant or Licensee.

- (2) Where service is effected by registered mail under subsection (1), notice shall be deemed to have been made on the fifth (5th) day after the date of mailing. Service is deemed effective by email at the time it is sent.
Personal Service is deemed effective at the time it is given.
64. Where no appeal is registered within the required time period, the decision of the Licensing Officer shall be final.
65. Where a licence issued under this By-law has been suspended or revoked or special conditions have been placed on the licence, the Person shall return the applicable licence to the Licensing Officer within twenty four (24) hours of service of written notice.

Appeal

66. The power and authority to conduct hearings of appeals under this By-law are hereby delegated to the Licensing Appeals Committee (the "Committee").
67. The provisions of sections 5 to 15 and 21 to 24 of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S. 22, as amended, shall apply to all hearings conducted by the Committee under this By-law.
68. (1) When an Applicant is denied a Licence or has their Licence revoked or suspended, or has conditions, including special conditions, placed on their Licence, they may request an appeal hearing before the Licensing Appeals Committee, within thirty (30) calendar days of service of the notice described in section 63 of this By-law, for review of this decision. This request for an appeal shall be made in writing, be sent to the Licensing Officer, and set out the relief sought and the reasons for the appeal.
- (2) When a request for a hearing under subsection (1) and the applicable fee for filing an appeal, as set out in the Fees and Charges By-law, have been received, a hearing shall be scheduled before the Licensing Appeals Committee and notice of the hearing date shall be given to the Applicant.
- (3) A notice of hearing shall include:
- (a) A statement of the time, date, location, and purpose of the hearing;
and,

- (b) A statement that if the Applicant or Licensee does not attend the hearing, the Licensing Appeals Committee may proceed in their absence without notice to them.
- (4) After conducting a hearing under subsection (2), the Committee may uphold or vary the decision of the Licensing Officer, or make any decision that the Licensing Officer was entitled to make in the first instance.
- (5) Notice of the Committee's decision, with reasons, shall be provided in writing served in accordance with the service provisions contained in section 63 of this By-law.
- (6) The Licensing Appeal Committee's decision in respect of refusing, suspending, revoking or attaching conditions to a Licence is final.

PART IX ORDERS

69. (1) If the Licensing Officer or a Municipal By-Law Enforcement Officer is satisfied that a contravention of this By-law has occurred, the Licensing Officer or Municipal By-Law Enforcement Officer may make an Order requiring the Person who contravened this By-law or who caused or permitted the contravention to discontinue the contravening activity.
- (2) An Order under subsection (1) shall set out:
- (a) reasonable particulars of the contravention adequate to identify the contravention; and,
 - (b) the date by which there must be compliance with the Order.
- (3) An Order issued under this By-law shall be served in accordance with the service provisions contained in section 63 of this By-law.
70. Every Person shall comply with an Order issued under the authority of this By-law.

PART X PENALTY

71. Every Person who contravenes any provision of this By-law or an Order under this By-law is guilty of an offence and upon conviction is liable to the appropriate penalty, as provided for by the *Provincial Offences Act*, R.S.O. 1990, Chapter P. 33, as amended.

72. A director or officer of a corporation who knowingly concurs in the contravention of any provision of this By-law or an Order made under this By-law is guilty of an offence.
73. (1) Notwithstanding section 71 of this By-law, each day on which a Person contravenes any provision of this By-law shall be deemed to constitute a continuing offence under this By-law as provided for in section 429(2) of the *Municipal Act, 2001*. For clarity, in the case of an Order, a contravention continues for every day or part of a day past the date set out in the Order by which the work must be complete or action taken, as the case may be.
- (2) For each day or part of a day that the offence continues, the minimum fine shall be ONE HUNDRED DOLLARS (\$100.00) and the maximum fine shall be FIVE THOUSAND DOLLARS (\$5,000.00), and the total of all daily fines for the offence is not limited to ONE HUNDRED THOUSAND DOLLARS (\$100,000.00).
74. If any section of this By-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the By-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted or impose conditions.

PART XI ADMINISTRATION AND ENFORCEMENT

75. (1) The Licensing Officer shall have all necessary authority to carry out the administration and enforcement of this By-law.
- (2) Without limiting subsection (1) of this section, the Licensing Officer shall have the authority, at their sole discretion, to:
- (a) prescribe administrative forms, registers and electronic data software required under this By-law;
 - (b) establish policies, procedures, operational protocols, inspection criteria and frequency, Licence criteria, and operational hours;
 - (c) receive and process all applications for all Licences and renewals of Licences under this By-law;

- (d) pro-rate any licensing or administrative fees that may be charged under this By-law;
 - (e) issue any Licence where the Applicant meets criteria and conditions under this By-law;
 - (f) renew, deny, suspend, revoke, restrict or place special conditions on any Licence issued pursuant to this By-law;
 - (g) designate any accessibility training or other required training pursuant to this By-law;
 - (h) verify any information provided by an Applicant or Licensee; and,
 - (i) demand from a Licensee any records, information, documentation, licences or any other thing pursuant to the administration and enforcement of this By-law.
76. Any Licensee that refuses or otherwise does not supply records, information or any other thing as demanded by the Licensing Officer shall have their licence suspended. The Licensing Officer may re-instate a Licence if the Licensee supplies the information, record or other thing as demanded.
77. This By-law may be enforced by the Licensing Officer, a Municipal By-Law Enforcement Officer appointed by Council to enforce this By-law, or any Police Officer.
78. Any Person who obstructs or interferes with an Officer in the discharge of their duties shall be considered in violation of this By-law.
79. Any Person who provides false information to an Officer shall be deemed to have obstructed or interfered with that Person in the execution of their duties.

Survival

80. If any section or part of this By-law is found by any court of competent jurisdiction to be illegal or beyond the power of Council to enact, such section or part shall be deemed to be severable and all other sections or parts of this By-law shall be deemed to be separate and independent therefrom and shall continue in full force and effect unless and until similarly found illegal.

Citation

81. This By-law may be cited as the "Vehicle for Hire By-law".

By-law Commencement / Transition

82. (1) By-Law No. 2018-75, being a by-law to licence, regulate and govern vehicles for hire (Taxi's, Transportation Network Company Vehicles, Specialty Vehicles, Auxiliary Services Vehicles, Shuttle Buses, Sightseeing Vehicles, Caleche, Tow Trucks) and Businesses (Second-Hand Good Stores and Dealers, Salvage Yards, Auto-Wrecking Yards and Taxicab Brokers) and all amendments thereto, is hereby repealed.
- (2) Notwithstanding subsection (1), By-law No. 2018-75, as amended, shall continue to apply to proceedings in respect of offences that occurred before its repeal.
- (3) Notwithstanding subsection (1), all Licences issued under No. By-law 2018-75, including any suspensions, revocations, denials, renewals or special conditions imposed on such Persons holding licences by the Region, that are in effect at the time said by-law is repealed, shall be deemed to be Licences as issued under this By-law, together with any such suspensions, revocations, denials, renewals or special conditions, and all the rules, requirements and regulations of this By-law shall apply with necessary modification.
- (4) All Persons holding Licences issued under the provisions of By-law 2018-75 must come into compliance with all provisions of this By-law upon the renewal date of their Licence, or twelve (12) months from the date this By-law comes into force, which length of time is greater.
- (5) Notwithstanding subsection (4) of this section, a Person holding a licence that fails to come into compliance with all provisions of this by-law upon the renewal date of their licence shall have their Licence revoked.

83. This by-law shall come into force and effect on the date that it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

James Bradley, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: < >

Schedule "A"

Standard Character and Driving Record Criteria

An application for or renewal of a Licence under this By-law shall be denied where the Applicant:

(Parts 1 to 7 apply to all applicants)

1. Has an undertaking, recognizance, peace bond, probation order or other court or police issued document where the conditions prohibit the applicant from performing the functions of the licence being applied for;
2. Has been convicted of a criminal offence for which, in the opinion of the Licensing Officer, it would not be in the interest of public safety to issue or maintain such a licence. Such offences include, but are not limited to: sexual-based offences, child pornography, trafficking in persons, kidnapping, hostage taking, abduction, crimes against persons under 18 years of age, assault with a weapon, assault causing bodily harm, and, aggravated assault any assault against a Peace Officer;
3. Has been found guilty and convicted of any criminal offence, in the preceding twenty (20) years from the date of the application, where the term of incarceration imposed exceeded ten (10) years;
4. Has been found guilty and convicted of any criminal offence, in the preceding ten (10) years from the date of the application, where the term of incarceration imposed was between two (2) and ten (10) years;
5. Has been found guilty and convicted of any criminal offence, in the preceding five (5) years from the date of the application, where the term of incarceration imposed was less than two (2) years;
6. Has outstanding criminal charges before the courts and is awaiting trial and sentencing; or
7. Is the subject of a current police criminal investigation.

Schedule "A"

Standard Character and Driving Record Criteria**(Parts 8, 9 and 10 shall only apply to Driver Licence applicants)**

8. Has been found guilty of any of the following *Highway Traffic Act* offences, in the preceding five (5) years from the date of the application:
 - i) Careless Driving;
 - ii) Racing or Stunt Driving; or
 - iii) Exceeding the Speed Limit by 50 km/hour or more;
9. Has accumulated nine (9) or more demerit points or six (6) or more convictions under the *Highway Traffic Act* on their driving record abstract within three (3) years from the date of the application; or
10. Has had their driver's licence, issued in any province or territory, suspended under the *Highway Traffic Act* or Criminal Code within three (3) years of the date of application.

Paragraphs 2, 3, 4 and 5 shall not apply if the Applicant has received a Record Suspension or Pardon for the offence by the Parole Board of Canada.

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. < >

A BY-LAW TO LICENCE, REGULATE AND GOVERN
SALVAGE SHOPS AND SALVAGE YARDS

WHEREAS the Council of The Regional Municipality of Niagara considers it in the public interest to enact a by-law to licence, regulate and govern various classes of businesses and to repeal the existing Business Licensing By-law No. 2018-75, as amended;

AND WHEREAS Section 9 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person;

AND WHEREAS Section 11 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides The Regional Municipality of Niagara with exclusive jurisdiction to enact by-laws for the licensing, regulating and governing of salvage businesses (meaning salvage shops and salvage yards, including automobile wrecking yards or premises) within the Region;

AND WHEREAS Part IV LICENCES (more specifically sections 150 – 165) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, authorizes The Regional Municipality of Niagara to regulate and govern businesses, meaning any business wholly or partly carried on within the Region, even if the business is being carried on from a location outside the Region;

AND WHEREAS Section 151 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides The Regional Municipality of Niagara with the power to provide for a system of licences with respect to a business, and may prohibit the carrying on or engaging in the business without a licence; refuse to grant a licence or to revoke or suspend a licence; impose conditions as a requirement of obtaining, continuing to hold or renewing a licence; impose special conditions on a business in a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a licence; impose conditions, including special conditions, as a requirement of continuing to hold a licence at any time during the term of the licence; and licence, regulate or govern real and personal property used for the business and the persons carrying it on or engaged in it;

AND WHEREAS the Council of The Regional Municipality of Niagara has determined that it is appropriate and desirable to licence salvage shops and salvage yard dealers as a means of protecting consumers and enhancing the safety of residents and their personal property by preventing the sale of salvage that is taken from stolen goods and regulating and controlling any visual, noise, environmental, fire, safety, health and property standard nuisance or hazard caused by salvage shops and salvage yards, including automobile wrecking yards or premises;

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

PART I DEFINITIONS

1. In this By-law, unless context otherwise requires,:

“Applicant” means any Person applying for a Licence or renewal of a Licence under this By-law;

“Area Municipality” means any one of the municipalities or corporations 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/or Township of West Lincoln;

“Controlled Drugs and Substances Act” means the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, as amended, or any successor legislation;

“Council” means the Council of The Regional Municipality of Niagara;

“Criminal Code” means the *Criminal Code*, R.S.C. 1985, c. C-46, as amended, or any successor legislation;

“Fees and Charges By-law” means a by-law passed by Council pursuant to section 391 of the *Municipal Act, 2001* establishing fees and charges for services and activities provided by the Region and for the use of its property, as amended and replaced from time to time.

“Highway Traffic Act” means the *Highway Traffic Act*, R.S.O. 1990, c. H.8, as amended, and its regulations, or any successor legislation;

“Human Rights Code” means the *Human Rights Code*, R.S.O. 1990, c. H-19, as amended, or any successor legislation;

“Licence” means an authorization issued under this By-law to carry on a business specified therein and the document, certificate or card issued shall provide evidence of such authority as the content may allow;

“Licensee” means a Person holding a Licence in accordance with this By-law;

“Licensing Appeals Committee” or **“Committee”** means the all citizen tribunal appointed by Council to conduct hearings under this By-law;

“Licensing Officer” means the Manager of Business Licensing for The Regional Municipality of Niagara or their designate;

“Ministry of the Environment” means the Ontario Ministry of the Environment, and Conservation and Parks, or any successor ministry;

“Motor Vehicle” means a motor vehicle as defined in the *Highway Traffic Act*, R.S.O. 1990, c.H.8;

“Motor Vehicle Dealers Act, 2002” means the *Motor Vehicle Dealers Act, 2002* S.O. 2002, c. 30, Sched. B, as amended, or any successor legislation;

“Municipal Act, 2001” means the *Municipal Act, 2001*, S.O.2001, c. 25, as amended from time to time;

“Municipal Law Enforcement Officer” means a municipal law enforcement officer appointed by Council, or an officer, employee or agent of the Region whose responsibilities include the enforcement of this By-law;

“Officer” means Municipal Law Enforcement Officer, Licensing Officer, or Police Officer;

“Person” includes an individual, a corporation, or a partnership;

“Police Officer” means a police officer as defined by the *Police Services Act*, R.S.O. 1990, c. P.15;

“Provincial Licences” means any form of Licence or certification required to be held by the Licensee pursuant to applicable Provincial laws, including but not limited to an EASR Licence;

“Region” means The Regional Municipality of Niagara as a municipal corporation and, where the context requires, its geographic area;

“Register” means the register as required under Part VIII of this By-law;

“Salvage” means, but is not limited, to:

- (1) Dismantled or wrecked motor vehicles or any parts thereof including tires;
- (2) Dismantled or scrap residential, commercial or industrial machines, appliances, or any part thereof, including e-waste; or
- (3) Scrap aluminium, brass, copper, steel, or any other metal;

“Salvage Business” means Salvage Shops and Salvage Yards, including an automobile wrecking yard or premises;

“Salvage Shop” means any building, or any part thereof, within the Region, that does not have an outdoor yard, where Salvage is received, collected, sorted, processed, handled, dismantled, crushed, recycled, demolished, displayed, stored, sold or purchased;

“Salvage Shop Licence” means a Salvage Shop Licence issued by the Licensing Officer under this By-law;

“Salvage Yard” means:

- (1) An outdoor yard;
- (2) A building or buildings with an outdoor yard; or
- (3) A fenced compound that may include a mix of outdoor storage and buildings;

within the Region where Salvage is received, collected, sorted, processed, handled, dismantled, crushed, recycled, demolished, displayed, stored, sold or purchased, and includes an automobile wrecking yard;

“Salvage Yard Licence” means a Salvage Yard Licence issued by the Licensing Officer under this By-law;

“Statutory Holiday” means New Year’s Day, Family Day, Good Friday, Easter Sunday, Victoria Day, Canada Day, August Civic Holiday, Labour Day, Thanksgiving Day, Christmas Day, Boxing Day, and any other day fixed as a public holiday by the Federal Government or Ontario Provincial Government;

“**Vehicle**” means a vehicle as defined in the *Highway Traffic Act*, R.S.O. 1990, c.H.8.

PART II LICENCE CLASSES

2. (1) The Licensing Officer shall issue Licences for the following classes:
 - (i) Salvage Shop Licence; and
 - (ii) Salvage Yard Licence.
- (2) All Licences are valid for a twelve (12) month period from the date of issuance. For Licence renewals only, if deemed necessary for administrative purposes by the Licensing Officer, the term of a Licence may be adjusted, for example, to align with the term of other Provincial Licences held by the Licensee for the Business, and the Licence fee may be pro-rated accordingly.
- (3) Unless otherwise provided for in this By-law, all Licences issued under this By-law are personal to the Licensee, are only transferable upon approval by the Licensing Officer, and remain the property of the Region.

PART III PROHIBITIONS

3. No Person shall own or operate a Salvage Shop within the Region unless that Person holds a Salvage Shop Licence.
4. No Person shall own or operate a Salvage Yard within the Region unless that Person holds a Salvage Yard Licence.

PART IV LICENCE APPLICATION PROCESS

5. Every application for a Licence or renewal of a Licence issued under this By-law shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application shall include the following:
 - (1) The full legal name, municipal address, email address and telephone number of each Applicant;
 - (2) If the Applicant is a partnership, the full legal name, address, email address and telephone number of each partner;

- (3) If the Applicant is a corporation, all current articles of incorporation for the corporation;
- (4) All current legal documents showing the registered business name of the Applicant, if applicable;
- (5) The full legal names, addresses and dates of birth for all officers and directors of the Applicant, if applicable;
- (6) The full legal names and signatures of all Persons having signing authority for the Applicant partnership and/or corporation, if applicable, including a letter outlining the number of signatures required for financial and administrative functions;
- (7) A Certificate of Insurance identifying and confirming the following minimum insurance requirements:

Commercial General Liability Insurance ("CGL")

CGL insurance for all services and operations to a limit of not less than FIVE MILLION DOLLARS (\$5,000,000) per occurrence.

The policy will be extended to include:

- a. bodily injury, death and property damage;
- b. cross liability and severability of interest;
- c. blanket contractual;
- d. premises and operations;
- e. personal and advertising injury;
- f. products and completed operations;
- g. owner's and contractors protective;
- h. non-owned Automobile to a limit of not less than TWO MILLION DOLLARS (\$2,000,000).

The policy shall be endorsed to:

- a. include The Regional Municipality of Niagara as an additional insured; and,
- b. contain an undertaking by the insurers to give thirty (30) days prior written notice in the event that there is a material change in the foregoing policies or coverage affecting the Additional Insured(s) or cancellation of coverage before the expiration date of any of the foregoing policies.

Environmental / Pollution

Pollution Legal Liability insurance in an amount of not less than FIVE MILLION DOLLARS (\$5,000,000) any one claim and in the aggregate, and name The Regional Municipality of Niagara as an additional insured.

Policy Requirements

All policies of insurance shall:

- a) be written with an insurer licensed to do business in Ontario;
- b) be non-contributing with, and will apply only as primary and not excess to any other insurance or self-insurance available to Niagara Region.

Certificates of Insurance

Certificates of insurance originally signed by authorized insurance representatives shall be delivered to the Region prior to issuance of the Licence, on a form of Certificate of Insurance which is acceptable to the Region. The Certificate of Insurance must comply with these insurance requirements and must be on the Region's form of Certificate of Insurance, which can be found on the Region's website – www.niagararegion.ca/business/fpr/cert-insurance.aspx. If the Certificate of Insurance is provided in a non-original form (e.g. a facsimile, photocopy or scanned electronic copy), the Applicant acknowledges and agrees that the Region is fully entitled to treat any such Certificate as an original and that the Applicant will be responsible for the accuracy and validity of the information contained therein. All subsequent policy renewals and certificates of insurance thereafter, during the time that the Licence is in

force, shall be forwarded to the Region within fifteen (15) days of their renewal date.

- (8) Information on whether the Applicant, or any officer or director of the Applicant, has had a licence in regard to a Salvage Business suspended or revoked in the Region or in any other municipality within Canada;
- (9) Information on whether the Applicant, or any officer or director of the Applicant, has been convicted of an offence under any previously repealed by-law of the Region or in any other municipality within Canada governing the licensing of Salvage Businesses;
- (10) A Criminal Record and Judicial Matters check for the Applicant or any officer or director of the Applicant, obtained within sixty (60) days from the date of application, which shall be reviewed in accordance with the criteria in Schedule “A”;
- (11) Confirmation the proposed Salvage Business is in compliance with all applicable environmental regulations and standards set by the Ministry of the Environment, including but not limited to, registration with the Environmental Activity and Sector Registry for prescribed activities engaged in at an end-of-life vehicle waste disposal site, if applicable;
- (12) A letter from the applicable Area Municipality confirming zoning compliance for the location of the Salvage Business; if zoned “legal non-conforming”, the applicable Area Municipality must confirm this zoning status;
- (13) Information on whether the Applicant, or any officer or director of the Applicant, has been convicted of an offence or had an order issued against them relating to the protection of the environment, fire safety, health, property standards, or zoning violations within the previous twelve (12) month period;
- (14) For Salvage Yard Licence applications only, the additional information as required under section 6 of this By-law; and,
- (15) Payment in full of the prescribed fee in accordance with the Fees and Charges By-law.

6. In addition to the information and documentation listed in section 5 of this By-law, an application for a Salvage Yard Licence must also including the following:
 - (1) Photographs confirming that the proposed Salvage Yard is fully enclosed by a fence as required pursuant to section 22 of this By-law;
 - (2) A fire inspection report prepared by the applicable Area Municipality fire department, dated within two (2) months of the date of the application, confirming compliance with all applicable provisions under the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c. 4, as amended;
 - (3) A letter from the Region's Planning and Development Services Department confirming that the Salvage Yard Business location conforms to the Region's Official Plan;
 - (4) A letter from the Niagara Escarpment Commission confirming the operation of the Salvage Yard Business in the specific location does not violate the Niagara Escarpment Plan, if applicable; and,
 - (5) A site plan for the Salvage Yard that shows:
 - (i) the legal boundaries for the Salvage Yard, which must include only those lands that are under the exclusive control of the Applicant;
 - (ii) the location of all existing and proposed buildings, roads, driveways, parking areas, storage areas and operating areas;
 - (iii) the location of any fence and/or gate as required under this By-law.
7. Every Applicant for a Salvage Yard Licence shall allow the Licensing Officer or a Municipal Law Enforcement Officer to enter onto the Salvage Yard premises to verify the site plan requirements as set out under subsection 6(5) of this By-law.
8. The Licensing Officer shall issue a Licence or a renewal of a Licence to an Applicant that has satisfied the requirements of this By-law, based on the appropriate class as set out in subsection 2 (1) of this By-law.
9. No Applicant shall knowingly misstate or provide false information to the Licensing Officer.

10. All Applicants shall provide the Licensing Officer with such other information and documentation as requested by the Licensing Officer to verify compliance with the requirements of this By-law. The Licensing Officer reserves the right to verify the requirements with a subsequent site inspection.
11. Every Applicant and Licensee shall report to the Licensing Officer within twenty-four (24) hours after the event, of any change in any information, including full legal name, contact, address and insurance information, that was provided to the Licensing Officer pursuant to this By-law.

PART V LICENCE REQUIREMENTS

12. The fees for each Licence issued or renewed under this By-law shall be in accordance with the Fees and Charges By-law.
13.
 - (1) Every Licensee shall hold such Licence subject to the requirements and criteria as imposed in this By-law, including compliance with criteria imposed in order to be licenced under Part IV.
 - (2) In the event a Licensee cannot meet the requirements as set out in subsection (1) above, the Licensee shall cease to operate the Salvage Business immediately, and surrender the applicable Licence to the Licensing Officer within twenty four (24) hours of the non-compliance.
 - (3) Any Licences that have been surrendered to the Licensing Officer pursuant to subsection (2) above, shall be deemed suspended, but may be reinstated and returned to the Licensee upon the Licensee providing proof of compliance with all requirements of the application for the Licence in issue.
14. Every Licensee shall notify the Licensing Officer within twenty-four (24) hours of any order or conviction pursuant to any environmental, fire safety, health hazard, property standards, or zoning legislation, regulation or by-law that relates to the Person or the Salvage Shop or Salvage Yard that is licenced under this By-law.
15. No Licensee shall alter, erase or modify, or permit the alteration, erasure or modification of their Licence or any part thereof.

16. If a Licence is defaced, destroyed, or lost, the Licensee shall apply to the Licensing Officer for a replacement and, on payment of the prescribed fee in accordance with the Fees and Charges By-law, may be issued a replacement Licence, as required.
17. Every Person required to obtain a Licence under this By-law shall obtain a separate Licence for each Salvage Business being operated within the Region.
18. A Licence issued under this By-law may be transferred, pursuant to the sale of a Salvage Business, upon the parties providing to the Licensing Officer:
 - (1) A completed application for transfer of a business in a form provided by the Licensing Officer;
 - (2) The applicable transfer application fee, as prescribed in the Fees and Charges By-law; and,
 - (3) Confirmation that the successor Salvage Business meets the application requirements set out in Part IV of this By-law.
19. All Licences issued under this By-law shall terminate upon the death of the Licensee or dissolution of the corporate Licensee unless, in the case of the dissolution of a corporate Licensee, the Business is transferred to a successor corporation in accordance with section 18.
20. Prior to any expansion of the operational footprint of a Salvage Business licenced under this By-law, the Applicant must provide confirmation the expanded Salvage Business continues to meet the application requirements set out in Part IV.

PART VI SPECIAL LICENCE REQUIREMENTS

Salvage Shop Licence

21.
 - (1) No Salvage Shop Licensee shall allow Salvage to be sorted, processed, dismantled, crushed, recycled, demolished, displayed, collected or stored outdoors.
 - (2) Subsection (1) shall not apply to a Motor Vehicle that is operational as a mode of transportation and which is being displayed for sale by a Salvage Shop Licensee that is a registered dealer under the *Motor Vehicle Dealers Act, 2002*.

Salvage Yard Licence

22. (1) Every Person who holds a Salvage Yard Licence shall maintain a fence that fully encloses any outdoor area of the Salvage Yard.
- (2) Every fence, as required under subsection (1), shall be:
- (i) Installed and maintained at a height in compliance with the Area Municipality By-laws; or, if none exist, the following standards shall be followed – the fence shall be not less than 1.83 metres and no greater than 2.44 metres in height;
 - (ii) Constructed of a solid uniform material, with a uniform colour, providing a full visual and entry barrier; and
 - (iii) Kept in good repair at all times.
- (3) If an opening in any fence as required under subsection (1) is necessary for ingress or egress, then the opening shall be covered by a gate that:
- (i) Includes a locking mechanism;
 - (ii) Opens to a width of at least 3.5 metres;
 - (iii) Is of the same height as the fence;
 - (iv) Is kept in good repair at all times;
 - (iv) Does not open over the travelled portion of a public road allowance or sidewalk; and
 - (v) Is kept clear of obstructions so that it may be opened fully at all times.
- (4) No person shall erect or relocate a fence or a gate as required under this section without the prior written approval of the Licensing Officer.
23. Every Licensee who holds a Salvage Yard Licence shall ensure that:
- (1) The outdoor area of the Salvage Yard is kept in a clean, neat, orderly and sanitary condition;
 - (2) All storage containers and other materials belonging to the Licensee or used for the Salvage Yard operation on-site are kept within:

- (i) The enclosed area as required under section 22 of this By-law; or
 - (ii) An enclosed building.
- (3) All Vehicles and equipment belonging to the Licensee or used for the Salvage Yard operation that do not have a current licence plate as issued by the Ministry of Transportation, or any successor Ministry, are parked within:
 - (i) The enclosed area, as required under section 22 of this By-law; or
 - (ii) An enclosed building.
- (4) No Salvage is loaded, unloaded, sorted, processed, dismantled, crushed, recycled, demolished, displayed, stored, collected or placed outside of:
 - (i) The enclosed area as required under section 22 of this By-law; or
 - (ii) An enclosed building.
- (5) No Salvage is placed against or within two (2) metres of the fence as required under section 22 of this By-law;
- (6) No Salvage, storage container or other material within the Salvage Yard is placed on the roof of any building within the Salvage Yard;
- (7) No gasoline, vehicle fluids or other chemicals from the Salvage Yard enter or escape onto any adjoining lands or into any aquifer, lake, pond, river, stream, drainage pond, drainage ditch or other body of water;
- (8) All outdoor lighting for the Salvage Yard shall be arranged so as to divert light away from adjoining lands, inclusive of any public road allowances;
- (9) All parking areas and roadways within the Salvage Yard are paved or are treated in a manner to reduce dust;
- (10) All Vehicle batteries within the Salvage Yard are stored within an enclosed building, and in accordance with any standards required by the Ministry of the Environment; and

- (11) Salvage may not be piled or stored higher than permitted by the applicable zoning by-laws of the Area Municipality where the Salvage Yard is located. Where the zoning by-laws of the Area Municipality are silent, Salvage shall not be piled or stored higher than 4.57 metres.
24. (1) No Licensee who holds a Salvage Yard Licence for a Salvage Business that is adjacent to or within two (2) kilometres of a residential property shall operate or permit the operation of a crusher, loader, forklift, crane, truck or other equipment at the Salvage Yard except:
- (i) Between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday; and
- (ii) Between the hours of 9:00 a.m. and 5:00 p.m. on weekends.
- (2) Notwithstanding subsection (1) of this section, no Licensee who holds a Salvage Yard Licence for a business that is adjacent to or within two (2) kilometres of a residential property shall operate or permit the operation of a crusher, loader, forklift, crane, truck or other equipment on a Statutory Holiday.
25. No Salvage Yard shall exceed size restrictions imposed in the applicable zoning by-law of the Area Municipality where the Salvage Yard is located, and if none exist, five (5) Hectares in area, unless the Salvage Yard exceeded five (5) Hectares in area on the date that this By-law came into force and effect.

PART VII OPERATIONS

26. Every Licensee shall ensure that the Licensee and their employees, contractors, and agents abide by the requirements of this By-law.
27. Every Licensee shall comply with all applicable Federal laws, Provincial laws, and Municipal by-laws, while operating a Salvage Business.
28. No tires shall be stored in an area of a Salvage Business licenced under this By-law where there is the potential for them to come into contact with a spark, flame or a heat source.

29. Every Licensee shall store and dispose of gasoline, oils, and other fluids from recycled Vehicles in approved containers, pursuant to standards imposed by the Ministry of the Environment. Licensees must keep records, to be produced upon demand by the Licensing Officer, documenting the means of disposal of these various Vehicle fluids.
30. Every Salvage Business licenced under this By-law that is also a registered Vehicle dealer pursuant to the *Motor Vehicle Dealers Act*, shall prominently display their proof of registration as a motor vehicle dealer in a visible area within the Salvage Business premises.
31. Every Licensee shall display their Licence in a conspicuous location that is visible to all Persons upon entering the licenced Salvage Business location.

Reporting

32. Any report to the Licensing Officer that is required pursuant to this By-law may be made outside of business hours by submitting the report via electronic mail or voicemail message to the email address or telephone number of the Licensing Officer, as publicly posted on the Region's external website from time to time.

PART VIII REGISTER

33.
 - (1) Every Licensee shall maintain a Register recording all transactions, namely sales and purchases, made pursuant to the Salvage Business in accordance with this section.
 - (2) A copy of the Register entries, including photographs that may be required under subsection (5), documenting the previous day's transactions, shall be delivered to the Licensing Officer, via electronic mail, daily by 10:00 a.m., save and except those days that the Business is not operating due to a Statutory Holiday or some other closure, in which case the entries shall be submitted the following operating day.
 - (3) The Licensee shall maintain a separate Register for each Salvage Business licensed under this By-law that the Licensee operates.
 - (4) A Register, as required under this By-law, shall be in the form of either:
 - (i) A paper booklet or electronic version Register supplied by the Licensing Officer; or,

- (ii) A computer software program that has been approved for use by the Licensing Officer.
- (5) Every Licensee who acquires any Salvage, with the exception of Vehicles or Vehicle parts, from another Person, either personally or through an employee or agent, shall immediately record, in English, in their Register:
 - (i) The full legal name, address and telephone number including the type of identification provided and the plate number of the Vehicle of the Person from whom they received the Salvage item(s);
 - (ii) The date and time of the transaction;
 - (iii) The value paid or consideration given for the Salvage item(s);
 - (iv) A detailed description of the Salvage item(s);
 - (v) The name of the employee or agent of the Licensee who accepted the Salvage item(s);
 - (vi) The value paid or consideration given for the Salvage item(s);
 - (vii) The serial number of the Salvage item(s), if available; and
 - (viii) A photograph of any Salvage items that were purchased for more than ONE HUNDRED DOLLARS (\$100.00).
- (6) Every Licensee who acquires a Vehicle or Vehicle parts from another Person for the purpose of dismantling or selling such at their Salvage Business, either personally or through an employee or agent, shall immediately record, in English, in the Register:
 - (i) The full legal name, address and telephone number including the type of identification provided to verify this information and the plate number of the Vehicle of the Person from whom they received the Vehicle or Vehicle parts;
 - (ii) The date of the transaction;
 - (iii) Proof of legal ownership;
 - (iv) The vehicle information number (VIN) of the Vehicle;
 - (v) The make and model of the Vehicle;

- (vi) The plate number of the Vehicle delivering the Salvage Vehicle or Vehicle parts;
 - (vii) The name of the employee or agent of the Licensee who accepted the Vehicle or Vehicle parts;
 - (viii) The value paid or consideration given for the Vehicle or Vehicle parts;
 - (ix) A detailed description of the Vehicle or Vehicle parts including the serial number, if applicable; and
 - (x) A photograph of any Vehicle or Vehicle parts that were purchased for more than ONE HUNDRED DOLLARS (\$100.00).
- (7) Every Licensee who sells Salvage to another Person shall ensure that a copy of a receipt for the sale is maintained for a period of one (1) year after the date of the sale, and a corresponding entry is made in the Register.
- (8) Every Licensee shall make the Register and the receipts required under subsection (7) available for inspection upon demand by an Officer.
- (9) Every Licensee who maintains the Register through an approved computer software program shall, upon demand by an Officer:
- (i) Allow the Officer to review the onscreen information for the Register; and,
 - (ii) Print out or otherwise copy the Register or any part thereof and provide such to the requesting Officer.
- (10) The Register must be maintained for a period of one (1) year in a neat and legible condition, with no pages or computer data removed, destroyed, or altered.
- (11) A Licensee may not remove or allow any other Person, with the exception of an Officer, to remove the Register from the licensed Salvage Business premises.

34. No Licensee shall purchase or acquire any Vehicle or Vehicle part without being provided proof that the Person offering the Vehicle or Vehicle part is the lawful owner of, or in is lawful possession of, the Vehicle or Vehicle part, which proof shall be retained for a minimum of one (1) year.
35. No Licensee shall acquire, purchase or offer to sell any Vehicle that has a serial number that is altered, destroyed, removed or concealed without first having given notice to a Police Officer and the Licensing Officer twenty-four (24) hours prior to the intended purchase, acquisition or sale.
36. A Licensee, upon suspicion that any Salvage offered to the Licensee may be stolen property, shall not purchase said Salvage and shall forthwith report the incident to a Police Officer and the Licensing Officer.
37. Any Salvage purchased or received for any other consideration by a Licensee that is found to be stolen property shall be reported to the Police and the Licensing Officer. If the legal owner of the stolen property has been identified, the stolen property shall be returned to the legal owner without any fees, charges or any financial burden to the legal owner and no compensation given to the Licensee. If the legal owner of the stolen property cannot be identified by Police, the Licensee shall follow the direction of the Police with regards to ownership, and shall notify the Licensing Officer.

PART IX INSPECTIONS

38. Every Licensee shall allow an Officer, upon demand, to enter upon and inspect a Salvage Business premises to ensure compliance with all provisions of this By-law.
39. Upon inspection, every Person shall produce all relevant Licences and permits, invoices, Provincial Licences and all documents required to be kept and maintained under this By-law, which may be removed by an Officer for the purpose of photocopying and returned to the Licensee within forty-eight (48) hours of removal.
40. No Person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer from carrying out an inspection or withhold, destroy, conceal or refuse to furnish any information or thing required by the Officer inspecting for the purpose of this inspection.

PART X POWERS OF THE LICENSING OFFICER

41. The power and authority to issue or renew a Licence, refuse to issue or refuse to renew a Licence, to revoke or suspend a Licence, to impose terms and conditions, including special conditions, on a Licence are delegated to the Licensing Officer.
42. When an application for a Licence or for a renewal of a Licence is made in accordance with the provisions of this By-law and the Applicant meets all the requirements of this By-law, the Licensing Officer shall issue a Licence.
43. The Licensing Officer may refuse to issue, refuse to renew, revoke or suspend a Licence, or impose a term or condition on a Licence on the following grounds:
 - (1) The conduct of the Applicant or Licensee, or where the Person is a partnership or corporation, the conduct of the partnership's or corporation's officers, directors, employees or agents, affords reasonable cause to believe that the Person will not carry on or engage in the operation of the Salvage Business in accordance with any applicable Federal law, Provincial law, or Municipal by-law, or with honesty and integrity;
 - (2) The Licensing Officer has reasonable cause to believe that the granting, renewal or continuation of a Licence under this By-law would pose a danger to the health or safety of any Person or the public in general;
 - (3) The Applicant or Licensee is carrying on activities that are in contravention of this By-law;
 - (4) There are reasonable grounds to believe that an application or other documents provided to the Licensing Officer by or on behalf of the Applicant or Licensee contains a false statement;
 - (5) Any information contained in the original application form or any other information provided to the Licensing Officer has ceased to be accurate and the Licensee has not provided up-to-date accurate information to allow the Licensing Officer to conclude that the Licence should continue;
 - (6) An Applicant or Licensee does not meet, at any time, one or more of the requirements of this By-law or any conditions imposed on a Licence;

- (7) An Applicant or Licensee is not in compliance with any applicable Federal law, Provincial law or Municipal by-law, including but not limited to this By-law and any requirement to obtain and maintain a valid Provincial Licence; or
 - (8) The Applicant or Licensee has been convicted of a criminal offence which provides reasonable grounds for the Licensing Officer to believe it would not be in the interest of public health and safety and/or consumer protection to issue or maintain such a Licence.
- 44. Notwithstanding any other provision of this By-law, the Licensing Officer may impose conditions, including special conditions, on any Licence at issuance, renewal or at any time during the term of the Licence, as are deemed reasonably necessary in the opinion of the Licensing Officer to give effect to this By-law.
- 45. Where the Licensing Officer has made a decision to deny, suspend, revoke or place conditions, including special conditions, on a Licence, the Licensing Officer's written notice of that decision shall:
 - (1) Set out the grounds for the decision;
 - (2) Give reasonable particulars of the grounds;
 - (3) Be signed by the Licensing Officer; and,
 - (4) State that the Applicant or Licensee is entitled to request a hearing before the Licensing Appeals Committee if the Applicant or Licensee delivers a request for a hearing, in writing, accompanied by the applicable fee set out in the Fees and Charges By-law, to the Licensing Officer, within thirty (30) calendar days after the notice is served.
- 46.
 - (1) Where notice to an Applicant or Licensee is required under this By-law, it is sufficiently given if delivered personally to the Applicant or Licensee, sent by electronic mail, or sent by registered mail to the address provided on the application or Licence, as applicable, of the Applicant or Licensee.
 - (2) Where service is effected by registered mail under subsection (1), notice shall be deemed to have been made on the fifth (5th) day after the date of mailing. Service is deemed effective by electronic mail at the time it is sent. Personal service is deemed effective at the time it is given.

47. Where no appeal is registered within the required time period, the decision of the Licensing Officer shall be final.
48. Where a Licence issued under this By-law has been suspended or revoked or special conditions have been placed on the Licence, the Licensee shall return the applicable Licence to the Licensing Officer within twenty-four (24) hours of service of written notice.

Appeal

49. The power and authority to conduct hearings of appeals under this By-law are hereby delegated to the Licensing Appeals Committee.
50. The provisions of sections 5 to 15 and 21 to 24 of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S. 22, as amended, shall apply to all hearings conducted by the Committee under this By-law.
51.
 - (1) When an Applicant is denied a Licence or has their Licence revoked or suspended, or has conditions, including special conditions, placed on their Licence, they may request an appeal hearing before the Licensing Appeals Committee, within thirty (30) calendar days of service of the notice described in section 46, for review of this decision. This request for an appeal shall be made in writing, be sent to the Licensing Officer, and set out the relief sought and the reasons for the appeal.
 - (2) When a request for a hearing under subsection (1) and the applicable fee for filing an appeal, as set out in the Fees and Charges By-law, have been received, a hearing shall be scheduled before the Licensing Appeals Committee and notice of the hearing date shall be given to the Applicant or Licensee.
 - (3) A notice of hearing shall include:
 - (i) A statement of the time, date, location, and purpose of the hearing; and,
 - (ii) A statement that if the Applicant or Licensee does not attend the hearing, the Licensing Appeals Committee may proceed in their absence without notice to them.

- (4) After conducting a hearing under subsection (2), the Committee may uphold or vary the decision of the Licensing Officer, or make any decision that the Licensing Officer was entitled to make in the first instance.
- (5) Notice of the Committee's decision, with reasons, shall be provided in writing and served in accordance with the service provisions contained in section 46.
- (6) The Licensing Appeal Committee's decision in respect of refusing, suspending, revoking or attaching conditions to a Licence is final.

PART XI ORDERS

- 52. (1) If the Licensing Officer or a Municipal By-Law Enforcement Officer is satisfied that a contravention of this By-law has occurred, the Licensing Officer or Municipal By-Law Enforcement Officer may make an Order requiring the Person who contravened this By-law or who caused or permitted the contravention to discontinue the contravening activity.
 - (2) An Order under subsection (1) shall set out:
 - (i) reasonable particulars of the contravention adequate to identify the contravention and the location of the property on which the contravention occurred; and,
 - (ii) the date by which there must be compliance with the Order.
 - (3) An Order issued under this By-law shall be served in accordance with the service provisions contained in section 46.
53. Every Person shall comply with an Order issued under the authority of this By-law.

PART XII ADMINISTRATION AND ENFORCEMENT

Penalty

- 54. Every Person who contravenes any provision of this By-law or an Order under this By-law is guilty of an offence and upon conviction is liable to the appropriate penalty as provided for by the *Provincial Offences Act*, R.S.O. 1990, Chapter P. 33, as amended.

55. A director or officer of a corporation who knowingly concurs in the contravention of any provision of this By-law or an Order made under this By-law, is guilty of an offence.
56. (1) Notwithstanding section 54 of this By-law, each day on which a Person contravenes any provision of this By-law shall be deemed to constitute a continuing offence under this By-law, as provided for in subsection 429(2) of the *Municipal Act, 2001*. For clarity, in the case of an Order, a contravention continues for every day or part of a day past the date set out in the Order by which the work must be complete or action taken, as the case may be.
- (2) For each day or part of a day that the offence continues, the minimum fine shall be ONE HUNDRED DOLLARS (\$100.00) and the maximum fine shall be FIVE THOUSAND DOLLARS (\$5,000.00), and the total of all daily fines for the offence is not limited to ONE HUNDRED THOUSAND DOLLARS (\$100,000.00).
57. If any section of this By-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the By-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted, or may impose conditions.

Administration and Enforcement

58. (1) The Licensing Officer shall have all necessary authority to carry out the administration and enforcement of this By-law.
- (2) Without limiting subsection (1) of this section, the Licensing Officer shall have the authority, at their sole discretion, to:
- (i) prescribe administrative forms, registers and electronic data software required under this By-law;
 - (ii) establish policies, procedures, operational protocols, inspection criteria and frequency, Licence criteria, and operational hours;
 - (iii) receive and process all applications for all Licences and renewals of Licences under this By-law;

- (iv) pro-rate any licensing or administrative fees that may be charged under this By-law;
 - (v) issue any Licence where the Applicant meets criteria and conditions under this By-law;
 - (vi) renew, deny, suspend, revoke, restrict or place special conditions on any Licence issued pursuant to this By-law;
 - (vii) designate any accessibility training or other required training pursuant to this By-law;
 - (viii) verify any information provided by an Applicant or Licensee; and,
 - (ix) demand from a Licensee any records, information, documentation, licences or any other thing pursuant to the administration and enforcement of this By-law.
59. Any Licensee that refuses or otherwise does not supply records, information or any other thing as demanded by the Licensing Officer shall have their Licence suspended. The Licensing Officer may re-instate a Licence if the Licensee supplies the information, record or other thing as demanded.
60. This By-law may be enforced by the Licensing Officer, a Municipal By-Law Enforcement Officer appointed by Council to enforce this By-law, or any Police Officer.
61. Any Person who obstructs or interferes with an Officer in the discharge of their duties under this By-law, shall be considered in violation of this By-law.
62. Any Person who provides false information to an Officer shall be deemed to have obstructed or interfered with that Person in the execution of their duties, and shall be considered in violation of this By-law.

Survival

63. If any section or part of this By-law is found by any court of competent jurisdiction to be illegal or beyond the power of Council to enact, such section or part shall be deemed to be severable and all other sections or parts of this By-law shall be deemed to be separate and independent therefrom and shall continue in full force and effect unless and until similarly found illegal.

Citation

64. This By-law may be cited as the "Salvage Business By-law".

By-law Commencement / Transition

65. (1) By-Law No. 2018-75, being a by-law to licence, regulate and govern vehicles for hire (Taxi's, Transportation Network Company Vehicles, Specialty Vehicles, Auxiliary Services Vehicles, Shuttle Buses, Sightseeing Vehicles, Caleche, Tow Trucks) and Businesses (Second-Hand Good Stores and Dealers, Salvage Yards, Auto-Wrecking Yards and Taxicab Brokers) and all amendments thereto, is hereby repealed.
- (2) Notwithstanding subsection (1), By-law No. 2018-75, as amended, shall continue to apply to proceedings in respect of offences that occurred before its repeal date.
- (3) Notwithstanding subsection (1), all Salvage Business-related licences issued under By-law No. 2018-75, including any suspensions, revocations, denials, renewals or special conditions imposed on Licensees, that are in effect at the time said by-law is repealed, shall be deemed to be Licences as issued under this By-law, together with any such suspensions, revocations, denials, renewals or special conditions, and all the rules, requirements and regulations of this By-law shall apply with necessary modification.
- (4) All Persons holding Salvage Business-related licences issued under By-law No. 2018-75 must come into compliance with all provisions of this By-law upon the renewal date of their Licence or within twelve (12) months from the date this By-law comes into force, whichever date is later.
- (5) A Licensee that fails to come into compliance with all provisions of this By-law upon the renewal date of their Licence shall have their Licence revoked.

66. This By-law shall come into force and effect on the date that it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

James Bradley, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: < >

Schedule "A"

Standard Character Criteria

An application for, or renewal of, a Licence under this By-law shall be denied where the Applicant:

(Parts 1 to 7 apply to all applicants)

1. Has an undertaking, recognizance, peace bond, probation order or other court or police issued document where the conditions prohibit the Applicant or Licensee from performing the functions of the Licence being applied for;
2. Has been convicted of a criminal offence which provides reasonable grounds for the Licensing Officer to believe it would not be in the interest of public health and safety and/or consumer protection to issue or maintain such a Licence. Such offences include, but are not limited to: sexual-based offences, child pornography, trafficking in persons, kidnapping, hostage taking, abduction, crimes against persons under 18 years of age, assault with a weapon, assault causing bodily harm, and, aggravated assault any assault against a Peace Officer;
3. Has been found guilty and convicted of any criminal offence, in the preceding twenty (20) years from the date of the application, where the term of incarceration imposed exceeded ten (10) years;
4. Has been found guilty and convicted of any criminal offence, in the preceding ten (10) years from the date of the application, where the term of incarceration imposed was between two (2) and ten (10) years;
5. Has been found guilty and convicted of any criminal offence, in the preceding five (5) years from the date of the application, where the term of incarceration imposed was less than two (2) years;
6. Has outstanding criminal charges before the courts and is awaiting trial and sentencing; or
7. Is the subject of a current police criminal investigation.

Paragraphs 2, 3, 4 and 5 shall not apply if the Applicant or Licensee has received a Record Suspension or Pardon for the offence by the Parole Board of Canada.

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. <>

A BY-LAW TO LICENCE, REGULATE AND GOVERN
SECOND-HAND GOOD SHOPS AND DEALERS IN
SECOND-HAND GOODS

WHEREAS the Council of The Regional Municipality of Niagara considers it in the public interest to enact a by-law to licence, regulate and govern various classes of businesses and to repeal the existing Business Licensing By-law No. 2018-75, as amended;

AND WHEREAS Section 9 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person;

AND WHEREAS Section 11 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides The Regional Municipality of Niagara with exclusive jurisdiction to enact by-laws for the licensing, regulating and governing of second-hand goods businesses within the Region;

AND WHEREAS Part IV of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, authorizes The Regional Municipality of Niagara to regulate and govern businesses, meaning any business wholly or partly carried on within the Region, even if the business is being carried on from a location outside the Region;

AND WHEREAS Section 151 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides The Regional Municipality of Niagara with the power to provide for a system of licences with respect to a business, and may prohibit the carrying on or engaging in the business without a licence; refuse to grant a licence or to revoke or suspend a licence; impose conditions as a requirement of obtaining, continuing to hold or renewing a licence; impose special conditions on a business in a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a licence; impose conditions, including special conditions, as a requirement of continuing to hold a licence at any time during the term of the licence; and licence, regulate or govern real and personal property used for the business and the persons carrying it on or engaged in it;

AND WHEREAS the Council of The Regional Municipality of Niagara has determined that it is appropriate and desirable to licence second-hand good shops and second-

hand good dealers as a means of deterring the sale of stolen goods to second-hand shops and second-hand good dealers and deterring thefts overall within the Region;

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

PART I DEFINITIONS

1. In this By-law, unless context otherwise requires:

“Applicant” means any Person applying for a Licence or renewal of a Licence under this By-law;

“Area Municipality” means any one of the municipalities or corporations 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/or Township of West Lincoln;

“Controlled Drugs and Substances Act” means the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, as amended, or any successor legislation;

“Council” means the Council of The Regional Municipality of Niagara;

“Criminal Code” means the *Criminal Code*, R.S.C. 1985, c. C-46, as amended, or any successor legislation;

“Fees and Charges By-law” means a by-law passed by Council pursuant to section 391 of the *Municipal Act, 2001* establishing fees and charges for services and activities provided by the Region and for the use of its property, as amended and replaced from time to time.

“Licence” means an authorization issued under this By-law to carry on a business specified therein and the document, certificate or card issued shall provide evidence of such authority as the content may allow;

“Licensee” means a Person holding a Licence in accordance with this By-law;

“Licensing Appeals Committee” or **“Committee”** means the all citizen tribunal appointed by Council to conduct hearings under this by-law;

“Licensing Officer” means the Manager of Business Licensing for The Regional Municipality of Niagara or their designate;

“Municipal Act, 2001” means the *Municipal Act, 2001*, S.O.2001, c. 25, as amended from time to time;

“Municipal Law Enforcement Officer” means a municipal law enforcement officer appointed by Council, or an officer, employee or agent of the Region whose responsibilities include the enforcement of this By-law;

“Officer” means Municipal Law Enforcement Officer, Licensing Officer, or Police Officer;

“Pawnbroker” means a Person who exercises the trade of receiving or taking, by way of pawn or pledge, any goods for the repayment of money lent thereon;

“Person” includes an individual, a partnership, or a corporation;

“Police Officer” means a police officer as defined by the *Police Services Act*, R.S.O. 1990, c. P.15;

“Provincial Licence” means any form of Licence or certification required to be held by the Licensee pursuant to applicable Provincial laws;

“Region” means The Regional Municipality of Niagara as a municipal corporation and, where the context requires, its geographic area;

“Register” means the Register as required under Part VII of this By-law;

“Second-Hand Good Business” includes Second-Hand Shops and Second-Hand Good Dealers;

“Second-Hand Good Dealer” means a Person that does not have a fixed location at a building, booth, stall or other place but who goes from house to house or along highways, within the boundaries of the Region, to collect, purchase, sell or obtain Second-Hand Goods;

“Second-Hand Good Dealer Licence” means a Second-Hand Good Dealer Licence as issued by the Licensing Officer under this By-law;

“Second-Hand Good” means any item listed in Schedule “A” of this By-law, whether in new or used condition, that has been sold, traded, exchanged, consigned or otherwise disposed of by its original owner, and does not include books (hard cover or softcover), magazines, comics books, or clothing;

“Second-Hand Shop” means a building, booth, stall or other place, or any part thereof, that is a permanent or semi-permanent location, within the geographic boundaries of the Region, where:

- (1) A Second-Hand Good is offered for sale; or
- (2) There is an offer to acquire, consign or exchange a Second-Hand Good;

“Second-Hand Shop Licence” means a Second-Hand Shop Licence as issued by the Licensing Officer under this By-law;

“Statutory Holiday” means New Year’s Day, Family Day, Good Friday, Easter Sunday, Victoria Day, Canada Day, August Civic Holiday, Labour Day, Thanksgiving Day, Christmas Day, Boxing Day, and any other day fixed as a public holiday by the Federal Government or Ontario Provincial Government;

PART II LICENCE CLASSES

2. (1) The Licensing Officer shall issue Licences for the following classes:
 - (i) Second-Hand Goods Dealer; and
 - (ii) Second-Hand Shop.
- (2) All Licences are valid for a twelve (12) month period from the date of issuance. For Licence renewals only, if deemed necessary for administrative purposes by the Licensing Officer, the term of a Licence may be adjusted, for example, to align with the term of other Provincial Licences held by the Licensee for the Business, and the Licence fee may be pro-rated accordingly.
- (3) Unless otherwise provided for in this By-law, all Licences issued under this By-law are personal to the Licensee, are only transferable upon approval by the Licensing Officer, and remain the property of the Region

PART III PROHIBITIONS

3. No Person shall carry on or engage in the provision of a Second-Hand Good Business within the Region unless that Person holds a valid and current Licence permitting them to do so.

4. No Person shall own or operate a Second-Hand Shop within the Region unless that Person holds a Second-Hand Shop Licence.
5. No Person shall act as a Second-Hand Good Dealer within the Region unless that Person holds a Second-Hand Good Dealer Licence.
6. Notwithstanding sections 3, 4 and 5 above, no Second-Hand Shop Licence or Second-Hand Good Dealer Licence is required where the Second-Hand Good:
 - (1) Is being offered for sale at a Person's residence or in a Person's residential neighbourhood as part of a garage or yard sale; or
 - (2) Is being offered for sale at a premises that is owned or operated by a not-for-profit or charitable organization.

PART IV LICENCE APPLICATION PROCESS

7. Every application for a Licence or renewal of a Licence issued under this By-law shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application shall include the following:
 - (1) The full legal name, municipal address, email address and telephone number of each Applicant;
 - (2) If the Applicant is a partnership, the full legal name, address, email address and telephone number of each partner;
 - (3) If the Applicant is a corporation, all current articles of incorporation for the corporation;
 - (4) All current legal documents showing the registered business name of the Applicant, if applicable;
 - (5) The full legal names, dates of birth and addresses for all officers and directors of the Applicant, if applicable;
 - (6) The full legal names and signatures of all Persons having signing authority for the Applicant partnership and/or corporation, if applicable, including a letter outlining the number of signatures required for financial and administrative functions;
 - (7) A Certificate of Insurance identifying and confirming the following minimum insurance requirements:

Commercial General Liability Insurance ("CGL")

CGL insurance for all services, operations, products and work to a limit of not less than FIVE MILLION DOLLARS (\$5,000,000) per occurrence.

The policy will be extended to include:

- a. bodily injury, death and property damage;
- b. cross liability and severability of interest;
- c. blanket contractual;
- d. premises and operations;
- e. personal and advertising injury;
- f. products and completed operations;
- g. owner's and contractors protective;
- h. non-owned Automobile to a limit of not less than TWO MILLION DOLLARS (\$2,000,000).

The policy shall be endorsed to:

- a. include The Regional Municipality of Niagara as an additional insured; and,
- b. contain an undertaking by the insurers to give thirty (30) days prior written notice in the event that there is a material change in the foregoing policies or coverage affecting the Additional Insured(s) or cancellation of coverage before the expiration date of any of the foregoing policies.

Policy Requirements

All policies of insurance shall:

- a) be written with an insurer licensed to do business in Ontario;
- b) be non-contributing with, and will apply only as primary and not excess to any other insurance or self-insurance available to Niagara Region.

Certificates of Insurance

Certificates of insurance originally signed by authorized insurance representatives shall be delivered to the Region prior issuance of the Licence, on a form of Certificate of Insurance which is acceptable to the Region. The Certificate of Insurance must comply with these insurance requirements and must be on the Region's form of Certificate of Insurance, which can be found on the Region's website – www.niagararegion.ca/business/fpr/cert-insurance.aspx. If the Certificate of Insurance is provided in a non-original form (e.g. a facsimile, photocopy or scanned electronic copy), the Applicant acknowledges and agrees that the Region is fully entitled to treat any such Certificate as an original and that the Applicant will be responsible for the accuracy and validity of the information contained therein. All subsequent policy renewals and certificates of insurance thereafter, during the time that the Licence is in force, shall be forwarded to the Region within fifteen (15) days of their renewal date.

- (8) Information on whether the Applicant, or any officer or director of the Applicant, has had a licence in regard to a Second-Hand Good Business suspended or revoked in the Region or in any other municipality within Canada;
- (9) Information on whether the Applicant, or any officer or director of the Applicant, has been convicted of an offence under any previously repealed by-law of the Region or in any other municipality within Canada governing the licensing of a Second-Hand Good Business;
- (10) A Criminal Record and Judicial Matters check for the Applicant or any officer or director of the Applicant, obtained within sixty (60) days from the date of application, which shall be reviewed in accordance with Schedule "B".
- (11) For an application for a Second-Hand Shop Licence only:
 - (i) A letter from the applicable Area Municipality confirming zoning compliance for the location of the Second-Hand Shop; if zoned "legal non-conforming", the applicable Area Municipality must confirm this zoning status; and,

- (ii) Information on whether the Applicant, or any officer or director of the Applicant, has been convicted of an offence, or has had an order issued against them, relating to the protection of the environment, fire safety, health standards, property standards, Building Code standards or zoning violations of a Second-Hand Goods Business within the previous twelve (12) month period; and,
- (12) Payment in full of the prescribed fee in accordance with the Fees and Charges By-law.
- 8. The Licensing Officer shall issue a Licence or a renewal of a Licence to an Applicant that has satisfied the requirements of this By-law, based on the appropriate class as set out in subsection 2 (1) of this By-law.
- 9. No Applicant shall knowingly misstate or provide false information to the Licensing Officer.
- 10. All Applicants shall provide the Licensing Officer with such other information and documentation as requested by the Licensing Officer to verify compliance with the requirements of this By-law.
- 11. Every Applicant and Licensee shall report to the Licensing Officer within twenty-four (24) hours after the event, of any change in any information, including full legal name, contact and address information and insurance, that was provided to the Licensing Officer pursuant to this By-law.

PART V LICENCE REQUIREMENTS

- 12. The fees for each Licence issued or renewed under this By-law shall be in accordance with the Fees and Charges By-law.
- 13.
 - (1) Every Licensee shall hold such Licence subject to the requirements and criteria as imposed in this By-law, including compliance with criteria imposed in order to be licenced under Part IV.
 - (2) In the event a Licensee cannot meet the requirements as set out in subsection (1) above, the Licensee shall cease to operate the Second Hand Shop immediately, and surrender the applicable Licence to the Licensing Officer within twenty-four (24) hours of the non-compliance.

- (3) Any Licences that have been surrendered to the Licensing Officer pursuant to subsection (2) above, shall be deemed suspended, but may be reinstated and returned to the Licensee upon the Licensee providing satisfactory proof of compliance with all requirements of the application for the Licence in issue.
- 14. If a Licence is defaced, destroyed, or lost, the Licensee shall apply to the Licensing Officer for a replacement and, on payment of the prescribed fee in accordance with the Fees and Charges By-law, may be issued a replacement Licence, as required.
 - 15. No Licensee shall alter, erase, or modify, or permit the alteration, erasure or modification of that Licence or any part thereof.
 - 16. Every Person required to obtain a Licence under this By-law shall obtain a separate Licence for each Second-Hand Good Business location, as applicable.
 - 17. The Licensing Officer may approve the transfer of a Second-Hand Shop Licence from one Person to another, pursuant to the sale of a business, upon the parties providing to the Licensing Officer:
 - (i) A completed application for transfer of a business in a form provided by the Licensing Officer;
 - (ii) The transfer application fee as prescribed in the Fees and Charges By-law; and,
 - (iii) Confirmation of that the new Applicant meets the application requirements for a Second-Hand Shop Licence, as set out in Part IV of this By-law.
 - 18. All Licences issued under this By-law shall terminate upon the death of the Licensee or dissolution of the corporate Licensee unless, in the case of the dissolution of a corporate Licensee, the Business is transferred to a successor corporation in accordance with Section 17.

PART VI OPERATIONS

- 19. Every Licensee shall ensure that the Licensee and their employees and agents abide by the requirements of this By-law.
- 20. Every Licensee shall comply with all applicable Federal laws, Provincial laws, and Municipal by-laws, while operating a Second-Hand Goods Business.

21. Every Licensee shall report to the Licensing Officer within five (5) calendar days after the event, of any change in any information that was provided to the Licensing Officer pursuant to this By-law.
22. Every Person who holds a Second-Hand Shop Licence shall display their Licence in a conspicuous location so that it is visible to all persons in their Second-Hand Shop.
23. Every Person who holds a Second-Hand Goods Dealer Licence, when acting as a Second-Hand Dealer, shall display their Licence in a position where it may be readily seen and read by Persons, and shall produce it, upon request.
24. No Licensee shall acquire, hold or offer to sell a Second-Hand Good that has a serial number or name altered, destroyed, removed or concealed, unless that serial number or name has been altered, removed or concealed by the manufacturer of the Second-Hand Good.
25. No Licensee shall obtain a Second-Hand Good from a Person who is under the age of eighteen (18) years.
26.
 - (1) No Licensee shall obtain a Second-Hand Good from a Person without first obtaining two (2) pieces of identification, at least one being a government-issued photo identification card.
 - (2) Subsection (1) does not apply where the Licensee obtains the Second-Hand Good from an auction.
27.
 - (1) No Licensee shall sell or otherwise dispose of a Second-Hand Good within twenty-one (21) calendar days of the date that the Second-Hand Good was acquired from another Person.
 - (2) No Licensee shall remove, or allow another person to remove, the Second-Hand Good from the Licensee's Second-Hand Shop or the Second-Hand Good Dealer's inventory during the twenty-one (21) calendar days as required under subsection (1) above.
 - (3) A Licensee, upon demand by an Officer, shall make available for inspection a Second-Hand Good that is required to be held under subsections (1) and (2) above.
 - (4) For Licensees that also act as Pawnbrokers, if a Second-Hand Good was acquired as part of a default in payment of a short-term loan, pawn or

pledge, the item must be held for twenty-one (21) days from the date of default in payment.

- (5) This section does not apply to Second-Hand Goods that are obtained by a Licensee from an auction.

Reporting

28. Any report to the Licensing Officer that is required pursuant to this By-law may be made outside of the Region's business hours by submitting the report via electronic mail or voicemail message to the email address or telephone number for the Licensing Officer, as publicly posted on the Region's website from time to time.

PART VII REGISTER

29. (1) Every Licensee shall maintain a Register recording all transactions, namely sales and purchases, made pursuant to the Second-Hand Shop Business in accordance with this section.
- (2) A copy of the Register entries, including photographs that may be required under subsection (5) below, documenting the previous day's transactions shall be delivered to the Licensing Officer, via email, daily by 10:00 am, save and except those days that the Business is not operating due to a Statutory Holiday or some other closure, in which case, the entries shall be submitted the following operating day.
- (3) Where the Licensee owns or operates more than one Second-Hand Good Shop, the Licensee shall maintain a separate Register for each licenced Second-Hand Good Shop.
- (4) A Register, as required under this By-law, shall be in the form of either:
- (i) A paper booklet or electronic version Register supplied by the Licensing Officer; or,
 - (ii) A computer software program that has been approved for use by the Licensing Officer.

- (5) Every Licensee who acquires a Second Hand Good from another Person, either personally or through an employee or agent, shall immediately record, in English, in their Register:
- (i) The full legal name, and date of birth of the Person from whom they received the Second-Hand Good;
 - (ii) The type of identification, and any serial number thereon, that is shown pursuant to the requirements of this By-law;
 - (iii) The date and time of the transaction;
 - (iv) The full legal name of the Licensee's or agent that accepted the Second-Hand Good;
 - (v) A unique receipt number for every item sold;
 - (vi) The consideration given for the Second-Hand Good;
 - (vii) A general description of the Second-Hand Good, including, where applicable, the serial number, make, and model; and
 - (viii) A photograph of each item received, whether the item was acquired pursuant to a default in payment of a short-term loan or pawn, or not.
- (6) Where a Second-Hand Good is acquired from an auction, the Licensee, in substitute for the requirements under subsections (i)) and (ii)) above, shall record the full legal name and address of the auctioneer, and auction, if different.
- (7) Every Licensee who sells a Second-Hand Good to another Person shall ensure that a copy of a receipt for the sale is maintained for a period of one (1) year after the date of the sale, and a corresponding entry is made in the Register.
- (8) Every Licensee shall make the Register and receipts available for inspection upon demand by an Officer.

- (9) Every Licensee who maintains the Register through an approved computer software program shall, upon demand by an Officer:
 - (i) Allow the Officer to review the onscreen information for the Register; and,
 - (ii) Print out or otherwise copy the Register or any part thereof and provide such to the requesting Officer.
 - (10) The Register must be maintained for a period of one (1) year in a neat and legible condition, with no pages or computer data removed, destroyed, or altered.
 - (11) A Second-Hand Shop Licensee may not remove or allow any other Person, with the exception of an Officer, to remove the Register from their Second-Hand Shop.
30. A Licensee, upon suspicion that any Second-Hand Goods offered to the Licensee may be stolen property, shall not purchase said Second-Hand Goods and shall forthwith report the incident to a Police Officer and the Licensing Officer.
31. Any Second-Hand Good purchased or received for any other consideration by a Licensee that is found to be stolen property shall be reported to the Police and the Licensing Officer. If the legal owner of the stolen property has been identified, the stolen property shall be returned to the legal owner without any fees, charges or any financial burden to the legal owner or any financial compensation given to the Licensee. If the legal owner of the stolen property cannot be identified by Police, the Licensee shall follow the direction of the Police with regard to the property, and shall notify the Licensing Officer.

PART VIII INSPECTIONS

32. Every Licensee shall allow an Officer, upon demand, to enter upon and inspect a Second-Hands Good Business premises to ensure compliance with all provisions of this By-law.
33. Upon inspection, every Person shall produce all relevant Licences and permits, invoices, Provincial Licences, and all documents required to be kept and maintained under this By-law, which may be removed by an Officer for the purpose of photocopying, and returned to the Licensee within forty eight (48) hours of removal.

34. No Person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer from carrying out an inspection or withhold, destroy, conceal or refuse to furnish any information or thing required by the Officer inspecting for the purpose of this inspection.

PART VIII POWERS OF THE LICENSING OFFICER

35. The power and authority to issue or renew a Licence, refuse to issue or refuse to renew a Licence, to revoke or suspend a Licence, to impose terms and conditions, including special conditions, on a Licence are delegated to the Licensing Officer.
36. When an application for a Licence or for a renewal of a Licence is made in accordance with the provisions of this By-law, and the Applicant meets all the requirements of this By-law, the Licensing Officer shall issue a Licence.
37. The Licensing Officer may refuse to issue, refuse to renew, revoke or suspend a Licence, or impose a term or condition on a Licence on the following grounds:
- (1) The conduct of the Applicant or Licensee, or where the Person is a partnership and/or corporation, the conduct of the partnership's or corporation's officers, directors, employees or agents, affords reasonable cause to believe that the Person will not carry on or engage in the operation of the Second Hand Goods Business in accordance with any applicable Federal law, Provincial law, or Municipal by-law, or with honesty and integrity;
 - (2) The Licensing Officer has reasonable cause to believe that the granting, renewal or continuation of a Licence under this By-law would pose a danger to the health or safety of any Person or the public in general;
 - (3) The Applicant or Licensee is carrying on activities that are in contravention of this By-law;
 - (4) There are reasonable grounds to believe that an application or other documents provided to the Licensing Officer by or on behalf of the Applicant or Licensee contains a false statement;
 - (5) Any information contained in the original application form or any other information provided to the Licensing Officer has ceased to be accurate and the Licensee has not provided up-to-date accurate information to allow the Licensing Officer to conclude that the Licence should continue;

- (6) An Applicant does not meet, at any time, one or more of the requirements of this By-law or any conditions imposed on a Licence;
 - (7) An Applicant or Licensee is not in compliance with any applicable Federal law, Provincial law or Municipal by-law, including but not limited to this By-law and any requirement to obtain and maintain a valid Provincial Licence; or
 - (8) The Applicant or Licensee has been convicted of a criminal offence which provides reasonable grounds for the Licensing Officer to believe it would not be in the interest of public health and safety and/or consumer protection to issue or maintain such a Licence.
38. Notwithstanding any other provision of this By-law, the Licensing Officer may impose conditions, including special conditions, on any Licence at issuance, renewal or at any time during the term of the Licence, as are deemed reasonably necessary in the opinion of the Licensing Officer to give effect to this By-law.
39. Where the Licensing Officer has made a decision to deny, suspend, revoke or place conditions, including special conditions, on a licence, the Licensing Officer's written notice of that decision shall:
- (1) Set out the grounds for the decision;
 - (2) Give reasonable particulars of the grounds;
 - (3) Be signed by the Licensing Officer; and,
 - (4) State that the Applicant or Licensee is entitled to request a hearing before the Licensing Appeals Committee if the Applicant or Licensee delivers a request for a hearing, in writing, accompanied by the applicable fee set out in the Fees and Charges By-law, to the Licensing Officer, within thirty (30) calendar days after the notice is served.
40. (1) Where notice to an Applicant or Licensee is required under this By-law, it is sufficiently given if delivered personally to the Applicant or Licensee, sent by electronic mail, or sent by registered mail to the address provided on the application or Licence, as applicable, of the Applicant or Licensee.
- (2) Where service is effected by registered mail under subsection (1), notice shall be deemed to have been made on the fifth (5th) day after the date of mailing. Service is deemed effective by electronic mail at the time it is sent. Personal service is deemed effective at the time it is given.

41. Where no appeal is registered within the required time period, the decision of the Licensing Officer shall be final.
42. Where a Licence issued under this By-law has been suspended or revoked or special conditions have been placed on the Licence, the Licensee shall return the applicable Licence to the Licensing Officer within twenty four (24) hours of service of written notice.

Appeal

43. The power and authority to conduct hearings of appeals under this By-law are hereby delegated to the Licensing Appeals Committee.
44. The provisions of sections 5 to 15 and 21 to 24 of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S. 22, as amended, shall apply to all hearings conducted by the Committee under this By-law.
45.
 - (1) When an Applicant is denied a Licence or has their Licence revoked or suspended, or has conditions, including special conditions, placed on their Licence, they may request an appeal hearing before the Licensing Appeals Committee, within thirty (30) calendar days of service of the notice described in section 39, for review of this decision. This request for an appeal shall be made in writing, be sent to the Licensing Officer, and set out the relief sought and the reasons for the appeal.
 - (2) When a request for a hearing under subsection (1) above and the applicable fee for filing an appeal, as set out in the Fees and Charges By-law, have been received, a hearing shall be scheduled before the Licensing Appeals Committee and notice of the hearing date shall be given to the Applicant or Licensee.
 - (3) A notice of hearing shall include:
 - (i) A statement of the time, date, location, and purpose of the hearing; and,
 - (ii) A statement that if the Applicant or Licensee does not attend the hearing, the Licensing Appeals Committee may proceed in their absence without notice to them.

- (4) After conducting a hearing under subsection (2) above, the Committee may uphold or vary the decision of the Licensing Officer, or make any decision that the Licensing Officer was entitled to make in the first instance.
- (5) Notice of the Committee's decision, with reasons, shall be provided in writing and served in accordance with the service provisions contained in section 40 of this By-law.
- (6) The Licensing Appeal Committee's decision in respect of refusing, suspending, revoking or attaching conditions to a Licence is final.

PART IX ORDERS

- 46. (1) If the Licensing Officer or a Municipal By-Law Enforcement Officer is satisfied that a contravention of this By-law has occurred, the Licensing Officer or Municipal By-Law Enforcement Officer may make an Order requiring the Person who contravened this By-law or who caused or permitted the contravention to discontinue the contravening activity.
 - (2) An Order under subsection (1) shall set out:
 - (i) reasonable particulars of the contravention adequate to identify the contravention and the location of the property on which the contravention occurred; and,
 - (ii) the date by which there must be compliance with the Order.
 - (3) An Order issued under this By-law shall be served in accordance with the service provisions contained in section 40.
47. Every Person shall comply with an Order issued under the authority of this By-law.

PART X ADMINISTRATION AND ENFORCEMENT

Penalty

- 48. Every Person who contravenes any provision of this By-law or an Order under this By-law is guilty of an offence and upon conviction is liable to the appropriate penalty, as provided for by the *Provincial Offences Act*, R.S.O. 1990, Chapter P. 33, as amended.

49. A director or officer of a corporation who knowingly concurs in the contravention of any provision of this By-law or an Order made under this By-law is guilty of an offence.
50. (1) Notwithstanding section 48 of this By-law, each day on which a Person contravenes any provision of this By-law shall be deemed to constitute a continuing offence under this By-law as provided for in subsection 429(2) of the *Municipal Act, 2001*. For clarity, in the case of an Order, a contravention continues for every day or part of a day past the date set out in the Order by which the work must be complete or action taken, as the case may be.
- (2) For each day or part of a day that the offence continues, the minimum fine shall be ONE HUNDRED DOLLARS (\$100.00) and the maximum fine shall be FIVE THOUSAND DOLLARS (\$5,000.00), and the total of all daily fines for the offence is not limited to ONE HUNDRED THOUSAND DOLLARS (\$100,000.00).
51. If any section of this By-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the By-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted, or may impose conditions.

Administration and Enforcement

52. (1) The Licensing Officer shall have all necessary authority to carry out the administration and enforcement of this By-law.
- (2) Without limiting subsection (1) of this section, the Licensing Officer shall have the authority, at their sole discretion, to:
- (i) prescribe administrative forms, registers and electronic data software required under this By-law;
 - (ii) establish policies, procedures, operational protocols, inspection criteria and frequency, Licence criteria, and operational hours;
 - (iii) receive and process all applications for all Licences and renewals of Licences under this By-law;
 - (iv) pro-rate any licensing or administrative fees that may be charged under this By-law;

- (v) issue any Licence where the Applicant meets criteria and conditions under this By-law;
 - (vi) renew, deny, suspend, revoke, restrict or place special conditions on any Licence issued pursuant to this By-law;
 - (vii) designate any accessibility training or other required training pursuant to this By-law;
 - (viii) verify any information provided by an Applicant or Licensee; and,
 - (ix) demand from a Licensee any records, information, documentation, licences or any other thing pursuant to the administration and enforcement of this By-law.
53. Any Licensee that refuses or otherwise does not supply records, information or any other thing as demanded by the Licensing Officer shall have their Licence suspended. The Licensing Officer may re-instate a Licence if the Licensee supplies the information, record or other thing as demanded.
54. This By-law may be enforced by the Licensing Officer, a Municipal By-Law Enforcement Officer appointed by Council to enforce this By-law, or any Police Officer.
55. Any Person who obstructs or interferes with an Officer in the discharge of their duties under this By-law shall be considered in violation of this By-law.
56. Any Person who provides false information to an Officer shall be deemed to have obstructed or interfered with an Officer in the execution of their duties, and shall be considered in violation of this By-law.

Survival

57. If any section or part of this By-law is found by any court of competent jurisdiction to be illegal or beyond the power of Council to enact, such section or part shall be deemed to be severable and all other sections or parts of this By-law shall be deemed to be separate and independent therefrom and shall continue in full force and effect unless and until similarly found illegal.

Citation

58. This By-law may be cited as the "Second-Hand Goods Business By-law".

By-law Commencement / Transition

59. (1) By-Law No. 2018-75, being a by-law to licence, regulate and govern vehicles for hire (Taxi's, Transportation Network Company Vehicles, Specialty Vehicles, Auxiliary Services Vehicles, Shuttle Buses, Sightseeing Vehicles, Caleche, Tow Trucks) and Businesses (Second-Hand Good Stores and Dealers, Salvage Yards, Auto-Wrecking Yards and Taxicab Brokers) and all amendments thereto, is hereby repealed.
- (2) Notwithstanding subsection (1), By-law No. 2018-75, as amended, shall continue to apply to proceedings in respect of offences that occurred before its repeal date.
- (3) Notwithstanding subsection (1), all Second Hand Good-related licences issued under By-law No. 2018-75, including any suspensions, revocations, denials, renewals or special conditions imposed on Licensees, that are in effect at the time said by-law is repealed, shall be deemed to be Licences as issued under this By-law, together with any such suspensions, revocations, denials, renewals or special conditions, and all the rules, requirements and regulations of this By-law shall apply with necessary modification.
- (4) All Persons holding Second-Hand Good-related licences issued under the provisions of By-law No. 2018-75 must come into compliance with all provisions of this By-law upon the renewal date of their Licence or within twelve (12) months from the date this By-law comes into force, whichever date is later.
- (5) A Licensee that fails to come into compliance with all provisions of this by-law upon the renewal date of their Licence shall have their Licence revoked.

60. This by-law shall come into force and effect on the date that it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

James Bradley, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: < >

Schedule "A"

Second Hand Goods

The following items, whether in new or used condition, are considered "Second Hand Goods" for the purposes of this By-law:

1. Paper currency, coins and stamps from Canada or any other country;
2. Gold, silver or other precious metals;
3. Gemstones, jewelry, including costume, and watches or any parts thereof;
4. Paintings, photographs, sculptures or any other work of art;
5. Antiques and collectables including, but not limited to, photographs, figurines, furniture, glassware, steins, vases and pottery;
6. Musical instruments and electronic amplifiers or any part thereof;
7. Photographic equipment and peripherals including, but not limited to, cameras and lenses;
8. Military and police articles including, but not limited to, uniforms, medals, crests, insignias;
9. Swords, knives, axes or antique firearms that do not require a Possession Acquisition Licence, as issued by the Chief Fire Arms Officer of Ontario or other Province or Territory within Canada, to purchase or resell;
10. Binoculars, monoculars, telescopes, scopes, rangefinders and microscopes;
11. Computers and peripherals or any part thereof;
12. Computer software;
13. Video game consoles and peripherals or any part thereof;
14. Video games including console and computer games and any peripherals or part thereof;
15. Personal electronics, including but not limited, to cellular phones, tablets, notebooks, pagers and any other device or part thereof;
16. Handheld recording devices or any part thereof;

Schedule "A"

Second Hand Goods

17. Home electronics including, but not limited to, lamps, televisions, radios, stereos (including car stereos), speakers, vacuum cleaners, air purifiers, humidifiers, de-humidifiers or any part thereof;
18. Home appliances including, but not limited to, microwaves, refrigerators, freezers, stoves, washers, dryers, dishwashers, toasters, coffee makers or any part thereof;
19. Home and car alarms, remote starters and security cameras, security systems and peripherals or any part thereof;
20. Sports equipment including, but not limited to, hunting gear, bicycles, golf clubs, skis, hockey equipment, football equipment, basketball equipment or any part thereof;
21. Sports memorabilia and collectibles, including but not limited, to trading cards, figurines, autographs, photographs;
22. Toys and toy collectibles including, but not limited to, model trains, model cars, radio controlled vehicles;
23. Automobile equipment including, but not limited to, carburetors, intakes, wheels, fuel injection systems, gauges, headers or performance equipment;
24. Scooters, skateboards, e-bikes;
25. Hand tools and power tools, including but not limited to, wrenches, air compressors, welders, drills, sanders or any part thereof;

The following items, whether in new or used condition, are considered Second Hand Goods but are excluded from the requirement of having to be documented in a Licensee's Register pursuant to Part VII of this By-law:

1. Vinyl records, cassette tapes, compact discs, DVDs, and Blu-ray discs .

Schedule "B"

Standard Character Criteria

An application for a Licence or for renewal of a Licence under this By-law shall be denied where the Applicant:

(Parts 1 to 7 apply to all applicants)

1. Has an undertaking, recognizance, peace bond, probation order or other court or police issued document where the conditions prohibit the Applicant or Licensee from performing the functions of the Licence being applied for;
2. Has been convicted of a criminal offence which provides reasonable grounds for the Licensing Officer to believe it would not be in the interest of public health and safety and/or consumer protection to issue or maintain such a Licence. Such offences include, but are not limited to: sexual-based offences, child pornography, trafficking in persons, kidnapping, hostage taking, abduction, crimes against persons under 18 years of age, assault with a weapon, assault causing bodily harm, and, aggravated assault any assault against a Peace Officer;
3. Has been found guilty and convicted of any criminal offence, in the preceding twenty (20) years from the date of the application, where the term of incarceration imposed exceeded ten (10) years;
4. Has been found guilty and convicted of any criminal offence, in the preceding ten (10) years from the date of the application, where the term of incarceration imposed was between two (2) and ten (10) years;
5. Has been found guilty and convicted of any criminal offence, in the preceding five (5) years from the date of the application, where the term of incarceration imposed was less than two (2) years;
6. Has outstanding criminal charges before the courts and is awaiting trial and sentencing; or
7. Is the subject of a current police criminal investigation.

Paragraphs 2, 3, 4 and 5 shall not apply if the Applicant or Licensee has received a Record Suspension or Pardon for the offence by the Parole Board of Canada.

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. <>

A BY-LAW TO LICENCE, REGULATE AND GOVERN TOW
TRUCKS, AND OWNERS, DRIVERS AND BROKERS OF
TOWING BUSINESSES

WHEREAS the Council of The Regional Municipality of Niagara considers it in the public interest to enact a by-law to licence, regulate and govern various classes of businesses and to repeal the existing Business Licensing By-law No. 2018-75, as amended;

AND WHEREAS Section 9 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person;

AND WHEREAS Section 11 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides The Regional Municipality of Niagara with exclusive jurisdiction to enact by-laws for the licensing, regulating and governing of business within the Region;

AND WHEREAS Part IV LICENCES (more specifically sections 150 – 165) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, authorizes The Regional Municipality of Niagara to enact by-laws to licence, regulate and govern businesses, and to impose conditions on the obtaining, holding and keeping of licences to carry on such businesses; regulate and govern businesses, meaning any business wholly or partly carried on within the Region, even if the business is being carried on from a location outside the Region;

AND WHEREAS Section 151 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides The Regional Municipality of Niagara with the power to provide for a system of licences with respect to a business, and may prohibit the carrying on or engaging in the business without a licence; refuse to grant a licence or to revoke or suspend a licence; impose conditions as a requirement of obtaining, continuing to hold or renewing a licence; impose special conditions on a business in a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a licence; impose conditions, including special conditions, as a requirement of continuing to hold a licence at any time during the term of the licence; and licence, regulate or govern real and personal property used for the business and the persons carrying it on or engaged in it;

AND WHEREAS the Council for The Regional Municipality of Niagara has determined that it is appropriate and desirable to licence Tow Trucks and Towing Businesses as a means of protecting consumers, enhancing the safety of residents, nuisance control, and crime reduction within the Region;

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

PART I DEFINITIONS

1. In this By-law, unless context otherwise requires:

“Applicant” means any Person applying for a Licence or renewal of a Licence under this By-law;

“Area Municipality” means any one of the municipalities or corporations 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, or Township of West Lincoln;

“Broker” means a Person who, in pursuance of a trade, business, or occupation, arranges for the provision of Towing Service not operated by such Person to a Hirer;

“Controlled Drugs and Substances Act” means the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, as amended, or any successor legislation;

“Council” means the Council of The Regional Municipality of Niagara;

“Criminal Code” means the Criminal Code, R.S.C. 1985, c. C-46, as amended, or any successor legislation;

“CVOR Certificate” means a Commercial Vehicle Operator’s Registration Certificate as issued by the Ministry of Transportation, pursuant to the *Highway Traffic Act*;

“Dispatch” means the act or service of sending or directing a Tow Truck, by electronic or any other means, to a Person or Persons who have requested Tow, but does not include a request made directly to a Driver, and “Dispatched” and “Dispatching” shall have corresponding meanings;

“Driver” means the person who holds a Tow Truck Driver Licence and drives, uses or operates a Tow Truck as licensed under this By-law;

“Fees and Charges By-law” means a by-law passed by Council pursuant to section 391 of the *Municipal Act, 2001* establishing fees and charges for services and activities provided by the Region and for the use of its property, as amended and replaced from time to time.

“GPS” or **“Global Positioning System”** means a global navigation system that provides geographic location, velocity and time synchronization of a person or thing using signals from satellites;

“Gross Axle Weight Rating (GAWR)” means the specific weight determined by the manufacturer to be the maximum allowable weight that can be placed on an individual axle;

“Gross Vehicle Weight Rating (GVWR)” means the maximum total vehicle rated capacity, as rated by the manufacturer specification stamp on the vehicle, which includes the weight of the vehicle's chassis, body, engine, engine fluids, fuel, accessories, driver, passengers and cargo;

“Heavy Tow Truck” means a Tow Truck with a GVWR over 11,819 kg;

“Hirer” means the owner of a Motor Vehicle, motorhome, trailer or other vehicle that is Towed; or, in the absence of such owner:

- (1) An agent of the owner, duly authorized by such owner to exercise control over the Towed Motor Vehicle, motorhome, trailer, or other vehicle on the owner's behalf; or
- (2) Any person having lawful custody or the legal right to possession of a Towed Motor Vehicle, motorhome, trailer, or other vehicle.

“Highway Traffic Act” means the *Highway Traffic Act*, R.S.O. 1990, c. H. 8, as amended, or any successor legislation;

“Human Rights Code” means the *Human Rights Code*, R.S.O. 1990, c. H-19, as amended, or any successor legislation;

“Licence” means an authorization issued under this By-law to carry on a business specified therein and the document, certificate or card issued shall provide evidence of such authority as the content may allow;

“Licensee” means a Person holding a Licence in accordance with this By-law;

“Licensing Appeals Committee” means the all-citizen tribunal appointed by Council to conduct hearings under this By-law;

“Licensing Officer” means the Manager of Business Licensing for the Regional Municipality of Niagara and includes their designates;

“Medium Tow Truck” means a Tow Truck with a GVWR between 4,501 kg and 11,819 kg;

“Ministry of Transportation” means the Ministry of Transportation for the Province of Ontario or any successor ministry, department or other government body;

“Motor Vehicle” means a motor vehicle as defined in the *Highway Traffic Act*, R.S.O. 1990, c.H.8;

“Municipal Act, 2001” means the *Municipal Act, 2001*, S.O.2001, c. 25, as amended from time to time;

“Municipal By-Law Enforcement Officer” means a municipal by-law enforcement officer as appointed by Council, or an officer, employee or agent of the Region whose responsibilities include the enforcement of this By-law;

“Officer” means a Municipal Law Enforcement Officer, Licensing Officer, or Police Officer;

“Person” includes an individual, a sole proprietorship, a partnership, and a corporation;

“Police Officer” means a police officer as defined by the *Police Services Act*, R.S.O. 1990, c. P.15;

“Provincial Licence” means any form of Licence or certification required to be held by the Licensee pursuant to applicable Provincial laws, including but not limited to the TSSEA;

“Recovery Service” means a service carried out to relocate or reposition a Motor Vehicle, motorhome, trailer, or other similar vehicle; that involves the use of a winch or a specialized extraction device; and that must be performed to prepare it for attachment or Towing;

“Region” means The Regional Municipality of Niagara as a municipal corporation and, where the context requires, its geographic area;

“Standard Tow Truck” means a light duty Tow Truck, with a GVWR of 4,500 kg or less;

“Statutory Holiday” means New Year’s Day, Family Day, Good Friday, Easter Sunday, Victoria Day, Canada Day, August Civic Holiday, Labour Day, Thanksgiving Day, Christmas Day, Boxing Day, and any other day fixed as a public holiday by the Federal Government or Ontario Provincial Government;

“Tariff Schedule” means the schedule setting out the maximum fees permitted to be charged to all Hirers of a Tow Truck for the towing of a Motor Vehicle and other services performed by any Licensee in relation to such Tow Truck, as set by the Licensing Officer and publicly posted from time to time on the Region’s website;

“Towed Vehicle” means a Motor Vehicle, motorhome, trailer or other similar vehicle:

- a) Towed or otherwise conveyed by a Tow Truck;
- b) In respect of which an agreement is made or intended to be made for the Towing of such Motor Vehicle, motorhome, trailer, or other vehicle; or for the provision of other related services thereto, by a Hirer.

“Tow” means to transport another Motor Vehicle, motorhome, trailer or other similar vehicle; including a Motor Vehicle that is damaged, incomplete or inoperable, using a Tow Truck, including any ancillary activity such as lifting a Motor Vehicle for purposes of loading, towing or transporting it or placing it onto a truck or trailer for the purpose of towing or transporting it by means of a boom, hook, hoist, pulley stinger, sling, belt, form or other similar device that elevates part or all of the drawn Motor Vehicle, with or without the use of a dolly or other similar device, and “Towing” and “Towed” shall have corresponding meanings;

“Towing and Storage Safety and Enforcement Act” or “TSSEA” means the *Towing and Storage Safety and Enforcement Act*, 2001 S.O.2021, c.26, Sched.3, and any regulations thereunder, as may be amended from time to time, or any successor legislation;

“Towing Services” means the provision or offer of provision of a Tow Truck for compensation and includes

- a) Towing or Recovery Services in respect of Motor Vehicles, motorhomes, trailers, and other similar vehicles, that are disabled, abandoned, impounded, seized, damaged, incomplete or inoperable or that require removal from a location for any other reason,

- b) Clearing debris from collisions on highways and roads, and
- c) Conveying the Hirer, owner or driver of the Motor Vehicle or other Towed vehicle in a Tow Truck;

“Tow Truck” means

- a) A Motor Vehicle registered and commonly known as a tow truck that is equipped with a boom and a retractable wheel lift, or is a flatbed equipped with the retractable wheel lift,
- b) A commercial Motor Vehicle, as defined in subsection 1(1) of the *Highway Traffic Act*, used exclusively to tow or transport other Motor Vehicles, motorhomes, trailers and other similar vehicles, and
- c) A Motor Vehicle that is designed, modified, configured or equipped so that it is capable of towing other Motor Vehicles, motorhomes, trailers, and other similar vehicles;

“Tow Truck Broker” means a Person who, in pursuance of a trade, business, or occupation, arranges for the provision of Towing Services to a Hirer;

“Tow Truck Business” and **“Towing Business”** means a business engaged in Towing Services, which may include the operation of a Tow Truck Yard, if applicable;

“Tow Truck Business Licence” means a Licence issued by The Regional Municipality of Niagara;

“Tow Truck Plate” means a sign to be affixed to a Tow Truck displaying a series of letters and numbers that is issued by the Licensing Officer pursuant to this By-law, as evidence that the Tow Truck is authorized to operate within the Region;

“Tow Truck Yard” means a pound, yard, shop, public garage, or any other type of premises used for the storage, impounding, repair, or servicing of Motor Vehicles;

PART II LICENCE CLASSES

2. The Licensing Officer shall issue Licences for the following classes:

- (1) Tow Truck Broker;
- (2) Tow Truck Yard;

- (3) Tow Truck Vehicle;
 - (4) Tow Truck Driver; and,
 - (5) Tow Truck Licence Plate.
3. (1) No Person shall carry on or engage in the Tow Truck Business unless the Person has a valid and current Licence permitting that Person to do so in The Regional Municipality of Niagara as required in accordance with this By-law.
- (2) All Licences are valid for a twelve (12) month period from the date of issue. For Licence renewals only, if deemed necessary for administrative purposes by the Licensing Officer, the term of a Licence may be adjusted, for example, to align with the term of other Provincial Licences held by the Licensee for the Towing Business, and the Licence fee may be pro-rated accordingly.
- (3) Unless otherwise provided for in this By-law, all Licences issued under this By-law are personal to the Licensee, are only transferable upon approval by the Licensing Officer, and remain the property of the Region.
- (4) This By-law shall apply to all Towing Services provided on both public and private property within the Region.

PART III TOW TRUCK BROKER LICENCE

Prohibition

4. No Person shall act as a Broker without first having obtained a Tow Truck Broker Licence in accordance with this By-law.

Licence Application

5. Every application for a Tow Truck Broker Licence or renewal of such a Licence shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application shall include the following:
- (1) the full legal name, municipal address, email address and telephone number of each Applicant;

- (2) If the Applicant is a partnership, the full legal name, address, email address and telephone number of each partner;
- (3) If the Applicant is a corporation, all current articles of incorporation for the corporation;
- (4) All current legal documents showing the registered business name of the Applicant, if applicable;
- (5) The full legal names, dates of birth and addresses for all officers and directors of the Applicant, if applicable;
- (6) The full legal names and signatures of all Persons having signing authority for the Applicant corporation, if applicable, including a letter outlining the number of signatures required for financial and administrative functions;
- (7) The full legal names of all Drivers who are currently affiliated, or will be affiliated, with the Applicant as their Broker;
- (8) A Certificate of Insurance identifying and confirming the following minimum insurance requirements:

Commercial General Liability Insurance ("CGL")

CGL insurance for all services, operations, and work to a limit of not less than FIVE MILLION DOLLARS (\$5,000,000) per occurrence.

The policy will be extended to include:

- a. bodily injury, death and property damage;
- b. cross liability and severability of interest;
- c. blanket contractual;
- d. premises and operations;
- e. personal and advertising injury;
- f. products and completed operations;
- g. owner's and contractors protective;

- h. non-owned Automobile to a limit of not less than TWO MILLION DOLLARS (\$2,000,000).

The policy shall be endorsed to:

- a. include The Regional Municipality of Niagara as an additional insured; and,
- b. contain an undertaking by the insurers to give thirty (30) days prior written notice in the event that there is a material change in the foregoing policies or coverage affecting the Additional Insured(s) or cancellation of coverage before the expiration date of any of the foregoing policies.

Policy Requirements

All policies of insurance shall:

- a) be written with an insurer licensed to do business in Ontario;
- b) be non-contributing with, and will apply only as primary and not excess to any other insurance or self-insurance available to Niagara Region.

Certificates of Insurance

Certificates of insurance originally signed by authorized insurance representatives shall be delivered to the Region prior to issuance of the Licence, on a form of Certificate of Insurance which is acceptable to the Region. The Certificate of Insurance must comply with these insurance requirements and must be on the Region's form of Certificate of Insurance, which can be found on the Region's website – www.niagararegion.ca/business/fpr/cert-insurance.aspx. If the Certificate of Insurance is provided in a non-original form (e.g. a facsimile, photocopy or scanned electronic copy), the Applicant acknowledges and agrees that the Region is fully entitled to treat any such Certificate as an original and that the Applicant will be responsible for the accuracy and validity of the information contained therein. All subsequent policy renewals and certificates of insurance thereafter, during the time that the Licence is in force, shall be forwarded to the Region within fifteen (15) days of their renewal date.

- (9) Proof of a current and valid CVOR Certificate issued to the Applicant;
- (10) Proof of certification under the TSSEA as required;
- (11) Information on whether the Applicant, or any officer or director of the Applicant, has had a licence in regard to the provision of Towing Services suspended or revoked in the Region or in any other municipality within Canada;
- (12) Information on whether the Applicant, or any officer or director of the Applicant, has been convicted of an offence under any previously repealed by-law of the Region or other municipality within Canada governing the licencing of a Towing Business;
- (13) A Criminal Record and Judicial Matters check for the Applicant or any officer or director of the Applicant, obtained within sixty (60) days from the date of application, which shall be reviewed in accordance with the criteria in Schedule "A";
- (14) Payment in full of the prescribed fee in accordance with the Fees and Charges By-law;
- (15) A description and picture of any name, logo and/or trademark the Broker intends to use for any advertising or for display on any Tow Trucks affiliated with the Broker.

General Licence Requirements

6. Every Broker licensed under this By-law shall:

- (1) Have a physical business premises located within the Region;
- (2) Have a telephone number or email address that is solely associated with the Broker, to be used by customers who wish to make contact with the Broker;
- (3) Have a digital Dispatch system and GPS that allows the Broker to communicate with and locate all Tow Trucks that are affiliated with the Broker;
- (4) Have a minimum of one (1) Tow Truck, licensed under this By-law, affiliated exclusively with the Broker;

- (5) Maintain a daily record (the “Register”) of all transactions and services performed by the Broker and any affiliated Drivers, in a form satisfactory to the Licensing Officer, which includes the full legal name and address of every Hirer, a description of any Motor Vehicles Towed including the Vehicle Identification Number and Provincially issued licence plate number, the location of any Towed Vehicle, the fees charged, and the total fees collected, to be maintained for a period of twelve (12) months;
- (6) Send an electronic copy of the Register entries of the previous day’s transactions to the Licensing Officer, via email, daily by 10:00 a.m., save and except those days that the business is not operating due to a Statutory Holiday or some other closure, in which case, the entries shall be submitted the following operating day;
- (7) Ensure that each Driver who operates through the Broker has completed annual driver training that includes the following topics:
 - (i) The safe and proper operation of a Tow Truck, including Standard, Medium, and Heavy Tow Trucks as well as flatbed or float vehicles, Towing equipment and devices and safe operation during inclement weather;
 - (ii) Vehicle recovery training, including winching, chocking, and other methods required for performing a Recovery Service;
 - (iii) Ontario Traffic Manual Book 7 (Temporary Conditions) Training, as may be updated from time to time;
 - (iv) Workplace Hazardous Materials Information System (WHMIS) Training;
 - (v) Road safety training and safety requirements under the *Highway Traffic Act*;
 - (vi) The proper response to an emergency situation including medical emergency, fire and Motor Vehicle accidents;
 - (vii) The provision of Towing Service in a manner that is free of discrimination and is in compliance with the *Human Rights Code*;
 - (viii) Health and safety awareness training; and

- (ix) Bill 168, the Occupational Health and Safety Amendment Act (Violence and Harassment in the Workplace), 2009, training.
- (8) Ensure that the name, logo and/or trademark used for any advertising or for display on any Tow Trucks affiliated with the Broker, corresponds exactly with what was submitted to the Licensing Officer as part of the Licence application;
- (9) Have the ability to accept debit, credit and/or cash for roadside payments;
- (10) Not request or be paid a rate for Towing Services which is greater than the rates listed on the Tariff Schedule as established by the Licensing Officer;
- (11) Ensure that any Driver who operates through the Broker keeps a legible copy of the Tariff Schedule in their Tow Truck while the Tow Truck is being operated and produces it upon request of any Person;
- (12) Ensure that any Tow Truck Dispatched does not Tow a Motor Vehicle or trailer that exceeds the Tow Truck's Gross Vehicle Weight Rating (GVWR); and not to exceed the Gross Axle Weight Rating (GAWR) front and rear tire road range and Tow Truck wheel lift rating;
- (13) Take all reasonable steps to ensure that each Driver that is affiliated with the Broker complies with the requirements of this By-law;
- (14) Report within twenty-four (24) hours, to the Licensing Officer any known contravention of this By-law by a Driver affiliated with the Broker;
- (15) Report within twenty-four (24) hours to the Licensing Officer any known:
 - (i) Investigation, charge or conviction pursuant to the *Criminal Code*, *Controlled Drugs and Substances Act* or *Highway Traffic Act*; or
 - (ii) Ontario driver's licence suspension; or,
 - (iii) Expiry, suspension, revocation or conditions imposed on a Provincial Licenceof a Driver who is affiliated with the Broker.

- (16) Report within twenty-four (24) hours to the Licensing Officer:
- (i) Any known Motor Vehicle accident that is reportable pursuant to section 199 of the *Highway Traffic Act*, or any successor provision; or,
 - (ii) Personal injury; or,
 - (iii) Cancellation of insurance
- involving a Tow Truck that is affiliated with the Broker.
- (17) Report within twenty-four (24) hours, to the Licensing Officer if the Broker has terminated any Tow Truck Vehicle Licensee or Tow Truck Driver Licensee that is affiliated with the Broker;
- (18) Provide run sheets, as referred to in section 29 of this By-law, made in duplicate, and in a form approved by the Licensing Officer, to any Driver affiliated with the Broker;
- (19) Keep original copies of all run sheets referred to section 29 of this By-law, for at least one (1) year after the services recorded in them are provided, and make them available for inspection by the Licensing Officer; and,
- (20) Provide the Licensing Officer, by the fifteenth (15th) day of every month, the following documentation for the preceding month in relation to the Broker's operations:
- (i) A compilation of all run sheets, as described in section 29 of this By-law, recording every Towing Service provided by Drivers affiliated with that Broker; and,
 - (ii) Upon request, a copy of every itemized receipt issued for any Towing Service provided.

Broker Licence Transfer

7. The Licensing Officer may approve the transfer of a Tow Truck Broker Licence from one Person to another upon the parties providing to the Licensing Officer:
- (1) A completed transfer application;

- (2) The transfer application fee as prescribed in the Fees and Charges By-law; and,
- (3) Confirmation that the new Applicant meets the application requirements for a Tow Truck Broker Licence, as set out in Part III of this By-law.

PART IV TOW TRUCK VEHICLE LICENCE AND TOW TRUCK LICENCE PLATES

Prohibition

- 8. (1) No Person shall cause or permit a Motor Vehicle to be used as a Tow Truck without first having obtained a:
 - (i) Tow Truck Vehicle Licence for the Motor Vehicle; and,
 - (ii) Tow Truck Plate to be affixed to the Motor Vehicle in accordance with the requirements of this By-law.
- 9. No Person shall allow or permit another Person to provide or attempt to provide to a Hirer a Towing Service using a Motor Vehicle licensed under this By-law unless such Person holds a valid Tow Truck Driver Licence and a valid Tow Truck Plate is affixed to the Motor Vehicle in accordance with this By-law.
- 10. No Licensee shall affix, or permit any other Person to affix, a Tow Truck Plate to a Motor Vehicle other than the Tow Truck for which the Tow Truck Plate was issued under this By-law.

Licence Application

- 11. Every application for a Tow Truck Vehicle Licence and/or Tow Truck Plate Licence and renewal Licence shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application for a Tow Truck Vehicle Licence and Tow Truck Plate Licence, or application for renewal of either Licence shall include:
 - (1) The full legal name, municipal address, email address and telephone number of each Applicant;
 - (2) If the Applicant is a partnership, the full legal name, address, email address and telephone number of each partner;

- (3) If the Applicant is a corporation, all current articles of incorporation for the corporation;
- (4) All current legal documents showing the registered business name of the Applicant, if applicable;
- (5) The full legal names, dates of birth and addresses for all officers and directors of the Applicant, if applicable;
- (6) The full legal names and signatures of all Persons having signing authority for the Applicant corporation, if applicable, including a letter outlining the number of signatures required for financial and administrative functions;
- (7) The make, model, fuel type, VIN, production year, Ministry of Transportation issued licence plate number and valid Motor Vehicle permit for the Applicant's Tow Truck, confirming a valid "Tow Truck" designation;
- (8) Copies of any safety standards certificates, annual inspection certificates and semi-annual inspection certificates issued in respect of the Motor Vehicle, as may be required for the issuance of a CVOR;
- (9) If leased from a leasing company, a copy of the leasing agreement including an authorization for the leased Motor Vehicle to be used as a Tow Truck;
- (10) Proof of automobile insurance in accordance with the requirements set out in section 13 of this By-law;
- (11) A declaration signed by a Broker confirming the Applicant's affiliation or employment with that Tow Truck Broker;
- (12) Confirmation that the Applicant, or any officer or director of the Applicant, has not had a licence in regard to the ownership of a Tow Truck suspended or revoked by the Region or other municipality in Canada within three (3) years of the current application;
- (13) Confirmation that the Applicant, or any officer or director of the Applicant, has not been convicted of an offence under any Towing business by-law of the Region or other municipality in Canada in regard to the ownership of a Tow Truck in the three (3) year period prior to the date of the application;

- (14) A Criminal Record and Judicial Matters check for the Applicant or any officer or director of the Applicant, obtained within 60 days from the date of application, which shall be reviewed in accordance with the criteria in Schedule "A" to this By-law;
 - (15) Payment of the prescribed fee in accordance with the Fees and Charges By-law; and
 - (16) Proof of certification under the TSSEA as required.
12. (1) The Licensing Officer may set a limit or quota on the number of Tow Truck Plates that may be issued within the Region.
- (2) If a quota or limit as referenced in subsection (1) is put in place, there shall be no waiting list maintained. Any new Tow Truck Plates to be issued by the Licensing Officer will be offered to Applicants who meet the application requirements for a Tow Truck Vehicle Licence set out in section 11 of this By-law, in order of when completed applications are received.
- (3) Any quotas or limits that may be implemented shall remain in effect according to the time limit as determined by the Licensing Officer not to exceed three (3) years, after which time the Licensing Officer shall conduct a review to determine whether these quotas or limits should be revised.

Tow Truck Vehicle and Plate Requirements

13. (1) Every Tow Truck Vehicle Licensee shall maintain on file with the Region a Certificate of Insurance for each Tow Truck licensed under this By-law, identifying and confirming:
- (i) a minimum limit of liability of TWO MILLION DOLLARS (\$2,000,000.00) per occurrence, exclusive of interest and costs, against liability resulting from bodily injury to or the death of one or more persons, and loss or damage to property;
 - (ii) a minimum limit of liability of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) per occurrence, exclusive of interest and costs, for damage to customers' vehicles while in the care, custody, or control of the Licensee; and,

- (iii) a minimum limit of liability of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) per occurrence, exclusive of interest and costs, against liability resulting from direct physical loss or damage to cargo including Motor Vehicles and goods accepted by the Licensee for Towing.
 - (2) Proof of insurance shall be provided annually through a Certificate of Insurance that confirms the required coverage. The Licensee shall provide the Licensing Officer with renewal replacements on or before the expiry of any such insurance.
14. Every Tow Truck licensed under this By-law shall be equipped with the following equipment, which shall be kept in good working order at all times:
- (1) A fire extinguisher, securely mounted in a place and readily accessible by the Driver near the entrance of the Tow Truck, tagged and inspected monthly;
 - (2) A GPS that sets out and records the location of the Tow Truck;
 - (3) A Dispatch system that allows communication between the Tow Truck Driver and Broker;
 - (4) A hoisting device of sufficient capacity to safely lift the Motor Vehicle to be Towed, and a tow cradle, tow bar, or tow sling equipped and maintained to ensure the safe lifting and conveying of Towed Motor Vehicles, not to exceed the GVWR (Gross Vehicle Weight Rating), the GAWR (Gross Axle Weight Rating) front and rear, tire load range and tow truck lift ratings for boom and wheel lift;
 - (5) Four (4) devices for securing the steering wheel, trunk, hood, or doors of a Motor Vehicle;
 - (6) At least two (2) safety chains having a minimum length of 3 metres, each comprised of links of at least 8 millimetres steel and must have legible rating tags;
 - (7) An audible warning system connected to the Tow Truck's backup lamps that is automatically activated when the Tow Truck is in reverse gear;
 - (8) A bar light that produces intermittent flashes of amber light visible from 360 degrees and from a distance of 200 yards;

- (9) A digital camera or camera-enabled mobile phone;
 - (10) A high-visibility, fluorescent safety vest and CSA steel toed safety boots for use by the Driver with a class rating of 3 level 2;
 - (11) One (1) push broom, a scoop shovel, absorbent material to absorb vehicle fluids, and a receptacle to collect absorbent material; and,
 - (12) Road triangles or pylons, pry bar, hammer, wheel chocks, winch hooks, tie downs, and extended magnetic turn signal and brake indicators, and any other tools and safety equipment as may be required by the Licensing Officer.
15. Every Person that holds a Tow Truck Plate shall display:
- (1) The Tow Truck Plate on the frame of the Tow Truck's roof light in order to be seen from the rear of the vehicle;
 - (2) The number of the Tow Truck Licence Plate issued by the Licensing Officer, in contrasting colours on both sides of the Tow Truck; and
 - (3) Two (2) decals that are a minimum of 200 square centimeters each in area in visible locations on the exterior of the Tow Truck that displays in large print the name or trademark of the affiliated Broker, which shall correspond exactly with the information submitted and approved as a part of the Licence application.
16. Every Tow Truck Vehicle Licensee shall ensure that their Licence is kept within the Tow Truck and is available for inspection upon request by Hirers, Officers, and Persons authorized to enforce this By-law.
17. A Tow Truck Vehicle Licence is specific to the Tow Truck for which it has been issued. When a Tow Truck is replaced with another Tow Truck, the Tow Truck Plate that is affiliated with the previous Tow Truck may be transferred to the replacement Tow Truck, provided:
- (1) The Licensee applies to the Licensing Officer for a new Tow Truck Vehicle Licence in a form provided by the Licensing Officer and meets the applicable requirements under this By-law for such a Licence;
 - (2) A Tow Truck Vehicle Licence is issued for the replacement Tow Truck; and,

- (3) The Licensee pays the transfer fee in accordance with the Fees and Charges By-law.
- 18. A Tow Truck Plate may be leased to another Tow Truck Vehicle Licensee provided that the Tow Truck Plate Licensee first provides the Licensing Officer with the details of the lease arrangement including the term of the lease and confirmation that the Owner of the Tow Truck Plate remains responsible for compliance with the requirements of this By-law, and that the lessee meets the requirements for a Tow Truck Plate-holder as set out in this By-law.
- 19. The Licensing Officer may approve the transfer of ownership of a Tow Truck Plate Licence from one Person to another upon the parties providing to the Licensing Officer:
 - (1) A completed transfer application, in a form provided by the Licensing Officer;
 - (2) A transfer application fee as prescribed in the Fees and Charges By-law; and
 - (3) Confirmation that the new Applicant meets all application requirements and conditions for a Tow Truck Plate Licence under this By-law.
- 20. Notwithstanding any other provision of this By-law, a Licensing Officer may provide approval for the transfer of a Tow Truck Plate in the event of the plate holder's death, subject to completion and approval of the required transfer application within thirty (30) days, failing which, the Licence plate shall be surrendered.
- 21. A Tow Truck Vehicle Licence and Tow Truck Plate shall only be issued to an Applicant who is affiliated with a single Tow Truck Broker that is licensed under this By-law. A Tow Truck Vehicle Licensee and the Tow Truck Plate assigned to that Licensee may not be affiliated with multiple Tow Truck Brokers at the same time.
- 22. A Licensee may hold multiple Tow Truck Vehicle Licences and/ or Tow Truck Plates.
- 23. All Tow Truck Plates that are expired are deemed revoked by the Licensing Officer and must be returned to the Licensing Officer. A replacement fee shall be charged to the Tow Truck Plate Licensee if the Tow Truck Plate is not returned.

24. (1) A Licensee may apply for a non-use status designation of a Tow Truck Plate for a period of up to sixty (60) days in a calendar year. This application must be approved by the Licensing Officer and all appropriate fees, in accordance with the Fees and Charges By-law, must be paid.
- (2) No Person shall operate, or permit to be operated, any Tow Truck that bears a Tow Truck Plate that is has been designated for non-use status.
- (3) Tow Truck Plates that have been designated for non-use status for more than sixty (60) days in a calendar year shall be returned to the Licensing Officer.

PART V TOW TRUCK DRIVER LICENCE

Prohibition

25. (1) No Person shall drive or operate a Tow Truck for the purposes of providing a Towing Service unless that Person is the holder of a Tow Truck Driver Licence as issued under this By-law.
- (2) No Driver shall provide or attempt to provide Towing Services to a Hirer unless they are affiliated with a Broker.
- (3) No Driver shall use or attempt to use a Motor Vehicle as Tow Truck unless the Motor Vehicle has been issued a Tow Truck Vehicle Licence and Tow Truck Plate under this By-law which is affixed to the Motor Vehicle.

Licence Application

26. Every application for a Tow Truck Driver Licence and/or renewal of such a Licence shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application for a Tow Truck Driver Licence or a renewal shall include the following:
- (1) The Applicant's full legal name, address, telephone number, email address and date of birth;
- (2) Proof of a valid, unrestricted, Class G driver's licence issued by the Ministry of Transportation, and a class of driver's licence required to drive a Tow Truck, meeting the vehicle towing weight requirements, and at least two (2) years of driving experience;

- (3) Two (2) pieces of government issued identification, one being photo identification;
 - (4) Confirmation that the Applicant is legally eligible to work in Canada;
 - (5) Confirmation that the Applicant has not had a Tow Truck Driver Licence revoked, suspended or denied within three (3) years of the date of application;
 - (6) A Criminal Record and Judicial Matters check for the Applicant or any officer or director of the Applicant, obtained within sixty (60) days from the date of application, which shall be reviewed in accordance with the criteria in Schedule "A";
 - (7) A Ministry of Transportation three (3) year driver's abstract;
 - (8) A declaration signed by the Applicant confirming they do not have any current outstanding police investigations, *Highway Traffic Act* charges or criminal charges or warrants pending before any courts;
 - (9) A declaration signed by a Broker confirming the Applicant's affiliation or employment with that Broker;
 - (10) Confirmation from the Applicant's affiliated Broker that the Applicant has successfully completed all required driver training; and
 - (11) Proof of certification under the TSSEA as required.
27. An Applicant for a Tow Truck Driver Licence shall submit to a photograph being taken of them for use on the Tow Truck Driver Licence.

General Licence Requirements

28. Every Driver, while operating a Tow Truck licensed under this By-law, shall:
- (1) Display their Licence in a location that is clearly visible within the Tow Truck and make it available for review by any Person, upon request;
 - (2) Ensure their Tow Truck Vehicle Licence is in the Tow Truck;
 - (3) Display a copy of the Tariff Schedule in their Tow Truck so that it is clearly visible to all Hirers;

- (4) Verbally advise a Hirer of the rates for Towing and related services set out in the Tariff Schedule, upon request;
- (5) Not charge fees for any Towing Service provided to a Hirer in excess of the rates for such services set out in the Tariff Schedule;
- (6) Ensure the proof of Motor Vehicle insurance slip is in the Tow Truck;
- (7) Ensure all proof of Motor Vehicle ownership is in the Tow Truck;
- (8) Ensure the Tow Truck Plate is affixed to the Tow Truck as prescribed in this By-law;
- (9) Ensure that the GPS and Dispatch systems in the Tow Truck are operational;
- (10) Provide an itemized receipt to Hirers for all Towing Services performed, which includes the date, a description of all services provided, the total cost of the Services provided, and the Driver's Tow Truck Plate number and Driver's Tow Truck Driver licence number;
- (11) Take due care of all Motor Vehicles, motorhomes, trailers, or other vehicle or other vehicles and property delivered or entrusted to them for Towing or storage to prevent loss of or from or damage to such Motor Vehicles motorhomes, trailers, or other vehicles and property;
- (12) Ensure that the Motor Vehicle motorhome, trailer, or other vehicle being Towed does not exceed the Gross Vehicle Weight Rating (GVWR) and Gross Axle Weight Rating (GAWR) and boom, lift weight restrictions of their Tow Truck;
- (13) Keep the hoisting device on their Tow Truck lowered at all times when the Tow Truck is in motion, unless it is Towing a Motor Vehicle, motorhome, trailer, or other vehicle;
- (14) Ensure that any dolly affixed to their Tow Truck is affixed in a manner that does not obstruct the Driver's view to the rear of the Tow Truck;
- (15) Ensure their Tow Truck and its equipment are in good repair and free from mechanical defects;

- (16) Examine the licensed Tow Truck they intend to operate at the commencement of each work shift for any mechanical defects or operational issues and at the conclusion of each work shift; and,
 - (17) Report any mechanical defects or operational issues which are disclosed during the inspections referenced in subsection (16) forthwith to the owner of the Tow Truck, and refrain from operating it until such defects or issues are rectified.
29. (1) Every Driver shall maintain a run sheet in a form satisfactory to the Licensing Officer to be kept in the Tow Truck at all times, to be completed immediately upon the conclusion of a Towing Service, with the following information:
- (i) The Tow Truck Licence Plate number and Tow Truck Driver licence number;
 - (ii) The full legal name and address of the Hirer;
 - (iii) A description including the condition of the Motor Vehicle motorhome, trailer, or other vehicle being Towed, including the Provincially issued licence plate number and Vehicle Information Number (VIN);
 - (iv) A description of the Towing Service provided;
 - (v) The date and time the Driver arrives at the location;
 - (vi) The date and time of drop-off and the location, if applicable;
 - (vii) The time the Towing Service provided to the Hirer is concluded; and,
 - (viii) The amount charged and collected for the Towing Service provided.
- (2) Original copies of all run sheets in a form satisfactory to the Licensing Officer referenced in subsection (1) shall be submitted to the Driver's affiliate Broker for retention in accordance with the Broker's duties under subsection 6(19) of this By-law.

30. No Driver shall:

- (1) Verbally solicit any Person for the purposes of providing a Towing Service;
- (2) Operate a Tow Truck licensed under this By-law in a dangerous, careless, or reckless manner;
- (3) Operate a Tow Truck licensed under this By-law in excess of posted speed limits;
- (4) Obstruct the use of any sidewalk, access way, street, roadway, driveway or highway with a Tow Truck licensed under this By-law;
- (5) Permit their Tow Truck, as licensed under this By-law, to remain standing on any sidewalk, access way, street, roadway, driveway or highway, unless for the immediate purpose of:
 - (i) Performing a Recovery Service; or
 - (ii) Towing a Motor Vehicle.
- (6) Smoke tobacco or cannabis or permit tobacco or cannabis to be smoked in a Tow Truck licensed under this By-law;
- (7) Consume or be under the influence of any alcohol while operating a Tow Truck licensed under this By-law;
- (8) Consume, possess or be under the influence of any controlled substance as defined in the *Controlled Drugs and Substances Act* while operating a Tow Truck licensed under this By-law; or
- (9) Use an electronic cigarette or permit the use of an electronic cigarette in a Tow Truck licensed under this By-law.

31. (1) Every Driver shall notify the Licensing Officer within twenty-four (24) hours of any charge or conviction they have received that is in contravention of the criteria set out in Schedule "A" of this By-law or of any Motor Vehicle accident involving a Tow Truck licensed under this By-law.

- (2) Every Driver shall notify the Licensing Officer within twenty-four (24) hours of any police investigation, charge or conviction relating to the Driver pursuant to the *Criminal Code*, the *Highway Traffic Act* or the *Controlled Drugs and Substances Act* with all particulars relating to the investigation, charge or conviction;
 - (3) If the Licensing Officer has reasonable grounds to believe that any of the information that was provided in the Licensee's application for a Tow Truck Driver Licence has changed without the Licensee advising of the change, the Licensing Officer may, upon demand, request the Licensee produce an updated:
 - (i) Criminal Record and Judicial Matters check; or
 - (ii) A three (3) year Ontario Driver's Abstract.
32. A Tow Truck Driver, while operating a Tow Truck licensed under this By-law, shall turn on the amber emergency lighting of the Tow Truck when stopped on a road allowance, when providing a roadside Towing Services.
33. (1) Every Tow Truck Driver shall Tow a Motor Vehicle motorhome, trailer, or other vehicle by the most direct route reasonably possible in the circumstances and in the most efficient manner, unless otherwise directed by the Hirer.
- (2) No Tow Truck Driver shall make any intermediate stop when Towing a Motor Vehicle motorhome, trailer, or other vehicle to a collision reporting centre as directed by a Police Officer or to a destination specified by a Hirer.
- (3) No Tow Truck Driver shall Tow any Motor Vehicle, motorhome, trailer, or other vehicle or hook, lift, or connect the Motor Vehicle motorhome, trailer, or other vehicle to a Tow Truck, or perform any related Towing Services, unless first requested to do so by one of the following:
- (i) A Hirer;
 - (ii) An Officer;
 - (iii) Any member of an Area Municipality fire department; or,

- (iv) Any Person authorized by law to direct the removal of the Motor Vehicle motorhome, trailer, or other vehicle from public or private property.
 - (4) No Tow Truck Driver shall suggest or recommend to any Hirer or other Person requesting the Towing Service that the Motor Vehicle motorhome, trailer, or other vehicle be Towed, driven or delivered to any particular Tow Truck Yard, body shop, storage yard, or any other public garage, building or place.
 - (5) Every Tow Truck Driver shall, where the final destination specified by a Hirer is unable to accept the Hirer's Motor Vehicle, motorhome, trailer, or other vehicle, contact the Hirer and obtain the Hirer's consent to Tow the Motor Vehicle motorhome, trailer, or other vehicle to an alternate destination.
34. No Tow Truck Driver shall remove a Motor Vehicle motorhome, trailer, or other vehicle from private property unless:
- (1) The Hirer has care and control of the Motor Vehicle motorhome, trailer, or other vehicle; or,
 - (2) The following conditions are met:
 - (i) The private property owner has entered into an agreement with the Tow Truck Driver's affiliated Broker to provide a Towing Service for that private property, and signs are posted throughout that property with a minimum of two (2) signs indicating where the Motor Vehicle motorhome, trailer, or other vehicle has been Towed to and a contact name and phone number for the Broker is clearly displayed on the sign; and
 - (ii) The Niagara Regional Police Service and the Licensing Officer have been notified of the Tow, along with information as to the description of the Motor Vehicle, motorhome, trailer, or other vehicle that is Towed, the date and time of the Tow, and Tow Truck Yard to which the vehicle has been Towed.
35. No Tow Truck Driver shall Tow a Motor Vehicle from public or private property if that Motor Vehicle is the subject of a police investigation, without first having authorization from the investigating Police Officer to remove the Motor Vehicle.

36. Where a Motor Vehicle, motorhome, trailer, or other vehicle is Towed to a licensed Tow Truck Yard within the Region, the Tow Truck Driver shall ensure that the Motor Vehicle, motorhome, trailer, or other vehicle is secured and the owner of the Motor Vehicle, motorhome, trailer, or other vehicle has reasonable access to it to remove personal effects, unless otherwise instructed by a Police Officer pursuant to a police investigation.
37. No Tow Truck Driver licensed under this By-law shall deliver a Towed Motor Vehicle, motorhome, trailer, or other vehicle to a Tow Truck Yard outside the geographical boundaries of the Region unless the Hirer has requested and given their express consent for such Towed Motor Vehicle, motorhome, trailer, or other vehicle to be delivered to that Tow Truck Yard outside of the Region.

PART VI TOW TRUCK YARD LICENCE

Prohibitions

38. (1) No Person shall own or operate a Tow Truck Yard within the Region without first having obtained a Licence, issued pursuant to this By-law, permitting them to do so.
- (2) No Person shall own or operate a Tow Truck Yard within the Region, without first having obtained a Tow Truck Broker Licence.

Licence Application

39. Every application for a Tow Truck Yard Licence or renewal of such a Licence shall be made to the Licensing Officer in a form provided by the Licensing Officer. Without limitation, every application for a Tow Truck Yard Licence shall include the following:
 - (1) The full legal name, municipal address, email address and telephone number of each Applicant;
 - (2) The municipal address of the Tow Truck Yard;
 - (3) Confirmation that the Applicant holds a valid Tow Truck Broker Licence;

- (4) A Certificate of Insurance identifying and confirming the following minimum insurance requirements for the Tow Truck Yard:

Commercial General Liability Insurance ("CGL")

CGL insurance for all services, operations, and work to a limit of not less than FIVE MILLION DOLLARS (\$5,000,000) per occurrence.

The policy will be extended to include:

- a. bodily injury, death and property damage;
- b. cross liability and severability of interest;
- c. blanket contractual;
- d. premises and operations;
- e. personal and advertising injury;
- f. products and completed operations;
- g. owner's and contractors protective;
- h. non-owned Automobile to a limit of not less than TWO MILLION DOLLARS (\$2,000,000).

The policy shall be endorsed to:

- a. include The Regional Municipality of Niagara as an additional insured; and
- b. contain an undertaking by the insurers to give thirty (30) days prior written notice in the event that there is a material change in the foregoing policies or coverage affecting the Additional Insured(s) or cancellation of coverage before the expiration date of any of the foregoing policies.

Policy Requirements

All policies of insurance shall:

- a) be written with an insurer licensed to do business in Ontario;
- b) be non-contributing with, and will apply only as primary and not excess to any other insurance or self-insurance available to Niagara Region;

Certificates of Insurance

Certificates of insurance originally signed by authorized insurance representatives shall be delivered to the Region prior to issuance of the Licence, on a form of Certificate of Insurance which is acceptable to the Region. The Certificate of Insurance must comply with these insurance requirements and must be on the Region's form of Certificate of Insurance, which can be found on the Region's website –

www.niagararegion.ca/business/fpr/cert-insurance.aspx. If the Certificate of Insurance is provided in a non-original form (e.g. a facsimile, photocopy or scanned electronic copy), the Applicant acknowledges and agrees that the Region is fully entitled to treat any such Certificate as an original and that the Applicant will be responsible for the accuracy and validity of the information contained therein. All subsequent policy renewals and certificates of insurance thereafter, during the time that the Licence is in force, shall be forwarded to the Region within fifteen (15) days of their renewal date.

- (5) Information on whether the Applicant, or any officer or director of the Applicant, has been convicted of an offence or has had an order issued against them relating to the protection of the environment, fire safety, public health, property standards, or zoning violation within the previous twelve (12) month period;
- (6) Verification that the Tow Truck Yard is fully enclosed by a fence, as required under this By-law;
- (7) A fire inspection report prepared by the applicable Area Municipality fire department, dated within two (2) months of the date of the application, confirming compliance with all applicable provisions under the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4, as amended;

- (8) A letter from the Region's Planning and Development Services Department, or successor department, confirming the Tow Truck Yard location conforms to the Region's Official Plan;
 - (9) A letter from the Niagara Escarpment Commission confirming the Tow Truck Yard in its present location does not violate the Niagara Escarpment Plan, if applicable;
 - (10) A site plan for the Tow Truck Yard that shows:
 - (i) the legal boundaries for the Tow Truck Yard, which must include only those lands that are under the exclusive control of the Applicant;
 - (ii) the location of all existing and proposed buildings, roads, driveways, parking areas, storage areas and operating areas;
 - (iii) the location of any fence and/or gate, as required under this By-law;
 - (iv) the finished surface of the storage yard complies with the requirements set out in subsection 42(6) of this By-law; and,
 - (v) the location of CCTV cameras as required under subsection 42(7) of this By-law; and
 - (11) Proof of certification under the TSSEA, if required.
40. Every Applicant for a Tow Truck Yard Licence shall allow any Officer to enter onto the Tow Truck Yard premises to verify the site plan requirements as set out in subsection 39(10) of this By-law.

Licence Requirements

41. (1) Every Tow Truck Yard Licensee shall maintain a fence that fully encloses the entire perimeter of the property.
- (2) Every fence as required under subsection (1) shall be installed and maintained in compliance with the applicable Area Municipality By-laws. If none exist, the following standards shall be followed:
- (i) Not less than 1.83 metres and no greater than 2.44 metres in height;

- (ii) Constructed of a uniform material, with a uniform colour, providing a full entry barrier; and
 - (iii) Kept in good repair at all times.
 - (3) If an opening in any fence as required under subsection (1) is necessary for ingress or egress, then the opening shall be covered by a gate that:
 - (i) Includes a locking mechanism;
 - (ii) Opens to a width of at least 3.5 metres;
 - (iii) Is of the same height as the fence;
 - (iv) Is kept in good repair at all times;
 - (v) Does not open over the travelled portion of a public road allowance or sidewalk; and
 - (vi) Is kept clear of obstructions so that it may be opened fully at all times.
 - (4) No Person shall relocate a fence or a gate as required under this section without the prior written approval of the Licensing Officer.
42. Every Tow Truck Yard Licensee shall ensure that:
- (1) The outdoor area of their Tow Truck Yard is kept in a clean, neat, orderly and sanitary condition;
 - (2) All storage containers and other materials belonging to the Licensee or used for the Tow Truck Yard operation on-site are kept within the enclosed area created by the fence, as required under section 41 of this By-law, or in an enclosed building;
 - (3) All Motor Vehicles onsite or used for the Tow Truck Yard operation that do not have a current licence plate as issued by the Ministry of Transportation are parked within the enclosed area created by the fence, as required under section 41 of this By-law, or an enclosed building;
 - (4) All outdoor lighting for the Tow Truck Yard is arranged so as to divert light away from adjoining lands, inclusive of any public road allowances;

- (5) All parking areas and roadways within the Tow Truck Yard are paved or are treated in a manner to reduce dust;
 - (6) All areas of the Tow Truck Yard that are used for storage have a surface that is hard compacted and consisting of gravel, tar and chip, pavement, or cement, and is free of potholes and debris;
 - (7) The Tow Truck Yard is equipped with operational CCTV cameras that provide video surveillance of all Motor Vehicles contained within the enclosed portion of the Tow Truck Yard; and
 - (8) Contact information for the Tow Truck Yard, including a telephone number and hours of operation, is posted outside of their premises and is clearly visible to any owners of Towed Motor Vehicles stored within the Tow Truck yard;
 - (9) Any voicemail or email messages from a Hirer or owner of a Towed Motor Vehicle must be promptly returned; and,
 - (10) Reasonable and prompt access to a Towed Motor Vehicle is given to a Hirer and/or owner of a Towed Motor Vehicle, at no additional cost or fee.
43. Any Tow Truck Yard that is licensed under this By-law must be located within the geographical boundaries of the Region.
44. Any Tow Truck Yard that is licensed under this By-law must be owned by a single Broker or a co-operative of Brokers licensed under this By-law.
45. The Licensing Officer may approve a transfer of Tow Truck Yard Licence from one Person to another upon the parties providing to the Licensing Officer:
- (1) A completed transfer application, in a form provided by the Licensing Officer;
 - (2) A transfer application fee, as prescribed in the Fees and Charges By-law; and
 - (3) Confirmation that the new Applicant meets all application requirements and conditions for a Tow Truck Yard Licence under this By-law.

PART VII GENERAL LICENCE REQUIREMENTS

46. The Licensing Officer shall issue a Licence or a renewal of a Licence to an Applicant that has satisfied the requirements of this By-law, based on the appropriate Licence class and subclass, if applicable, as set out in Part V of this By-law.
47. Every Applicant shall provide payment, in full, of the appropriate fee, as prescribed in accordance with the Fees and Charges By-law, at the time the application for a Licence is submitted.
48. (1) No Applicant shall knowingly misstate or provide false information to the Licensing Officer.
- (2) All Applicants shall provide the Licensing Officer with such other information and documentation as requested by the Licensing Officer.
- (3) Every Applicant and Licensee shall report to the Licensing Officer within twenty-four (24) hours after the event, of any change in any information, including contact, address and insurance information, that was provided to the Licensing Officer pursuant to this By-law.
49. (1) Every Licensee shall hold such Licence subject to the requirements and criteria as imposed in this By-law, including compliance with criteria imposed in order to be licenced, as set out in Parts III, IV and V of this By-law.
- (2) In the event a Licensee cannot meet the requirements as set out in subsection (1), the Licensee shall cease to operate the Tow Truck Business immediately, and surrender the applicable Licence to the Licensing Officer within twenty four (24) hours of the non-compliance.
- (3) Any Licences that have been surrendered to the Licensing Officer pursuant to subsection (2) above, shall be deemed suspended, but may be reinstated and returned to the Licensee upon the Licensee providing proof of compliance with the requirements of the application for the Licence in issue.
50. Every Licensee shall comply with all applicable Federal laws, Provincial laws, and Municipal by-laws, while providing or offering a Towing Service, including but not limited to the TSSEA.

51. (1) No Person shall alter, erase, or modify, or permit the alteration, erasure or modification of any Licence or any part thereof issued under this By-law.
- (2) If a Licence is defaced, destroyed, or lost, the Licensee shall apply to the Licensing Officer for a replacement and, on payment of the prescribed fee in accordance with the Fees and Charges By-law, may be issued a replacement Licence, as required.
52. Any report to the Licensing Officer that is required pursuant to this By-law may be made during a Statutory Holiday, or before or after business hours as posted by the Region, by submitting the report via electronic mail or leaving a voicemail message to the email address or telephone number posted on the Region's website from time to time.
53. No Licensee shall knowingly interfere in any way with the hiring or use of another Licensee's Tow Truck where a Hirer has hired or indicated an intention to hire such Tow Truck, excepted where a Police Officer directs the Towing of a Motor Vehicle by a specific Licensee to assist in an investigation.
54. No Licensee shall induce any Person to employ or hire a Tow Truck by knowingly misleading or deceiving such Person as to the location or distance of any place, or by making any false representation to such Person.
55. No Licensee shall make or convey, or permit to be made or conveyed, an offer of Towing Services while they are within two hundred (200) meters of the scene of an accident or an apparent accident, or within two hundred (200) metres of a Motor Vehicle involved in an accident, unless they are requested to attend at the scene or the Motor Vehicle by:
- (1) A Hirer;
 - (2) A peace officer as defined in the *Criminal Code*;
 - (3) An Officer authorized to enforce this By-law; or,
 - (4) Any other Person authorized by law to direct the removal of a Motor Vehicle or vehicles from the scene of an accident;
- unless emergency conditions exist which pose an immediate threat to the safety of any Person.

56. No Licensee shall request, accept or give, or permit any other Licensee to request, accept or give, any gift, fee, payment or other remuneration to or from any Person other than a Hirer in exchange for any service relating to the use of a Tow Truck, its equipment or its Driver.
57. Every Licensee shall accept payment for Towing and related services by credit card, debit card and cash.
58. Every Licensee shall permit a Hirer or owner of a Towed Vehicle reasonable access to their Motor Vehicle motorhome, trailer, or other vehicle to remove any personal property at no additional cost or fee. For the purpose of this section, reasonable access means that access must be granted, at a minimum, between standard business hours of 9 a.m. and 5 p.m. on all days that are not Statutory Holidays.

PART VIII DISCRIMINATION

59. No Licensee shall discriminate against any Person because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability, or otherwise contravene the *Human Rights Code*, in relation to the provision of a Towing Service.
60. Without limiting section 59 of this By-law, no Licensee shall charge:
 - (1) A higher fare or an additional fee for Persons with disabilities than for Persons without disabilities for the same Towing Service; or
 - (2) A fee for the storage of mobility aids or mobility assistive devices in relation to a Towing Service.

PART IX INSPECTIONS

61. Every Licensee shall allow an Officer, upon demand, to enter upon and inspect a Broker's premises, Tow Truck Yard and/ or a Tow Truck licensed under this By-law to ensure that all provisions of this By-law have been satisfied.

62. Upon inspection, every Person shall produce all relevant Licences and permits, invoices, vouchers or like documents, trip records, Provincial Licences and all documents required to be kept and maintained under this By-law, which may be removed for the purpose of photocopying and returned to the Licensee within forty eight (48) hours of removal.
63. No Person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer from carrying out an inspection or withhold, destroy, conceal or refuse to furnish any information or thing required by the Officer inspecting for the purpose of this inspection.

PART X POWERS OF THE LICENSING OFFICER

64. The power and authority to issue or renew a Licence, refuse to issue or refuse to renew a Licence, to revoke or suspend a Licence, to impose terms and conditions, including special conditions, on a Licence are delegated to the Licensing Officer.
65. When an application for a Licence or for a renewal of a Licence is made in accordance with the provisions of this By-law and the Applicant meets all the requirements of this By-law, the Licensing Officer shall issue a Licence.
66. The Licensing Officer may refuse to issue, refuse to renew, revoke or suspend a Licence, or impose a term or condition on a Licence on the following grounds:
 - (1) The conduct of the Applicant or Licensee, or where the Person is a corporation, that the conduct of the corporation's officers, directors, employees or agents, affords reasonable cause to believe that the Person will not carry on or engage in the operation of the business in accordance with any applicable Federal law, Provincial law, or Municipal By-law, or with honesty and integrity;
 - (2) The Licensing Officer has reasonable cause to believe that the granting, renewal or continuation of a Licence under this By-law would pose a danger to the health or safety of any Person or the public in general;
 - (3) The Applicant or Licensee is carrying on activities that are in contravention of this By-law;

- (4) There are reasonable grounds to believe that an application or other documents provided to the Licensing Officer by or on behalf of the Applicant or Licensee contains a false statement;
 - (5) Any information contained in the original application form or any other information provided to the Licensing Officer has ceased to be accurate and the Licensee has not provided up-to-date accurate information to allow the Licensing Officer to conclude that the Licence should continue;
 - (6) An Applicant does not meet, at any time, one or more of the requirements of this By-law or any conditions imposed on a Licence;
 - (7) An Applicant or Licensee is not in compliance with any Federal law, Provincial law, or Municipal By-law, including but not limited to this By-law and any requirement to obtain and maintain a valid Provincial Licence; or
 - (8) The Applicant or Licensee has a police investigation or been charged or been convicted of a criminal or *Highway Traffic Act* offence which provides reasonable grounds for the Licensing Officer to believe it would not be in the interest of public health and safety and/or consumer protection to issue or maintain such a licence.
67. Notwithstanding any other provision of this By-law, the Licensing Officer may impose conditions, including special conditions, on any Licence at issuance, renewal or at any time during the term of the Licence, as are necessary in the opinion of the Licensing Officer to give effect to this By-law.
68. Where the Licensing Officer has made a decision to deny, suspend, revoke or place conditions, including special conditions, on a Licence, the Licensing Officer's written notice of that decision shall:
- (1) Set out the grounds for the decision;
 - (2) Give reasonable particulars of the grounds;
 - (3) Be signed by the Licensing Officer; and,
 - (4) State that the Applicant or Licensee is entitled to request a hearing before the Licensing Appeals Committee if the Applicant or Licensee delivers a request for a hearing, in writing, accompanied by the applicable fee set out in the Fees and Charges By-law, to the Licensing Officer, within thirty (30) calendar days after the notice is served.

69. (1) Where notice to an Applicant or Licensee is required under this By-law, it is sufficiently given if delivered personally to the Applicant or Licensee, sent by electronic mail, or sent by registered mail to the address provided on the application or Licence, as applicable, of the Applicant or Licensee.
- (2) Where service is effected by registered mail under subsection (1), notice shall be deemed to have been made on the fifth (5th) day after the date of mailing. Service is deemed effective by email at the time it is sent. Personal Service is deemed effective at the time it is given.
70. Where no appeal is registered within the required time period, the decision of the Licensing Officer shall be final.
71. Where a Licence issued under this By-law has been suspended or revoked or special conditions have been placed on the Licence, the Licensee shall return the applicable licence to the Licensing Officer within twenty four (24) hours of service of written notice.

Appeal

72. The power and authority to conduct hearings of appeals under this By-law are hereby delegated to the Licensing Appeals Committee (the "Committee").
73. The provisions of sections 5 to 15 and 21 to 24 of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S. 22, as amended, shall apply to all hearings conducted by the Committee under this By-law.
74. (1) When an Applicant is denied a Licence or has their Licence revoked or suspended, or has conditions, including special conditions, placed on their Licence, they may request an appeal hearing before the Licensing Appeals Committee, within thirty (30) calendar days of service of the notice described in section 68 of this By-law, for review of this decision. This request for an appeal shall be made in writing, be sent to the Licensing Officer, and set out the relief sought and the reasons for the appeal.
- (2) When a request for a hearing under subsection (1) and the applicable fee for filing an appeal, as set out in the Fees and Charges By-law, have been received, a hearing shall be scheduled before the Licensing Appeals Committee and notice of the hearing date shall be given to the Applicant.

- (3) A notice of hearing shall include:
 - (i) A statement of the time, date, location, and purpose of the hearing; and,
 - (ii) A statement that if the Applicant or Licensee does not attend the hearing, the Licensing Appeals Committee may proceed in their absence without notice to them.
- (4) After conducting a hearing, the Committee, may uphold or vary the decision of the Licensing Officer, or make any decision that the Licensing Officer was entitled to make in the first instance.
- (5) Notice of the Committee's decision, with reasons, shall be provided in writing and served in accordance with the service provisions contained in section 69 of this By-law.
- (6) The Licensing Appeal Committee's decision in respect of refusing, suspending, revoking or attaching conditions to a Licence is final.

PART XI ORDERS

- 75. (1) If the Licensing Officer or a Municipal By-Law Enforcement Officer is satisfied that a contravention of this By-law has occurred, the Licensing Officer or Municipal By-Law Enforcement Officer may make an Order requiring the Person who contravened this By-law or who caused or permitted the contravention to discontinue the contravening activity.
 - (2) An Order under subsection (1) shall set out:
 - (i) reasonable particulars of the contravention adequate to identify the contravention and the location of the property on which the contravention occurred, if applicable; and,
 - (ii) the date by which there must be compliance with the Order.
 - (3) An Order issued under this By-law shall be served in accordance with the service provisions contained in section 69 of this By-law.
76. Every Person shall comply with an Order issued under the authority of this By-law.

PART XII ADMINISTRATION AND ENFORCEMENT**Penalty**

77. Every Person who contravenes any provision of this By-law or an Order under this By-law is guilty of an offence and upon conviction is liable to the applicable penalty as provided for by the *Provincial Offences Act*, R.S.O. 1990, Chapter P. 33, as amended.
78. A director or officer of a corporation who knowingly concurs in the contravention of any provision of this By-law or an Order made under this By-law is guilty of an offence.
79. (1) Notwithstanding section 77 of this By-law, each day on which a Person contravenes any provision of this By-law shall be deemed to constitute a continuing offence under this By-law as provided for in section 429(2) of the *Municipal Act, 2001*. For clarity, in the case of an Order, a contravention continues for every day or part of a day past the date set out in the Order by which the work must be complete or action taken, as the case may be.
- (2) For each day or part of a day that the offence continues, the minimum fine shall be ONE HUNDRED DOLLARS (\$100.00) and the maximum fine shall be FIVE THOUSAND DOLLARS (\$5,000.00), and the total of all daily fines for the offence is not limited to ONE HUNDRED THOUSAND DOLLARS (\$100,000.00).
80. If any section of this By-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the By-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the Person convicted or impose conditions

Administration / Enforcement

81. (1) The Licensing Officer shall have all necessary authority to administer and enforce this By-law.

- (2) Without limiting subsection (1), the Licensing Officer shall have the authority to:
- (i) prescribe administrative forms, registers and electronic data software required under this By-law;
 - (ii) establish policies, procedures, operational protocols, inspection criteria and frequency, licence criteria and operational hours;
 - (iii) establish, maintain and publically post, on the Region's website, a Tariff Schedule of maximum rates to be charged to all Hirers of a Tow Truck for Towing Services;
 - (iv) establish policies and procedures as necessary regarding the tow rotation system utilized by police and emergency services;
 - (v) pro-rate any licensing or administrative fees that may be charged under this By-law;
 - (vi) issue any Licence where the Applicant meets criteria and conditions under this By-law;
 - (vii) renew, deny, suspend, revoke, restrict or place special conditions on any Licence issued pursuant to this By-law;
 - (viii) designate any accessibility training or other required training pursuant to this By-law;
 - (ix) verify any information provided by an Applicant or Licensee; and,
 - (x) demand from any Licensee any records, information, documentation, licences or any other thing pursuant to the administration and enforcement of this By-law.
82. Any Licensee that refuses or otherwise does not supply records, information or any other thing as demanded by the Licensing Officer shall have their Licence suspended. The Licensing Officer may re-instate a Licence if the Licensee supplies the information, record or other thing as demanded.
83. This By-law may be enforced by the Licensing Officer, a Municipal By-Law Enforcement Officer appointed by Council to enforce this by-law, or any Police Officer.

84. Any Person who obstructs or interferes with an Officer in the discharge of their duties shall be considered in violation of this By-law.
85. Any Person who provides false information to an Officer shall be deemed to have obstructed or interfered with that Person in the execution of their duties.

Survival

86. If any section or part of this By-law is found by any court of competent jurisdiction to be illegal or beyond the power of Council to enact, such section or part shall be deemed to be severable and all other sections or parts of this By-law shall be deemed to be separate and independent therefrom and shall continue in full force and effect unless and until similarly found illegal.

Citation

87. This By-law may be cited as the "Towing Services By-law".

By-law Commencement / Transition

88. (1) By-Law No. 2018-75, being a by-law to licence, regulate and govern vehicles for hire (Taxicabs, Transportation Network Company Vehicles, Specialty Vehicles, Auxiliary Services Vehicles, Shuttle Buses, Sightseeing Vehicles, Caleche, Tow Trucks) and Businesses (Second-Hand Good Stores and Dealers, Salvage Yards, Auto-Wrecking Yards and Taxicab Brokers) and all amendments thereto, is hereby repealed.
- (2) Notwithstanding subsection (1), By-law No. 2018-75, as amended, shall continue to apply to proceedings in respect of offences that occurred before its repeal.
- (3) Notwithstanding subsection (1), all Tow Truck-related licences issued under By-law 2018-75, including any suspensions, revocations, denials, renewals or special conditions imposed on licence-holders, that are in effect at the time said by-law is repealed, shall be deemed to be Licences as issued under this By-law, together with any such suspensions, revocations, denials, renewals or special conditions, and all the rules, requirements and regulations of this By-law shall apply with necessary modification.

- (4) All Persons holding Tow Truck-related licences issued under the provisions of By-law 2018-75 must come into compliance with all provisions of this By-law upon the renewal date of their Licence or twelve (12) months from the date this By-law comes into force, whichever date is later.
 - (5) A Licensee that fails to come into compliance with all provisions of this By-law upon the renewal date of their Licence shall have their Licence revoked.
89. This By-law shall come into force and effect on the date that it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

James Bradley, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: < >

Schedule "A"

STANDARD CHARACTER AND DRIVING RECORD CRITERIA

An application for or renewal of a Licence under this By-law shall be denied where the Applicant:

(Parts 1 to 7 apply to all Applicants)

1. Has an undertaking, recognizance, peace bond, probation order or other court or police issued document where the conditions prohibit the Applicant or Licensee from performing the functions of the licence being applied for;
2. Has been convicted of a criminal offence which provides reasonable grounds for the Licensing Officer to believe it would not be in the interest of public health and safety and/or consumer protection to issue or maintain such a Licence. Such offences include, but are not limited to: sexual-based offences, child pornography, trafficking in persons, kidnapping, hostage taking, abduction, crimes against persons under 18 years of age, assault with a weapon, assault causing bodily harm, and, aggravated assault any assault against a Peace Officer;
3. Has been found guilty and convicted of any criminal offence, in the preceding twenty (20) years from the date of the application, where the term of incarceration imposed exceeded ten (10) years;
4. Has been found guilty and convicted of any criminal offence, in the preceding ten (10) years from the date of the application, where the term of incarceration imposed was between two (2) and ten (10) years;
5. Has been found guilty and convicted of any criminal offence, in the preceding five (5) years from the date of the application, where the term of incarceration imposed was less than two (2) years;
6. Has outstanding criminal charges before the courts and is awaiting trial and sentencing; or
7. Is the subject of a current police criminal investigation.

Schedule "A"

STANDARD CHARACTER AND DRIVING RECORD CRITERIA**(Parts 8, 9 and 10 shall only apply to Driver Licence Applicants)**

8. Has been found guilty of any of the following *Highway Traffic Act* offences, in the preceding five (5) years from the date of the application:
 - i) Careless Driving;
 - ii) Racing or Stunt Driving; or
 - iii) Exceeding the Speed Limit by 50 km/hour or more;
9. Has accumulated nine (9) or more demerit points or six (6) or more convictions under the *Highway Traffic Act* on their driving record abstract within three (3) years from the date of the application; or
10. Has had their driver's licence, issued in any province or territory, suspended under the *Highway Traffic Act* or *Criminal Code* within three (3) years of the date of application.

Paragraphs 2, 3, 4 and 5 shall not apply if the Applicant has received a Record Suspension or Pardon for the offence by the Parole Board of Canada.

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. <>

A BY-LAW TO AMEND BY-LAW NO. 2021-03,
BEING A BY-LAW TO ESTABLISH FEES AND CHARGES
FOR THE SERVICES AND ACTIVITIES PROVIDED BY
THE REGIONAL MUNICIPALITY OF NIAGARA AND FOR
THE USE OF ITS PROPERTY

WHEREAS section 11 of the *Municipal Act, 2001*, S.O. 2001, c.25, provides that a municipality may pass by-laws respecting services and things that the municipality is authorized to provide;

WHEREAS section 391 of the *Municipal Act, 2001*, S.O. 2001, c.25, provides that a municipality may impose fees or charges on persons: for services or activities provided or done by or on behalf of it; for costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board; and for the use of its property including property under its control;

WHEREAS By-law No. 2021-03 was passed by Regional Council on January 21, 2021, being a by-law to establish fees and charges for services and activities provided by The Regional Municipality of Niagara and for the use of its property and to repeal By-law No. 2019-100; and,

WHEREAS The Regional Municipality of Niagara is proceeding with enacting updated Business Licensing by-laws and, to remain in alignment, Appendix '1' to By-law 2021-03 requires amendment to accommodate changes such as updating certain fee descriptions, combining certain fees into new fees, and allowing certain fees to be charged based on number of months in operation (as opposed to only annually).

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

1. That Business Licensing Fees CS-50 to CS-127 in Appendix '1' of By-law No. 2021-03 be deleted and replaced with fees CS-144 to CS-239 in Appendix '1' of this by-law; and

2. That this by-law shall come into force and effect on September 1, 2021.

THE REGIONAL MUNICIPALITY OF NIAGARA

James Bradley, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: < >

Regional Municipality of Niagara
2021 Schedule of Fees and Charges - Amended Business Licensing Section
(effective September 1, 2021)

Fee #	Fee/Charge Description	Unit of Measure	2020 Fee/Charge (\$)	2021 Base Fee/Charge (\$)	HST (\$)	2021 Total Fee/Charge (\$)	Tax Implication
Business Licensing:							
<i>Unless otherwise stated below, refer to the appropriate Business Licensing By-law for details on required frequency of fee payment (e.g. annual, one-time, etc.). Fee descriptions that include "renewal" may be prorated under certain criteria as set under the appropriate Business Licensing by-law.</i>							
CS-144	Adult Entertainment Parlour Owner	each	3,750.00	3,750.00	-	3,750.00	Exempt
CS-145	Adult Entertainment Parlour Operator	each	1,200.00	1,200.00	-	1,200.00	Exempt
CS-146	Adult Entertainment Parlour Entertainer	each	250.00	250.00	-	250.00	Exempt
CS-147	Adult Entertainment Parlour Owner - Non-refundable Administration Fee	each	150.00	375.00	-	375.00	Exempt
CS-148	Adult Entertainment Parlour Operator - Non-refundable Administration Fee	each	50.00	120.00	-	120.00	Exempt
CS-149	Adult Entertainment Parlour Entertainer - Non-refundable Administration Fee	each	25.00	25.00	-	25.00	Exempt
CS-150	Adult Entertainment Parlour Transfer of Owner's Licenses - Arm's length transfer	each	3,750.00	3,750.00	-	3,750.00	Exempt
CS-151	Adult Entertainment Parlour Transfer of Owner's Licenses - Transfer to an existing Co-owner or non-arm's length transfer	each	1,015.00	1,015.00	-	1,015.00	Exempt
CS-152	Caleche Business License	each	150.00	150.00	-	150.00	Exempt
CS-153	Caleche Coach Operator License (1 month) - Initial Application	each	-	10.00	-	10.00	Exempt
CS-154	Caleche Coach Operator License (6 month) - Initial Application	each	-	30.00	-	30.00	Exempt
CS-155	Caleche Coach Operator License (12 month) - Initial Application	each	60.00	60.00	-	60.00	Exempt
CS-156	Caleche Coach Operator License (1 month) - Renewal	each	-	10.00	-	10.00	Exempt
CS-157	Caleche Coach Operator License (6 month) - Renewal	each	-	14.00	-	14.00	Exempt
CS-158	Caleche Coach Operator License (12 month) - Renewal	each	28.00	28.00	-	28.00	Exempt
CS-159	Caleche Carriage Plate and License (1 month) - Initial Application	each	-	100.00	-	100.00	Exempt
CS-160	Caleche Carriage Plate and License (6 month) - Initial Application	each	-	180.00	-	180.00	Exempt
CS-161	Caleche Carriage Plate and License (12 month) - Initial Application	each	360.00	360.00	-	360.00	Exempt
CS-162	Caleche Carriage Plate and License (1 month) - Renewal	each	-	50.00	-	50.00	Exempt
CS-163	Caleche Carriage Plate and License (6 month) - Renewal	each	-	93.00	-	93.00	Exempt
CS-164	Caleche Carriage Plate and License (12 month) - Renewal	each	185.00	185.00	-	185.00	Exempt
CS-165	Caleche Carriage Plate and License (1 month) - Extra plate existing business	each	-	50.00	-	50.00	Exempt
CS-166	Caleche Carriage Plate and License (6 month) - Extra plate existing business	each	-	93.00	-	93.00	Exempt
CS-167	Caleche Carriage Plate and License (12 month) - Extra plate existing business	each	-	185.00	-	185.00	Exempt
CS-168	Caleche Horse License (1 month)	each	-	10.00	-	10.00	Exempt
CS-169	Caleche Horse License (6 month)	each	-	15.00	-	15.00	Exempt
CS-170	Caleche Horse License (12 month)	each	30.00	30.00	-	30.00	Exempt
CS-171	Caleche Business License - Transfer	each	-	150.00	-	150.00	Exempt
CS-172	Caleche Carriage Plate and License - Transfer	each	360.00	360.00	-	360.00	Exempt
CS-173	Salvage Yard License – Initial Application	each	370.00	370.00	-	370.00	Exempt
CS-174	Salvage Yard License – Renewal	each	220.00	220.00	-	220.00	Exempt
CS-175	Salvage Yard License – Transfer	each	-	370.00	-	370.00	Exempt
CS-176	Salvage Shop License – Initial Application	each	-	270.00	-	270.00	Exempt
CS-177	Salvage Shop License – Renewal	each	-	120.00	-	120.00	Exempt
CS-178	Salvage Shop License – Transfer	each	-	270.00	-	270.00	Exempt
CS-179	Second Hand Goods Dealer License – Initial Application	each	260.00	260.00	-	260.00	Exempt
CS-180	Second Hand Goods Dealer License – Renewal	each	160.00	160.00	-	160.00	Exempt
CS-181	Second Hand Goods Dealer License – Transfer	each	-	260.00	-	260.00	Exempt
CS-182	Second Hand Shop License – Initial Application	each	300.00	300.00	-	300.00	Exempt

Regional Municipality of Niagara
2021 Schedule of Fees and Charges - Amended Business Licensing Section
(effective September 1, 2021)

Fee #	Fee/Charge Description	Unit of Measure	2020 Fee/Charge (\$)	2021 Base Fee/Charge (\$)	HST (\$)	2021 Total Fee/Charge (\$)	Tax Implication
CS-183	Second Hand Shop License – Renewal	each	185.00	185.00	-	185.00	Exempt
CS-184	Second Hand Shop License – Transfer	each	-	300.00	-	300.00	Exempt
CS-185	Spare Vehicle Plate and License – Initial Application	each	625.00	625.00	-	625.00	Exempt
CS-186	Spare Vehicle Plate and License – Renewal	each	300.00	300.00	-	300.00	Exempt
CS-187	Taxicab Broker License	each	150.00	150.00	-	150.00	Exempt
CS-188	Taxicab Broker License - Transfer	each	-	150.00	-	150.00	Exempt
CS-189	Taxicab Driver License - Initial Application	each	60.00	60.00	-	60.00	Exempt
CS-190	Taxicab Driver License - Renewal	each	40.00	40.00	-	40.00	Exempt
CS-191	Taxicab Vehicle Plate and License - Initial Application	each	1,300.00	1,300.00	-	1,300.00	Exempt
CS-192	Taxicab Vehicle Plate and License - Renewal	each	260.00	260.00	-	260.00	Exempt
CS-193	Taxicab Vehicle Plate and License - Extra plate existing business	each	-	260.00	-	260.00	Exempt
CS-194	Taxicab Vehicle Plate and License - Transfer	each	1,300.00	1,300.00	-	1,300.00	Exempt
CS-195	Tow Truck Business License	each	150.00	150.00	-	150.00	Exempt
CS-196	Tow Truck Business License - Transfer	each	-	150.00	-	150.00	Exempt
CS-197	Tow Truck Driver License – Initial Application	each	60.00	60.00	-	60.00	Exempt
CS-198	Tow Truck Driver License – Renewal	each	40.00	40.00	-	40.00	Exempt
CS-199	Tow Truck Vehicle Plate and License - Initial Application	each	1,300.00	1,300.00	-	1,300.00	Exempt
CS-200	Tow Truck Vehicle Plate and License - Renewal	each	260.00	260.00	-	260.00	Exempt
CS-201	Tow Truck Vehicle Plate and License - Extra plate existing license	each	-	260.00	-	260.00	Exempt
CS-202	Tow Truck Vehicle Plate and License - Transfer	each	1,300.00	1,300.00	-	1,300.00	Exempt
CS-203	Tow Truck Yard License	each	100.00	100.00	-	100.00	Exempt
CS-204	Tow Truck Yard License - Transfer	each	-	100.00	-	100.00	Exempt
CS-205	Transportation Network Company Broker License	each	-	150.00	-	150.00	Exempt
CS-206	Transportation Network Company Driver License - Initial Application	each	40.00	60.00	-	60.00	Exempt
CS-207	Transportation Network Company Driver License - Renewal	each	-	40.00	-	40.00	Exempt
CS-208	Transportation Network Company Vehicle License	each	-	20.00	-	20.00	Exempt
CS-209	Transportation Network Company Fleet Size - 1 - 24 Vehicles	each	1,020.00	1,020.00	-	1,020.00	Exempt
CS-210	Transportation Network Company Fleet Size - 25 - 99 Vehicles	each	5,100.00	5,100.00	-	5,100.00	Exempt
CS-211	Transportation Network Company Fleet Size - 100 - 499 Vehicles	each	10,200.00	10,200.00	-	10,200.00	Exempt
CS-212	Transportation Network Company Fleet Size - 500 - 999 Vehicles	each	15,300.00	15,300.00	-	15,300.00	Exempt
CS-213	Transportation Network Company Fleet Size - 1000+ Vehicles	each	50,750.00	50,750.00	-	50,750.00	Exempt
CS-214	Transportation Network Company Per Trip Charge	trip	0.13	0.13	-	0.13	Exempt
CS-215	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Business License	each	-	150.00	-	150.00	Exempt
CS-216	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Business License - Transfer	each	-	150.00	-	150.00	Exempt
CS-217	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Driver License (1 month) - Initial Application	each	-	10.00	-	10.00	Exempt
CS-218	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Driver License (6 month) - Initial Application	each	-	30.00	-	30.00	Exempt
CS-219	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Driver License (12 month) - Initial Application	each	-	60.00	-	60.00	Exempt
CS-220	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Driver License (1 month) - Renewal	each	-	10.00	-	10.00	Exempt
CS-221	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Driver License (6 month) - Renewal	each	-	20.00	-	20.00	Exempt
CS-222	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Driver License (12 month) - Renewal	each	-	40.00	-	40.00	Exempt

Regional Municipality of Niagara
2021 Schedule of Fees and Charges - Amended Business Licensing Section
(effective September 1, 2021)

Fee #	Fee/Charge Description	Unit of Measure	2020 Fee/Charge (\$)	2021 Base Fee/Charge (\$)	HST (\$)	2021 Total Fee/Charge (\$)	Tax Implication
CS-223	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Vehicle Plate and License (1 month) - Initial Application	each	-	300.00	-	300.00	Exempt
CS-224	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Vehicle Plate and License (6 month) - Initial Application	each	-	650.00	-	650.00	Exempt
CS-225	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Vehicle Plate and License (12 month) - Initial Application	each	-	1,300.00	-	1,300.00	Exempt
CS-226	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Vehicle Plate and License (1 month) - Renewal	each	-	50.00	-	50.00	Exempt
CS-227	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Vehicle Plate and License (6 month) - Renewal	each	-	130.00	-	130.00	Exempt
CS-228	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Vehicle Plate and License (12 month) - Renewal	each	-	260.00	-	260.00	Exempt
CS-229	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Vehicle Plate and License (1 month) - Extra plate existing business	each	-	50.00	-	50.00	Exempt
CS-230	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Vehicle Plate and License (6 month) - Extra plate existing business	each	-	130.00	-	130.00	Exempt
CS-231	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Vehicle Plate and License (12 month) - Extra plate existing business	each	-	260.00	-	260.00	Exempt
CS-232	Vehicles for Hire (includes Shuttle, Sightseeing, and Specialty) Vehicle Plate and License - Transfer	each	-	1,300.00	-	1,300.00	Exempt

Business Licensing Administrative

CS-233	NSF Cheque	each	35.00	35.00	-	35.00	Exempt
CS-234	Late fee	each	50.00	50.00	-	50.00	Exempt
CS-235	License replacement	each	60.00	60.00	-	60.00	Exempt
CS-236	Replacement Plate	each	-	10.00	-	10.00	Exempt
CS-237	Replacement Vehicle	each	100.00	100.00	-	100.00	Exempt
CS-238	Hearing fee	each	-	75.00	-	75.00	Exempt
CS-239	Vehicle plate – non-use status (relevant renewal rate will apply upon re-activation)	each	-	-	-	-	Exempt

Note - Tax Implication:

- If HST is found to be applicable where originally deemed not applicable, HST will be applied and payable by the user paying the fee or charge.
- Inter- and intra-municipal supplies are tax exempt and billed under the "2021 Base Fee/Charge" column unless they relate to supply of electricity, gas, steam, or telecommunication services made while acting as a public utility.

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. < >

A BY-LAW TO AMEND BY-LAW 89-2000 TO PROVIDE
FOR THE REGULATION OF TRAFFIC ON REGIONAL
HIGHWAYS (SPEED LIMIT REDUCTION REGIONAL
ROAD 27 IN THE TOWNSHIP OF WEST LINCOLN)

WHEREAS on the 20th day of April, 1989 the Council of The Regional Municipality of Niagara did pass By-law No. 89-2000, which is a by-law to provide for the regulation of traffic on Regional Highways;

WHEREAS it is necessary from time to time to amend the said by-law;

WHEREAS on the 23rd day of July, 2020, Council of The Regional Municipality of Niagara passed By-law 2020-47 being a by-law to delegate authority to the Director of Transportation Services to request the preparation of an amending by-law to make routine and administrative changes to the schedules of Traffic and Parking By-law 89-2000 in accordance with the Delegation of Authority Respecting Traffic and Parking By-law 89-2000 Matters Policy; and,

WHEREAS a memorandum dated August 18, 2021, has been received from the Director of Transportation Services in accordance with said Policy requesting the Clerk to prepare and present to Council an amending by-law to amend By-law 89-2000 for purposes of a speed limit reduction on Regional Road 27 in the Township of West Lincoln.

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

1. That Schedule "W" of the said By-Law No. 89-2000 be and the same is hereby amended by **deleting** the following:

Schedule "W"

Speed Limits

HIGHWAY	FROM	TO	MAXIMUM SPEED KM/H
Regional Road 27 (River Road)	Regional Road 65 (Bismark Road)	350 metres north of Regional Road 63 (Canborough Road)	80

HIGHWAY	FROM	TO	MAXIMUM SPEED KM/H
Regional Road 27 (River Road)	350 metres north of Regional Road 63 (Canborough Road)	350 metres south of Regional Road 63 (Canborough Road)	60

2. That Schedule "W" of the said By-Law No. 89-2000 be and the same is hereby amended by **adding** the following:

Schedule "W"

Speed Limits

HIGHWAY	FROM	TO	MAXIMUM SPEED KM/H
Regional Road 27 (Wellandport Road)	Regional Road 65 (Bismark Road)	Freure Road	80

HIGHWAY	FROM	TO	MAXIMUM SPEED KM/H
Regional Road 27 (Wellandport Road)	Freure Road	350 meters south of Regional Road 63 (Canborough Road)	60

3. That this by-law shall come into force and effect on the day upon which it is passed and signs are installed.

THE REGIONAL MUNICIPALITY OF NIAGARA

James Bradley, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: < >

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. < >

A BY-LAW TO PROVIDE FOR THE REGULATION OF
TRAFFIC ON REGIONAL HIGHWAYS (PARKING
PROHIBITION ON REGIONAL ROAD 69 IN THE TOWN OF
PELHAM & CITY OF CITY ST. CATHARINES)

WHEREAS on the 20th day of April, 1989 the Council of The Regional Municipality of Niagara did pass By-law No. 89-2000, which is a by-law to provide for the regulation of traffic on Regional Highways;

WHEREAS it is necessary from time to time to amend said by-law;

WHEREAS on the 23rd day of July, 2020, Council of The Regional Municipality of Niagara passed By-law 2020-47 being a by-law to delegate authority to the Director of Transportation Services to request the preparation of an amending by-law to make routine and administrative changes to the schedules of Traffic and Parking By-law 89-2000 in accordance with the Delegation of Authority Respecting Traffic and Parking By-law 89-2000 Matters Policy; and,

WHEREAS a memorandum dated August 18, 2021, has been received from the Director of Transportation Services in accordance with said Policy requesting the Clerk to prepare and present to Council an amending by-law to amend By-law 89-2000 for purposes of a Parking Prohibition on Regional Road 69 Pelham Road in the Town of Pelham and City of St. Catharines.

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

1. That Schedule "C" of the said By-Law No. 89-2000 be and the same is hereby amended by **adding** the following:

Schedule "C"

Parking Prohibition

HIGHWAY	SIDE	FROM	TO	TIMES /DAYS
Regional Road 69 (Pelham Road)	Both	Ninth Street	Third Street Louth	Anytime

2. That this by-law shall come into force and effect on the day upon which it is passed and signs have been erected and are on display.

THE REGIONAL MUNICIPALITY OF NIAGARA

James Bradley, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: < >

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. < >

A BY-LAW TO AMEND BY-LAW 89-2000 TO PROVIDE
FOR THE REGULATION OF TRAFFIC ON REGIONAL
HIGHWAYS (SPEED LIMIT REDUCTION REGIONAL
ROAD 20 IN THE TOWNSHIP OF WEST LINCOLN)

WHEREAS on the 20th day of April, 1989 the Council of The Regional Municipality of Niagara did pass By-law No. 89-2000, which is a by-law to provide for the regulation of traffic on Regional Highways;

WHEREAS it is necessary from time to time to amend the said by-law;

WHEREAS on the 23rd day of July, 2020, Council of The Regional Municipality of Niagara passed By-law 2020-47 being a by-law to delegate authority to the Director of Transportation Services to request the preparation of an amending by-law to make routine and administrative changes to the schedules of Traffic and Parking By-law 89-2000 in accordance with the Delegation of Authority Respecting Traffic and Parking By-law 89-2000 Matters Policy; and,

WHEREAS a memorandum dated August 18, 2021, has been received from the Director of Transportation Services in accordance with said Policy requesting the Clerk to prepare and present to Council an amending by-law to amend By-law 89-2000 for purposes of a speed limit reduction on Regional Road 20 in the Township of West Lincoln.

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

1. That Schedule "W" of the said By-law No. 89-2000 be and the same is hereby amended by **deleting** the following:

Schedule "W"

Speed Limits

HIGHWAY	FROM	TO	MAXIMUM SPEED KM/H
Regional Road 20 (Old Hwy 20)	100 meters southeast of Smithville Towline Road	Park Street	80

2. That Schedule "W" of the said By-law No. 89-2000 be and the same is hereby amended by **adding** the following:

Schedule "W"
Speed Limits

HIGHWAY	FROM	TO	MAXIMUM SPEED KM/H
Regional Road 20 (Old Hwy 20)	300 meters southeast of Smithville Townline Road	Park Street	80

3. That this by-law shall come into force and effect on the day upon which it is passed and signs are installed.

THE REGIONAL MUNICIPALITY OF NIAGARA

James Bradley, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: < >

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. < >

A BY-LAW TO AMEND BY-LAW 89-2000 TO PROVIDE
FOR THE REGULATION OF TRAFFIC ON REGIONAL
HIGHWAYS (SPEED LIMIT REDUCTION REGIONAL
ROAD 10 IN THE TOWN OF GRIMSBY)

WHEREAS on the 20th day of April, 1989 the Council of The Regional Municipality of Niagara did pass By-law No. 89-2000, which is a by-law to provide for the regulation of traffic on Regional Highways;

WHEREAS it is necessary from time to time to amend the said by-law;

WHEREAS on the 23rd day of July, 2020, Council of The Regional Municipality of Niagara passed By-law 2020-47 being a by-law to delegate authority to the Director of Transportation Services to request the preparation of an amending by-law to make routine and administrative changes to the schedules of Traffic and Parking By-law 89-2000 in accordance with the Delegation of Authority Respecting Traffic and Parking By-law 89-2000 Matters Policy; and,

WHEREAS a memorandum dated August 18, 2021, has been received from the Director of Transportation Services in accordance with said Policy requesting the Clerk to prepare and present to Council an amending by-law to amend By-law 89-2000 for purposes of a speed limit reduction on Regional Road 10 in the Town of Grimsby.

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

1. That Schedule "W" of the said By-law 89-2000 be and the same is hereby amended by **deleting** the following:

Schedule "W"

Speed Limits

HIGHWAY	FROM	TO	MAXIMUM SPEED KM/H
Regional Road 10 (Casablanca Boulevard)	Queen Elizabeth Way	Regional Road 81 (Main Street West)	60

2. That this by-law shall come into force and effect on the day upon which it is passed and signs are installed.

THE REGIONAL MUNICIPALITY OF NIAGARA

James Bradley, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: < >

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. < >

A BY-LAW TO PROVIDE FOR THE REGULATION OF
TRAFFIC ON REGIONAL HIGHWAYS (PARKING
PROHIBITION ON REGIONAL ROAD 81 IN THE TOWN OF
GRIMSBY)

WHEREAS on the 20th day of April, 1989 the Council of The Regional Municipality of Niagara did pass By-law No. 89-2000, which is a by-law to provide for the regulation of traffic on Regional Highways;

WHEREAS it is necessary from time to time to amend said by-law;

WHEREAS on the 23rd day of July, 2020, Council of The Regional Municipality of Niagara passed By-law 2020-47 being a by-law to delegate authority to the Director of Transportation Services to request the preparation of an amending by-law to make routine and administrative changes to the schedules of Traffic and Parking By-law 89-2000 in accordance with the Delegation of Authority Respecting Traffic and Parking By-law 89-2000 Matters Policy; and,

WHEREAS a memorandum dated August 18, 2021, has been received from the Director of Transportation Services in accordance with said Policy requesting the Clerk to prepare and present to Council an amending by-law to amend By-law 89-2000 for purposes of a Parking Prohibition on Regional Road 81 Main Street West in the Town of Grimsby.

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

1. That Schedule "C" of the said By-law No. 89-2000 be and the same is hereby amended by **deleting** the following:

Schedule "C"

Parking Prohibition

HIGHWAY	SIDE	FROM	TO	TIMES /DAYS
Regional Road 81 (Main Street West)	South	Regional Road 81 (Main Street West, Patton Street)	40 meters East	Anytime

2. That Schedule "C" of the said By-Law No. 89-2000 be and the same is hereby amended by **adding** the following:

Schedule "C"

Parking Prohibition

HIGHWAY	SIDE	FROM	TO	TIMES /DAYS
Regional Road 81 (Main Street West)	South	Regional Road 81 (Main Street West, Patton Street)	Regional Road 12 (Christie Street, Mountain Street)	Anytime

3. That this by-law shall come into force and effect on the day upon which it is passed and signs have been erected and are on display.

THE REGIONAL MUNICIPALITY OF NIAGARA

James Bradley, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: < >

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. < >

A BY-LAW TO AMEND BY-LAW 89-2000 TO PROVIDE
FOR THE REGULATION OF TRAFFIC ON REGIONAL
HIGHWAYS (SPEED LIMIT REDUCTION REGIONAL
ROAD 38 IN THE CITY OF ST. CATHARINES)

WHEREAS on the 20th day of April, 1989 the Council of The Regional Municipality of Niagara did pass By-law No. 89-2000, which is a by-law to provide for the regulation of traffic on Regional Highways;

WHEREAS it is necessary from time to time to amend the said by-law;

WHEREAS on the 23rd day of July, 2020, Council of The Regional Municipality of Niagara passed By-law 2020-47 being a by-law to delegate authority to the Director of Transportation Services to request the preparation of an amending by-law to make routine and administrative changes to the schedules of Traffic and Parking By-law 89-2000 in accordance with the Delegation of Authority Respecting Traffic and Parking By-law 89-2000 Matters Policy; and,

WHEREAS a memorandum dated August 18, 2021, has been received from the Director of Transportation Services in accordance with said Policy requesting the Clerk to prepare and present to Council an amending by-law to amend By-law 89-2000 for purposes of a speed limit reduction on Regional Road 38 in the City of St. Catharines.

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

1. That Schedule "W" of the said By-law No. 89-2000 be and the same is hereby amended by **deleting** the following:

Schedule "W"

Speed Limits

HIGHWAY	FROM	TO	MAXIMUM SPEED KM/H
Regional Road 38 (Martindale Road)	Queen Elizabeth Way	Regional Road 87 (Lakeshore Road)	60

2. That this by-law shall come into force and effect on the day upon which it is passed and signs are installed.

THE REGIONAL MUNICIPALITY OF NIAGARA

James Bradley, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: < >

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. < >

A BY-LAW TO ADOPT, RATIFY AND CONFIRM THE ACTIONS OF
REGIONAL COUNCIL AT ITS MEETING
HELD AUGUST 26, 2021

WHEREAS subsection 5 (3) of the Municipal Act, S.O. 2001, Ch. 25, as amended, provides that, except if otherwise authorized, the powers of Regional Council shall be exercised by by-law; and,

WHEREAS it is deemed desirable and expedient that the actions of Regional Council as herein set forth be adopted, ratified and confirmed by by-law.

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

1. That the actions of the Regional Council at its meeting held August 26, 2021, including all resolutions or motions approved, are hereby adopted, ratified and confirmed as if they were expressly embodied in this by-law.
2. That the above-mentioned actions shall not include:
 - a) Any actions required by law to be taken by resolution; or
 - b) Any actions for which prior Ontario Land Tribunal approval is required, until such approval is obtained.
3. That the Chair and proper officials of The Regional Municipality of Niagara are hereby authorized and directed to do all things necessary to give effect to the above-mentioned actions and to obtain approvals where required.
4. That unless otherwise provided, the Chair and Clerk are hereby authorized and directed to execute and the Clerk to affix the seal of The Regional Municipality of Niagara to all documents necessary to give effect to the above-mentioned actions.
5. That this by-law shall come into force and effect on the day upon which it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

James Bradley, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: < >