

NIAGARA CATHOLIC DISTRICT SCHOOL BOARD
EDUCATION DEVELOPMENT CHARGES BY-LAW

(Former County of Welland)

A by-law for the imposition of education development charges

WHEREAS section 257.54 (1) of the *Education Act* provides that a district school board may pass by-laws for the imposition of education development charges against land in its area of jurisdiction undergoing residential development if there is residential development in the area of jurisdiction of the district school board that would increase education land costs and the residential development requires one or more of the actions identified in section 257.54(2) of the *Education Act*;

AND WHEREAS the Niagara Catholic District School Board has referred to the Minister of Education the following estimates for approval:

- (i) the total number of new school pupils and the number of existing school pupil places that could reasonably be used to accommodate those new school pupils, for each of the 15 years immediately following the day the Board intends to have this by-law come into force;
- (ii) the total number of new school pupils who were or who are, for each of the years referred to in paragraph (i), expected to be generated by new dwelling units that were, since July 1, 2015, built in the area in which the charges are to be imposed under this by-law;
- (iii) the number of existing and planned school pupil places that could reasonably be used to accommodate the estimated total number of new school pupils referred to in paragraph (ii); and,
- (iv) the number of school sites used by the Board to determine the net education land cost to be recovered in the 15-year period immediately following the day the Board intends to have this by-law come into force;

which estimates the Minister of Education approved on December 11, 2020 in accordance with section 10 of Ontario Regulation 20/98;

AND WHEREAS the Niagara Catholic District School Board has satisfied the conditions prescribed by section 10 of Ontario Regulation 20/98 in order for it to pass an education development charge by-law;

AND WHEREAS the Niagara Catholic District School Board has given a copy of the education development charge background study relating to this by-law to the Minister of Education and to each school board having jurisdiction within the area to which this by-law applies;

AND WHEREAS the Niagara Catholic District School Board has given notice of and held a public meeting on November 10, 2020, in accordance with section 257.60(2) of the *Education Act*;

AND WHEREAS the Niagara Catholic District School Board has given notice and held public meetings on November 10 and December 15, 2020, in accordance with section 257.63(1) of the *Education Act* and permitted any person who attended the public meetings to make representations in respect of the proposed education development charges;

AND WHEREAS the Niagara Catholic District School Board has determined in accordance with section 257.63(3) of the *Education Act* that no additional public meeting is necessary in respect of this by-law;

NOW THEREFORE THE NIAGARA CATHOLIC DISTRICT SCHOOL BOARD HEREBY ENACTS AS FOLLOWS:

PART I

APPLICATION

Defined Terms

1. In this by-law,
 - (a) “Act” means the *Education Act*, R.S.O. 1990, c.E.2, as amended, or a successor statute;
 - (b) “agricultural use” means lands, buildings or structures used, or designed or intended for use for the purpose of a *bona fide* farming operation including, but not limited to, animal husbandry, dairying, fallow, field crops, removal of sod, forestry, fruit farming, horticulture, market gardening, pasturage, poultry keeping and any other activities customarily carried on in the field of agriculture;
 - (c) “Board” means the Niagara Catholic District School Board;
 - (d) “development” includes redevelopment;
 - (e) “dwelling unit” means a room or suite of rooms used, or designed or intended for use by one person or persons living together in which culinary and sanitary facilities are provided for the exclusive use of such person or persons, and shall include, but is not limited to, a dwelling unit or units in an apartment, group home, mobile home,

duplex, triplex, semi-detached dwelling, single detached dwelling, stacked townhouse and townhouse;

- (f) “education land costs” means costs incurred or proposed to be incurred by the Board,
 - (i) to acquire land or an interest in land, including a leasehold interest, to be used by the Board to provide pupil accommodation;
 - (ii) to provide services to the land or otherwise prepare the site so that a building or buildings may be built on the land to provide pupil accommodation;
 - (iii) to prepare and distribute education development charge background studies as required under the Act;
 - (iv) as interest on money borrowed to pay for costs described in paragraphs (i) and (ii); and
 - (v) to undertake studies in connection with an acquisition referred to in paragraph (i).
- (g) “education development charge” means charges imposed pursuant to this by-law in accordance with the Act;
- (h) “local board” means a local board as defined in the *Municipal Affairs Act*, other than a board defined in section 257.53(1) of the Act;
- (i) “mixed use” means land, buildings or structures used, or designed or intended for use, for a combination of non-residential and residential uses;
- (j) “non-residential use” means lands, buildings or structures or portions thereof used, or designed or intended for use for other than residential use, and includes, but is not limited to, an office, retail, industrial or institutional use;
- (k) “*Planning Act*” means the *Planning Act*, R.S.O. 1990, c. P.13, as amended;
- (l) “Region” means the Regional Municipality of Niagara;
- (m) “Regulation” means Ontario Regulation 20/98, as amended, made under the Act;
- (n) “residential development” means lands, buildings or structures developed or to be developed for residential use;
- (o) “residential use” means lands, buildings or structures used, or designed or intended for use as a dwelling unit or units, and shall include a residential use accessory to a

non-residential use and the residential component of a mixed use or of an agricultural use.

2. In this by-law where reference is made to a statute or a section of a statute such reference is deemed to be a reference to any successor statute or section.

Lands Affected

3. (1) Subject to sections 3(2) to 3(6), inclusive, this by-law applies to all lands in the City of Niagara Falls, City of Welland, City of Port Colborne, City of Thorold, Town of Fort Erie, Town of Pelham, and Township of Wainfleet.
- (2) This by-law shall not apply to lands that are owned by and are used for the purposes of:
 - (a) the Region or a local board thereof;
 - (b) a municipality or a local board thereof;
 - (c) a board as defined in section 257.53(1) of the Act;
 - (d) a public hospital receiving aid under the *Public Hospitals Act*, R.S.O. 1990, c. P.40;
- (3) Subject to subsection (4), an owner shall be exempt from education development charges if a development on its lands would construct, erect, or place a building or structure, or make an addition or alteration to a building or structure for one of the following purposes:
 - (a) a private school;
 - (b) a long-term care home, as defined in the *Long-Term Care Homes Act, 2007*, S.O. 2007, c. 8, as amended;
 - (c) a retirement home, as defined in the *Retirement Homes Act, 2010*, S.O. 2010, c. 11, as amended;
 - (d) a hospice or other facility that provides palliative care services;
 - (e) a child care centre, as defined in the *Child Care and Early Years Act, 2014*, S.O. 2014, c. 11, Sched. 1, as amended; or
 - (f) a memorial home, clubhouse or athletic grounds owned by the Royal Canadian Legion.

- (4) If only a portion of a building or structure, or an addition or alteration to a building or structure, referred to in subsection (3) will be used for a purpose identified in that subsection, only that portion of the building, structure, addition or alteration is exempt from an education development charge.
- (5) An owner shall be exempt from education development charges if the owner is,
 - (a) a college of applied arts and technology established under the *Ontario Colleges of Applied Arts and Technology Act, 2002*, S.O. 2002, c. 8, Sched. F, as amended;
 - (b) a university that receives regular and ongoing operating funds from the Government of Ontario for the purposes of post-secondary education;
 - (c) an Indigenous Institute prescribed for the purposes of section 6 of the *Indigenous Institutes Act, 2017*, S.O. 2017, c. 34, Sched. 20, as amended;
- (6) This by-law shall not apply to lands within a community improvement project area designated under Section 28 of the *Planning Act* that are outlined by heavy lines on Schedules A, B, C, D, E, F, G, H, I, J and K attached to this by-law.

Approvals for Development

4. (1) Education development charges shall be imposed against all lands, buildings or structures undergoing residential development if the development requires one or more of the following:
 - a) the passing of a zoning by-law or of an amendment thereto under section 34 of the *Planning Act*;
 - b) the approval of a minor variance under section 45 of the *Planning Act*;
 - c) a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies;
 - d) the approval of a plan of subdivision under section 51 of the *Planning Act*;
 - e) a consent under section 53 of the *Planning Act*;
 - f) the approval of a description under section 9 of the *Condominium Act, 1998*, S.O. 1998, c. 19; or
 - g) the issuing of a permit under the *Building Code Act, 1992*, S.O. 1992, c. 23 in relation to a building or structure.
- (2) In respect of a particular development an education development charge will be collected once, but this does not prevent the application of this by-law to future development on the same property.

5. The Board has determined that the residential development of land to which this by-law applies increases education land costs.

Categories of Development and Uses of Land Subject to Education Development Charges

6. Subject to the provisions of this by-law, education development charges shall be imposed upon all categories of residential development.
7. Subject to the provisions of this by-law, education development charges shall be imposed upon all residential uses of land, buildings or structures.

PART II

EDUCATION DEVELOPMENT CHARGES

Residential Education Development Charges

8. Subject to the provisions of this by-law, an education development charge of \$391.00 per dwelling unit shall be imposed upon the designated categories of residential development and the designated residential uses of land, buildings or structures, including a dwelling unit accessory to a non-residential use, and, in the case of a mixed-use building or structure, upon the dwelling units in the mixed-use building or structure.

Exemptions from Residential Education Development Charges

9. (1) In this section,
 - (a) “gross floor area” means the total floor area, measured between the outside of exterior walls or between the outside of exterior walls and the centre line of party walls dividing the building from another building, of all floors above the average level of finished ground adjoining the building at its exterior walls;
 - (b) “other residential building” means a residential building not in another class of residential building described in this section;
 - (c) “semi-detached or row dwelling” means a residential building consisting of one dwelling unit having one or two vertical walls, but no other parts, attached to another structure;
 - (d) “single detached dwelling” means a residential building consisting of one dwelling unit that is not attached to another building.
- (2) Subject to sections 9(3) and (4), education development charges shall not be imposed with respect to,

- (a) the enlargement of an existing dwelling unit that does not create an additional dwelling unit;
 - (b) the creation of one or two additional dwelling units in an existing single detached dwelling; or
 - (c) the creation of one additional dwelling unit in a semi-detached dwelling, a row dwelling, or any other residential building.
- (3) Notwithstanding section 9(2)(b), education development charges shall be imposed in accordance with section 8 if the total gross floor area of the additional unit or two additional dwelling units exceeds the gross floor area of the existing single detached dwelling.
- (4) Notwithstanding section 9(2)(c), education development charges shall be imposed in accordance with section 8 if the additional dwelling unit has a gross floor area greater than,
- (a) in the case of a semi-detached or row dwelling, the gross floor area of the existing dwelling unit; or
 - (b) in the case of any other residential building, the gross floor area of the smallest dwelling unit already contained in the residential building.
10. (1) Education development charges under section 8 shall not be imposed with respect to the replacement, on the same site, of a dwelling unit that was destroyed by fire, demolition or otherwise, or that was so damaged by fire, demolition or otherwise as to render it uninhabitable.
- (2) Notwithstanding section 10(1), education development charges shall be imposed in accordance with section 8 if the building permit for the replacement dwelling unit is issued more than 5 years after,
- (a) the date the former dwelling unit was destroyed or became uninhabitable; or
 - (b) if the former dwelling unit was demolished pursuant to a demolition permit issued before the former dwelling unit was destroyed or became uninhabitable, the date the demolition permit was issued.
- (3) Notwithstanding section 10(1), education development charges shall be imposed in accordance with section 8 against any dwelling unit or units on the same site in addition to the dwelling unit or units being replaced. The onus is on the applicant to produce evidence to the satisfaction of the Board, acting reasonably, to establish the number of dwelling units being replaced.

PART III

ADMINISTRATION

Payment of Education Development Charges

11. Education development charges are payable in full to the municipality in which the development takes place on the date a building permit is issued in relation to a building or structure on land to which this education development charge by-law applies.
12. The treasurer of the Board shall establish and maintain an educational development charge account in accordance with the Act, the Regulation and this by-law.

Payment by Services

13. Notwithstanding the payments required under section 11, and subject to section 257.84 of the Act, the Board may, by agreement, permit an owner to provide land for pupil accommodation in lieu of the payment of all or a part of the education development charges.

Collection of Unpaid Education Development Charges

14. Section 349 of the *Municipal Act, 2001* applies with necessary modifications with respect to an education development charge or any part of it that remains unpaid after it is payable.

Date By-law In Force

15. This by-law shall come into force on December 20, 2020.

Date By-law Expires

16. This by-law shall expire five years after the date it comes into force, unless it is repealed at an earlier date.

Repeal

17. The Niagara Catholic District School Board Education Development Charges By-Law, 2015 (Former Welland County) is repealed on the day this by-law comes into force.

Severability

18. In the event any provision, or part thereof, of this by-law is found by a court of competent jurisdiction to be ultra vires, such provision, or part thereof, shall be deemed to be severed, and the remaining portion of such provision and all other provisions of this by-law shall remain in full force and effect.

Interpretation

19. Nothing in this by-law shall be construed so as to commit or require the Board to authorize or proceed with any capital project at any time.

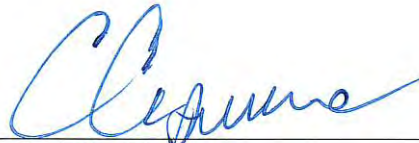
Short Title

20. This by-law may be cited as the Niagara Catholic District School Board Education Development Charges By-Law, 2020 (Former Welland County).

ENACTED AND PASSED this 15th day of December, 2020.

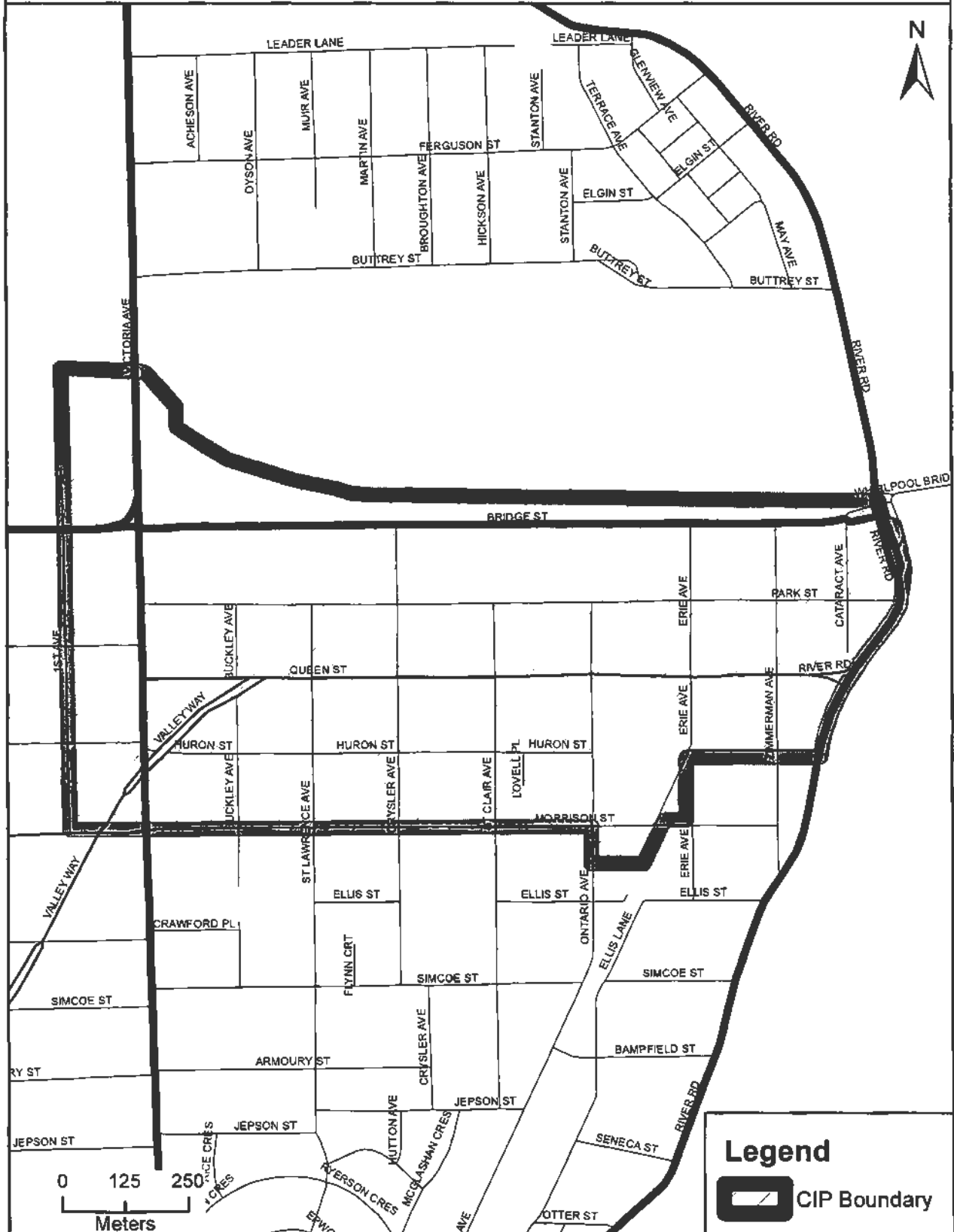


Larry Huibers,
Chairperson

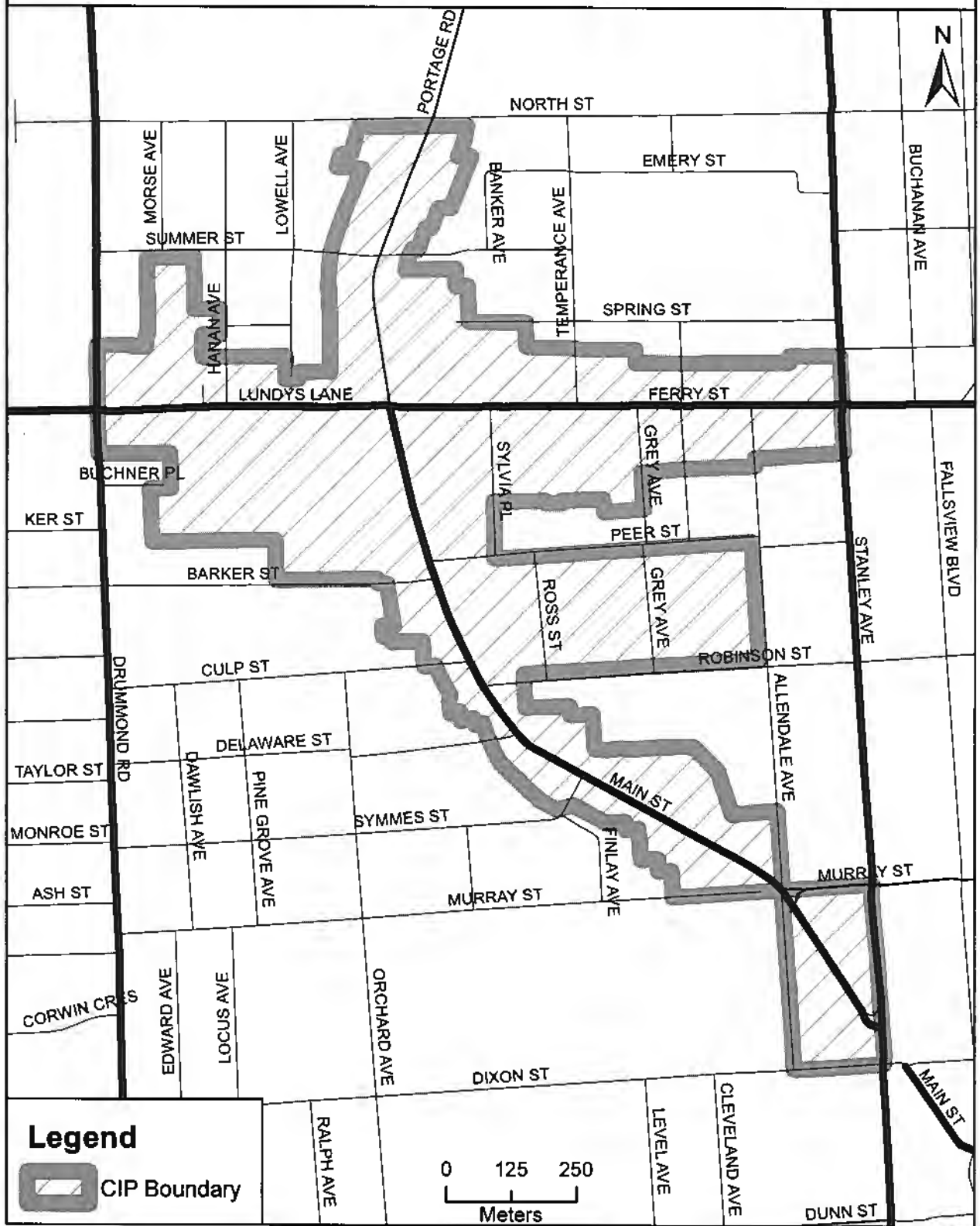



Camillo Cipriano,
Director of Education/Secretary
Treasurer

Schedule A - City of Niagara Falls



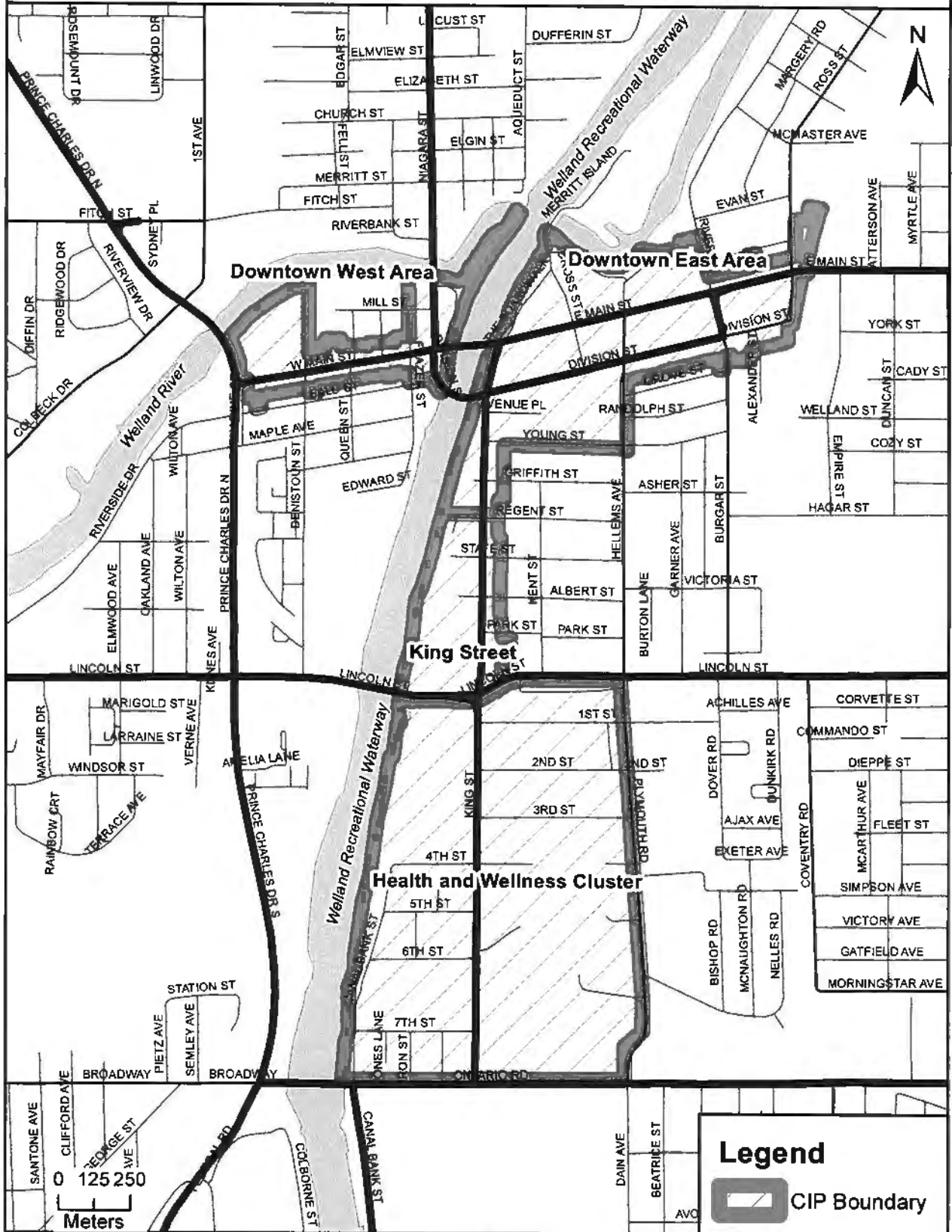
Schedule B - City of Niagara Falls Drummondville



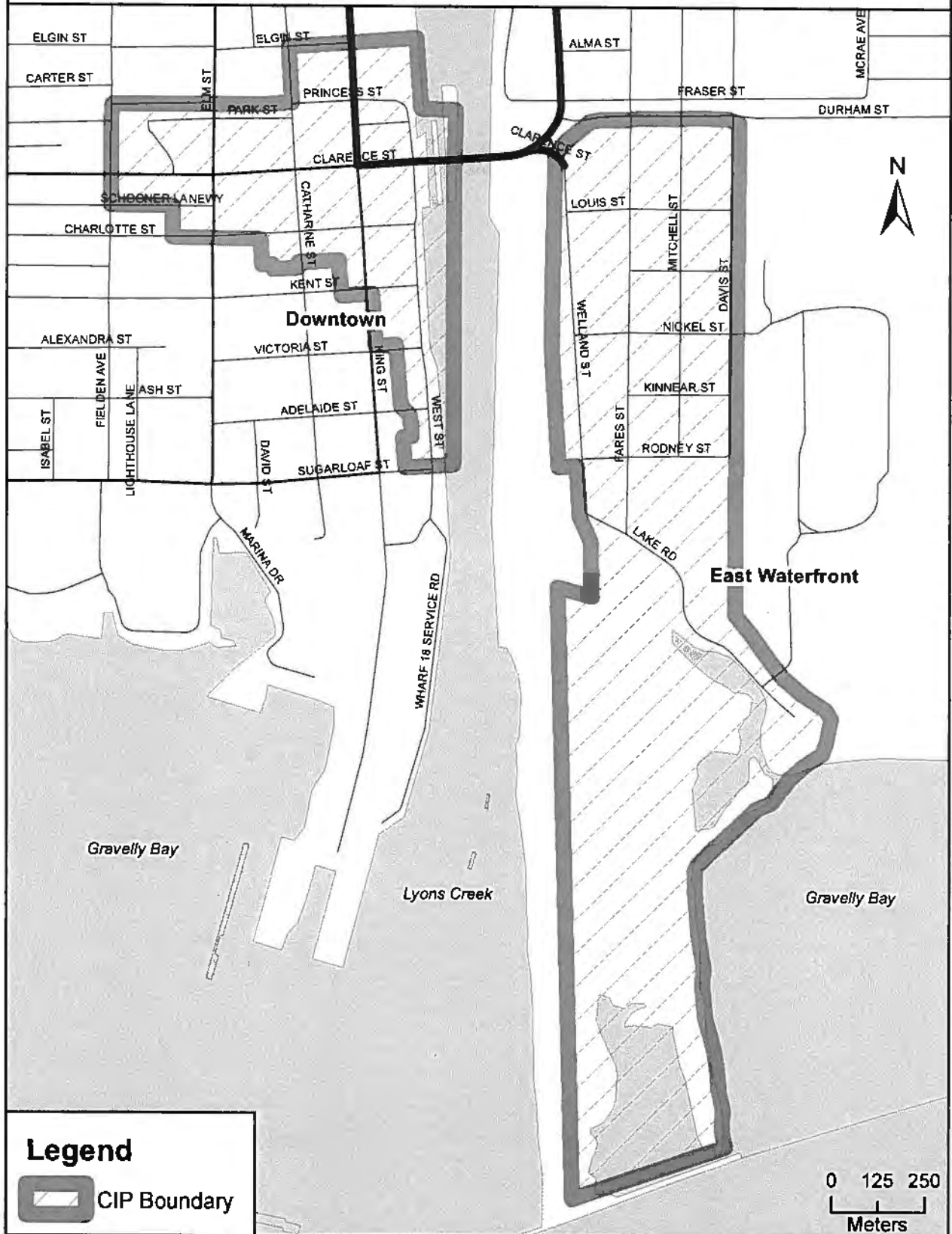
Legend
 CIP Boundary

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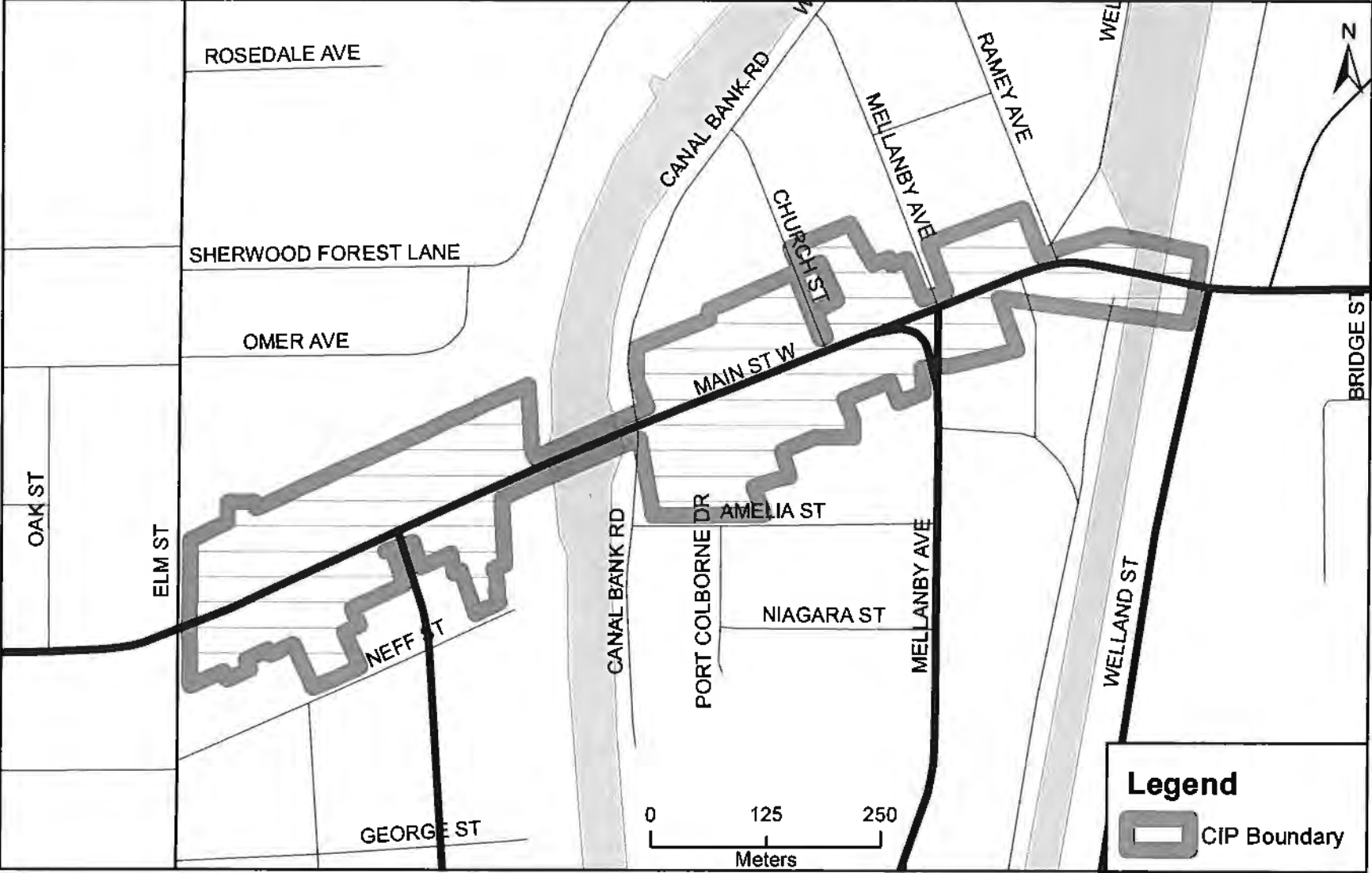
Schedule C - City of Welland



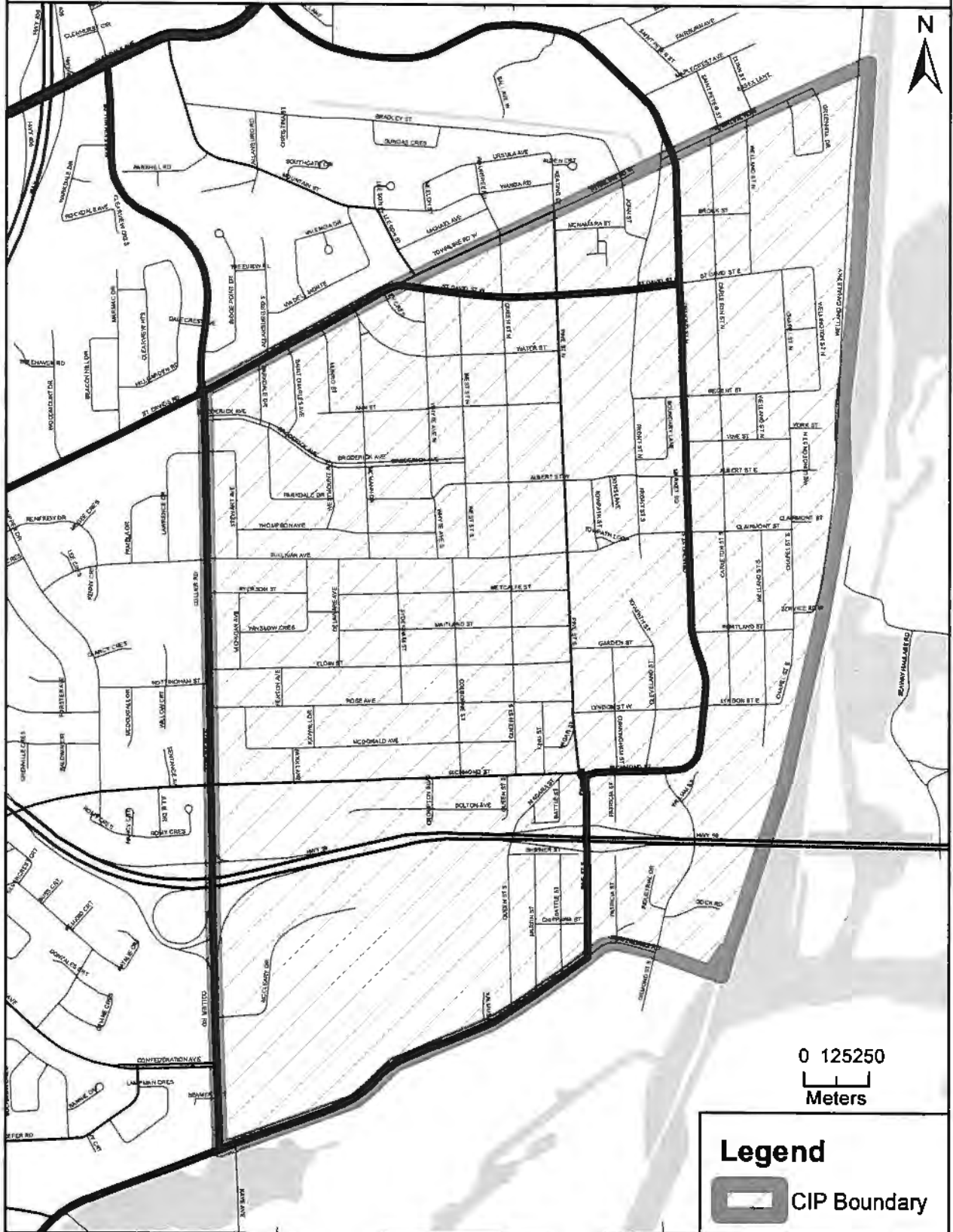
Schedule D - City of Port Colborne



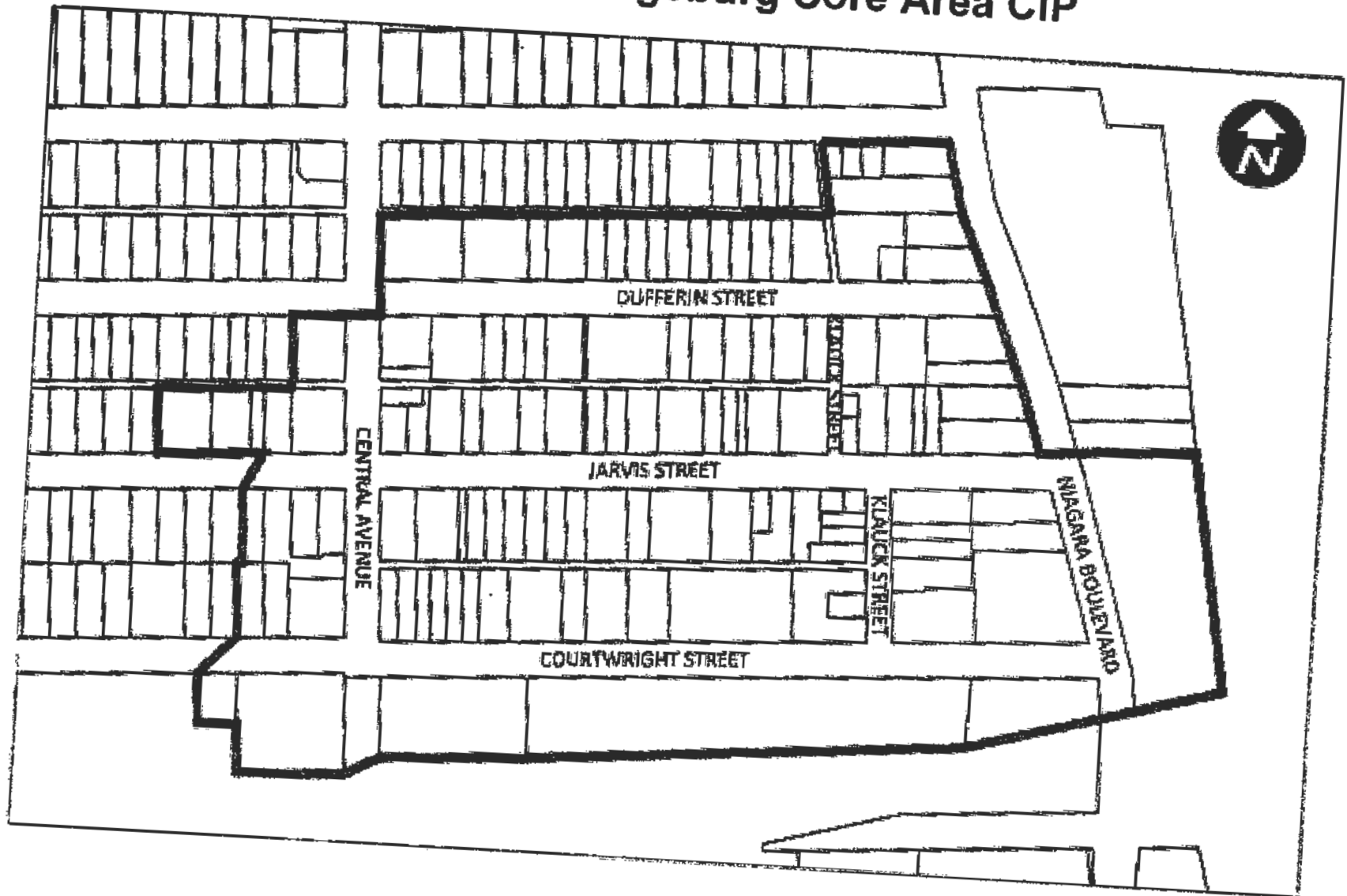
Schedule E - City of Port Colborne Humberstone



Schedule F - City of Thorold



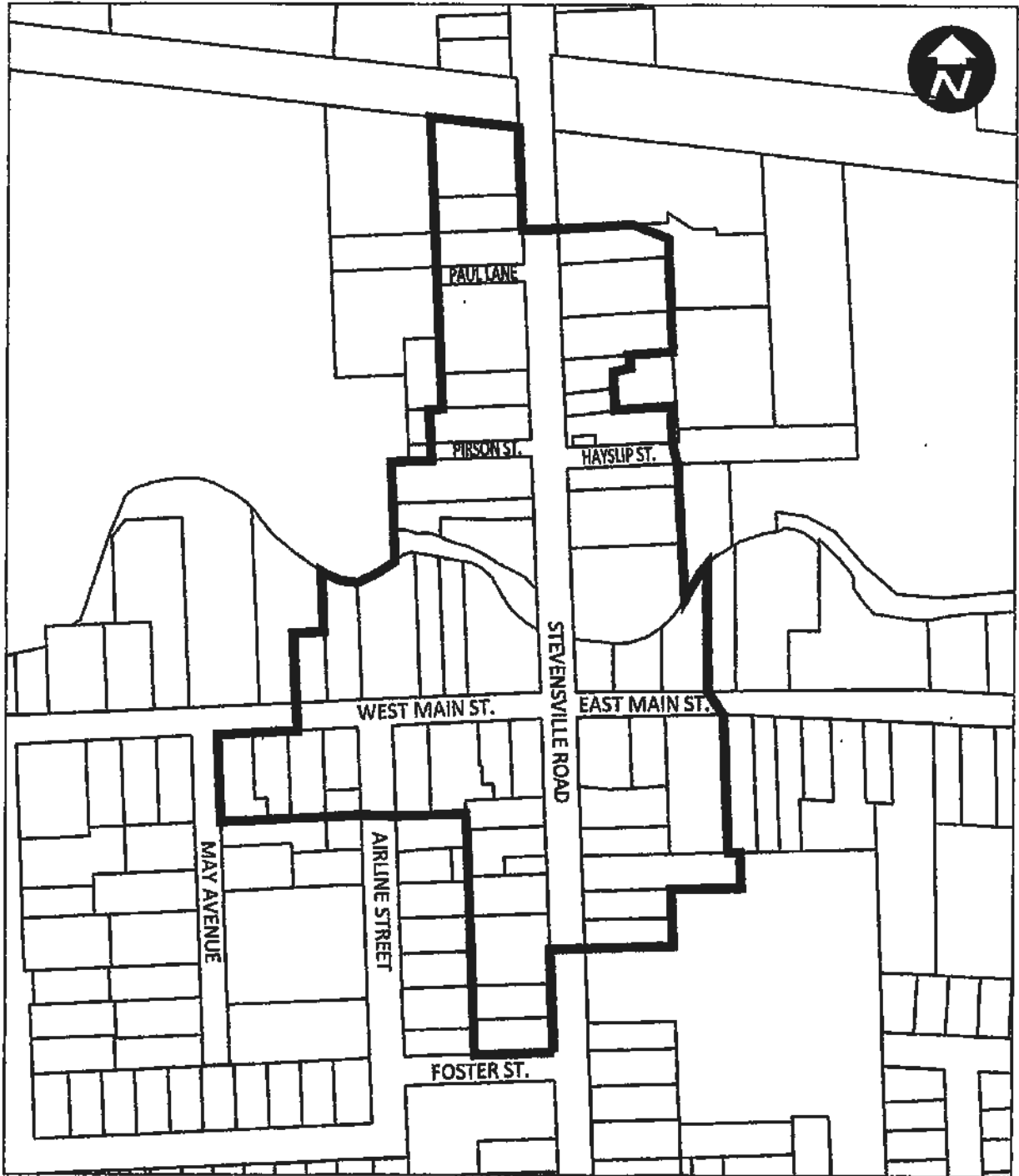
Schedule G – Town of Fort Erie Downtown Bridgeburg Core Area CIP



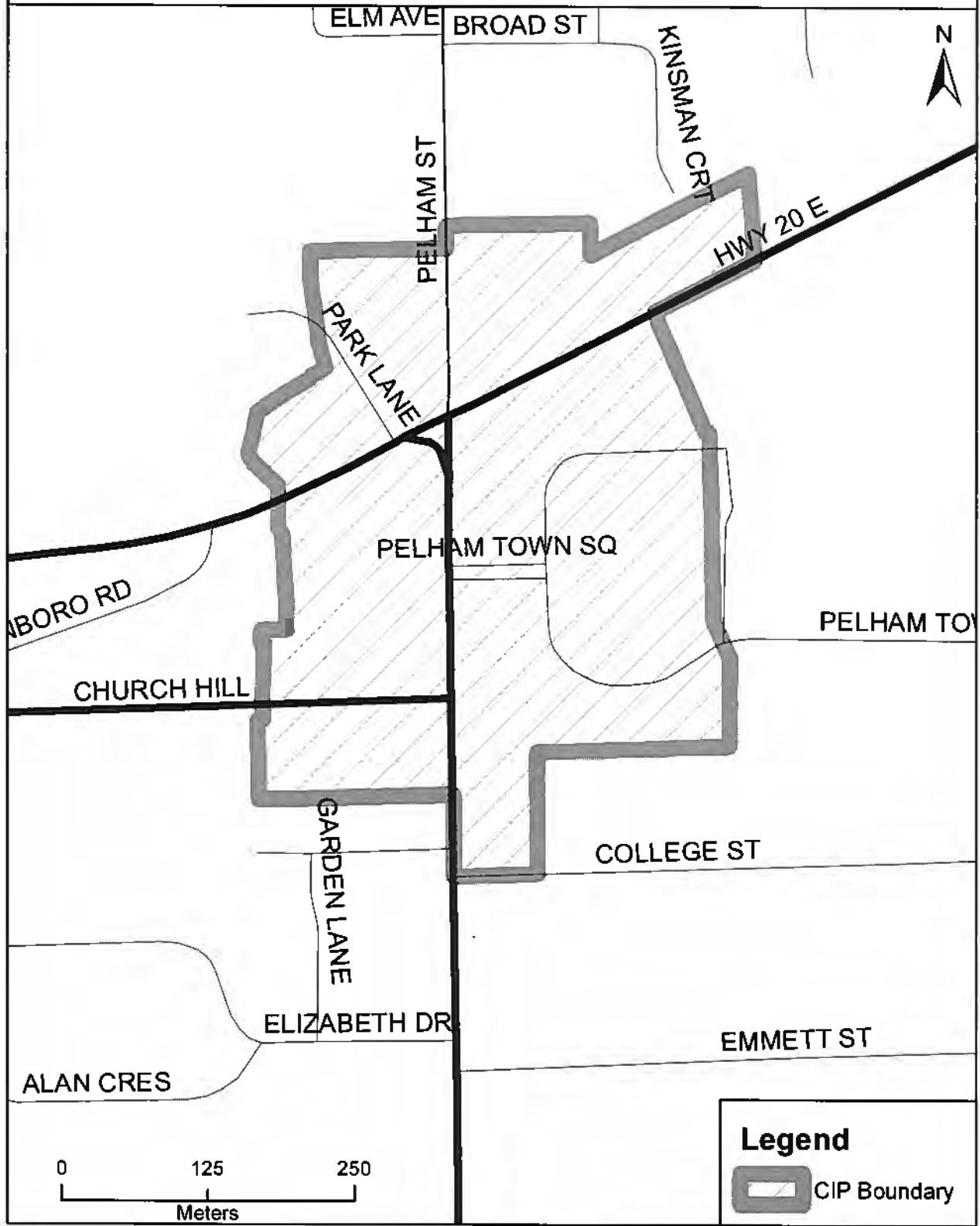
Schedule H – Town of Fort Erie Downtown Ridgeway Core Area CIP



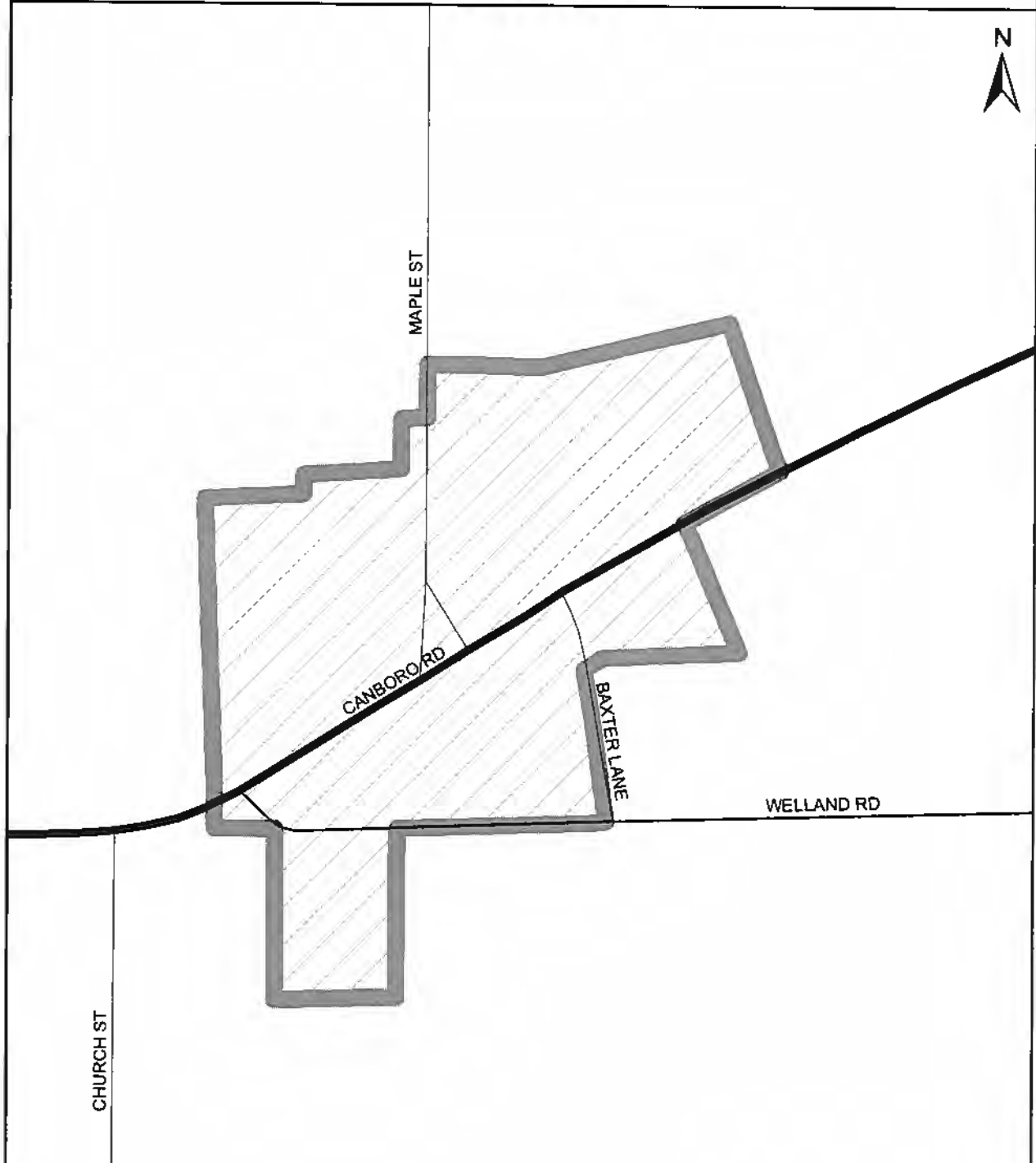
Schedule I – Town of Fort Erie Downtown Stevensville Core Area CIP



Schedule J - Town of Pelham Fonthill



Schedule K - Town of Pelham Fonthill



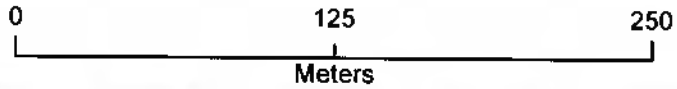
CHURCH ST

MAPLE ST

CANBOROD

BAXTER LANE

WELLAND RD



Legend

 CIP Boundary