

DURHAM DISTRICT SCHOOL BOARD

EDUCATION DEVELOPMENT CHARGES BY-LAW, 2014

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 Durham District School Board has referred to the Minister of Education the following estimates for approval:

- (i) the total number of new elementary school pupils and new secondary school pupils; and
- (ii) the number of elementary school sites and secondary school sites used to determine the net education land costs;

which estimates the Minister of Education approved on April 22, 2014, in accordance with section 10 of Ontario Regulation 20/98;

AND WHEREAS the Durham 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 Durham District School Board has conducted a review of its education development charge policies and held a public meeting on March 31, 2014, in accordance with section 257.60 of the *Education Act*;

AND WHEREAS the Durham 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 Durham District School Board has given notice and held public meetings on March 31, 2014, and April 24, 2014, 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 Durham 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 DURHAM 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 Durham 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 Durham;
 - (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 section 3(2), this by-law applies to all lands in the Region excluding lands in the Municipality of Clarington.
- (2) This by-law shall not apply to lands that are owned by and are used for the purposes of:
- (i) the Region or a local board thereof;
 - (ii) a municipality or a local board thereof;
 - (iii) a board as defined in section 257.53(1) of the Act;
 - (iv) a public hospital receiving aid under the *Public Hospitals Act*, R.S.O. 1990, c. P.40;
 - (v) a publicly-funded university, community college, college of applied arts and technology established under the *Ministry of Colleges and Universities Act* or a predecessor statute, or a private elementary or secondary school;

- (vi) a religious organization, but only when used and occupied as the principal residence of the clergy associated with the religious organization;
- (vii) a seminary of learning maintained for philanthropic, religious or educational purposes that is exempt from taxation under the *Assessment Act*, the whole profits from which are devoted or applied to such purposes.

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, Chapter 19; or
 - (g) the issuing of a permit under the *Building Code Act, 1992* 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 \$1,949.00 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,
- (i) 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;
 - (ii) other residential building means a residential building not in another class of residential building described in this section;
 - (iii) 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;
 - (iv) 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,
- (i) the enlargement of an existing dwelling unit that does not create an additional dwelling unit;
 - (ii) the creation of one or two additional dwelling units in an existing single detached dwelling; or
 - (iii) 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,
 - (i) in the case of a semi-detached or row dwelling, the gross floor area of the existing dwelling unit; or
 - (ii) 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 2 years after,
 - (i) the date the former dwelling unit was destroyed or became uninhabitable; or
 - (ii) 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 area 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 reserve fund 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 May 2, 2014.

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 Durham District School Board Education Development Charges By-law No. 4 (2009) 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 Durham District School Board Education Development Charges By-Law No. 5 (2014).

ENACTED AND PASSED this 24th day of April, 2014.



Joe Allin, Chairperson



Martyn Beckett, Director of Education and Secretary