

MAY 16, 2016

**WATERLOO REGION DISTRICT SCHOOL BOARD
And
WATERLOO CATHOLIC DISTRICT SCHOOL BOARD**

NOTICE AND AGENDA

A joint **Education Development Charges Meeting** of the Waterloo Region District School Board and Waterloo Catholic District School Board will be held in the Regional Municipality of Waterloo Council Chambers, 150 Frederick Street, Kitchener, Ontario, on **Monday, May 16, 2016 at 7:30 p.m.**

AGENDA

Call to Order **Chairperson**

- Opening Prayer & Memorials (WCDSB)

Approval of Agenda **Chairperson**

Declarations of Pecuniary Interest

Opening Remarks

Presentations from Consultant, Legal Counsel and Staff

Delegations/Public Question Period

Questions by Trustees

1 Education Development Charges Bylaw Adoption Report **M. Gerard**

Active & Safe Routes to Schools (ASRTS) Joint Presentation **L. Agar/L. Ford**

Adjournment

Questions relating to this agenda should be directed to
Jayne Herring, Manager of Corporate Services
519-570-0003, ext. 4336, or Jayne.Herring@wrdsb.on.ca

**Report to Committee of the Whole
May 16, 2016**



**Waterloo Region
District School Board**

Inspired Learners – Tomorrow's Leaders

SUBJECT: Education Development Charges By-Law Adoption

ORIGINATOR: This report was prepared by Matthew Gerard, Superintendent, Business Services & Treasurer of the Board; Dennis Cuomo, Manager of Planning; Shawn Callon, Principal Planner; Lauren Agar, Senior Planner; and Nathan Hecanuck, Senior Planner in consultation with Coordinating Council.

PURPOSE/STRATEGIC PLAN:

To request approval of an Education Development Charge (EDC) By-Law. This report relates to the strategic directions of the Board by championing quality public education and promoting forward-thinking.

BACKGROUND:

The Waterloo Region District School Board (the "Board") and Waterloo Catholic District School Board ("WCDSB") have jointly entered into a process for the review of their respective Education Development Charge By-laws. The current by-laws lapse as of June 1, 2016 and the new, fourth consecutive by-law must be approved by the Board of Trustees five days prior to that date in order for the collection of charges not to be disrupted.

The Education Act requires that two (2) statutory public meetings must be held prior to passing an Education Development Charge by-law. The meetings held by the Board on April 25, 2016 and the May 16, 2016 EDC meeting will satisfy the statutory public meeting requirement.

At the meetings on April 25, 2016 the Board invited input from the general public on the proposed new by-law. Two stakeholder meetings were also held October 8, 2015 and March 31, 2016. Invitees included members of the development industry, business industry, and municipalities.

On February 22, 2016, the Board approved two policy directions relating to the use of operating surplus funds for land acquisition and alternative accommodation arrangements.

A draft Education Development Charge By-law is attached as Appendix A1 to the "Education Development Charges Background Study and Review of Education Development Charges Policies" report dated March 30, 2016. A revised draft is attached to this report.

STATUS:

The existing EDC By-law levies a charge against residential dwelling units and non-residential development. The current by-law (2011) was the first by-law that contained a non-residential charge. This decision was made in response to delegations during the 2011 consultation process.

The non-residential portion may account for up to 40% of the costs to be recovered. There are 29 school boards across the province eligible to collect education development charges. Of these, 19 collect non-residential charges with the proportion collected generally ranging between 10% and 25%.

Currently, the percentage funded through a non-residential charge is 20%. The resulting range of possible residential and non-residential charges for the Board is shown on the table below. If the Board elects to approve a charge with a 20% non-residential portion then the residential charge would be **\$2,128 per residential unit** and the non-residential charge would be **\$1.06 per square foot of gross floor area**.

Percent funded from Non-Residential Development	Residential Education Development Charge (per dwelling unit)	Non-Residential Education Development Charge (per sq.ft. of gross floor area)
0%	\$2,660	\$0.00
5%	\$2,527	\$0.26
10%	\$2,394	\$0.53
15%	\$2,261	\$0.79
20%	\$2,128	\$1.06
25%	\$1,995	\$1.32
40%	\$1,596	\$2.12

Consideration of Changes to Existing EDC Policies

In addition to the two policies considered at the February 22, 2016 Committee of the Whole meeting regarding the use of operating surpluses and alternate arrangements for accommodation, the Board must determine if there are any other policy changes to be implemented in the successor by-law.

These policy questions are explained in Appendix B of the “Education Development Charges Background Study and Review of Education Development Charges Policies” report dated March 30, 2016 and listed below:

1. What portion of the net education land costs is to be recovered from residential and non-residential (e.g. industrial, commercial and institutional) development?
2. Are the charges to be applied on an area-specific or jurisdiction-wide basis?
3. Does the board wish to exempt any residential or non-residential development? If so, how does the board propose to fund the shortfall?
4. Does the board wish to provide any demolition or conversion credits beyond that specified in the legislation? Does the board wish to consider providing conversion of use credits?
5. What by-law term is proposed by the board; five years or something less?
6. Is there a requirement for further public consultations prior to by-law adoption?

No changes are being recommended to the current policies – 80% of the costs are to be recovered from residential development (20% from non-residential development), EDC charges to be applied on a jurisdiction-wide basis, that no exemptions (other than statutory exemptions) be applied, that no additional demolition or conversion credits be provided, that the by-law have a term of 5 years, and that no further public consultation is required. The EDC by-law which is recommended for passage is substantially in the form set out in the background study, with only minor amendments or insertions of the amount of the EDC charges to be collected.

By-law Implementation and Duration

The Board must receive Ministry approval before an EDC By-law can be passed. It is expected that the Ministry approval letter will be received by May 16, 2016. A copy of the letter will be presented to the Board prior to passing the by-law.

The Education Development Charge legislation establishes an effective date for an EDC by-law as the fifth day following the day the by-law was passed, or at such date as specified in the by-law, whichever is later. The proposed effective date of the successor EDC by-law is June 1, 2016. The by-law duration is five (5) years unless repealed earlier.

The Board may elect to amend the by-law once in each 12 month period after the by-law has been in effect for 12 months, to the end of the 5 years, to increase the charge or remove or reduce the scope of an exemption. The by-law may be amended to take into consideration changes related to calculation of the rate (e.g. land values, site size, etc.). A by-law amendment does not require a new background study or public meeting.

Revisions to the by-law to take into consideration changes in enrollment projections, school capacity, population forecasts or the need for additional sites would require the completion of a new background study, a full public consultation process and the passage of a new by-law. An existing by-law can be repealed and a new by-law enacted at any time.

COMMUNICATIONS:

The two stakeholder meetings conducted in October and March included representation from the development community (mainly pertaining to residential development) and one municipality (City of Kitchener).

The background study has been posted on the Board's website as well as WCDSB's website since March 31, 2016. A link was provided to the background study via advertisement in The Record. A link to the background study was also provided to those who requested copies.

There has been little correspondence from stakeholders since the by-law review process began. To date, three sets of formal comments have been received.

1) The Greater Kitchener Waterloo Chamber of Commerce appeared as a delegation at the April 25, 2016 public meeting. Specifically, the Chamber has requested that the new charges be phased in and that the non-residential charge be reduced for industrial land uses.

- Phase in – A phasing in of the rate increase would further delay the board's ability to recover the funds necessary to pay for school sites and to recover the deficit in the EDC account. This could also place a greater burden on future new construction near the end of the By-law period, when market conditions could be less favourable. Given the risks and inequities involved, Board staff does not support this approach.
- Reduction of Industrial Charges –The Board (as per the Education Act) already grants an exemption specific to the expansion of existing industrial space. Any further reduction would result in a loss of revenue to the Board which cannot be collected through EDC's charged on other development. Staff feels the legislated exemption is sufficient and would not support a differentiated charge for industrial land uses.

2) The City of Kitchener's Chief Administrative Officer wrote on May 9, 2016, indicating that the City does not support the uniform jurisdiction-wide application of EDC's. This is in reference to urban versus greenfield development areas, noting specifically that the City feels urban intensification areas should not be paying for schools in greenfield areas. The letter requests that the Board's consultant give more consideration to a variable rate [area specific] approach.

- The application of area specific charges is discussed in Appendix B.2.3 of the Background Study. Of the various concerns cited, emphasis is given to the fact that this would require a separate account for each of the areas, with spending restricted to those areas and the possible future inability of the Board to access funds. New background studies would be required to establish these charges, and there would be strategic planning and funding challenges where the area charges are not consistent with current education funding and delivery models of the Board and Province.

3) The City of Kitchener Building Department submitted written comments requesting consistency with the City of Kitchener's application of its development charges.

- The Board has modified a couple of informational items for clarity, but has responded through its legal counsel that the application of EDC's is region-wide and therefore will not be able to match each local jurisdiction's definitions. The Board has chosen to apply language that is consistent with current EDC legislation.

Attached are the written submissions and the responses provided on behalf of both boards. It is important to note that none of the correspondence received has expressed an objection to the charge (residential or non-residential) but relate primarily to the implementation of the charge.

FINANCIAL IMPLICATIONS:

Board staff anticipates revenues in the order of \$10.1 to \$11.6 million per year to cover the estimated \$162,468,319 in Growth Related Net Education Land Costs to 2031. Under the proposed new By-law the current EDC deficit of \$21 million is to be eliminated within 3 years.

RECOMMENDATION:

It is recommended:

That the Waterloo Region District School Board approve the implementation of an Education Development Charge incorporating both a residential and non-residential component with the percentage of growth-related net education land cost that is to be funded by Education Development Charges on residential development be 80% and on non-residential development be 20%; and

That the Waterloo Region District School Board make no changes to the existing Education Development Charge By-law policies as they relate to jurisdiction-wide vs area-specific charges, additional residential or non-residential exemptions, demolition or conversion credits or term of the by-law (5 years); and

That the Waterloo Region District School Board determine, pursuant to Section 257.63 of the Education Act, that no further public meeting concerning the proposed Education Development Charge By-law (2016) is necessary; and

That the Waterloo Region District School Board pass the Education Development Charge By-law (2016) for a term of 5 years with an effective date of June 1, 2016 in the form attached (with the date of Ministerial approval to be inserted into the third recital, \$2,128 to be inserted into Part II Section 8 as the Education Development Charge on each dwelling unit, and \$1.06 to be inserted into Part III Section 13 as the Education Development Charge per square foot (\$11.41 per square metre) on the gross floor area of non-residential development.

 Director of Education

WATERLOO REGION DISTRICT SCHOOL BOARD

Education Development Charges By-Law, 2016

A By-law to Establish Education Development Charges for the
Waterloo Region District School Board

WHEREAS the jurisdiction of the Waterloo Region District School Board (the “**Board**”) has and will continue to experience growth through the development of land which will increase education land costs;

WHEREAS section 257.54 of the *Education Act* (the “**Act**”), enables a district school board to pass by-laws for the imposition of education development charges against land undergoing residential development in the area of jurisdiction of the board where residential development in the area would increase education land costs;

WHEREAS the Board has referred its estimates of the total number of new elementary and secondary pupils and its estimates of the number of elementary and secondary school sites to the Minister of Education for approval, and such approval was given on ●, 2016, under section 10 of Regulation 20/98;

WHEREAS the estimated average numbers of elementary and secondary school pupils of the Board over the five years immediately following the day this by-law comes into force will exceed the total capacity of the Board to accommodate elementary and secondary school pupils throughout its jurisdiction on the day this by-law is passed;

WHEREAS at the time of expiry of the Waterloo Region District School Board Education Development Charges By-law, 2011, the balance in the education development charge account with respect to the said By-law is less than the amount required to pay outstanding commitments to meet growth-related net education land costs, as calculated for the purposes of determining the education development charges to be imposed under this By-law;

WHEREAS the 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 district school board having jurisdiction within the area to which this By-law applies;

WHEREAS the Board has given notice of and held a public meeting on April 25, 2016, in accordance with subsection 257.60(2) of the *Education Act*;

WHEREAS the Board has given notice of and held public meetings on April 25, 2016, and May 16, 2016 in accordance with subsection 257.63(1) of the *Education Act*;

WHEREAS the Board has heard all persons who applied to be heard no matter whether in objection to, or in support of, the proposed education development charges;

WHEREAS the Board has considered all submissions made by the public and the recommendations and proposals made by Board staff and the Board's consultant, and the aforesaid background study;

WHEREAS the Board has determined in accordance with subsection 257.63(3) of the Act that no additional public meeting is necessary in respect of this By-law;

WHEREAS the Board directed that education development charges be imposed on land undergoing residential or non-residential development or redevelopment within the geographical limits of The Regional Municipality of Waterloo as hereinafter provided:

NOW THEREFORE the Board hereby enacts as follows:

PART I GENERAL

Definitions

1. Unless otherwise expressly provided in the By-law, terms defined in the Act, as amended from time to time, or in the Regulations under the Act, as amended from time to time, shall have the same meanings in this By-law.
2. In this By-law,
 - (a) "Act" means the *Education Act*, R.S.O. 1990, c.E.2, as amended, or a successor statute;
 - (b) "Board" means the Waterloo Region District School Board;
 - (c) "development" means any activity or proposed activity in respect of land, buildings or structures that requires one or more of the actions referred to in subsection 257.54(2) of the Act and includes redevelopment, expansion, extension, enlargement or alteration of a use, building or structure;
 - (d) "dwelling unit" means, a room or suite of rooms used, or designed or intended for use by a person or persons living together, in which culinary and sanitary facilities are provided for the exclusive use of such person or persons and which includes a separate, private entrance leading directly from outside the building or from a common hallway or stairway inside the building; 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 row dwelling (townhouse) and row dwelling (townhouse). Notwithstanding the foregoing, (i) a unit or room in a temporary accommodation to the travelling or vacationing public, and (ii) living accommodations in a nursing home as defined in and governed by the provisions of the *Long-Term Care Homes Act*, 2007, S.O. 2007, c.8, shall not constitute dwelling units;

- (e) “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);
- (f) “education development charge” means a charge imposed pursuant to this By-law in accordance with the Act;
- (g) “existing industrial building” means a building used for or in connection with,
- (i) manufacturing, producing, processing, storing or distributing something,
 - (ii) research or development in connection with manufacturing, producing or processing something,
 - (iii) retail sales by a manufacturer, producer or processor of something they manufactured, produced or processed, if the retail sales are at the site where the manufacturing, production or processing takes place,
 - (iv) office or administrative purposes, if they are,
 - A. carried out with respect to manufacturing, producing, processing, storage or distributing of something, and
 - B. in or attached to the building or structure used for that manufacturing, producing, processing, storage or distribution;
- (h) “farm” means a parcel of land on which the predominant activity is farming. A farm shall not include a greenhouse. Farming shall mean the production of crops or the breeding, raising or maintaining of livestock or both, including fur farming, fruit and vegetable growing, the keeping of bees, fish farming, and sod farming and includes: such buildings and structures located on a farm designed and intended to be used solely for or in connection with such production of crops or livestock including barns, silos, structure used for farm equipment storage and

repair, storing or processing materials used in the production or maintenance of crops or livestock or the products derived from the farm's production of crops or livestock or both. Farm and farming shall not include a dwelling unit or a wind turbine located on a farm;

- (i) "gross floor area" means the total floor area of a building or structure, or part thereof, 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, and, for the purpose of this definition, the non-residential portion of a mixed-use building is deemed to include one-half of any area common to the residential and non-residential portions of such mixed-use building or structure;
 - (j) "local board" means a local board as defined in the *Municipal Affairs Act*, R.S.O. 1990, c. M.46, other than a board defined in subsection 257.53(1) of the Act;
 - (k) "mixed-use" means land, buildings or structures used, or designed or intended for use, for a combination of residential and non-residential uses;
 - (l) "non-residential use" means lands, buildings or structures or portions thereof used, or designed or intended for use for other than residential use or farming use, and includes, but is not limited to, an office, retail, industrial or institutional use;
 - (m) "*Planning Act*" means the *Planning Act*, R.S.O. 1990, c. P.13, as amended;
 - (n) "Region" means The Regional Municipality of Waterloo;
 - (o) "Regulation" means Ontario Regulation 20/98, as amended, made under the Act;
 - (p) "residential development" means the use, development or redevelopment of lands, buildings or structures, in whole or in part for any residential use;
 - (q) "residential use" means the use, or designed or intended use, of land, buildings or structures as one or more dwelling units, including a farm dwelling and shall include residential use accessory to a non-residential use and the residential component of a mixed-use.
3. 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

- 4.
- (a) Subject to paragraph 4(b), this By-law applies to all lands in the area of jurisdiction of the Board, which is the Region.

- (b) This By-law shall not apply to lands that are owned by and are used for the purposes of:
- (i) a district school board;
 - (ii) the Region or a local board thereof;
 - (iii) an area municipality or a local board thereof;
 - (iv) the Crown in right of Ontario or the Crown in right of Canada;
 - (v) a public hospital receiving aid under the *Public Hospitals Act*, R.S.O. 1990, c.P.40;
 - (vi) a publicly funded university established by an Act of the Legislative Assembly of Ontario which exempts the property of such university from taxation for school purposes or a college of applied arts and technology established under the *Ontario Colleges of Applied Art and Technology Act, 2002*, S.O. 2002, c.8, Schedule F, as amended.

PART II

RESIDENTIAL EDUCATION DEVELOPMENT CHARGE

Approvals for Development

5. (1) In accordance with the Act and this By-law, and subject to paragraphs 9 and 10 of this By-law, the Board hereby imposes an education development charge against all lands, buildings or structures undergoing residential development in the area of jurisdiction of the Board, which is the Region, if the residential development requires any one of those actions set out in subsection 257.54(2) of the Act, namely;
- (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. C.19, as amended; or
 - (g) the issuing of a permit under the *Building Code Act, 1992*, S.O. 1992, C.23, as amended, in relation to a building or structure.

- (2) An education development charge will be collected once in respect of a particular non-residential development, but this does not prevent the application of this By-law to future development on the same property.
6. 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

7. Subject to the provisions of this By-law, the Board hereby designates all categories of residential development, and all residential uses of land, buildings or structures as those upon which education development charges shall be imposed.
8. Subject to the provisions of this By-law, an education development charge to be imposed in respect of the designated categories of residential development and the designated residential uses of land, buildings or structures has been calculated in accordance with the Regulation, and shall as of June 1, 2016, be ● on each dwelling unit.
9. The education development charge to be imposed in respect of a mixed-use building or structure shall be the said amount applicable to the dwelling units in the mixed-use building or structure.

Exemptions from a Residential Development Charge

- 10.
- (a) As required by section 4 of the Regulation, subject to paragraphs 10(b) and (c), education development charges 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.
- (b) The exemption does not apply if the building permit for the replacement dwelling unit is issued more than two (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.
- (c) Notwithstanding paragraph 10(a), an education development charge shall be imposed in accordance with paragraph 8 of this By-law against any dwelling unit or units on the same site in excess of the dwelling unit or units being replaced.

- (d) Subject to paragraph 17, an education development charge shall be imposed in accordance with paragraph 8 where a non-residential or otherwise exempt building or structure is replaced by or converted to, in whole or in part, a residential dwelling unit or units.
11. As required by subsection 257.54(3) of the Act, an education development charge shall not be imposed with respect to:
- (a) the enlargement of an existing dwelling unit that does not create an additional dwelling unit; or,
 - (b) the creation of one or two additional dwelling units as prescribed in section 3 of the Regulation that complies with the following provisions:

[See table on next page]

Name of Class of Residential Building	Description of Class of Residential Building	Maximum Number of Additional Dwelling Units	Restrictions
Single detached dwellings	Residential buildings, each of which contains a single dwelling unit, that are not attached to other buildings.	Two	The total gross floor area of the additional dwelling unit or units must be less than or equal to the gross floor area of the dwelling unit already in the building.
Semi-detached dwellings or row dwellings	Residential buildings, each of which contains a single dwelling unit, that have one or two vertical walls, but no other parts, attached to other buildings.	One	The gross floor area of the additional dwelling unit must be less than or equal to the gross floor area of the dwelling unit already in the building.
Other residential buildings	A residential building not in another class of residential building described in this table.	One	The gross floor area of the additional dwelling unit must be less than or equal to the gross floor area of the smallest dwelling unit already in the building.

- (c) For the purposes of this paragraph 11, an “additional dwelling unit” is a dwelling unit for which the application for the building permit for such additional dwelling unit is submitted no sooner than twelve (12) months after the earliest of the dates on which any of the following events occurs:
- (i) the issuance of a certificate of occupancy for the dwelling unit already in the building;
 - (ii) if no certificate of occupancy is issued by the area municipality, the occupancy of the dwelling unit already in the building, as established by proper evidence of such occupancy; or,
 - (iii) the delivery of the certificate of completion, pursuant to subsection 13(3) of the *Ontario New Home Warranties Plan Act*, R.S.O. 1990, c. O.31, for the dwelling unit already in the building.

PART III
NON-RESIDENTIAL EDUCATION DEVELOPMENT CHARGE

12. (1) Education development charges shall be imposed against all lands, buildings or structures undergoing non-residential development which has the effect of creating gross floor area of non-residential development or of increasing existing gross floor area of non-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, as amended; or,
 - (g) the issuing of a permit under the *Building Code Act*, 1992, S.O. 1992, c. 23, as amended, in relation to a building or structure.
- (2) An education development charge will be collected once in respect of a particular non-residential development, but this does not prevent the application of this By-law to future development on the same property.
13. Subject to the provisions of this By-law, the Board hereby imposes an education development charge of \$● per square foot (\$● per square metre) of gross floor area of non-residential development upon non-residential development and non-residential uses of land, buildings or structures and, in the case of a mixed-use building or structure, upon the non-residential uses in the mixed-use building or structure.

Exemptions from Non-Residential Education Development Charges

14. As required by section 257.55 of the Act, if a development includes the enlargement of a gross floor area of an existing industrial building (which shall for clarity mean the enlargement of an existing structure, but not the construction of additional structures on the same site), the amount of the education development charge that is payable in respect of the enlargement is determined in accordance with the following rules:
- (a) if the gross floor area is enlarged by 50 per cent or less, the amount of the education development charge in respect of the enlargement is zero;

- (b) if the gross floor area is enlarged by more than 50 per cent, the amount of the education development charge in respect of the enlargement is the amount of the education development charge that would otherwise be payable in a non-enlargement situation multiplied by the fraction determined as follows:
- (i) determine the amount by which the enlargement exceeds 50 per cent of the gross floor area before the enlargement;
 - (ii) divide the amount determined under paragraph 14(b)(i) by the amount of the enlargement.

15.

- (a) As required by section 5 of the Regulation, subject to paragraphs 15(b) and (c), an education development charge under paragraph 13 shall not be imposed with respect to the replacement, on the same site, of a non-residential building that was destroyed by fire, demolition or otherwise, or that was so damaged by fire, demolition or otherwise as to render it unusable.
- (b) Notwithstanding paragraph 15(a), if the gross floor area of the non-residential part of the replacement building or structure exceeds the gross floor area of the non-residential part of the building or structure being replaced, the exemption applies with respect to the portion of the education development charge calculated in accordance with the following formula:

$$\text{Exempted portion} = \frac{\text{GFA (old)}}{\text{GFA (new)}} \times \text{EDC}$$

where,

"Exempted portion" means the portion of the education development charge that the board is required to exempt;

"GFA (old)" means the gross floor area of the non-residential part of the building being replaced;

"GFA (new)" means the gross floor area of the non-residential part of the replacement building;

"EDC" means the education development charge that would be payable in the absence of the exemption.

The onus is on the applicant to produce evidence to the satisfaction of the Board, acting reasonably, to establish the gross floor area of the non-residential building or structure being replaced.

- (c) The exemption in paragraph 15(a) does not apply if the building permit for the replacement building is issued more than five (5) years after,

- (i) the date the former building was destroyed or became unusable; or,
 - (ii) if the former building was demolished pursuant to a demolition permit issued before the former building was destroyed or became unusable, the date the demolition permit was issued.
- (d) An education development charge shall be imposed in accordance with paragraph 13 where a residential, farm or other previously exempt building or structure is replaced by or converted to, in whole or in part, a non-residential building or structure.
16. The education development charge to be imposed in respect of mixed-use development shall be the aggregate of the amount applicable to the residential development component and the amount applicable to the non-residential development component.

Credits

17. This paragraph applies where an education development charge has previously been paid in respect of development on land and the land is being redeveloped, except where paragraphs 10, 11, 14 or 15 apply:
- (a) The education development charge payable in respect of the redevelopment will be calculated under this By-law;
 - (b) The education development charge determined under paragraph 17(a) will be reduced by a credit equivalent to the education development charge previously paid in respect of the land, provided that the credit shall not exceed the education development charge determined under paragraph 17(a); and,
 - (c) Where the redevelopment applies to part of the land the amount of the credit shall be calculated on a proportionate basis having regard to the development permissions being replaced by the new development. For example, if 10 per cent of non-residential gross floor area of a non-residential building is being replaced by residential development through conversion, the residential education development charge on the applicable number of units will be calculated under paragraph 8 of this By-law, and the credit will be the education development charge originally paid on the gross floor area being converted subject to the limit in paragraph 17(b).

PART IV ADMINISTRATION

18. The education development charge imposed under this By-law shall be calculated at the rate in effect at the time of issuance of the building permit and paid in full to the Treasurer of the area municipality in which the land is located, prior to the issuance of the building permit under the *Building Code Act* for any building or structure in connection

with the development in respect of which the education development charge hereunder is payable. Notwithstanding this timing and calculation of payment, the amount of the future charge required to be paid may, in the discretion of the Board, be identified at the earliest of any of the triggering events set out in paragraphs 5 or 12 of this By-law.

Use of Education Development Charges

19. The Treasurer of the Board shall ensure that an education development charge account (the “**EDC Account**”) is established and maintained in accordance with the Act, the Regulation, and this By-law.
20. Withdrawals from the EDC Account shall be made in accordance with the Act, the Regulation, and this By-law.

Payment by Services

21. Subject to the requirements of the Act, the Board may, by agreement, permit an owner to provide land in lieu of the payment of all or any portion of an education development charge. In such event, the Treasurer of the Board shall advise the Treasurer of the municipality in which the land is situate of the amount of the credit to be applied to the education development charge.

Collection of Unpaid Education Development Charges

22. Section 349 of the *Municipal Act, 2001*, S.O. 2001, c. 25, applies with necessary modifications with respect to an education development charge or any part of it that remains unpaid after it is payable.

Interpretation

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

Date By-law in Force

24. This By-law shall come into force on June 1, 2016, and shall expire 5 years after it comes into force, unless it is sooner repealed.

Severability

25. Each of the provisions of this By-law are severable and if any provision hereof should for any reasons be declared invalid by a court or tribunal, the remaining provisions shall remain in full force and effect.

Repeal

26. The Waterloo Region District School Board Education Development Charges By-law, 2011, is hereby repealed effective at 11:59 p.m. on May 31, 2016.

Short Title

27. This By-law may be cited as the Waterloo Region District School Board Education Development Charges By-law, 2016.

ENACTED AND PASSED this 16th day of May, 2016.

Chairperson

Director of Education
and Secretary

*CHIEF ADMINISTRATOR'S OFFICE*

Jeff Willmer
Chief Administrative Officer
City Hall, P.O. Box 1118
200 King Street West
Kitchener, Ontario
Canada, N2G 4G7
PHONE: (519) 741-2200 x7350
FAX: (519) 741-2705
TTY: 1-866-969-9994
jeff.willmer@kitchener.ca

May 9, 2015

Cynthia Clarke
Vice President, Enterprise Asset Management
Ameresco, Asset Sustainability Group Inc.
1192 Havendale Blvd.
Burlington, Ontario L7P 3E3

Dear Ms. Clarke,

RE: Proposed Education Development Charges
Waterloo Region

Thank you for sharing your background study and related materials with the City of Kitchener and other community stakeholders. Please be advised that based on our review of the information, we unfortunately do not support your overall approach. You are proposing a uniform system-wide rate although it would appear that the vast majority of expenditures of EDC revenues in the Waterloo Region will take place in greenfield areas. Under this scenario, growth through intensification would be subsidizing greenfield development.

Having intensification subsidize greenfield development not only frustrates the City's growth management objectives, it competes with an established Provincial policy framework which mandates intensification. Paying DCs without receiving any proportionate benefits could discourage development through intensification in established urban areas, not only in Kitchener but in urban areas throughout Waterloo Region. The City of Kitchener uses variable DC rates and it would appear that School Boards have the ability to do so as well. It is our hope that you give more consideration to a variable rate approach.

Yours truly,

Jeff Willmer

cc: Lindsay Ford, WCSDB
Shawn Callon, WRDSB

KEEL COTTRELLE LLP

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M5C 2C5

19
TEL: 416-367-2900
FAX: 416-367-2791

James A. Easto
Direct Line: 416-367-7703
E-mail: jeasto@keelcottrelle.ca

May 11, 2016

Via E-Mail

Jeff Willmer
Chief Administrative Officer
City of Kitchener
City Hall, P.O. Box 1118
200 King Street West
Kitchener, ON N2G 4G7

Dear Mr. Willmer:

**Re: Proposed EDC By-laws of Waterloo Region District School Board
and Waterloo Catholic District School Board
Our File: T9377**

This letter is in response to your letter dated May 9, 2016. Staff of both Boards have reviewed your comments and have asked me to respond. The principal concern that staff of the Boards have with your request is that while the EDC legislation does permit an area specific EDC by-law to be passed, if a board does so, any funds collected pursuant to that by-law must, absent specific approval from the Minister of Education, be spent on land costs incurred in that area. Both Boards deliver their services on a Region wide basis and make capital decisions on that basis. An area specific EDC by-law would be inconsistent with this model. Further details of the concerns with an area specific EDC by-law are outlined in Appendix B.2.3. of the EDC Background Study prepared by the Ameresco Asset Sustainability Group, the Boards' EDC consultant.

Your letter will be presented to the Trustees of each Board at the joint meeting scheduled to consider adoption of the proposed EDC By-laws and will be reviewed by the Board's EDC consultant in greater depth at that time. The meeting will be held on May 16, 2016 at 7:30 p.m. at the Region of Waterloo Council Chambers. You are invited to attend. If you wish to make a presentation at that meeting, please let me know.

Thank you for bringing your concerns to the attention of the Boards.

Yours faithfully,

KEEL COTTRELLE LLP


James A. Easto

JAE/lc



COMMUNITY SERVICES DEPARTMENT

Michael Seiling, CET, CBCO

Director of Building and Chief Building Official

City Hall, P.O. Box 1118

200 King Street West

Kitchener, Ontario

Canada, N2G 4G7

Phone: (519)741-2200 Ext. 7669

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e-mail: mike.seiling@kitchener.ca

April 13, 2016

Waterloo Catholic District School Board
P.O. Box 91116, Station C
Kitchener, Ontario
N2G 4G2

Waterloo Region District School Board
51 Ardelt Avenue
Kitchener, Ontario
N2C 2R5

Dear Sir/Madam,

RE: Comments on Proposed School Board DC By-Law

This letter is to provide the comments on the proposed changes to the development charge by-laws. As you are probably aware, the City of Kitchener Building Division is commonly the first contact for paying customers with respect to development charges. With this in mind, and recognizing that Building staff administers the building permit process including four (4) development charge by-laws, we are seeking clarification to support customers receiving correct information related to development charge rates.

Building staff has reviewed the proposed school board development charge by-law and offers the following comments before its approval;

- Clarification; Retail Greenhouse or Corp Growing Greenhouse on farm land (City By-law limits 25% of the floor space as retail),
- Consistency; The City and Region gross floor areas differ from the school boards. The City and Region include (charge) for basement floor areas,
- Consistency; The demolition exemption time period for rebuild in the City of Kitchener is no expiry and the Region time frame is max. 7 years. The proposal is not consistent with City or Region, and we are asking to match the City or Region to avoid 3 scenarios.
- Clarification; The City and Region allow for credit of existing when converting to residential. Why does your proposal not include same?
- Suggestion; Show the exemption formula for Existing Industrial Building Additions as in previous by-law as a helpful tool,
- Clarification; The listed FAQ's indicate the applicant only needs to apply for a building permit but the by-law states issuance of permits. To avoid a huge influx of applications prior to May 31 and in compliance with existing by-law, we believe the FAQ be revised to permit issuance date.



Thank you for the opportunity to provide comments on the proposed development charge by-law.

I look forward to your response on the above noted items and in-advance of the by-law approval. Should you have any questions or comments, please feel free to contact me directly and we can meet or discuss over the phone.

Sincerely,

Mike Seiling, CET, CBCO

MS/tlg

CC: Cynthia Clarke, Asset Sustainability Group, email only

James A. Easto
Direct Line: 416-367-7703
E-mail: jeasto@keelcottrelle.ca

April 21, 2016

Via E-Mail

Mike Seiling
Director of Building and Chief Building Official
City of Kitchener
City Hall, P.O. Box 1118
200 King Street West
Kitchener, ON N2G 4G7

Dear Mr. Seiling:

**Re: Proposed EDC By-laws of Waterloo Region District School Board
and Waterloo Catholic District School Board
Our File: T9377**

This letter is in response to your letter dated April 13, 2016. Staff of both Boards have reviewed your comments and have asked me to respond as follows:

1. The Board's EDC By-laws apply to land throughout the Region of Waterloo. It will be impossible for the By-laws to conform to all DC By-laws in effect throughout the Region. The proposed language of the EDC By-laws conforms to the previous EDC By-laws and is therefore consistent with past practice. No change is recommended by staff.
2. The DC By-laws throughout the Region of Waterloo do not adopt a common definition of gross floor area or the exemptions therefrom. The proposed language is consistent with the provincial EDC regulation, and the current By-laws. No change is recommended by Board staff.
3. Board staff recommend that the EDC By-laws continue to conform to the time periods set out in the EDC regulation for demolition exemption time periods. No change is recommended.
4. As for conversion credits, please see section 17 of the proposed EDC By-laws.
5. Board staff will recommend that the exemption formula be included.
6. Thank you for pointing out this item in the FAQ's. It will be changed.

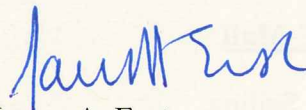
Your letter and this response will be presented to the Trustees of each Board before adoption of the proposed EDC By-laws.

Mike Seiling
April 21, 2016
Page 2

Thank you for bringing these comments to the attention of the Boards.

Yours faithfully,

KEEL COTTRELLE LLP


James A. Easto

JAE/lc