

WATERLOO REGION DISTRICT SCHOOL BOARD

Education Development Charges By-Law, 2021

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

WHEREAS the area of 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 to the Minister of Education the following estimates with respect to the Regional Municipality of Waterloo (the “**Region**”) 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 June 1, 2016 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 May 6, 2021 in accordance with section 10 of Ontario Regulation 20/98, as amended;

WHEREAS the estimated average numbers of elementary and secondary school pupils of the Board over the five (5) 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, 2016, the balance in the education development charge account with respect to the said By-law will be 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 provided any information related to the education development charge background study or the calculation of education development charges as set out therein requested by the Minister of Education;

WHEREAS the Board has given notice of and held a public meeting on April 19, 2021, in accordance with subsection 257.60(2) of the *Education Act*;

WHEREAS the Board has given notice of and held public meetings on April 19, 2021 and May 10, 2021, 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 Region 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 development” means a development other than a residential development or development of a farm, and includes, but is not limited to, an office, retail, industrial or institutional development;
- (m) “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;

- (n) “*Planning Act*” means the *Planning Act*, R.S.O. 1990, c. P.13, as amended;
- (o) “Region” means the Regional Municipality of Waterloo;
- (p) “Regulation” means Ontario Regulation 20/98, as amended, made under the Act;
- (q) “residential development” means the use, development or redevelopment of lands, buildings or structures, in whole or in part for any residential use;
- (r) “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; or
 - (vi) Metrolinx.
- (c) Subject to paragraph 4(d), 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:
 - (i) a private school;
 - (ii) a long-term care home, as defined in the *Long-Term Care Homes Act, 2007*, S.O. 2007, c. 8, as amended;

- (iii) a retirement home, as defined in the *Retirement Homes Act, 2010*, S.O. 2010, c. 11, as amended;
 - (iv) a hospice or other facility that provides palliative care services;
 - (v) 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
 - (vi) a memorial home, clubhouse or athletic grounds owned by the Royal Canadian Legion.
- (d) If only a portion of a building or structure, or an addition or alteration to a building or structure, referred to in paragraph 4(c) will be used for a purpose identified in that paragraph, only that portion of the building, structure, addition or alteration is exempt from an education development charge.
- (e) An owner shall be exempt from education development charges if the owner is,
- (i) 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;
 - (ii) a university that receives regular and ongoing operating funds from the Government of Ontario for the purposes of post-secondary education; or,
 - (iii) 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.

PART II

RESIDENTIAL EDUCATION DEVELOPMENT CHARGE

Approvals for Development

5. (a) 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;
- (i) the passing of a zoning by-law or of an amendment thereto under section 34 of the *Planning Act*;
 - (ii) the approval of a minor variance under section 45 of the *Planning Act*;
 - (iii) a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies;
 - (iv) the approval of a plan of subdivision under section 51 of the *Planning Act*;

- (v) a consent under section 53 of the *Planning Act*;
- (vi) the approval of a description under section 9 of the *Condominium Act, 1998*, S.O. 1998, c. C.19, as amended; or
- (vii) 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.

(b) 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 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. The education development charge per dwelling unit shall be in the following amounts for the periods set out below:

- (a) June 1, 2021 to May 31, 2022 - \$2,248.00;
- (b) June 1, 2022 to May 31, 2023 - \$2,548.00; and,
- (c) June 1, 2023 to May 31, 2026 - \$2,708.00.

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, but subject to paragraphs 10(b), (c) and (d), 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:

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.
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- (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

Approvals for Development

12. (a) Subject to the provisions of this By-law, the Board hereby designates all categories of non-residential development, and all non-residential uses of land, buildings or structures as those upon which education development charges shall be imposed.
- (b) 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:
- (i) the passing of a zoning by-law or of an amendment thereto under section 34 of the *Planning Act*;
 - (ii) the approval of a minor variance under section 45 of the *Planning Act*;
 - (iii) a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies;
 - (iv) the approval of a plan of subdivision under section 51 of the *Planning Act*;

- (v) a consent under section 53 of the *Planning Act*;
- (vi) the approval of a description under section 9 of the *Condominium Act*, 1998, S.O. 1998, c. 19, as amended; or,
- (vii) 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.

(c) 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, an education development charge shall be imposed upon the designated categories of non-residential development and the designated 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. The education development charge per square foot (square metre) of such non-residential development and uses of land, buildings or structures shall be in the following amounts for the periods set out below:

(a) June 1, 2021 to May 31, 2022 - \$1.51 per square foot (\$16.25 per square metre);

(b) June 1, 2022 to May 31, 2023 - \$1.61 per square foot (\$17.33 per square metre);
and

(c) June 1, 2023 to May 31, 2026 - \$1.66 per square foot (\$17.87 per square metre).

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.
 - (c) For the purposes of this section 14, the following provisions apply:
 - (i) the gross floor area of an existing industrial building shall be calculated as it existed prior to the first enlargement of such building for which an exemption under paragraph 14 of this By-law or a similar provision of any prior education development charge By-law of the Board was sought;
 - (ii) the enlargement of the gross floor area of the existing industrial building must be attached to such building; and,
 - (iii) the enlargement must not be attached to the existing industrial building by means only of a tunnel, bridge, passageway, shared below grade connection, foundation, footing or parking facility, but must share a common wall with such building.
- 15.
- (a) As required by section 5 of the Regulation, but subject to paragraphs 15(b), (c) and (d), 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:

$$\text{Exempted Portion} = \left(\frac{\text{GFA (old)}}{\text{GFA (new)}} \right) \times \text{EDC}$$

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**

Timing and Calculation of Payment

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, 2021, and shall expire five (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, 2016, is hereby repealed effective at 11:59 p.m. on May 31, 2021.


Short Title

27. This By-law may be cited as the Waterloo Region District School Board Education Development Charges By-law, 2021.

ENACTED AND PASSED this 10th day of May, 2021.

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Joanne Weston
Chairperson

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John Bryant
Director of Education and Secretary