

Waterloo Catholic District School Board
Education Development Charges By-law, 2011

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

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

AND WHEREAS Section 257.54 of Division E of the *Education Act* (the "Act"), enables a school board to pass by-laws or 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;

AND 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 Ministry of Education and Training for approval, and such approval was given on May 16, 2011 under Section 10 of Regulation 20/98;

AND WHEREAS the Board has complied with the conditions prescribed by Section 10 of Regulation 20/98;

AND WHEREAS the Board has given notice on April 8, 2011 in accordance with section 257.63(1) of the Act of its intention to pass a By-law and held a public meeting required thereby on May 16, 2011, and the Board made available the background study and draft By-law;

AND 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 charge;

AND WHEREAS the Board received submissions from members of the public before, at and following the aforesaid public meeting;

AND WHEREAS the Board at its meetings of April 11 and May 16, 2011 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;

AND WHEREAS the Board directed that an education development charge be imposed on land undergoing residential development or redevelopment within the geographical limits of Waterloo Region as hereinafter provided:

NOW THEREFORE the Board hereby enacts as follows:

**PART 1
GENERAL**

Definitions

1. Unless otherwise expressly provided in the By-law, the Definitions contained in the Act, as amended from time to time, or the Regulations under the Act, as amended from time to time (the "Regulations"), shall have the same meaning 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 thereof;
 - (b) "Board" means the Waterloo Catholic 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 Section 257.54(2) of the Act and includes redevelopment, expansion, extension or alteration of a use, building or structure;
 - (d) "district school board" means,
 - (i) an English-language public district school board,
 - (ii) an English-language separate district school board,
 - (iii) a French-language public district school board, or
 - (iv) a French-language separate district school board (conseil scolaire de district)
 - (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 sanitation 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 townhouse and townhouse. Notwithstanding the foregoing, (i) a unit or room in a hotel or motel designed for human habitation and intended to be provided as 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 *Nursing Homes Act*, R.S.O. 1990, c. N.7, shall not constitute dwelling units;
 - (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 by 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) "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 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 or structure 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 district school board;
- (k) "mixed-use" means land, buildings or structures used, or designed or intended for use for a combination of residential and non-residential use;
- (l) "non-residential use" means lands, buildings or structures or portions therefore used, or designed or intended for use other than residential use or farming use, and includes, but is not limited to, 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 land in the area of jurisdiction of the Board, which is Waterloo 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 or college established by an Act of the Legislative Assembly of Ontario.

PART II RESIDENTIAL EDUCATION DEVELOPMENT CHARGE

Approvals for Development

5. In accordance with the Act and this By-law, and subject to Sections 9 and 10 of this By-law, the Board hereby imposes an education development charge against all lands, buildings or structures undergoing residential development or redevelopment in the area of jurisdiction of the Board, which is Waterloo Region, if the residential development or

redevelopment 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 to a zoning By-law 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 the *Condominium Act*, 1998, c.C.19; or
- (g) The issuing of a building permit under the *Building Code Act*, 1992, in relation to a building or structure.

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

6. 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 an education development charge shall be imposed.
7. 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 designate residential uses of land, buildings or structures has been calculated in accordance with the Regulations, and shall as of June 1, 2011 be \$425.00 on each dwelling unit of residential development.
8. The education development charges 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 Education Development Charge

9.
 - (a) As required by Section 4 of Regulation 20/98, subject to paragraphs 9(b) and (c), an education development charge 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 issues 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 9(a), an education development charge shall be imposed in accordance with Sections 5 and 7 of this By-law against any dwelling unit or units on the same site in addition to the dwelling unit or units being replaced.
- (d) An education development charge shall be imposed in accordance with Section 5 and 7 where a non-residential building or structure is replaced by or converted to, in whole or in part, a residential dwelling unit or units.
10. 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 Regulation 20/98 that complies with the following provisions:

Name of Class of Residential Building	Description of Class of Residential Buildings	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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**PART III
NON-RESIDENTIAL EDUCATION DEVELOPMENT CHARGE**

11. Subject to the provisions of this By-law, the Board hereby imposes an education development charge of \$0.31 (thirty-one cents) per square foot 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

12. 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, 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 11 by the amount by which the enlargement exceeds 50 per cent.

13.

- (a) As required by section 5 of Regulation 20/98, subject to paragraphs 13 (b) and (c), an education development charge under section 11 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 (a), an education development charge shall be imposed in accordance with section 11 against any additional gross floor area of any non-residential development on the same site in excess of the gross floor area of the non-residential building or structure being replaced, subject to the following calculation:

If the gross floor area of the non-residential part of the replacement building exceeds the gross floor area of the non-residential part of the building being replaced, the exemption applies with respect to the portion of the education development charge calculated in accordance with the following formula:

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

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;

- (c) The exemption in paragraph (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 section 11 where the residential building or structure is replaced by or converted to, in whole or in part, a non-residential building or structure;

14. 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

15. This section applies where an education development charge has previously been paid in respect of development on land and the land is being redeveloped, except where sections 10, 11, 13 or 14 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 (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 (a);
- (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% 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 section 7 of the 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 15(b).

PART IV ADMINISTRATION

Calculation and Payment of Education Development Charges

16. The education development charge imposed under 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 a 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 or any of the triggering events set out section 5 of this By-law.

Use of Education Development Charges

17. 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 Regulations and this By-law.
18. Withdrawals from the EDC Account shall be made in accordance with the Act, the Regulations and this By-law.

Payment by Services

19. 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

20. 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

21. 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

22. This By-law shall come unto force on June 1, 2011 and shall expire 5 years after it comes into force, unless it is sooner repealed.

Severability

23. 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.

Amendments to the By-Law

24.
 - (a) Where it appears to the Board that the land values underlying the education development charge calculation are predicting higher costs than the Board is generally experiencing over a period of time sufficient to show the discrepancy with a reasonable degree of assurance, the Board may consider a motion to study amending the By-law to reduce the charge.
 - (b) Where it appears to the Board that the land values underlying the education development charge calculation for predicting lower costs than the Board is generally experiencing over a period of time sufficient to show the discrepancy with a reasonable degree of assurance, the Board may consider a motion to study amending the By-law to increase the charge.
25. Subject to Section 257.70(2) of the Act, the Board may amend an education development charge by-law no more than once in the one-year period immediately following the coming into force of the by-law or in any succeeding one-year period so as to do any one of the following:

- (a) Increase the amount of an education development charge that will be payable in any particular case;
- (b) Remove, or reduce the scope of, an exemption; or
- (c) Extend the term of the by-law.

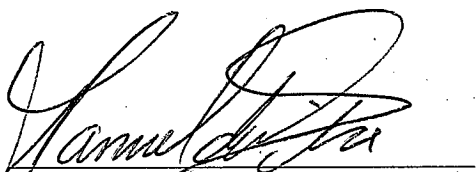
Repeal

26. The Waterloo Catholic District School Board Education Development Charge By-law, 2006 is hereby repealed effective at midnight on May 31, 2011.

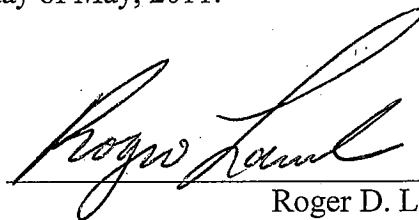
Short Title

27. This by-law may be cited as the Waterloo Catholic District School Board Education Development Charges By-law, 2011.

ENACTED AND PASSED this 16th day of May, 2011.



Manuel Da Silva
Chair of the Board



Roger D. Lawler
Director of Education