



Halton District School Board

Report Number: 13095

Date: June 14, 2013

INFORMATION FOR DECISION

TO: The Chair and Members of the
Halton District School Board

FROM: Lucy Veerman
Superintendent of Business Services

RE: 2013 Education Development Charges By-Law

Warrant

To recommend to the Board, approval of a new Education Development Charge (EDC) By-law. Levies collected as a result of the EDC By-law are used to fund the acquisition of school sites and related costs to accommodate growth-related pupil needs. Levies are applied to all new residential and non-residential development, with certain exceptions, within the region of Halton.

Recommendations:

Be it resolved that no further public meeting is required in regard to the Education Development Charges By-law.

Be it resolved that the Halton District School Board enact an Education Development Charge By-law (as attached to Report 13095) to apply to the Region of Halton;

THAT the By-law levy an education development charge on both residential and non-residential development and that the percentage of the growth-related net education land cost that is to be funded by charges on non-residential development be 15%.

THAT the Board's By-law be in the form attached hereto with the following figures inserted:

- *in paragraph 9, \$2691.00 as the education development charge on each dwelling unit in a residential development;*
 - *in paragraph 12, \$0.69 as the education development charge per square foot of gross floor area applied to non-residential development (\$ 7.43 per square metre).*
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Background

The 2013-2018 EDC By-law will be the fifth EDC By-law adopted by the Board since 1996. The five (5) EDC By-laws, their respective amendments are as follows:

- 1) **1996 - 1999** Halton Board of Education (EDC By-law, passed May 1996)
- 2) **1999 – 2004** HDSB (EDC By-law, passed August, 1999)
- 3) **2004 - 2009** HDSB (EDC By-law, passed June , 2004)
 - a) **2005** HDSB (EDC By-law Amendment, passed June , 2005)
 - b) **2006** HDSB (EDC By-law Amendment, passed June , 2006)
 - c) **2007** HDSB (EDC By-law Amendment, passed June , 2007)
- 4) **2009 - 2014** HDSB (EDC By-law, passed May, 2009)
 - a) **2011** HDSB (EDC By-law Amendment, passed June, 2011)
- 5) **2013 - 2018** HCSB (EDC By-law – *expected June 2013*)

On May 20, 2009, the Board adopted a jurisdiction wide 2009 EDC By-law under the legislative authority of the Education Act, R.S.O., 1990 c.E.2, which was undertaken jointly with the Halton Catholic District School Board. The 2009 EDC By-law had an effective implementation date of June 8, 2009 and may be in effect for no more than five (5) years. The 2009 EDC By-law was amended in June 2011 for both boards.

The Board commenced the process for developing and approving a new Education Development Charge (“EDC”) By-law. This new EDC By-law, as well as previous iterations and amendments, have been undertaken jointly with the Halton Catholic District School Board. The Board’s current EDC By-law is jurisdiction-wide; it applies throughout the Region of Halton. Under that By-law 85% of education land costs (i.e. the purchase price of school sites and associated costs) are recovered from residential development and 15% from non-residential development. The rates for residential and non-residential are outlined below reflecting the 2009 By-law and the subsequent review in 2011.

2009		2011	
<i>Residential Rate</i>	<i>Non-Residential Rate</i>	<i>Residential Rate</i>	<i>Non-Residential Rate</i>
\$1755.00	/sq.ft.\$0.49	\$2506.00	\$0.69/sq.ft.
	/sq.m.\$5.27		\$7.43sq.m.

Should the Board decide to continue collecting on the same basis, the new residential charge would be \$2691.00 per dwelling unit and the non-residential charge would be \$0. 69 per square foot of gross floor area (\$7.43 per square metre).

Public meetings for the proposed EDC By-law have been held as follows:

- i) 7 p.m. Wednesday, May 22, 2013– Policy Review Public Meeting;
- ii) 7:30 p.m, Wednesday, May 22, 2013 – Successor By-law Public Meeting

The meeting for By-law adoption is scheduled for Wednesday, June 19, 2013.

Policy Issues

A review of the Board’s existing policies that underlie the 2009 EDC By-law (as amended), and various policy issues are set out in the “ Education Development Charge Policy Review Report”, dated April 30, 2013, prepared by Watson and Associates, Economists Ltd.

Issues and questions have been raised by municipalities with respect to the policies and implementation requirements of the EDC By-law. These have been addressed in Appendix A.

Legal counsel has provided staff with advice regarding the substance and legal requirements of such policies. Furthermore, the consultant recommends that both the HCDSB and HDSB be consistent in these policy decisions. As such, staff has made recommendations on policy issues that have been incorporated into proposed EDC By-law.

Statement on Operating Budget Surplus

Paragraph 8 of Section 9(1) of Ontario Regulation 20/98 requires that the Board include a statement in the EDC Background Study stating that it has reviewed its operating budget for savings that could be applied to reduce growth-related net education land costs, and the amount of any savings that it proposes to apply, if any.

It is necessary that the review of operating budgets for surpluses be conducted annually as part of the process of establishing the Board’s budget for the following year. A Board policy is in place to accommodate this requirement (refer to Appendix B).

At the April 17, 2013 Board meeting Trustees approved the following recommendation (M13-0092):

Be it resolved that the Halton District School Board hereby approves the statement that there is not an operating surplus available in the non-classroom portion of the budget that can be applied to reduce growth-related net education land costs.

Alternative Accommodation Arrangements

Paragraph 6 of Section 9(1) of Ontario Regulation 20/98 requires that the Board adopt a policy concerning possible arrangements with municipalities, school boards or other persons or bodies in the public or private sector, including arrangements of a long-term or co-operative nature, which would provide accommodation for new elementary school pupils and new secondary school pupils, without imposing EDCs, or with a reduction in such a charge.

The Board has adopted a policy on alternative accommodation arrangements (*refer to Appendix B*).

The alternative accommodation arrangements that the Board may wish to consider include purchases, lease/buy backs, site exchanges and joint-venture partnerships. These alternative arrangements, if properly structured, have the potential to reduce site size requirements, improve service delivery, reduce duplication of public facilities and maximize the use of available funds.

Paragraph 7 of Section 9(1) of Ontario Regulation 20/98 requires that the Board include in the EDC Background Study a statement of how the policy concerning alternative accommodation arrangements was implemented, and if it was not implemented, an explanation of why it was not implemented.

At the April 17, 2013 Board meeting, Trustees approved the following recommendation (M13-0092):

“THAT the Board approves the statement that there have been no opportunities to implement alternative accommodation arrangements.”

Percentage of Net Education Land Costs to be Borne by Non-Residential Development

Section 7, paragraph 8 of Ontario Regulation 20/98 gives the Board the discretion to collect a portion of the education land costs from non-residential development. The percentage that may be funded by a charge on non-residential development cannot exceed 40% of the education land costs. The Board's current EDC By-law is designed to recover 15% from non-residential development.

Staff and legal counsel recommend that the Board retain the current recovery rate of 15% from non-residential development. There has been no indication of any change in the development community's preference.

Recovery of Net Education Land Costs

The Education Act permits the Board to recover up to 100% of the projected education land costs through EDCs. The Board's current EDC By-law is based upon 100% recovery. Staff and legal counsel recommend continuing with 100% recovery while recognizing that granting some non-statutory exemptions and other policy decisions will reduce this level of recovery.

Non-Statutory Residential Exemptions and Discounts

Section 257.59 of the Education Act permits the Board to exempt different categories and uses of residential development. The only mandatory exemptions for residential development relate to housing intensification and municipally owned and operated housing. An exemption is also provided for the replacement of a dwelling unit that was destroyed by fire, demolition or otherwise rendered uninhabitable. The Board's current EDC By-law only provides for these mandatory residential exemptions.

Therefore, staff and legal counsel recommend that the Board not expand the list of residential exemptions beyond those that are mandatory since the lost revenues cannot be recovered through increased EDC's on other development or through the property tax base.

Differentiated Residential EDC

Ontario Regulation 20/98 allows the Board to differentiate the residential EDC by housing type, so that, for example, a single family detached dwelling unit would pay a greater charge than an apartment unit. The Board's current EDC By-law imposes a uniform residential EDC. The Board now has the option of imposing a uniform residential EDC or a differentiated residential EDC that distinguishes between housing types. Moreover, the question was raised as to whether the Board would consider imposing a special EDC rate for retirement/seniors housing.

Staff of both School Boards are recommending that the EDC By-laws continue to charge a uniform per dwelling unit residential EDC. For those forms of seniors housing that do not meet the definition of a “dwelling unit” (where both kitchen and washroom facilities are provided in the dwelling), a non-residential EDC is applied based on the gross floor area. In retirement/seniors buildings that offer both dwelling units and non-dwelling units (so residential and non-residential EDCs would apply), the gross floor area would be apportioned based on the square footage that each form of accommodation bears to the total square footage of the building.

Non-Statutory Non-Residential Exemptions

The Education Act allows the Board to exempt different categories of non-residential uses. Statutory exemptions include non-residential development of lands that are owned by and used for the purposes of a municipality or a school board. The enlargement of the gross floor area of an industrial building (up to 50 per cent) is also exempt from EDCs as is the replacement of a non-residential building that was destroyed by fire, demolition or otherwise rendered unusable.

In addition to the above-noted exemptions, there are other categories of non-residential development that are exempt from EDCs pursuant to specific legislative provisions. These include publicly funded universities and colleges, which are exempted from EDCs under the statutes that create them.

The Board’s current EDC By-law contains the following additional exemptions:

1. a public hospital receiving aid under the Public Hospitals Act;
2. a publicly-funded university, community college or a college of applied arts and technology established under the Ministry of Colleges and Universities Act, or a predecessor statute;
3. a seminary of learning maintained for educational purposes that is exempt from taxation under the Assessment Act, the whole profits from which are devoted or applied to such purposes, i.e. a non-profit private school;
4. a place of worship owned by a religious organization that is exempt from taxation under the Assessment Act that is used primarily as a place of public worship;
5. a cemetery or burying ground that is exempt from taxation under the Assessment Act;
6. non residential agricultural buildings or structures that are owned by and are used for the purposes of a bona fide farming operation.

The comment was raised as to why non-profit private schools are exempt from EDC’s. Board staff indicated that the exemption for non-profit private schools was established in the first By-law with the operators of Appleby College, St. Mildred’s-Lightbourn and other non-profit private schools. The exemption was given to recognize that these institutions also provided education services.

Staff and legal counsel recommend continuing with these non-statutory non-residential exemptions. Staff and legal counsel recommend that Metrolinx also be included as an exemption in the EDC By-law given that it is exempt by virtue of its status as a Crown agent.

Demolition /Conversion Credits

The Board’s current EDC By-law provides a demolition credit for the replacement of a dwelling unit destroyed by fire, demolition or otherwise rendered uninhabitable, provided the building permit for the replacement dwelling unit is issued within two years of the date that the former dwelling unit was destroyed or became uninhabitable. The Board’s current EDC By-law extends a similar credit for the replacement of a non-residential building that was destroyed or rendered unusable but the grace period is five years. The Halton Catholic District School Board’s EDC By-law provides for the same credits.

The issue was raised as to the rationale for a two year grace period for credits that arise from the demolition of a residential building, but a five year grace period where the demolition involves a non-residential building. In response, Section 4(2) and 5(3) of Ontario Regulation 20/98 prescribe the two year grace period and for the replacement of a residential building and the five year grace period for the replacement of a non-residential building.

While the School Boards have the discretion to increase the residential grace period to five years to match the non-residential, they would have no way of replacing the lost revenue that would flow from the expanded grace period.

Staff and legal counsel recommend that the demolition credit grace period for residential and non-residential uses continue to be set at two years and five years, respectively.

Another issue was raised with respect to the Boards considering conversion credit in the EDC By-law. Staff and legal counsel do not support this. Boards only allow a credit where a demolished residential building is replaced by a new residential building; the same applies for a non-residential building. If a demolished residential building is replaced by a non-residential building, a non-residential EDC is payable calculated based on the gross floor area of the non-residential building. If a demolished non-residential building is replaced by a residential building, a residential EDC is payable calculated based on the number of dwelling units constructed.

Therefore, staff and legal counsel are not recommending that the EDC By-law provide a conversion credit because the Boards cannot recover the lost revenues through any other source. Unlike municipalities, school boards do not have access to the property tax base.

Industrial Expansion Exemptions

An issue was raised with respect to whether limitations or caps should be imposed on the 50% exemption that applies to industrial expansions.

Staff and legal counsel agree that the industrial exemption should be applied to a maximum of 50% of the total floor area of the industrial building as it existed before the first enlargement for which an exemption from the payment of EDCs was granted under this or a previous By-law. As such the EDC By-law has been revised accordingly.

By-law Term

Section 257.58 of the *Education Act* provides for a maximum By-law term of five years. It is open to the Board to repeal its By-law prior to the expiration of the five year term.

The Board's current EDC By-law has a five-year term. This appears to provide for the maximum amount of flexibility.

Section 257.70 of the *Education Act* allows the Board to amend an EDC By-law. Subject to certain restrictions, such amendments may implement an increase in the amount of an EDC, remove or reduce the scope of an exemption, or extend the term of a By-law (to a maximum of five years).

Staff and legal counsel recommend to the Board a five-year term for the EDC By-law.

Further Public Meeting

Section 257.63(3) of the *Education Act* provides that where a proposed EDC By-law is changed following a public meeting, a Board must determine whether a further public meeting is necessary.

Staff and legal counsel recommend that the Board not convene a further public meeting for two principal reasons. First, the changes made to the proposed EDC By-law are minor and stylistic rather than substantive. Second, the public meeting to be held on June 19, 2013 will be the second public meeting in regard to the proposed By-law whereas the governing legislation only requires that the Board hold one such meeting. That is to say, the Board will have exceeded the minimum requirements respecting public meetings.

Public Submissions

As a result of the May 22, 2013, Policy Review and Successor EDC By-law public meetings, the Board to date has received no submissions letters from the public. .

Conclusion

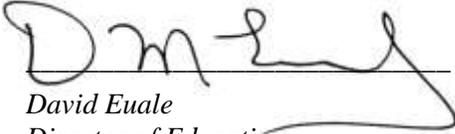
This report has examined the various issues relating to the policy decisions contained in the Board's Education Development Charge Background Study. Staff has considered input in formulating the recommendations set out in this report.

The recommended policy matters have been incorporated into the proposed EDC By-law (*refer to Appendix C*), the Board will consider at the public meeting scheduled for Wednesday, June 19, 2013.

Respectfully Submitted

(signed)

Lucy Veerman
Superintendent of Business Services



David Euale
Director of Education

2013 EDC By-law
Joint HDSB and HCDSB responses to issues raised by the municipalities

1. **Is there consideration of including below grade gross floor area in the non-residential EDC?**

Board Response: No. Regulation 20/98 made under the *Education Act* defines “gross floor area” to mean the total floor area of a building or structure above the average level of finished ground. It would therefore be contrary to the Regulation to include below grade gross floor area in the charge.

2. **Does the EDC apply to parking garages?**

Board Response: Yes, the above grade portion of a non-residential building or structure used for the parking or loading of motor vehicles is subject to EDCs because it falls within the definition of “gross floor area”. Staff of the School Boards are not recommending a change to this aspect of the EDC by-laws because the lost revenue cannot be recovered from any other source.

3. **Is there consideration for conversion credits?**

Board Response: No, the Boards only allow a credit where a demolished residential building is replaced by a new residential building; the same applies for a non-residential building. If a demolished residential building is replaced by a non-residential building, a non-residential EDC is payable calculated based on the gross floor area of the non-residential building. If a demolished non-residential building is replaced by a residential building, a residential EDC is payable calculated based on the number of dwelling units constructed. Staff of the school Boards are not recommending that the EDC by-laws provide a conversion credit because the Boards cannot recover the lost revenues through any other source. Unlike municipalities, school boards do not have access to the property tax base.

4. **What is the rationale for a two year grace period for credits that arise from the demolition of a residential building but a five year grace period where the demolition involves a non-residential building?**

Board Response: Section 4(2) and 5(3) of Ontario Regulation 20/98 prescribe the two year grace period and for the replacement of a residential building and the five year grace period for the replacement of a non-residential building. While the School Boards have the discretion to increase the residential grace period to five years to match the non-residential, they would have no way of replacing the lost revenue that would flow from the expanded grace period.

5. **Effective dates of the new EDC By-laws?**

Board Response: The Schools will ensure that the EDC by-laws take effect on the same date, which will likely be June 24, 2013.

6. **Are the School Boards considering imposing a special EDC rate for retirement/seniors housing?**

Board Response: No. Staff of the School Boards are recommending that the EDC by-laws continue to charge a uniform per dwelling unit residential EDC. For those forms of seniors housing that do not meet the definition of a “dwelling unit” (where both kitchen and washroom facilities are provided in the dwelling), a non-residential EDC is applied based on the gross floor area. In retirement/seniors buildings that offer both dwelling units and non-dwelling units (so residential and non-residential EDCs would apply), the gross floor area would be apportioned based on the square footage that each form of accommodation bears to the total square footage of the building.

7. **Why are non-profit private schools exempt from EDCs?**

Board Response: The exemption for non-profit private schools was established in the 1990’s with the operators of Appleby College, St. Mildred’s-Lightbourn School and other non-profit private schools. The exemption was given to recognize that these institutions also provided educational services.

8. **What is the planning horizon for the EDC by-laws?**

Board Response: Section 7, paragraphs 1 and 3 of Ontario Regulation 20/98 prescribes a 15 year planning horizon for the calculation of the EDCs imposed under the School Boards by-laws. For the by-laws currently being considered by the Boards, the planning horizon will be from 2013 to 2028.

9. **Should limitations or caps be imposed on the 50% exemption that applies to industrial expansions?**

Board Response: School Board staff agree that the exemption should be applied to a maximum of 50% of the total floor area of the industrial building as it existed before the first enlargement for which an exemption from the payment of EDCs was granted under this or a previous by-law. The School Boards apply the 50% industrial exemption without regard to whether the expansion is for an existing or new tenant or whether the building is entirely owner-occupied, because the relevant provision of the Education Act does not distinguish between these various users.

HALTON DISTRICT SCHOOL BOARD

7000-30

POLICY STATEMENT

OPERATING BUDGET SURPLUS

WHEREAS the Halton District School Board

recognizes that legislative provisions encourage school boards to review their operating budget for savings that could be applied to reduce growth-related net education land costs, and the amount of any savings which it proposes to apply (if any), and

recognizes that under the General Legislative Grant Regulation, only a surplus from the non-classroom part of the estimates is eligible to be used to acquire school sites, thereby reducing the "growth related net education land cost" and the education development charge that may be levied by the board

THEREFORE

Where there has been or it appears that there will be surplus in the non-classroom part of the estimates of the school board in a fiscal year, the Halton District School Board shall determine whether all, part, or none of the surplus will be designated as available for the purpose of acquiring school sites by purchase, lease or otherwise.

Motion	- #M99-0188	May 19, 1999
Review Date	- May 2003	
Responsibility	- Superintendent of Education (Transportation and Planning)	
Administrative Procedures Reference	- N/A	

POLICY STATEMENT

ALTERNATE ACCOMMODATION ARRANGEMENTS FOR PUPILS

WHEREAS the Halton District School Board

recognizes that legislative provisions encourage school boards to consider alternate arrangements for the accommodation of elementary and secondary school pupils to the usual arrangement under which a school site is acquired and a stand-alone school is built on it

THEREFORE

The Halton District School Board will consider possible arrangements with municipalities, school boards or other persons or bodies in the public or private sector, including arrangements of a long-term or cooperative nature, which would provide accommodation for the new elementary school pupils and new secondary school pupils who are resident pupils of the board, subject to the following conditions:

1. The arrangement must be cost effective and advantageous for the board compared to other possible arrangements including an acquisition of a school site and the construction of a freestanding building.
2. The arrangement shall comply with any guidelines issued by the Ministry of Education and Training.
3. The Board may enter into lease arrangements respecting school facilities intended to be used to accommodate peak enrolment, but shall not enter into such arrangements respecting school facilities that are necessary to accommodate long-term enrolment unless such arrangements could result in ownership at the board's discretion.
4. The board shall retain sufficient governance authority over such a facility to ensure that it is able to deliver the appropriate educational program to its pupils, and to ensure that its identity, ambience and integrity are preserved.
5. Such a facility shall have a separate entrance with the school name on the exterior of the school easily visible from the street.

Motion

- #M99-0188

May 19, 1999

Review Date
Responsibility

- May 2003
- Superintendent of Education
(Transportation and Planning)

Administrative Procedures Reference -

- N/A

HALTON DISTRICT SCHOOL BOARD
EDUCATION DEVELOPMENT CHARGES
BY-LAW, 2013

A by-law for the imposition of education development charges

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

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

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

which estimates the Minister of Education approved on June 19, 2013 in accordance with section 10 of Ontario Regulation 20/98;

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

AND WHEREAS the Halton District School Board has conducted a review of its education development charge policies and held a public meeting on May 22, 2013, in accordance with section 257.60 of the *Education Act*;

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

AND WHEREAS the Halton District School Board has given notice and held public meetings on May 22, 2013 and June 19, 2013, in accordance with section 257.63(1) of the *Education Act* and permitted any person who attended the public meetings to make representations in respect of the proposed education development charges;

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

NOW THEREFORE THE HALTON DISTRICT SCHOOL BOARD HEREBY ENACTS AS FOLLOWS:

PART I

APPLICATION

Defined Terms

1. In this by-law,
 - (a) “Act” means the *Education Act*, R.S.O. 1990, c.E.2, as amended, or a successor statute;
 - (b) “agricultural building or structure” means a building or structure used, or designed or intended for use for the purpose of a bona fide farming operation including, but not limited to, animal husbandry, dairying, fallow, field crops, removal of sod, forestry, fruit farming, horticulture, market gardening, pasturage, poultry keeping and any other activities customarily carried on in the field of agriculture, but shall not include a dwelling unit or other structure used for residential accommodation or any building or structure or parts thereof used for other commercial, industrial or institutional purposes qualifying as non-residential development;
 - (c) “Board” means the Halton District School Board;
 - (d) “development” includes redevelopment;
 - (e) “dwelling unit” means a room or suite of rooms used, or designed or intended for use by one person or persons living together in which culinary and sanitary facilities are provided for the exclusive use of such person or persons, and shall include, but is not limited to, a dwelling unit or units in an apartment, group home, mobile home, duplex, triplex, semi-detached dwelling, single detached dwelling, stacked townhouse and townhouse;
 - (f) “education land costs” means costs incurred or proposed to be incurred by the Board,
 - (i) to acquire land or an interest in land, including a leasehold interest, to be used by the Board to provide pupil accommodation;
 - (ii) to provide services to the land or otherwise prepare the site so that a building or buildings may be built on the land to provide pupil accommodation;

- (iii) to prepare and distribute education development charge background studies as required under the Act;
 - (iv) as interest on money borrowed to pay for costs described in paragraphs (i) and (ii); and
 - (v) to undertake studies in connection with an acquisition referred to in paragraph (i).
- (g) “education development charge” means charges imposed pursuant to this by-law in accordance with the Act;
- (h) “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;
- (i) “gross floor area of non-residential development” means in the case of a non-residential building or structure or the non-residential portion of a mixed-use building or structure, the total floor area, measured between the outside of exterior walls or between the outside of exterior walls and the centre line of party walls dividing the building from another building, of all floors at or 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; and for greater certainty, “gross floor area of non-residential development” includes any part of a building or structure used for the parking or loading of motor vehicles;
- (j) “local board” means a local board as defined in the *Municipal Affairs Act*, other than a board defined in section 257.53(1) of the Act;

- (k) “mixed use” means land, buildings or structures used, or designed or intended for use, for a combination of non-residential and residential uses;
 - (l) “non-residential building or structure” means a building or structure or portions thereof used, or designed or intended for use for other than residential use, and includes, but is not limited to, an office, retail, industrial or institutional building or structure;
 - (m) “non-residential development” means a development other than a residential development, and includes, but is not limited to, an office, retail, industrial or institutional development;
 - (n) “non-residential use” means lands, buildings or structures or portions thereof used, or designed or intended for use for other than residential use, and includes, but is not limited to, an office, retail, industrial or institutional use;
 - (o) “*Planning Act*” means the *Planning Act*, R.S.O. 1990, c. P.13, as amended;
 - (p) “Region” means the Regional Municipality of Halton;
 - (q) “Regulation” means Ontario Regulation 20/98, as amended, made under the Act;
 - (r) “residential development” means lands, buildings or structures developed or to be developed for residential use;
 - (s) “residential use” means lands, buildings or structures used, or designed or intended for use as a dwelling unit or units, and shall include a residential use accessory to a non-residential use and the residential component of a mixed use or of an agricultural use.
2. In this by-law where reference is made to a statute or a section of a statute such reference is deemed to be a reference to any successor statute or section.

Lands Affected

3. (1) Subject to sections 3(2) and 3(3), this by-law applies to all lands in the Region.
- (2) This by-law shall not apply to lands that are owned by and are used for the purposes of:
- (a) the Region or a local board thereof;
 - (b) a municipality or a local board thereof;
 - (c) a board as defined in section 257.53(1) of the Act;
-

- (d) a public hospital receiving aid under the *Public Hospitals Act*, R.S.O. 1990, c. P.40;
 - (e) a publicly-funded university, community college 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;
 - (f) a seminary of learning maintained for educational purposes that offers courses accredited by the Ministry of Education, which is exempt from taxation under the *Assessment Act*, the whole profits from which are devoted or applied to such purposes;
 - (g) a place of worship owned by a religious organization that is exempt from taxation under the *Assessment Act* that is used primarily as a place of public worship;
 - (h) a cemetery or burying ground that is exempt from taxation under the *Assessment Act*; and
 - (i) Metrolinx.
- (3) This by-law shall not apply to non-residential agricultural buildings or structures that are owned by and are used for the purposes of a bona fide farming operation.

Approvals for Development

4. (1) Education development charges shall be imposed against all lands, buildings or structures undergoing residential development if the development requires one or more of the following:
- a) the passing of a zoning by-law or of an amendment thereto under section 34 of the *Planning Act*;
 - b) the approval of a minor variance under section 45 of the *Planning Act*;
 - c) a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies;
 - d) the approval of a plan of subdivision under section 51 of the *Planning Act*;
 - e) a consent under section 53 of the *Planning Act*;
 - f) the approval of a description under section 9 of the *Condominium Act, 1998*, S.O. 1998, c. 19; or
 - g) the issuing of a permit under the *Building Code Act, 1992*, S.O. 1992, c. 23 in relation to a building or structure.

- (2) In respect of a particular development an education development charge will be collected once, but this does not prevent the application of this by-law to future development on the same property.
5.
 - (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; or
 - g) the issuing of a permit under the *Building Code Act, 1992*, S.O. 1992, c. 23 in relation to a building or structure.
 - (2) In respect of a particular development an education development charge will be collected once, but this does not prevent the application of this by-law to future development on the same property.
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, education development charges shall be imposed upon all categories of residential development and non-residential development.
8. Subject to the provisions of this by-law, education development charges shall be imposed upon all uses of land, buildings or structures.

PART II

EDUCATION DEVELOPMENT CHARGES

Residential Education Development Charges

9. Subject to the provisions of this by-law, an education development charge of \$2,691.00 per dwelling unit shall be imposed upon the designated categories of residential development and the designated residential uses of land, buildings or structures, including a dwelling unit accessory to a non-residential use, and, in the case of a mixed-use building or structure, upon the dwelling units in the mixed-use building or structure.

Exemptions from Residential Education Development Charges

10. (1) In this section,
- (a) “gross floor area” means the total floor area, measured between the outside of exterior walls or between the outside of exterior walls and the centre line of party walls dividing the building from another building, of all floors above the average level of finished ground adjoining the building at its exterior walls;
 - (b) “other residential building” means a residential building not in another class of residential building described in this section;
 - (c) “semi-detached or row dwelling” means a residential building consisting of one dwelling unit having one or two vertical walls, but no other parts, attached to another structure;
 - (d) “single detached dwelling” means a residential building consisting of one dwelling unit that is not attached to another building.
- (2) Subject to sections 10(3) and (4), education development charges shall not be imposed with respect to,
- (a) the enlargement of an existing dwelling unit that does not create an additional dwelling unit;
 - (b) the creation of one or two additional dwelling units in an existing single detached dwelling; or
 - (c) the creation of one additional dwelling unit in a semi-detached dwelling, a row dwelling, or any other residential building.
- (3) Notwithstanding section 10(2)(b), education development charges shall be imposed in accordance with section 9 if the total gross floor area of the additional unit or two

additional dwelling units exceeds the gross floor area of the existing single detached dwelling.

- (4) Notwithstanding section 10(2)(c), education development charges shall be imposed in accordance with section 9 if the additional dwelling unit has a gross floor area greater than,
 - (a) in the case of a semi-detached or row dwelling, the gross floor area of the existing dwelling unit; or
 - (b) in the case of any other residential building, the gross floor area of the smallest dwelling unit already contained in the residential building.
11.
 - (1) Education development charges under section 9 shall not be imposed with respect to the replacement, on the same site, of a dwelling unit that was destroyed by fire, demolition or otherwise, or that was so damaged by fire, demolition or otherwise as to render it uninhabitable.
 - (2) Notwithstanding section 11(1), education development charges shall be imposed in accordance with section 9 if the building permit for the replacement dwelling unit is issued more than 2 years after,
 - (a) the date the former dwelling unit was destroyed or became uninhabitable; or
 - (b) if the former dwelling unit was demolished pursuant to a demolition permit issued before the former dwelling unit was destroyed or became uninhabitable, the date the demolition permit was issued.
 - (3) Notwithstanding section 11(1), education development charges shall be imposed in accordance with section 9 against any dwelling unit or units on the same site in addition to the dwelling unit or units being replaced. The onus is on the applicant to produce evidence to the satisfaction of the Board, acting reasonably, to establish the number of dwelling units being replaced.
 - (4) Education development charges shall be imposed in accordance with section 12 where the dwelling unit described in section 11(1) is replaced by or converted to, in whole or in part, non-residential development.

Non-Residential Education Development Charges

12. Subject to the provisions of this by-law, an education development charge of \$0.69 per square foot of gross floor area of non-residential development 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.

Exemptions from Non-Residential Education Development Charges

13. Notwithstanding section 12 of this by-law, education development charges shall not be imposed upon a non-residential development if the development does not have the effect of creating gross floor area of non-residential development or of increasing existing gross floor area of non-residential development.
14.
 - (1) Education development charges under section 12 shall not be imposed with respect to the replacement, on the same site, of a non-residential building or structure that was destroyed by fire, demolition or otherwise, or that was so damaged by fire, demolition or otherwise as to render it unusable.
 - (2) Notwithstanding section 14(1), education development charges shall be imposed in accordance with section 12 if the building permit for the replacement non-residential building or structure is issued more than 5 years after,
 - (a) the date the former building or structure was destroyed or became unusable; or
 - (b) if the former building or structure was demolished pursuant to a demolition permit issued before the former building or structure was destroyed or became unusable, the date the demolition permit was issued.
 - (3) Notwithstanding section 14(1), 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, education development charges shall be imposed in accordance with section 12 against the additional gross floor area. 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.
 - (4) Education development charges shall be imposed in accordance with section 9 if the non-residential building or structure described in section 14(1) is replaced by or converted to, in whole or in part, a dwelling unit or units.
 - (5) Education development charges under section 12 shall not be imposed in regard to a non-residential development with a gross floor area of 100 square feet or less.
15.
 - (1) If a development includes the enlargement of the gross floor area of an existing industrial building, the amount of the education development charge that is payable in respect of the enlargement shall be 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 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 (i) by the amount of the enlargement.
- (2) For the purposes of section 15(1) the following provisions apply:
- (a) 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 section 15(1) was sought;
 - (b) the enlargement of the gross floor area of the existing industrial building must be attached to such building;
 - (c) 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.

PART III

ADMINISTRATION

Payment of Education Development Charges

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

Payment by Services

- 18. Notwithstanding the payments required under section 16, and subject to section 257.84 of the Act, the Board may, by agreement, permit an owner to provide land for pupil accommodation in lieu of the payment of all or a part of the education development charges.

Collection of Unpaid Education Development Charges

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

Date By-law In Force

20. This by-law shall come into force on June 24, 2013.

Date By-law Expires

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

Repeal

22. The Halton District School Board Education Development Charges By-law, 2009, is hereby repealed effective June 24, 2013.

Severability

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

Interpretation

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

Short Title

25. This by-law may be cited as the Halton District School Board Education Development Charges By-Law, 2013.

ENACTED AND PASSED this 19th day of June, 2013.

Chairperson

Director of Education
and Secretary