

**PETERBOROUGH VICTORIA NORTHUMBERLAND AND
CLARINGTON CATHOLIC DISTRICT SCHOOL BOARD**

EDUCATION DEVELOPMENT CHARGES BY-LAW

FOR THE MUNICIPALITY OF CLARINGTON

A by-law for the imposition of education development charges

WHEREAS subsection 257.54 (1) of the *Education Act* provides that if there is residential development in the area of jurisdiction of a district school board of education that would increase education land costs, the 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 provided that the development requires one or more of the actions identified in subsection 257.54(2) of the *Education Act*;

AND WHEREAS the Peterborough Victoria Northumberland and Clarington Catholic District School Board (the “Board”) has referred to the Minister of Education the following estimates with respect to the Municipality of Clarington 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 17, 2015 in accordance with section 10 of Ontario Regulation 20/98, as amended;

AND WHEREAS at the time of expiry of the Peterborough Victoria Northumberland and Clarington Catholic District School Board 2010 Education Development Charges By-law (Municipality of Clarington), the balance in the education development charge reserve fund with respect to the said by-law is less than the amount required to pay outstanding commitments to meet growth-related net education land costs, as calculated for the purposes of determining the education development charges to be imposed under this by-law;

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

AND 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 school board having jurisdiction within the area to which this by-law applies;

AND WHEREAS the Board has given notice of and held a public meeting on May 4, 2015, in accordance with subsection 257.60(2) of the *Education Act*;

AND WHEREAS the Board has given notice of and held a public meeting on May 4, 2015, in accordance with subsection 257.63(1) of the *Education Act*;

AND WHEREAS the Board has permitted any person who attended the public meetings on May 4, 2015 to make representations in respect of the proposed education development charges and by-law;

NOW THEREFORE THE PETERBOROUGH VICTORIA NORTHUMBERLAND AND CLARINGTON CATHOLIC 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, and residential buildings which are used exclusively to provide living accommodation for employees of the operator of the farming operation and which are occupied for fewer than six (6) consecutive months during each calendar year, but shall not include a dwelling unit or any other building or structure or parts thereof used for other retail, commercial, office, industrial or institutional purposes which constitute non-residential development;
 - (c) “Board” means the Peterborough Victoria Northumberland and Clarington Catholic 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).

but not:

- (vi) costs of any building to be used to provide pupil accommodation; or
 - (vii) costs that are prescribed in the Regulation as costs that are not education land costs.
- (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,
 - (1) carried out with respect to manufacturing, producing, processing, storage or distributing of something, and
 - (2) 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 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, as amended, 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 non-residential and residential uses;
- (l) “Municipality” means the Municipality of Clarington in the Regional Municipality of Durham;
- (m) “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;
- (n) “non-residential development” means a development other than a residential development and includes, but is not limited to, office, retail, industrial or institutional development;
- (o) “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;
- (p) “*Planning Act*” means the Planning Act, R.S.O. 1990, c. P.13, as amended;
- (q) “Region” means the Regional Municipality of Durham;
- (r) “Regulation” means Ontario Regulation 20/98, as amended, made under the Act;
- (s) “residential development” means lands, buildings or structures developed or to be developed for residential use.
- (t) “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 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 subsections (2) and (3), this by-law applies to all lands in the Municipality.
- (2) This by-law shall not apply to lands that are owned by and are used for the purposes of:
 - (a) the Municipality or a local board thereof;
 - (b) a board as defined in subsection 257.53(1) of the Act;
 - (c) the Region or a local board thereof: or,
 - (d) a publicly funded university established by a special act of the Legislative Assembly of Ontario which exempts the property of such university from taxation for school purposes or a college of applied arts and technology established under the *Ontario Colleges of Applied Art and Technology Act, 2002*, S.O. 2002, c.8, Schedule F, as amended.
- (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. 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 the *Condominium Act, 1998*, S.O. 1998, c. C.19, as amended; or
 - (g) the issuing of a permit under the *Building Code Act, 1992*, S.O. 1992, C.23, as amended, in relation to a building or structure.
5. 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 the *Condominium Act, 1998*; or
 - (g) the issuing of a permit under the *Building Code Act, 1992* in relation to a building or structure.
6. The Board has determined that the residential development of land in the area of jurisdiction of the Board 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 \$710.00 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 subsections (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 clause (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 clause (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 subsection (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 subsection (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 subsection (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 \$0.16 per square foot (\$1.72 per square metre) 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 subsection (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 subsection (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 subsection (1) is replaced by or converted to, in whole or in part, a dwelling unit or units.
15. 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.

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*, S.O. 2001, c.25, as amended, 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 July 1, 2015. On such date, the Peterborough Victoria Northumberland and Clarington Catholic District School Board 2010 Education Development Charges By-Law (Municipality of Clarington), as amended, shall be repealed.

Date By-Law Expires

21. This by-law shall expire on July 1, 2020, unless it is repealed at an earlier date.

Severability

22. 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


23. 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

24. This by-law may be cited as the Peterborough Victoria Northumberland and Clarington Catholic District School Board 2015 Education Development Charges By-Law (Municipality of Clarington).

ENACTED AND PASSED this 23rd day of June, 2015.


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Chairperson of the Board


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Director of Education and Secretary of the Board