

**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*;

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 school pupils and the number of existing school pupil places that could reasonably be used to accommodate those new school pupils, for each of the 15 years immediately following the day the Board intends to have this by-law come into force;
- (ii) the total number of new school pupils who were or who are, for each of the years referred to in paragraph (i), expected to be generated by new dwelling units that were, since July 1, 2015, built in the area in which the charges are to be imposed under this by-law;
- (iii) the number of existing and planned school pupil places that could reasonably be used to accommodate the estimated total number of new school pupils referred to in paragraph (ii); and,
- (iv) the number of school sites used by the Board to determine the net education land cost to be recovered in the 15-year period immediately following the day the Board intends to have this by-law come into force;

which estimates the Minister of Education approved on _____, 2020 in accordance with section 10 of Ontario Regulation 20/98, as amended;

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;

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;

WHEREAS the Board has provided any information related to the education development charge background study or the calculation of education development charges as set out therein requested by the Minister of Education;

WHEREAS the Board has given notice of and held a public meeting on _____, 2020, in accordance with subsection 257.60(2) of the *Education Act*;

WHEREAS the Board has given notice of and held a public meeting on _____, 2020 in accordance with subsection 257.63(1) of the *Education Act*;

WHEREAS the Board has permitted any person who attended the public meetings on _____, 2020 to make representations in respect of the proposed education development charges and by-law;

WHEREAS the Board has determined in accordance with subsection 257.63(3) of the *Education Act* that no additional public meeting is necessary in respect of this 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) to (6), 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) Metrolinx.
- (3) Subject to subsection (4), an owner shall be exempt from education development charges if a development on its lands would construct, erect, or place a building or structure, or make an addition or alteration to a building or structure for one of the following purposes:
- (a) a private school;
 - (b) a long-term care home, as defined in the *Long-Term Care Homes Act, 2007*, S.O. 2007, c. 8, as amended;
 - (c) a retirement home, as defined in the *Retirement Homes Act, 2010*, S.O. 2010, c. 11, as amended;
 - (d) a hospice or other facility that provides palliative care services;

- (e) a child care centre, as defined in the *Child Care and Early Years Act, 2014* S.O. 2014, c. 11, Sched. 1, as amended; or
 - (f) a memorial home, clubhouse or athletic grounds owned by the Royal Canadian Legion.
- (4) If only a portion of a building or structure, or an addition or alteration to a building or structure, referred to in subsection (3) will be used for a purpose identified in that subsection, only that portion of the building, structure, addition or alteration is exempt from an education development charge.
- (5) An owner shall be exempt from education development charges if the owner is,
- (a) a college of applied arts and technology established under the *Ontario Colleges of Applied Arts and Technology Act, 2002*, S.O. 2002, c. 8, Sched. F, as amended;
 - (b) a university that receives regular and ongoing operating funds from the Government of Ontario for the purposes of post-secondary education;
 - (c) an Indigenous Institute prescribed for the purposes of section 6 of the *Indigenous Institutes Act, 2017*, S.O. 2017, c. 34, Sched. 20, as amended;
- (6) 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 the *Condominium Act, 1998*, S.O. 1998, c. C.19, as amended; or
 - (g) the issuing of a permit under the *Building Code Act, 1992*, S.O. 1992, c.23, as amended, in relation to a building or structure.

- (2) 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 the *Condominium Act, 1998*, S.O. 1998, c. C.19, as amended; or
 - (g) the issuing of a permit under the *Building Code Act, 1992*, S.O. 1992, c.23, as amended, in relation to a building or structure.
- (2) 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 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 per dwelling unit shall be imposed upon the designated categories of residential development and the designated residential uses of land, buildings or structures, including a dwelling unit accessory to a non-residential use, and, in the case of a mixed-use building or structure, upon the dwelling units in the mixed-use building or structure. The education development charge per dwelling unit shall be in the following amounts for the periods set out below:
- (a) _____, 2020 to _____, 2021 - \$1,010.00; and,
 - (b) _____, 2021 to _____, 2025 - \$1,202.00.

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.
- (5) For the purposes of this section 10, an “additional dwelling unit” is a dwelling unit for which the application for the building permit for such additional dwelling unit is submitted no sooner than twelve (12) months after the earliest of the dates on which any of the following events occurs:
 - (i) the issuance of a certificate of occupancy for the dwelling unit already in the building;
 - (ii) if no certificate of occupancy is issued by the area municipality, the occupancy of the dwelling unit already in the building, as established by proper evidence of such occupancy; or,
 - (iii) the delivery of the certificate of completion, pursuant to subsection 13(3) of the *Ontario New Home Warranties Plan Act*, R.S.O. 1990, c. O.31, as amended, for the dwelling unit already in the 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 shall be imposed upon the designated categories of non-residential development and the designated non-residential uses of land, buildings or structures and, in the case of a mixed use building or structure, upon the non-residential uses in the mixed-use building or structure. The education development charge per square foot (square metre) of such non-residential development and uses of land, buildings or structures shall be in the following amounts for the periods set out below:

- (a) _____, 2020 to _____, 2021- \$0.26 per square foot (\$2.80 per square metre);
- (b) _____, 2021 to _____, 2022 -\$0.36 per square foot (\$3.88 per square metre);
- (c) _____, 2022 to _____, 2023- \$0.46 per square foot (\$4.95 per square metre);
- (d) _____, 2023 to _____, 2024 - \$0.56 per square foot (\$6.03 per square metre); and,
- (e) _____, 2024 to _____, 2025- \$0.60 per square foot (\$6.46 per square metre).

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. (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 subsection (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) or a similar provision of any prior education development charge by-law of the Board 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*, 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 _____, 2020. On such date, the Peterborough Victoria Northumberland and Clarington Catholic District School Board 2015 Education Development Charges By-Law (Municipality of Clarington) shall be repealed.

Date By-Law Expires

21. This by-law shall expire on _____, 2025, 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 2020 Education Development Charges By-Law (Municipality of Clarington).

ENACTED AND PASSED this _____ day of _____, 2020.

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Chairperson of the Board

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Director of Education and Secretary/Treasurer of the Board