

GREATER ESSEX COUNTY DISTRICT SCHOOL BOARD

**BY-LAW NO. 23 (May 2014-W)
(EDUCATION DEVELOPMENT CHARGES for the City of Windsor)**

**Being a By-Law for the Imposition of Education Development Charges
in the City of Windsor**

AND WHEREAS Section 257.54 of the Education Act provides that if there is residential development in the area of jurisdiction of a district school board 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 and non-residential development provided that the development requires one or more of the actions identified in Section 257.54(2) of the Education Act.

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

- a) the total number of new elementary school pupils and the total number of new secondary school pupils; and
- b) the number of elementary school sites and the number of secondary school sites used by the Board to determine the net education land costs;

which estimates the Minister of Education approved May 2, 2014 in accordance with Section 10 of Ontario Regulation 20/98, as amended;

AND WHEREAS the Greater Essex County District School Board has an outstanding financial obligation with respect to schools sites;

AND WHEREAS the Greater Essex County District School Board prepared an Education Development Charges Background Report relating to this By-law and has provided a copy to the Minister of Education and each School Board having jurisdiction within the area of jurisdiction to which this By-law applies;

AND WHEREAS the Greater Essex County District School Board has given notice and held a public meeting on Tuesday April 15, 2014 in accordance with Section 257.62(1) of the Education Act;

AND WHEREAS the Greater Essex County District School Board has permitted any person who attended the public meeting to make representations relating to the proposed Education Development Charges;

NOW THEREFORE THE GREATER ESSEX COUNTY DISTRICT SCHOOL BOARD ENACTS AS FOLLOWS:

**PART I
APPLICATION**

DEFINITIONS

1. In this By-law, the following definitions shall apply:
 - a) **"Act"** shall mean the Education Act, R.S.O. 1990, as amended, or a successor statute;
 - b) **"Area Municipality"** shall mean the City of Windsor;
 - c) **"Board"** shall mean the Greater Essex County District School Board;
 - d) **"Development"** shall mean redevelopment;
 - e) **"Dwelling Unit"** shall mean one or more habitable rooms occupied or designed to be occupied by an individual or group of individuals as an independent and separate housekeeping establishment in which separate kitchen and sanitary facilities are provided for the use of such individual or group of individuals with a private entrance from outside the building or from a common hallway or stairway inside the building;
 - f) **"Education Development Charge"** shall mean charges imposed pursuant to this By-law in accordance with the Act;
 - g) **"Education Land Costs"** shall mean 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);
 - h) **"Local Board"** shall mean a local board as defined in the Municipal Affairs Act, R.S.O. 1990, as amended, other than a board as defined in Section 267.53(1) of this Act;
 - i) **"Mixed Use Building"** shall mean a building that is used and/or designed to be used for both residential and non-residential purposes;
 - j) **"Non-residential Building"** shall mean a building or portions thereof used, designed or intended for use for other than a residential purpose.
 - k) **"Non-residential Development"** shall mean development other than residential development;
 - l) **"Non-residential Use"** shall mean lands, buildings or structures or portions thereof used, designed or intended for use for other than residential use;

**Greater Essex County District School Board
By-Law No. 23 (May 2014-W)**

- m) **"Planning Act"** shall mean the Planning Act, R.S.O., 1990, as amended;
 - n) **"Regulation"** shall mean Ontario Regulation 20/98, as amended, made under the Education Act, R.S.O., 1990, as amended;
 - o) **"Residential Development"** shall mean lands, buildings or structures developed or to be developed for residential use;
 - p) **"Residential Building"** shall mean a building used and/or designed to be used for a residential use;
 - q) **"Residential Use"** shall mean lands, buildings, structures, used, 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 building;
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.

APPLICABLE LANDS

3. This By-law applies to the construction of all residential buildings within the jurisdiction of the Board being all area municipalities with the exception of those buildings specifically exempt by the Act being lands, buildings or structures within the municipality that are owned and used for the purposes of:
- a) The Corporation of the City of Windsor or any local board thereof;
 - b) a board as defined in Section 257.53(1) of the Act;
 - c) any area municipality or local board thereof;
 - d) a public hospital receiving aid under the Public Hospitals Act, R.S.O. 1990.

APPROVALS FOR DEVELOPMENT

4. Education development charges shall be imposed upon 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 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 50 of the Condominium Act, R.S.O. 1990;
 - g) the issuance of a permit under the Building Code Act, 1992, R.S.O. 1992;
5. The Board has determined that the residential development of land to which this By-law applies increases education land costs.

CATEGORIES OF DEVELOPMENT SUBJECT TO EDUCATION DEVELOPMENT CHARGES

6. Subject to the provisions of this By-law, education development charges shall be imposed upon all categories of residential development.
7. Subject to the provisions of this By-law, education development charges shall not be imposed upon any categories of non-residential development.
8. Subject to the provisions of this By-law, education development charges shall be imposed upon residential uses of land, buildings and structures.
9. Subject to the provisions of this By-law, education development charges shall not be imposed upon non-residential uses of land, buildings and structures.

**PART II
EDUCATION DEVELOPMENT CHARGES**

10. Subject to the provisions of this By-law, an education development charge of \$305 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.
11. Education development charges shall not be imposed in respect to:
 - a) the enlargement of an existing dwelling unit if the enlargement does not create an additional dwelling unit;
 - b) the creation of up to two additional dwelling units in an existing residential building.
12. Education development charges under Section 10 shall not be imposed with respect to the replacement 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.
13. Notwithstanding Section 12, education development charges shall be imposed in accordance with Section 10 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 of the demolition permit was issued.
14. Notwithstanding Section 12, education development charges shall be imposed in accordance with Section 10 against any dwelling unit or units on the same site in addition to the dwelling unit or units 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.

**PART III
ADMINISTRATION**

PAYMENT OF EDUCATION DEVELOPMENT CHARGES

15. Education development charges are payable in full to the area 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.
16. The treasurer of the Board shall establish and maintain an education development charge reserve fund in accordance with the Act, the Regulation and this By-law.

PAYMENT BY SERVICES

17. Notwithstanding the payments required under Section 15, and subject to Section 257.84 of the Act, the Board may, by agreement, permit an owner to provide land for pupil accommodation in place of the payment of all or a part of the education development charge.

COLLECTION OF UNPAID EDUCATION DEVELOPMENT CHARGES

18. Section 382 of the Municipal Act, R.S.O. 1990 applies with necessary modifications with respect to an education development charge or any part of it that remains unpaid after it is payable.

MOTION TO REVIEW THE BY-LAW

19. Where it appears to the Board that the land values used in determining the education development charge calculation are higher than the Board is generally experiencing, over a period of time sufficient to show discrepancy with a reasonable degree of assurance, the Board shall consider a motion to study amending the by-law to decrease the charge.
20. Where it appears to the Board that the land values used in determining the education development charge calculation are lower than the Board is generally experiencing, over a period of time sufficient to show a discrepancy with a reasonable degree of assurance, the Board shall consider a motion to study amending the by-law to increase the charge.

DATE BY-LAW IN FORCE

21. This By-law shall come into force on the fifth day after the day on which it is passed or on May 11, 2014, whichever is the later.

DATE BY-LAW EXPIRES

22. This By-law expires five years after the date it comes into force, unless it is repealed at an earlier date.

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 to commit or require the Board to authorize or proceed with any specific capital project at any specific time. Each of the provisions of this By-law are severable and if any provision hereof should for any reason be declared invalid by the Ontario Municipal Board or a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

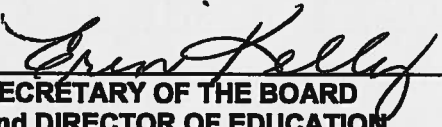
SHORT TITLE

25. This By-law may be cited as "The Education Development Charges By-law of the Greater Essex County District School Board for the City of Windsor".

PASSED ON THE 6th DAY OF MAY 2014.



CHAIRPERSON OF THE BOARD



**SECRETARY OF THE BOARD
and DIRECTOR OF EDUCATION**