GREATER ESSEX COUNTY DISTRICT SCHOOL BOARD
BY-LAW NO. 41 (April 2024)

Being a By-law for the imposition of
Education Development Charges, for the County of Essex and Township of Pelee

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 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 development requires one or more of the actions identified in section 257.54(2) of the *Education Act*;

AND WHEREAS on March 26, 2024, the Minister of Education approved the Board's estimates which are prescribed under Section 10, paragraph 1 of Ontario Regulation 20/98;

AND WHEREAS at the time of the expiry of By-law No. 35 (April 2019-E) the balance in the education development charge account will be 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 imposed under that by-law;

AND WHEREAS the Greater Essex County District School Board has provided notice of public meetings in accordance with section 257.60(2) and 257.63 of the *Education Act*;

AND WHEREAS the Greater Essex County District School Board has conducted a review of its education development charge policies and held a public meeting on March 19, 2024 in accordance with section 257.60(2) of the *Education Act*;

AND WHEREAS the Greater Essex County District School Board has made available to the public the education development charge background study and the proposed by-law in accordance with section 257.63(1)(c) of the *Education Act* and held a public meeting on March 19, 2024, on the proposed education development charges by-law in accordance with section 257.63(1)(a) of the *Education Act*;

AND WHEREAS the Greater Essex County District School Board has given a copy of the education development charge background study to the Minister of Education and to each school board having jurisdiction within the area to which this by-law applies in accordance with paragraph 3 of section 10 of Ontario Regulation 20/98 of the *Education Act;*

AND WHEREAS the Greater Essex County District School Board has permitted any person who attended the public meetings to make representations in respect of the

proposed education development charges by-law in accordance with section 257.63(2) of the *Education Act*;

AND WHEREAS the Greater Essex County District School Board has determined in accordance with section 257.63(3) of the *Education Act* that an additional public meeting is not necessary in respect of this by-law;

NOW THEREFORE THE GREATER ESSEX COUNTY 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, Chapter E.2, as amended, or a successor statute;

(b) "agricultural use" means agricultural use as defined within the Provincial Policy Statement issued in accordance with section 3 of the *Planning Act*, R.S.O. Chapter P.13, as amended;

(c) "Board" means the Greater Essex County District School Board;

(d) 'building permit" means a building permit as defined within section 257.53(1) of the Act;

(e) "development" includes redevelopment;

(f) "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;

(g) "education development charge" means education development charge as defined within section 257.53(1) of the Act;

(h) "education development charge account" means education development charge account as defined within section 257.53(1) of the Act;

(i) "education land costs" means education land cost as defined within section 257.53(1) of the Act;

(j) "local board" means a local board as defined in the *Municipal Affairs Act*, R.S.O. 1990, Chapter M.46, as amended, other than a board defined in section 257.53(1) of the Act;

(k) "mixed-use" means land, buildings or structures designed, occupied or intended to be occupied, containing residential use and at least one other non-residential use;

(l) "Municipality" means:
(i) The Corporation of the Municipality of Leamington;
(ii) The Corporation of the Town of Amherstburg;
(iii) The Corporation of the Town of Essex;
(iv) The Corporation of the Town of Kingsville;
(v) The Corporation of the Town of Lakeshore;
(vi) The Corporation of the Town of LaSalle;
(vii) The Corporation of the Town of Tecumseh; and
(viii) The Corporation of the Township of Pelee.

(m) "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, agricultural, commercial, industrial or institutional use;

(n) "owner" means owner as defined within section 257.53(1) of the Act;

(o) "pupil accommodation" means pupil accommodation as defined within section 257.53(1) of the Act;

(p) "*Planning Act*" means the *Planning Act*, R.S.O. 1990, Chapter P.13, as amended;

(q) "Regulation" means Ontario Regulation 20/98: Education Development Charges – General, as amended, under the Act;

(r) "residential development" means lands, buildings or structures designed, occupied or intended to be occupied for residential use.

(s) "residential use" means lands, buildings or structures designed, occupied or intended to be occupied as a dwelling unit(s), and shall include a residential use accessory to a non-residential use and the residential use component of a mixed-use or of an agricultural use;

2. In this by-law,

(a) 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;

(b) Where required by the context of this by-law, words in the singular include the plural and vice-versa.

Lands Affected

3. (1) Subject to subsections 3(2) to 3(5), this by-law applies to all lands in the geographic area of the Municipality.

(2) This by-law shall not apply to lands that are owned by and are used for the purposes of:

(i) a municipality or a local board thereof;

(ii) a board as defined in section 257.53(1) of the Act;

(iii) a public hospital receiving aid under the *Public Hospitals Act*, R.S.O. 1990, c. P.40;

(3) Subject to subsection 3(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:

(i) a private school;

(ii) a long-term care home, as defined in the *Fixing Long-Term Care Act, 2021*;

(iii) a retirement home, as defined in the *Retirement Homes Act, 2010*;

(iv) a hospice or other facility that provides palliative care services;

(v) a child care centre, as defined in the *Child Care and Early Years Act, 2014;*

(vi) 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(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,

(i) a college of applied arts and technology established under the *Ontario Colleges of Applied Arts and Technology Act, 2002;*

(ii) a university that receives regular and ongoing operating funds from the Government of Ontario for the purposes of post-secondary education;

(iii) an Indigenous Institute prescribed for the purposes of section 6 of the *Indigenous Institutes Act, 2017*.

Approvals for Development

4. (1) In accordance with section 257.54(2) of the Act, 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, Chapter 19; or

(g) the issuing of a permit under the *Building Code Act*, *1992*, S.O. 1992, Chapter 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. 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

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 be imposed upon all residential uses of land, buildings or structures.

PART II

EDUCATION DEVELOPMENT CHARGES

Residential Education Development Charges

8. Subject to the provisions of this by-law, an education development charge of $1,230.00 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

9. (1) In this section,

(i) “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;

(ii) “other residential building” means a residential building not in another class of residential building described in this section;

(iii) “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;

(iv) “single detached dwelling” means a residential building consisting of one dwelling unit that is not attached to another building.

(2) Subject to sections 9(3) and (4), education development charges shall not be imposed with respect to,

(i) the enlargement of an existing dwelling unit that does not create an additional dwelling unit;

(ii) the creation of one or two additional dwelling units in an existing single detached dwelling; or

(iii) the creation of one additional dwelling unit in an existing semi-detached dwelling, an existing row dwelling, or any other residential building.

(3) Notwithstanding section 9(2)(ii), education development charges shall be imposed in accordance with section 8 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 9(2)(iii), education development charges shall be imposed in accordance with section 8 if the additional dwelling unit has a gross floor area greater than,

(i) in the case of a semi-detached or row dwelling, the gross floor area of the existing dwelling unit; or

(ii) 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 9, an “additional dwelling unit” means a dwelling unit for which the application for the building permit, for such additional dwelling unit is submitted no sooner than twelve months after the earliest of the dates on which any of the following events occurs:

(i) the issuance of a occupancy permit in accordance with Ontario Regulation 332/12: Building Code, as amended, under the Building Code Act, 1992, S.O. 1992, Chapter 23, as amended, for the dwelling unit already in the building;

(ii) if no occupancy permit is issued in accordance with Ontario Regulation 332/12: Building Code, as amended, under the Building Code Act, 1992, S.O. 1992, Chapter 23, as amended, by the 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, Chapter O.31, for the dwelling unit already in the building.

10. (1) Education development charges under section 8 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 10(1), education development charges shall be imposed in accordance with section 8 if the building permit for the replacement dwelling unit is issued by the Municipality more than 2 years after,

(i) the date the former dwelling unit was destroyed or became uninhabitable; or

(ii) if the former dwelling unit was demolished pursuant to a building permit issued before the former dwelling unit was destroyed or became uninhabitable, the date the building permit was issued by the Municipality.

(3) Notwithstanding section 10(1), education development charges shall be imposed in accordance with section 8 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.

PART III

ADMINISTRATION

Payment of Education Development Charges

11. Education development charges are payable in full to the Municipality in which development takes place on the date a building permit is issued by the Municipality in relation to a building or structure on land to which this education development charge by-law applies.

12. The treasurer of the Board shall establish and maintain an educational development charge account in accordance with the Act, the Regulation and this by-law.

Payment by Services

13. Notwithstanding the payments required under section 11, 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

14. Section 349 of the *Municipal Act, 2001*, S.O. 2001, Chapter 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

15. This by-law shall come into force on April 7, 2024.

Date By-law Expires

16. This by-law shall expire five years after the date it comes into force under section 15, unless it is repealed at an earlier date.

Repeal

17. The Greater Essex County District School Board Education Development Charges By-law No. 35 is repealed on the day this by-law comes into force.

Severability

18. 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

19. 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

20. This by-law may be cited as the Greater Essex County District School Board No. 41 (April, 2024 – E), Education Development Charges By-Law, for the County of Essex and the Township of Pelee.

ENACTED AND PASSED this 2nd day of April, 2024.

Gale Hatfield
Chairperson of the Board

Vicki Houston
Director of Education/Secretary

I hereby certify that the foregoing is a true copy of By-law No. XXX (April 2024 – E), as enacted by the Board of Trustees of the Greater Essex County District School Board on this 2nd day of April, 2024.

Dated at the City of Windsor, this 2nd day of April, 2024.



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Vicki Houston
Director of Education/ Secretary of the Board