



 **Watson
& Associates**
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Education Development Charges Policy Review Report

Greater Essex County District School Board

March 15, 2019

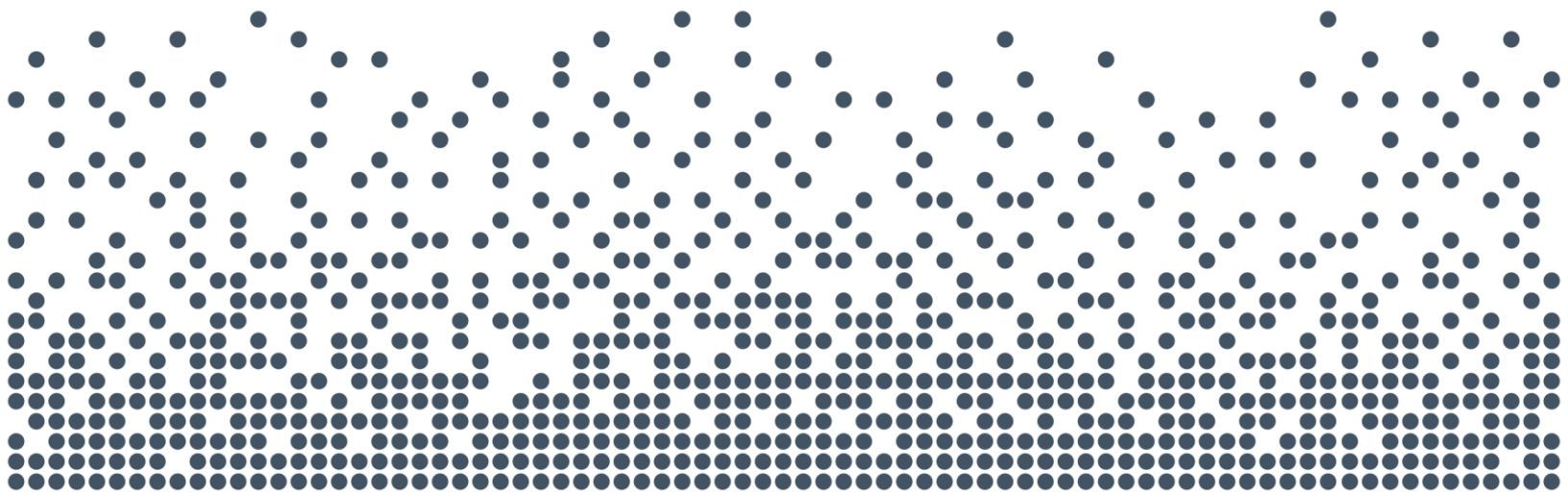
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Report



Chapter 1

The Policy Review Process





1. The Policy Review Process

1.1 Legislative Requirements

The process and methodology to impose or renew Education Development Charges (EDC) is guided by Provincial legislation. Division E of part IX of the *Education Act* as well as Ontario Regulation 20/98, as amended, are the specific pieces of legislation that set out the EDC requirements. One of the requirements that must be met before an EDC by-law can be imposed deals with certain policies that must be considered by the board.

Each EDC by-law has a set of underlying policies which help to determine the structure and type of by-law that will be enacted. While the EDC analysis is guided by legislative requirements and is technical and formulaic in nature, each school board (in conjunction with public participation) is responsible for determining their own policies. For school boards that have existing EDC by-laws in force, before passing a subsequent EDC, they must conduct a review of their existing EDC policies.

Section 257.60 (1) of the *Education Act* states, “Before passing an education development charge by-law, the board shall conduct a review of the education development charge policies of the board.” As part of the policy review the board must also hold a public meeting. Subsection (2) of the same legislation goes on to state, “In conducting a review under subsection (1), the board shall ensure that adequate information is made available to the public, and for this purpose shall hold at least one public meeting, notice of which shall be given in at least one newspaper having general circulation in the area of the jurisdiction of the board.”

The Greater Essex County District School Board (GECDSB) has two in force EDC by-laws (City of Windsor & County of Essex/Township Of Pelee) and as such is required to conduct a review of its existing EDC policies. This report will outline the existing policies of the Board’s current EDC by-laws. The policies are consistent for both by-laws.



1.2 Existing By-laws

The existing EDC by-laws for the Board came into force on May 11, 2014 and are valid for a maximum period of 5 years.

The existing by-laws are applied on uniform basis across all types of residential development. This means that the by-law has one uniform charge for all types of developments (single family, townhouses, apartments etc.). In addition, the rate is the same throughout the areas to which the by-laws apply. The existing EDC rate is also based on 100% residential allocation, with no non-residential component. This means that 100% of the education land costs are collected through residential development.

A table outlining the GECSB's existing EDC rates can be found below.

School Board	Residential/Non-Residential	EDC
GECSB (City of Windsor)	100% Residential	\$305 per dwelling unit
GECSB (County of Essex/Township of Pelee)	100% Residential	\$305 per dwelling unit

1.3 Public Meetings

Before a school board can pass an EDC by-law, the legislation requires that the board hold at least one public meeting. The purpose of the meeting is to advise any interested stakeholders and the public at large of the board's intentions and address the new proposed EDC by-law. The public meeting also gives the community and stakeholders the opportunity to voice any issues or concerns they have with regard to the proposed by-law.



The board is required to provide at least 20 days notice of the meeting and must make the background study as well as the new proposed by-law available to the public at least two weeks in advance of said meeting.

If a school board already has an existing in-force EDC by-law in place, the Board must hold an additional public meeting to review the existing policies of the current EDC by-law. This part of the process is necessary in order to fulfil the necessary requirements of the policy review process. It should be noted that this policy public review meeting can be addressed by the Board during its EDC public meeting. The Board intends to hold their policy review public meeting on the same night as the EDC public meeting.

The GECDSB intends to hold both their policy review public meeting and the new proposed EDC by-law public meeting on the same night. The Board will hold their public meeting at the Board office in the City of Windsor on April 2, 2019 at 7PM. An official notice can be found on the following page.



**GREATER ESSEX COUNTY DISTRICT SCHOOL BOARD
NOTICE OF PUBLIC MEETINGS
REGARDING EDUCATION DEVELOPMENT CHARGES**



Jessica Sartori
Chairperson of the Board

Erin Kelly
Secretary to the Board
and Director of Education

WHAT:

The Greater Essex County District School Board (the "Board") is proposing to enact Education Development Charge (the "EDC") By-laws that cover the Board's jurisdiction (City of Windsor, the low-tier member municipalities of the County of Essex and Township of Pelee), for the continued collection of EDC fees in accordance with Division E of Part IX of the *Education Act* (the "Act").

A school board can impose EDCs, through the passage of EDC By-laws, against land in its jurisdiction undergoing residential development, if such development would increase education land costs (acquiring new school sites and site preparation costs, as per the Act).

PUBLIC MEETINGS:

The public meetings, pursuant to Section 257.60 of the Act (the "First Public Meeting") to consider EDC policies of the Board and Section 257.63 of the Act (the "Second Public Meeting") to consider the continued imposition of EDCs through successor by-laws, will be held at the following Board Meeting:

Date:	Tuesday, April 2, 2019
First Public Meeting Time:	7:00 p.m.
Second Public Meeting Time:	7:00 p.m., immediately following the First Public Meeting
Location:	Greater Essex County District School Board Board Room (2nd Floor) 451 Park Street West, Windsor, Ontario

The purpose of the 2 public meetings is to review the current EDC policies of the Board, consider the continued imposition of EDCs through successor by-laws, inform the public generally about the Board's EDC proposal, and to solicit public input. Individuals may speak to the EDC policies and/or the EDC Successor By-laws. There are no decisions made at this above-noted Board Meeting.

CONTRIBUTING YOUR OPINION:

Any person may attend these public meetings and make written or verbal comments regarding this proposal. Information from the public will help the Board in its decision making process. All comments will require your name, civic address, municipality, phone number and email to form part of the public record, in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*.

All written comments received by Monday, April 1, 2019, will be shared with the Board's Trustees and Administration, prior to the public meetings and will be summarized accordingly. Additional written comments can be submitted to the Board after the public meetings, but it is encouraged that all written comments be submitted by 5:00 p.m. on Thursday, April 4, 2019, in order to finalize the public consultation process for EDCs.

Any person that comments will receive the Notice of Passing of the Board. It is anticipated that the Board will be passing the EDC by-laws at the Board Meeting on Tuesday, April 16, 2019. This Board Meeting is a meeting open to the public for any person to attend. Any person can request to speak at this Board Meeting through the Director's Office, at 519-255-3200 extension 10259, by filing for one of the following:

- Delegation (limited to 10 minutes at the meeting) by 12 p.m. on Monday, April 15, 2019; OR
- Speaker (limited to 5 minutes at the meeting) by 6:45 p.m. on Tuesday, April 16, 2019.

Additional details of the procedural process, Director's Office contact information and Board Meeting Agenda packages (released the Friday before the Board Meeting at 2:00 p.m.) can be found on the Board's Website at: <https://www.publicboard.ca/Board/Meetings/Pages/default.aspx>

ADDITIONAL INFORMATION:

Additional information on EDCs is available during regular office hours at the Board Office and website at: <https://www.publicboard.ca/Board/Budget-Finance/Pages/Education-Development-Charges.aspx>

Please note that the EDC Policy Review Report, EDC Background Study and proposed by-laws will be available to the public on or before Tuesday, March 19, 2019. Please direct questions and written comments on the EDC project to the following:

Bryan Pearce, HBA, CPT, MCIP, RPP
Board Planner
Greater Essex County District School Board
451 Park Street West, P.O. Box 210, Windsor, ON N9A 6K1
Phone: 519-255-3200 x10308
Email: bryan.pearce@publicboard.ca

Dated this 13th day of March, 2019.



1.4 Appeals and Complaints

Once an Education Development Charge is passed and put into effect there are avenues available to the public to either appeal the by-law itself or to argue payment or application of the charge.

APPEALS

The Education Development Charge by-law can be appealed by any individual or organization in accordance with the provisions in the *Education Act*. Sections 257.64 to 257.69 of the Act outline the legislation dealing with the appeal of the EDC by-law. The by-law is subject to appeal for a maximum of 40 days after the by-law has been passed. The school board must provide a written notice that an EDC by-law has been passed (within 20 days of passage) and this notice must include information on how to file an appeal.

The requirements that must be included in a by-law notice are outlined in O.Reg 20/98 S.12 (5):

1. A statement that the board has passed an education development charge by-law.
2. A statement setting out when the by-law was passed and what its number is.
3. A statement that any person or organization may appeal the by-law to the Ontario Municipal Board under section 257.65 of the Act by filing with the secretary of the board a notice of appeal setting out the objection to the by-law and the reasons supporting the objection.
4. A statement setting out what the last day for appealing the by-law is.
5. An explanation of the education development charges imposed by the by-law on residential development and non-residential development.
6. A description of the land to which the by-law applies.
7. A key map showing the lands to which the by-law applies or an explanation of why a key map is not provided.
8. An explanation of where and when persons may examine the copy of the by-law.



9. A statement that notice of a proposed by-law amending the education development charge by-law or the passage of such an amending by-law is not required to be given to any person or organization, other than to certain clerks of municipalities or secretaries of school boards, unless the person or organization gives the secretary of the board a written request for notice of any amendments to the education development charge by-law and has provided a return address.

According to S.257.64 (4) of the Act, “A notice required under this section shall be deemed to have been given,

- (a) If the notice is by publication in a newspaper, on the day that the publication occurs;
- (b) If the notice is given by mail, on the day that the notice is mailed.

An appeal of the EDC by-law goes to the Local Planning Appeal Tribunal (LPAT) formerly known as the Ontario Municipal Board (OMB), to be decided. All appeals must be filed in writing with the secretary of the school board within the allotted time allowed. The reasons for the appeal must be included in the Notice of Appeal. It is the responsibility of the secretary of the board to forward a copy of the Notice of Appeal to the LPAT within 30 days after the last day of the appeal period. In addition to the Notice of Appeal, the secretary must provide:

- A copy of the by-law certified by the secretary.
- A copy of the background study.
- An affidavit or declaration certifying that notice of the passing of the by-law was provided in accordance with the *Education Act*.
- The original or true copy of all written submissions and material relevant to the by-law.

After hearing an appeal the LPAT, in accordance with S.257.76 (3) of the Act, may decide to:

- Dismiss the appeal in whole or in part.
- Order the board to repeal or amend the by-law.
- Repeal or amend the by-law itself.



If the by-law is repealed then the EDCs that have already been paid must be refunded. If the by-law is amended and the amended charge is lower than the original charge, the difference must be refunded. All refunds are due within 30 days of the by-law being repealed or amended, including interest, to the person who paid the EDC. While the LPAT does have the power to repeal or amend the by-law, they are not able to increase the quantum of the charge, remove or reduce the scope of discretionary exemptions or change the expiration date of the by-law in accordance with S. 257.67(4) of the Act.

An amended EDC by-law can also be appealed and is subject to the same requirements as discussed with regular appeals. One important difference, however, is that in an appeal to an amended by-law, the scope of the appeal is limited to only the provisions that have been amended.

The GECDSB has not incurred any appeals of their existing EDC by-laws.

COMPLAINTS

Once the EDC by-law has been imposed and the appeal period has passed, the public still has the ability to argue the application of the by-law. The Education Act, specifically S.257.85 allows land owners to make formal complaints to the Municipality which collects the charge in the area of the EDC by-law.

s.257.85 (1):

An owner, the owner's agent or a board, may complain to the council of the municipality to which an education development charge is payable that,

- (a) The amount of the education development charge was incorrectly determined;
- (b) A credit is or is not available to be used against the education development charge, or that the amount of a credit was incorrectly determined; or
- (c) There was an error in the application of the education development charge by-law.



A complaint must be made in writing and must be made no later than 90 days after the education development charge (in whole or in part) is payable. The complaint must include;

- The name of the complainant.
- Address where notice can be given.
- The reason for the complaint.

Once the complaint is filed with Council of the applicable municipality, a hearing date is established and the complainant must be notified at least 14 days in advance of said hearing. Each party (the complainant and the school board) is provided with the opportunity to make representations. The municipal council is able to make certain decisions regarding the complaint – they can dismiss the complaint or can rectify any determinations or errors that were the subject of the complaint in accordance with S. 257.85 (7) of the Act.

If Council's decision increases the EDC, the amount is immediately payable by the person who originally paid the EDC. If the EDC decreases, the overpayment must be immediately refunded by the school board (including interest) to the complainant. Within 20 days of Council's decision the clerk of the municipality must give the parties written notice of the decision including the last day (40 days from the decision date) for appealing the decision.

Appeals regarding municipal decisions are filed by submitting a Notice of Appeal to the clerk of the municipality. Within 30 days of the Notice of Appeal being filed, the clerk must provide the Local Planning Appeal Tribunal with;

- A copy of the EDC by-law certified by the clerk.
- An original or true copy of the complaint and all materials submitted by the parties.
- A certified copy of the decision of the municipal council.
- An affidavit or declaration certifying that the notification of the council's decision was rendered in accordance with the *Education Act*.



In addition to appealing the decision of the municipal council regarding EDC complaints, an appeal may also be filed if the municipality does not deal with the complaint within 60 days of being made.

According to s.257.89 (3) of the Act, in appeals dealing with municipal decisions, the LPAT, “may do anything that could have been done by the council of the municipality under subsection 257.85 (7).”

The GECDSB has not incurred any formal complaints filed with regard to the existing EDC by-laws.



Chapter 2

Education Development Charge Policies



2. Education Development Charge Policies

The purpose of the policy review is to examine the current policies of the Boards' existing EDC by-laws (which can be found in appendix A). The examination includes an analysis of the by-laws and any appeals or complaints related to the by-law and related policies. It also allows school boards an opportunity to discuss their policies, both internally and with the public, to determine if changes to their existing policies are necessary for future by-laws. This section of the report explains the key EDC policies which shape the existing by-law of the Board.

2.1 Percentage Of Growth-Related Net Education Land Costs To Be Borne Through EDCs

This policy determines the percentage of a board's net education land costs that can be collected through the imposition of Education Development Charges. A board can decide to collect anywhere from 0%-100% of its costs through EDCs.

Typically most school boards calculate their EDCs to recover 100% of their net education land costs. However, the granting of non-statutory exemptions would limit school boards from achieving 100% cost recovery. Many school boards with existing EDC by-laws collect less than 100% of net education land costs because they have granted some form of non-statutory exemptions through negotiations with development community interests or in response to positions by local governments or other interested stakeholders. Non-statutory exemptions are typically more common on the non-residential component of EDCs.

It is important to note that EDCs are a major source of funding for new school sites for boards that qualify. School boards no longer have the ability to collect taxes as a funding source and thus have limited ability to make up shortfalls if full cost recovery of land costs is not borne by EDCs. EDCs also allow for some autonomy in school board accommodation planning where non-EDC school sites are funded through land funding requests to the Ministry of Education. Non-statutory exemptions granted by a school board result in a loss of revenue which must be absorbed by the board.



2.2 Non-Statutory Residential Exemptions

This policy directly relates to the percentage of net education land costs that are borne through EDCs. If less than 100% of land costs are collected it is primarily because of some form of non-statutory exemption. Non-statutory residential exemptions are decided by the Board and would exempt a type or form of residential housing from EDCs.

The legislation sets out certain statutory residential exemptions – these exemptions are factored into the calculation of the EDCs and do not result in a revenue loss to the Board's. The residential exemptions in the legislation deal with the intensification of units and the replacement of units.

If an existing dwelling unit is enlarged or the density is increased (single detached converted into a duplex) the development would be exempt from EDCs. The Act does not allow EDCs to be charged if the action:

- Permits the enlargement of an existing dwelling unit; or
- Permits the creation of one or two additional dwelling units as prescribed, subject to the prescribed restrictions, in prescribed classes of existing residential buildings.

O.Reg. 20/98 S.3 provides a table with the name and description of classes of residential buildings and the maximum number of units that can be added under the intensification exemption.



Class Of Residential Building	Description	Maximum # Of Units	Restrictions
Single Detached	Single dwelling units not attached to another unit.	TWO	Gross floor area of new units must be less than or equal to gross floor area of existing dwelling.
Semi-Detached/Row	Single dwelling units that have only one or two vertical walls attached to other buildings.	ONE	Gross floor area of new unit must be less than or equal to gross floor area of existing dwelling.
Other	Dwelling units not described in other parts of this table.	ONE	Gross floor area of new unit must be less than or equal to gross floor area of the smallest existing unit in the building.

The legislation ensures that estimates are made with regard to the number of units in the residential forecast that would be exempt under this requirement. Part 3, s.7.1 of O.Reg. 20/98 S.7, paragraph 1 states, “The board shall estimate the number of new dwelling units in the area in which the charges are to be imposed for each of the 15 years immediately following the day the board intends to have the by-law come into force. The board’s estimate shall include only new dwelling units in respect of which education development charges may be imposed.”

Additionally, if an existing dwelling unit has been demolished or destroyed by fire it is also exempt from EDCs subject to certain provisions. O.Reg 20/98 s.4 describes when a replacement unit is exempt.

- The replacement dwelling must be on the same site as the original dwelling unit that was destroyed or rendered uninhabitable by fire, demolition or otherwise. For the exemption to apply the building permit for the replacement dwelling must be issued two years or less after the date on which the former dwelling unit was destroyed or became uninhabitable, or a demolition permit was issued.



Non-statutory residential exemptions can include certain types of developments like those catered to seniors or adult lifestyles. These units may generate lower numbers of school aged children than typical developments. It should be noted, however, that there is no ability under the *Building Code Act, 1992* to limit the number of occupants in a dwelling. This means that regardless of how a development may be marketed there are no guarantees of long -occupancy and thus no guarantees of the resultant number of school-aged children. Other forms of residential non-statutory exemptions could relate to affordable housing developments, municipal building initiatives etc. As of the writing of this report, no school board has granted any non-statutory residential exemptions.

The GECDsB does not have any non-statutory residential exemptions in their existing EDC by-laws.

2.3 Non-Statutory Non-Residential Exemptions

School boards which have a non-residential component to their EDC by-laws can elect to impose non-statutory non-residential exemptions. A non-statutory non-residential exemption would exempt certain determined types of non-residential development that would ordinarily be subject to the EDC. A non-statutory exemption would result in a school board collecting less than 100% of their net education land costs through EDCs.

As with residential development, the legislation classifies certain types of non-residential developments which are statutorily exempt from paying EDCs. There are three primary types of statutory exemptions dealing with non-residential developments:

- Land owned by school boards or municipalities.
- Enlargement of industrial developments.
- Replacement developments (subject to certain provisions).

Section 257.54 (5) of the Act states, “No land, **except land owned by and used for the purposes of a board or a municipality**, is exempt from an education development



charge under a by-law passed under subsection (1) by reason only that it is exempt from taxation under section 3 of the Assessment Act.”

With regard to industrial development additions/enlargements the Act goes on to say in Section 257.55 (1-3);

Exemption For Industrial Development:

“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 is determined in accordance with this section.”

Enlargement 50% or less:

“If the gross floor area is enlarged by 50% or less, the amount of the EDC in respect of the enlargement is zero.”

Enlargement more than 50%:

“If the gross floor area is enlarged by more than 50%, the amount of the EDC in respect of the enlargement is the amount of the EDC that would otherwise be payable multiplied by the fraction determined as follows:

1. Determine the amount by which the enlargement exceeds 50% of the gross floor area before the enlargement.
2. Divide the amount determined under paragraph 1 by the amount of the enlargement.”

Non-residential exemptions related to the replacement of units are similar to the residential replacement exemption with two notable exceptions. In the residential exemption a unit deemed to be exempt because of replacement must have a permit issued within two years of the date the unit was destroyed. With non-residential buildings the permit must be issued within **5** years of the date the building was destroyed for the exemption to apply. The second difference with non-residential replacement exemptions applies when a replacement building is built larger than the original building. O.Reg 20/98, S.5 (2) states;



If the board determined GFA of the non-residential part of the replacement building exceeds the board determined GFA of the non-residential building being replaced, the board is only required to exempt the owner with respect to the portion of the EDC calculated in accordance with the following formula:

$$\text{Exempted Portion} = [\text{GFA (old)} / \text{GFA (new)}] \times \text{EDC}$$

All statutory non-residential exemptions are factored into the EDC calculation. Estimates of institutional space (school boards/municipalities) and industrial expansions are made and the non-residential forecast is adjusted accordingly to ensure this space is excluded from the projection. Examples of a non-statutory non-residential exemptions can include, public hospitals, places of worship, farm buildings etc. There have been a variety of non-statutory non-residential exemptions granted in EDC by-laws around the Province.

The GECDSD does not have non-residential components to its existing by-laws and as such does not have any non-residential exemptions.

2.4 Jurisdiction-Wide or Area-Specific EDCs

An EDC by-law can apply to the entire region of a school board's jurisdiction or can apply to specific areas of the jurisdiction. The policy allows school boards to determine whether they charge one rate for all units in their jurisdiction, one rate for a specific area in their jurisdiction or various rates for different areas in their jurisdiction.

Section 257.54 (4) of the Act states, "An education development charge by-law may apply to the entire area of jurisdiction of a board or only part of it." It is important to note that some board's jurisdictions are divided into regions and s.257.57 of the Act describes the necessary requirements if a board's jurisdiction is divided into regions:

"If the regulations divide the area of the jurisdiction of a board into prescribed regions for the purposes of this section the following apply:



1. Despite subsection 257.54 (4), an education development charge by-law of the board shall not apply with respect to land in more than one region.
2. The EDCs collected under an EDC by-law that applies to land in a region shall not, except with prior written approval of the Minister, be used in relation to land that is outside that region.”

Each EDC by-law in a board’s jurisdiction must establish its own separate EDC reserve fund. Section 257.82 (1) of the Act states, “A board that has passed an education development charge by-law shall establish reserve funds in accordance with the regulations.” O.Reg 20/98, S.16 (1 and 2) goes on to say:

“A board shall, under section 257.82 of the Act, establish an EDC reserve fund for the area to which an EDC by-law applies.”

“Money from an EDC charge reserve fund established under subsection (1) may be used only,

- (a) For growth-related net education land costs attributed to or resulting from development in the area to which the education development charge by-law applies.”

Most of the existing EDC by-laws across the Province are applied on a jurisdiction wide basis.

The GECD SB jurisdiction has been divided into regions as per the above referenced legislation. The City of Windsor is one region and has one EDC by-law and the County of Essex and the Township of Pelee is another region and also has one EDC by-law.



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

The total net education land costs that a board is eligible to collect through EDCs can be allocated between residential and non-residential development. A school board can decide to allocate anywhere from 0%-40% of their EDC eligible land costs to be borne by non-residential development.

O.Reg 20/98 s.7, paragraph 8 says, “The board shall choose the percentage of the growth-related net education land cost that is to be funded by charges on residential development and the percentage, if any, to be funded by charges on non-residential development. The percentage that is to be funded by charges on non-residential development shall not exceed 40%.”

Existing EDC by-laws in the Province vary between 0% to about 25% non-residential components - the average is approximately 10-15%.

The GECDsB’s existing EDC by-laws are both allocated 100% to residential development, with no non-residential development component. This means that 100% of the net education land costs are currently collected through residential building permits.

2.6 Uniform EDC Rate or Differentiated EDC Rate

This policy deals with the application of the EDC rate either uniformly for all types of developments or differentiated by prescribed types of development. The school board can decide to apply one EDC rate regardless of the type or density of dwelling unit. The board can also choose to apply different EDC rates to different types or densities of developments – for example, single detached units could have one rate, townhomes could have one rate etc.



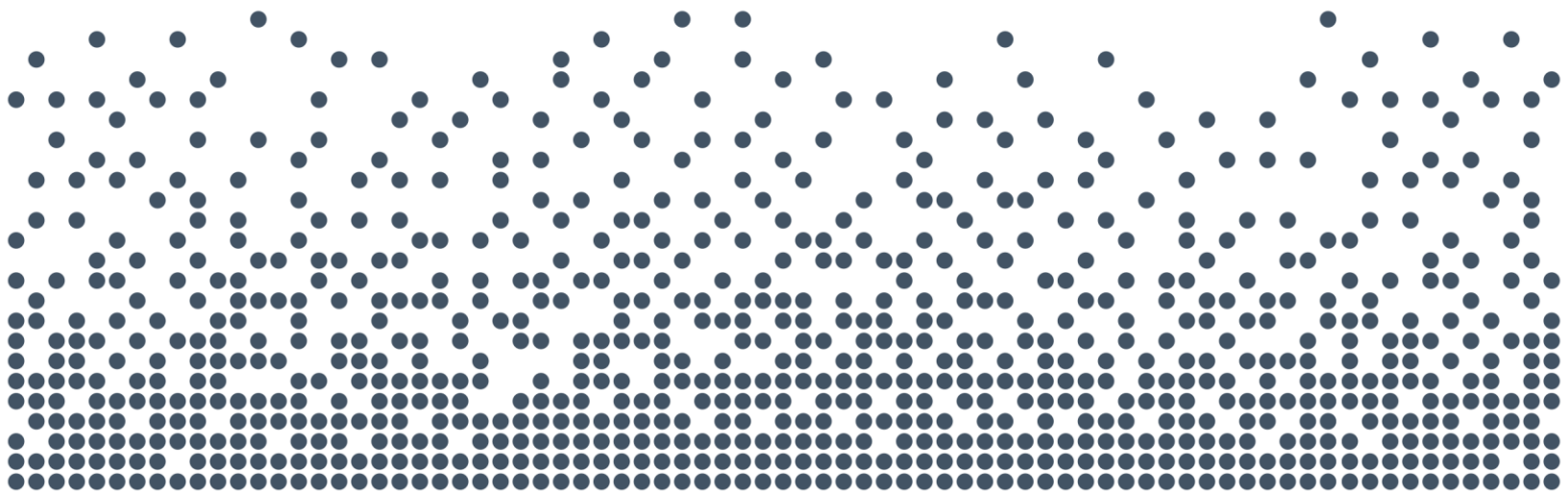
Initially the legislation permitted school boards to only charge a uniform rate across all types of developments. Changes to the EDC regulations in 2002 gave boards the ability to impose EDCs with different charges based on the type of residential development (i.e. single family vs. apartments). O. Reg 20/98, S.7, paragraph 10 states, “Despite paragraph 9, if the board intends to impose different charges on different types of residential development, the board shall determine,

- i) the percentage of the growth-related net education land cost to be funded by charges on residential development that is to be funded by each type of residential development, and,
- ii) the charges on each type of residential development, subject to the rules in subparagraphs 9 i, ii and iii.”

The differentiated rate is premised on the basis that different units produce school-aged pupils at different rates and the land costs are apportioned relative to the distribution of pupils by unit type. The Ministry’s EDC Guidelines suggest that boards may define dwelling types based on the nature of developments and criteria that are relevant to the board (e.g. low, medium, high or singles, townhomes, apartments, etc.). The Guidelines encourage the boards to be as consistent as possible with municipalities impacted by the EDCs when determining categories of development if considering a differentiated rate.

The determination of a uniform or differentiated charge does not necessarily impact the revenue collected by the Board. Typically input is sought from the development community and local governments during the public consultation process to determine the ideal by-law structure for the board and its jurisdiction. There are currently no existing EDC by-laws in the Province that have a differentiated EDC rate.

The GECDSB’s existing EDC by-laws have a uniform rate that is applied across all types of residential development equally.



Appendices



Appendix A

Existing By-laws

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;

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- 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**

GREATER ESSEX COUNTY DISTRICT SCHOOL BOARD

**BY-LAW NO. 24 (May 2014-E)
(EDUCATION DEVELOPMENT CHARGES)**

**Being a By-Law for the Imposition of Education Development Charges
in the Municipality of Leamington, Town of Amherstburg, Town of Essex,
Town of Kingsville, Town of Lakeshore, Town of LaSalle, Town of Tecumseh
and the Township of Pelee**

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 on 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 Municipality of Learnington, Town of Amherstburg, Town of Essex, Town of Kingsville, Town of Lakeshore, Town of LaSalle, Town of Tecumseh and the Township of Pelee;
 - 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;

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- l) **"Non-residential Use"** shall mean lands, buildings or structures or portions thereof used, designed or intended for use for other than residential use;
 - 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;
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 - 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 County of Essex 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;

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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.
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**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;
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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:
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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

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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.

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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.

**Greater Essex County District School Board
By-Law No. 24 (May 2014-E)**


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 County of Essex and the Township of Pelee".

PASSED ON THE 6th OF MAY 2014.



CHAIRPERSON OF THE BOARD



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