

**BRANT HALDIMAND NORFOLK
CATHOLIC DISTRICT SCHOOL
BOARD**

**EDUCATION DEVELOPMENT
CHARGE POLICY REVIEW
REPORT**

AUGUST 31, 2018



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 **Planning for growth**

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1. THE POLICY REVIEW PROCESS

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1.1 Legislative Requirements

The process and methodology to impose or renew Education Development Charges (EDC) is guided by Provincial legislation. Division E 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 passed and approved 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 Brant Haldimand Norfolk Catholic District School Board (BHNCDSD) has an existing EDC by-law in force 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-law.

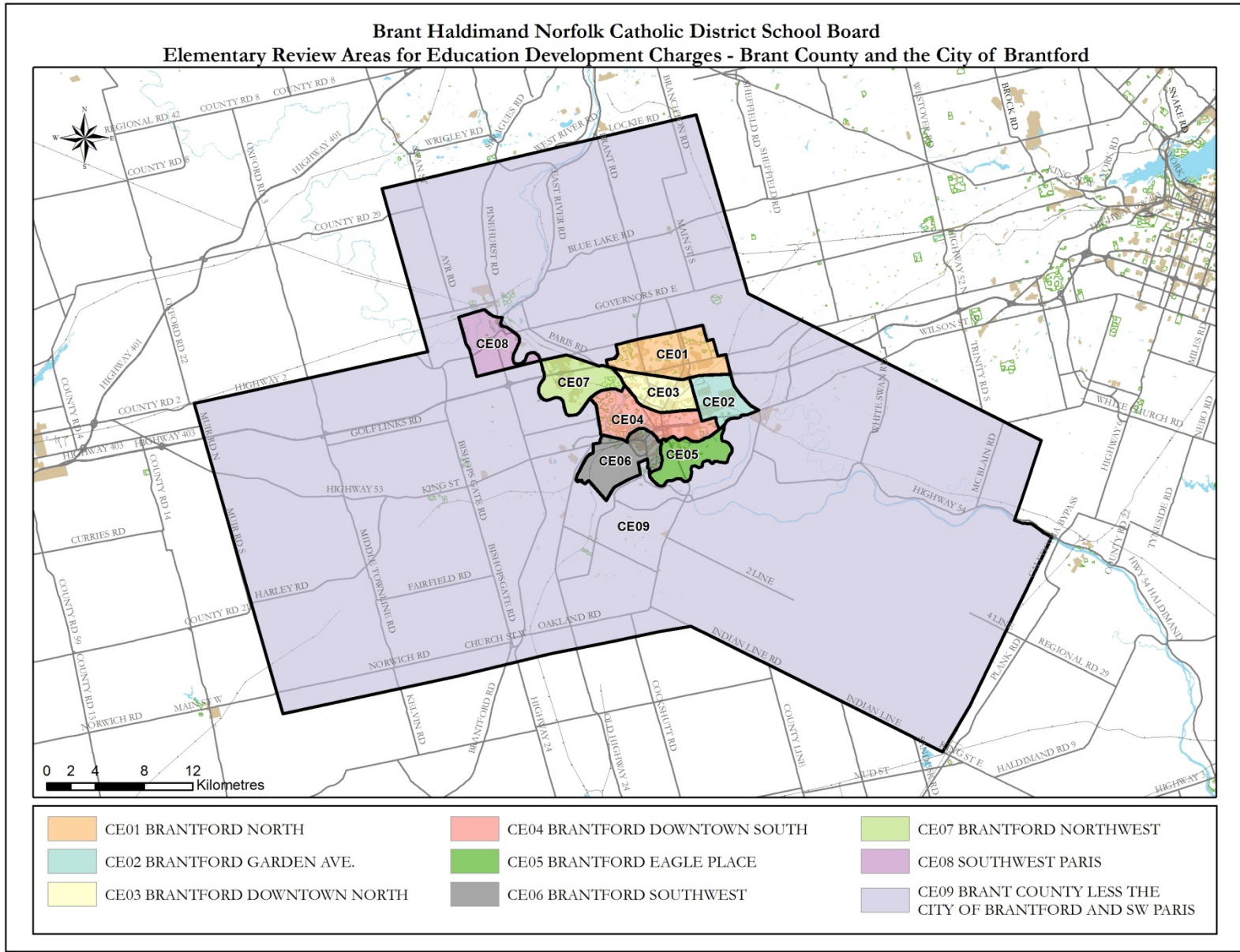
1.2 Existing By-law

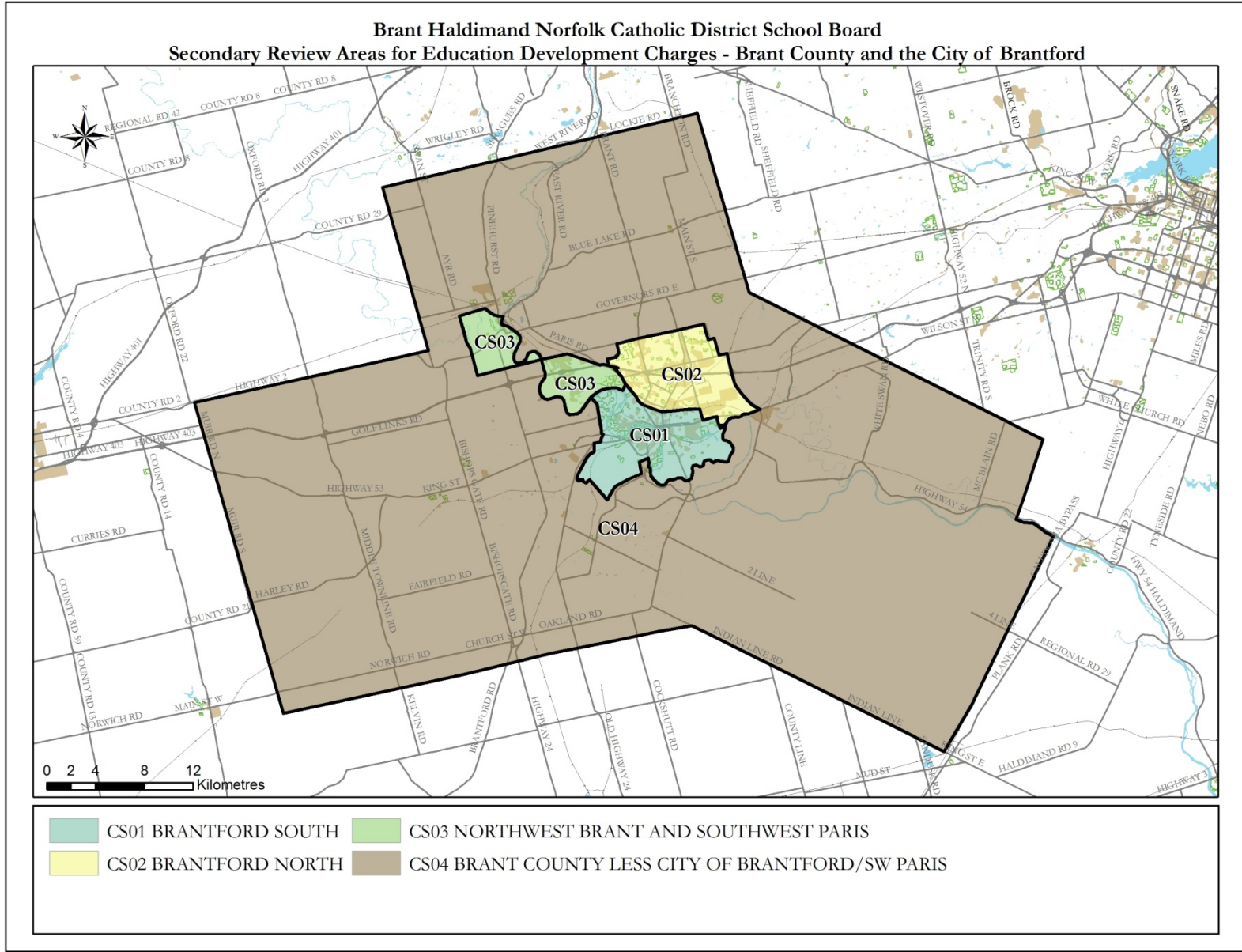
The existing EDC by-law for the Board came into force on November 2, 2013 and is valid for a maximum period of 5 years. The Board’s by-law is jurisdiction-wide for the County of Brant and the City of Brantford which is considered one ‘region’ for the purposes of EDCs.

BHNCDSD existing by-law is uniform. This means that the by-law has one uniform charge for all types of developments (single family, townhouses apartments etc.). In addition, the EDC rate is the same throughout the area to which the by-law applies. The existing EDC rate is also based on a 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 BHCNDSB's existing EDC rates can be found below. Maps for the Board's existing EDC by-law area and elementary and secondary review areas from the 2013 EDC Study can be found on the following pages.

School Board	Residential/Non-Residential	EDC
BHCNDSB	100% Residential	\$912 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. O.Reg. 20/98 states that notice of a public meeting can be given in two ways:

- To every owner of land in the area to which the proposed by-law would apply by personal service, fax or mail.
- By publication in a newspaper that is, in the secretary of the Board's opinion, of sufficiently general circulation in the area to which the proposed by-law would apply to give the public reasonable notice of the meeting.

If a school board already has an existing in-force EDC by-law in place, the Board must hold an additional 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 review meeting can be addressed by the Board during its EDC public meeting. It is the intention of the BHCNDSB to hold their policy review meeting on the same night as the EDC public meeting.

The BHCNDSB intends to hold both their policy review public meeting and the new proposed EDC by-law public meeting on the same night. The BHCNDSB will hold their public meeting at the Board offices in Brantford on Tuesday, September 18th, 2018 at 630PM. An official notice can be found on the following page.

**BRANT HALDIMAND NORFOLK CATHOLIC DISTRICT SCHOOL BOARD
EDUCATION DEVELOPMENT CHARGES
NOTICE OF PUBLIC MEETINGS FOR EDC BY-LAW**

**TUESDAY SEPTEMBER 18, 2018, @ 6:30 P.M. and
TUESDAY SEPTEMBER 25, 2018, @ 7:00 P.M.
To be held at the Catholic Education Centre, 322 Fairview Drive, Brantford**

**FIRST MEETING
– POLICY REVIEW PUBLIC MEETING –
TUESDAY SEPTEMBER 18, 2018 @ 6:30 P.M.**

TAKE NOTICE that on September 18, 2018, the Brant Haldimand Norfolk Catholic District School Board will hold a public meeting pursuant to Section 257.60 of the Education Act. The purpose of the meeting will be to review the current education development charge policies of the Board and to solicit public input. Any person who attends the meeting may make a representation to the Board in respect of the policies. The Board will also consider any written submissions. A Policy Review Document setting out the Board's policies for the current education development charge by-law will be available on or before August 31, 2018, at the Board's administration offices during regular office hours and on the Board's website at www.bhncdsb.ca.

**IMMEDIATELY FOLLOWED BY SECOND MEETING
– SUCCESSOR BY-LAW PUBLIC MEETING –
TUESDAY SEPTEMBER 18, 2018 @ 6:30 P.M.**

TAKE NOTICE that on September 18, 2018, the Brant Haldimand Norfolk Catholic District School Board will hold a second public meeting pursuant to Section 257.63 of the Education Act. The purpose of the second public meeting is to consider the continued imposition of education development charges and a successor by-law and to inform the public generally about the Board's education development charge proposal. Any person who attends the meeting may make a representation to the Board in respect of the proposal. The Board will also consider any written submissions. All submissions received in writing and those expressed at the public meeting will be considered prior to the enactment of an education development charge by-law. The education development charge background study required under Section 257.61 of the Education Act (including the proposed EDC by-law) setting out the Board's education development charge proposal will be available on or before August 31, 2018, at the Board's administrative offices during regular office hours and on the Board's website at www.bhncdsb.ca.

**THIRD PUBLIC MEETING
– IN CONSIDERATION OF BY-LAW ADOPTION –
SEPTEMBER 25, 2018 @ 7:00 PM
To be held at Catholic Education Centre, 322 Fairview Drive, Brantford**

TAKE NOTICE that on September 25, 2018, the Brant Haldimand Norfolk Catholic District School Board will hold a third public meeting. The purpose of this meeting is to consider the enactment of a successor education development charges by-law that will apply to the development of land in the City of Brantford and the County of Brant, save and except for certain areas thereof which will not be subject to the by-law. Any person who attends the meeting may make representations to the Board in respect of this matter. Written submissions, filed in advance of the meeting, will also be considered. All interested parties are invited to attend the public meeting.

The Board would appreciate receiving written submissions one week prior to the Public Meetings,

so that they may be distributed to Trustees prior to the meetings. Submissions and requests to address the Board as a delegation should be submitted to:

Amanda Barnett
Office of the Director of Education
Brant Haldimand Norfolk Catholic District School Board
322 Fairview Drive, Brantford
Ontario, N3T 5M8
Telephone: (519) 756-6369
Fax: (519) 756-9913

Any comments or requests for further information regarding this matter may be directed to Tom Grice, Superintendent of Business & Treasurer, Brant Haldimand Norfolk Catholic District School Board, at (519) 756-6505 Ext. 272 or tgrice@bhncdsb.ca.

Rick Petrella
Chair of the Board

Chris N. Roehrig
Director of Education & Secretary

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 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. It is the responsibility of the secretary of the board to forward a copy of the Notice of Appeal to the OMB within 30 days after the last day of the appeal period. In addition to the Notice, 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 OMB 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. While the OMB 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.

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 BHNCD SB has not incurred any appeals of their existing EDC by-law.

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 a complaint is filed with Council, a hearing date is set 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.

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 OMB 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 Ontario Municipal Board, "may do anything that could have been done by the council of the municipality under subsection 257.85 (7)."

There have been no formal complaints filed with regard to the existing EDC by-law of the BHNCD SB.

2. EDUCATION DEVELOPMENT CHARGE POLICIES

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The purpose of the policy review is to examine the current policies of the Boards' existing EDC by-law (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 boards from actually collecting 100%. Most 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 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. 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 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	Single dwelling units that have only one or two vertical walls attached to other buildings.	ONE	Gross floor area of new units 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 units 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* 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 term 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 BHNCD SB does not have any non-statutory residential exemptions in their existing EDC by-law.

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);

“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 BHNCD SB does not have a non-residential component to their charge and as such has no 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.”

The majority of existing EDC by-laws across the Province are applied on a jurisdiction wide basis. The area specific by-laws that are in-force occur in jurisdictions where there is a clear and specific area of growth with little development opportunities elsewhere in the board’s jurisdiction. Boards typically elect to impose jurisdiction wide by-laws because:

- A jurisdiction-wide approach is more consistent with the way in which education services are provided by boards;
- A jurisdiction-wide charge affords more flexibility for boards to meet their long-term accommodation needs;
- Uniform application of education development charges is more congruent with the education funding model as a whole.

The BHCNDSB's existing EDC by-law is applied on a jurisdiction-wide basis to the geographic area of the County of Brant and the City of Brantford which is identified as a separate 'region' under the EDC legislation.

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 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 BHCNDSB has an existing EDC by-law which is 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 family 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 9.1 (as amended) 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,
- ii. The charges on each type of residential development, subject to the rules in subparagraphs 9 i, ii, 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 by-laws in the Province that have a differentiated EDC rate.

The BHNCSDB’s existing EDC by-law has a uniform rate that is applied across all types of residential development.

2.7 Conversion Credits

There are provisions in the legislation dealing with the payment of EDCs and the replacement of residential and non-residential space. However, there is no specific legislation dealing with the conversion of space from residential to non-residential or vice versa.

The Ministry’s EDC Guidelines state that:

“Board by-laws may include provisions for credits for land use conversion. Typically, this situation would arise if an EDC is paid for one type of development (i.e. residential) and shortly thereafter (the period defined in the board’s by-law),

the land is rezoned and a new building permit is issued for redevelopment (i.e. non-residential). EDC by-laws may include provisions for providing credits to take into account the EDC amount paid on the original development (generally offsetting the EDC amount payable on the redevelopment).”

The existing by-law of the BHCNDSB is only applied to residential developments and as such does not have provisions for conversion credits.

2.8 Alternative Accommodation Arrangements and Operating Budget Surpluses

The majority of policies discussed in this report deal with policies that require certain decisions and determinations to be made by the school board. The final two policies that are outlined require school boards to include statements regarding the policies before it can pass an EDC by-law. The first policy requires boards to examine possible alternative accommodation arrangements and the second policy allows boards to allocate any operating budget surpluses to offset EDCs if the Board decides so.

The first policy that a statement must be provided for is the alternative accommodation arrangement policy. The statement must include information on the board's policy with regard to how it deals with alternative accommodation arrangements to provide pupil accommodation and how it could reduce or eliminate the need for EDCs. If the board has had a previous by-law then information respecting how alternative accommodation arrangements were implemented (or not implemented) must also be provided.

The second policy statement deals with the policy on operating budget surpluses. The EDC must include a board policy that states if savings are achieved in the operating budget they must be used to defray any eligible EDC expenditures. The statement included in the background study must state that the board has reviewed its current operating budget for potential savings that could be applied to the EDC. The statement must also include the amount of potential savings that would be applied to the EDC, if any.

O.Reg. 20/98, S.9 (1), paragraph 6-8 state that the EDC Background Study must include,

- A statement of the board's policy concerning possible arrangements with municipalities, school boards or other persons or bodies in the public or private sector, including arrangements of a long-term or co-operative nature, which would provide accommodation for the new elementary school pupils and new secondary school pupils estimated under paragraph 3 of section 7, without imposing education development charges, or with a reduction in such charges.
- If a previous education development charge background study completed by the board included a statement under paragraph 6, a statement of how the policy referred to in the

statement was implemented and, if it was not implemented, an explanation of why it was not implemented.

- A statement from the board stating that it has reviewed its operating budget for savings that could be applied to reduce growth-related net education land costs, and the amount of any savings which it proposes to apply, if any.

The Board did not undertake any alternative accommodation arrangements that had the effect of reducing or eliminating the land costs of the existing EDC. In addition, the Board did not have any surplus funds in the examination of their operating budgets that could be applied to EDC's. A copy of the Board's existing policies can be found in Appendix B of this report.

APPENDIX A
EDUCATION DEVELOPMENT CHARGE EXISTING BY-LAW



**NOTICE OF THE PASSING OF
EDUCATION DEVELOPMENT CHARGES BY-LAW No. 2013-A3
BY THE
BRANT HALDIMAND NORFOLK CATHOLIC DISTRICT SCHOOL BOARD**

TAKE NOTICE that the Brant Haldimand Norfolk Catholic District School Board (the "Board") passed Education Development Charges By-law No. 2013-A3 (the "By-law") on October 22, 2013 pursuant to Section 257.54 of the *Education Act* (the "Act");

AND TAKE NOTICE 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 on or before December 1, 2013 a notice of appeal setting out the objection to the By-law and the reasons supporting the objection, along with the required fee payable to the Ministry of Finance.

The education development charge to be imposed in respect of the designated categories of residential development has been calculated in accordance with the Regulations under the Act, and shall as of November 2, 2013 be **\$912.00** on each dwelling unit of residential development for which a building permit is issued by the City of Brantford or the County of Brant on or after November 2, 2013, except as specifically exempted within the By-law.

No charge has been imposed in respect of non-residential development.

Education development charges are imposed on all development of lands in the corporate limits of the City of Brantford, except for the lands referred to as the "Development Charge Exemption Area" in Schedule "A" to By-law No. 1032002 of The Corporation of the City of Brantford dated May 27, 2002, and on all lands in the corporate limits of the County of Brant, except for the Indian reserve known as Six Nations Reserve Number 40 and the Indian reserve known as the Mississauga of the New Credit Number 40A. Accordingly, a key map showing the location of lands is not provided as part of this notice.

A copy of the By-law is available for examination in the offices of the Board located at 322 Fairview Drive, Brantford, Ontario, during regular office hours, being between the hours of 8:30 a.m. and 4:30 p.m. from Monday to Friday. Any questions respecting the application of the By-law may be directed to Tom Grice, Superintendent of Business & Treasurer, at (519)756-6505, Extension 272, or by email at tgrice@bhncdsb.ca.

Notice of a proposed by-law amending the 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 By-law and has provided a return address.

DATED at the City of Brantford this 29th day of October, 2013.

Chris N. Roehrig,
Director of Education

June Szeman,
Chair of the Board

**BRANT HALDIMAND NORFOLK
CATHOLIC DISTRICT SCHOOL BOARD
EDUCATION DEVELOPMENT CHARGES BY-LAW NO. 2013- A3**

A by-law for the imposition of education development charges in the City of Brantford and in the County of Brant.

PREAMBLE

1. Section 257.54(1) of the *Education Act* (the "Act") enables a district school board to pass by-laws for the imposition of education development charges against land if there is residential development in its area of jurisdiction that would increase education land costs and the residential development requires one or more of the actions identified in section 257.54(2) the Act;
2. The Brant Haldimand Norfolk Catholic District School Board (the "Board") has determined that the residential development of land to which this by-law applies will increase education land costs;
3. Section 257.54(4) of the Act provides that an education development charge by-law may apply to the entire area of jurisdiction of a board or only part of it;
4. The Board has referred to the Minister of Education the following estimates for approval:
 - (i) the total number of new elementary school pupils and new secondary school pupils; and
 - (ii) the number of elementary school sites and secondary school sites used to determine the net education land costs;

and such approval was given on October 22, 2013, in accordance with section 10 of Ontario Regulation 20/98;

5. The estimated average number of secondary 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 secondary school pupils throughout its jurisdiction on the day this by-law is passed;
6. The Board has given a copy of the education development charges 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 in accordance with section 10 of Ontario Regulation 20/98;
7. The Board has given notice and held public meetings on September 24, 2013 and October 22, 2013, in accordance with sections 257.60 and 257.63 of the Act and permitted any person who attended the public meetings to make representations in respect of the proposed education development charges; and
8. The Board has determined in accordance with section 257.63(3) of the Act that no additional public meeting is necessary in respect of this by-law.

NOW THEREFORE THE BRANT HALDIMAND NORFOLK CATHOLIC DISTRICT SCHOOL BOARD HEREBY ENACTS AS FOLLOWS:

**PART I
APPLICATION**

Defined Terms

1. In this by-law:
 - (a) "Act" means the *Education Act*;
 - (b) "Board" means the Brant Haldimand Norfolk Catholic District School Board;
 - (c) "development" includes redevelopment, and additional development on the same property;
 - (d) "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;
 - (e) "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 or pay for costs described in paragraphs (i) and (ii); and
 - (v) to undertake studies in connection with an acquisition referred to in paragraph (i).
 - (f) "education development charge" means charges imposed pursuant to this by-law in accordance with the Act;
 - (g) "farm building" means a building or structure located on a farm which is necessary and ancillary to a farm operation including barns, tool sheds and silos and other farm related structures for such purposes as sheltering of livestock or poultry, storage of farm produce and feed, and storage of farm related machinery, and equipment used as part of a bona fide farming operation but shall not include a dwelling unit or other structure used for residential accommodation or any buildings or parts thereof used for other commercial, industrial or institutional purposes qualifying as non-residential development;

- (h) "gross floor area" means the total floor area, measured between the outside of the exterior walls or between 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;
 - (i) "local board" means a local board as defined in the *Municipal Affairs Act*, other than a district school board defined in section 257.53 (1) of the Act;
 - (j) "mixed use" means land, buildings or structures used, or designed or intended for use, for a combination of non-residential and residential use;
 - (k) "municipality" means the City of Brantford or the County of Brant as the context requires;
 - (l) "non-residential use" means lands, buildings or structures or portions thereof used, or designed or intended for all uses other than residential use, and includes, but is not limited to, an office, retail, industrial or institutional use;
 - (m) "residential development" means lands, buildings or structures developed or to be developed for residential use;
 - (n) "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 of an agricultural use.
2. Unless otherwise expressly provided in this by-law, the definitions contained in the Act, or the regulations under the Act, shall have the same meanings in this by-law.
3. In this by-law where reference is made to a statute, a section of a statute or a regulation, such reference will be deemed to be a reference to any successor statute, section or regulation.

Lands Affected

- 4.
- (a) Subject to section 4(b), this by-law applies to all lands in the corporate limits of the City of Brantford except for the lands referred to as the Development Charge Exemption Area" in Schedule "A" to By-law No. 1032002 of The Corporation of the City of Brantford dated May 27, 2002, and applies to all lands in the corporate limits of the County of Brant except the Indian reserve known as Six Nations Reserve Number 40 and the Indian reserve known as the Mississauga of the New Credit Number 40A;
 - (b) This by-law shall not apply to lands that are owned by and are used for the purpose of:
 - (i) a municipality or a local board thereof;
 - (ii) a district school board;

- (iii) a publicly-funded university, community college or a college of applied arts and technology established under the *Ministry of Colleges and Universities Act*, or a predecessor statute;
- (iv) every place of worship and land used in connection therewith, and every churchyard, cemetery or burying ground, if they are exempt from taxation under section 3 of the *Assessment Act*;
- (v) a farm building; and
- (vi) an Indian reserve under the *Indian Act*, R.S.C. 1985, c.I-5.

PART II EDUCATION DEVELOPMENT CHARGES

5. In accordance with the Act and this by-law, and subject to sections 10 and 11 herein, the Board hereby imposes an education development charge against land undergoing residential development in the area of the by-law if the residential development requires any one of those actions set out in subsection 257.54(2) of the Act, namely:
- (a) the passing of a zoning by-law or of an amendment to a zoning by-law 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*; or
 - (g) the issuing of a permit under the *Building Code Act, 1992* in relation to a building or structure,
- where the first building permit issued in relation to a building or structure for below ground or above ground construction is issued on or after the date that this by-law comes into force.
6. (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 actions referred to in section 5.
- (2) In respect of a particular development or redevelopment an education development charge will be collected once, but this does not prevent the application of this by-law to additional development or redevelopment on the same property.
7. Subject to the provisions of this by-law, education development charges shall be imposed upon all categories of residential development.
8. Subject to the provisions of this by-law, education development charges shall be imposed upon all residential uses of land, buildings or structures.

9. Subject to the provisions of this by-law, an education development charge of Nine Hundred and Twelve Dollars (\$912.00) per dwelling unit shall be imposed upon the designated residential uses of lands, 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

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 subsection (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 subsection (2)(c), education development charges shall be imposed in accordance with section 9 if the additional dwelling unit has a gross floor area greater than,
- (a) in the case of a semi-detached or row dwelling, the gross floor area of the existing dwelling unit; or
 - (b) in the case of any other residential building, the gross floor area of the smallest dwelling unit already contained in the residential building.
11. (1) Education development charges under section 9 shall not be imposed with respect to the replacement, on the same site, of a dwelling unit that was destroyed by

fire, demolition or otherwise, or that was so damaged by fire, demolition or otherwise as to render it uninhabitable.

(2) Notwithstanding subsection (1), education development charges shall be imposed in accordance with section 9 if the building permit for the replacement dwelling unit is issued more than 5 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 shall be on the applicant to produce evidence to the satisfaction of the Board, acting reasonably, to establish the number of dwelling units being replaced.

12. This section applies where an education development charge has previously been paid in respect of development on land and the land is being redeveloped, except where sections 10 and 11 apply:

- (a) The education development charge payable in respect of the redevelopment shall be calculated under this by-law;
- (b) The education development charge determined under paragraph (a) shall be reduced by a credit equivalent to the education development charge previously paid in respect of the land, provided that the credit shall not exceed the education development charge determined under paragraph (a); and
- (c) Where the redevelopment applies to part of the land the amount of the credit shall be calculated on a proportionate basis having regard to the development permissions being displaced by the new development.

PART III ADMINISTRATION

Payment of Education Development Charges

- 13. The education development charge in respect of a development is payable to the municipality in which the property is located on the date that the first building permit is issued in relation to a building or structure on land to which the education development charge applies.
- 14. 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

- 15. Subject to the requirements of the Act, the Board may by agreement permit an owner to provide land in lieu of the payment of all or any portion of an education development

charge. In such event, the Board's treasurer shall advise the treasurer of the municipality in which the land is situate of the amount of the credit to be applied to the education development charge.

Collection of Unpaid Education Development Charges

16. In accordance with section 257.96 of the *Act*, section 349 of the *Municipal Act, 2001*, S.O. 2001, c. 25, 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

17. This by-law shall come into force on November 2, 2013, and Board By-law No. 2008-A3, as amended, shall be repealed effective as of that same date.

Date By-law Expires

18. This by-law shall expire on November 1, 2018, unless it is repealed at an earlier date.

Severability

19. Each of the provisions of this by-law are severable and if any provision hereof should for any reason be declared invalid by a court or tribunal, the remaining provisions shall remain in full force and effect.

Interpretation

20. Nothing in this by-law shall be construed so as to commit or require the Board to authorize or proceed with any particular capital project at any time.

Short Title

21. This by-law may be cited as the Brant Haldimand-Norfolk Catholic District School Board Education Development Charges By-law No. 2013-A3.

ENACTED AND PASSED this 22nd day of October, 2013.



Chair of the Board



Director of Education and Secretary

APPENDIX B
EDUCATION DEVELOPMENT CHARGE POLICIES ON
ALTERNATIVE ACCOMMODATION ARRANGEMENTS AND
OPERATING BUDGET SURPLUS

EXISTING BOARD POLICIES

Alternative Accommodation Arrangements for School Facilities

"THAT for the purposes of Section 9(1) paragraph 6, of Ontario Regulation 20/98, prior to approving any new school accommodation, the Board will consider possible arrangements with municipalities, school boards or other boards or persons or bodies in the public or private sector, including arrangements of a long-term or cooperative nature, which would provide accommodation for the new elementary school pupils and secondary school pupils who are resident pupils of the Board, subject to the principles set out in this resolution or other Board policies."

Approved: June 26, 2001

Operating Budget

"THAT for the purposes of Section 9(1) paragraph 8 of Ontario Regulation 20/98, the Brant Haldimand Norfolk Catholic District School Board has reviewed its operating budget with respect to savings that could be applied to reduce growth-related net education land costs, and has determined that there will not be any savings realized in the operating budget."

Approved: June 26, 2001