

**BRANT HALDIMAND NORFOLK
CATHOLIC DISTRICT SCHOOL BOARD
EDUCATION DEVELOPMENT CHARGES BY-LAW NO. 2018-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);
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 increases 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 and Training 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 16, 2018, 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 Training 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 18, 2018 in accordance with sections 257.60(2) and 257.63(1) of the Act and permitted any person who attended the public meetings to make representations in respect of the Board's education development charge policies and the proposed education development charges by-law; and
8. The Board has determined in accordance with section 257.63(3) of the Act that a further public meeting is not necessary in respect of this by-law.

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

**PART 1
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 center line of party walls dividing the building from another building, of all floors above the average level or 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 Charges Exemption Area" in Schedule "A" to By-law No. 38-2014 of The Corporation of the City of Brantford passed April 22, 2014, and applies to all lands in the corporate limits of the County of Brant except the First Nations reserve known as Six Nations Reserve Number 40 and the First Nations 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 Training, 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, 1998*; 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 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 center 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 building;
 - (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 account 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 October 21, 2018 and Board By-law No. 2013-A3, shall be repealed effective as of that same date.

Date By-law Expires

- 18. This by-law shall expire at the close of business on October 20, 2023, 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. 2018-A3.

ENACTED AND PASSED this 16th day of October 2018.



Rick Petrella
Chair of the Board



Chris N. Roehrig
Director of Education & Secretary