

**ALGONQUIN AND LAKESHORE  
CATHOLIC DISTRICT SCHOOL BOARD  
EDUCATION DEVELOPMENT CHARGES  
BY-LAW NO. 2017-10-01**

**A by-law for the imposition of education development charges  
in the City of Kingston**

**WHEREAS** subsection 257.54 (1) 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 or non-residential development, provided that the development requires one or more of the actions identified in subsection 257.54(2) of the *Education Act*;

**AND WHEREAS** subsection 257.54(4) of the *Education Act* provides that an education development charge by-law may apply to the entire jurisdiction of a district school board or only a part of it;

**AND WHEREAS** the Algonquin and Lakeshore Catholic District School Board (the "Board") has determined that residential development of land in the City of Kingston increases education land costs;

**AND WHEREAS** the Board has referred to the Minister of Education the following estimates with respect to the City of Kingston 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;

which estimates the Minister of Education approved on October 10, 2017 in accordance with section 10 of Ontario Regulation 20/98, as amended;

**AND WHEREAS** the estimated average number of elementary 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 elementary school pupils throughout its jurisdiction on the day this by-law is passed;

**AND WHEREAS** the Board has given a copy of the education development charge 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;

**AND WHEREAS** the Board has given notice of and held a public meeting on September 26, 2017, in accordance with subsection 257.60(2) of the *Education Act*;

**AND WHEREAS** the Board has given notice of and held a public meeting on September 26, 2017, in accordance with subsection 257.63(1) of the *Education Act*;

**AND WHEREAS** the Board has permitted any person who attended the public meetings on September 26, 2017 to make representations in respect of the proposed education development charges and by-law;

**NOW THEREFORE ALGONQUIN AND LAKESHORE CATHOLIC DISTRICT SCHOOL BOARD HEREBY ENACTS AS FOLLOWS:**

## **PART I APPLICATION**

### **Defined Terms**

1. In this by-law,
  - (a) “Act” means the *Education Act*, R.S.O. 1990, c.E.2, as amended, or a successor statute;
  - (b) “Board” means Algonquin and Lakeshore Catholic District School Board;
  - (c) “development” includes redevelopment;
  - (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 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).

but not:

- (vi) costs of any building to be used to provide pupil accommodation; or
  - (vii) costs that are prescribed in the Regulation as costs that are not education land costs.
- (f) “education development charge” means charges imposed pursuant to this by-law in accordance with the Act;
  - (g) “local board” means a local board as defined in the *Municipal Affairs Act*, R.S.O. 1990, c. M.46, as amended, other than a board defined in subsection 257.53(1) of the Act;
  - (h) “mixed use” means land, buildings or structures used, or designed or intended for use, for a combination of non-residential and residential uses;
  - (i) “Municipality” means the City of Kingston;
  - (j) “*Planning Act*” means the Planning Act, R.S.O. 1990, c. P.13, as amended;
  - (k) “Regulation” means Ontario Regulation 20/98, as amended, made under the Act;
  - (l) “residential development” means lands, buildings or structures developed or to be developed for residential use;
  - (m) “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 agricultural use.

2. In this by-law where reference is made to a statute, a section of a statute or regulation, such reference is deemed to be a reference to any successor statute, section or regulation.

3. Unless otherwise expressly provided in this by-law, items defined in the Act or the Regulation shall have the same meaning in this by-law.

#### **Lands Affected**

4. (1) Subject to subsection (2), this by-law applies to all lands in the Municipality.
- (2) This by-law shall not apply to lands that are owned by and are used for the purposes of:
  - (a) the Municipality or a local board thereof;
  - (b) a board as defined in subsection 257.53(1) of the Act; or
  - (c) a publicly funded university established by a special act of the Legislative Assembly of Ontario which exempts the property of such university from taxation for school purposes or a college of applied arts and technology established under the *Ontario Colleges of Applied Art and Technology Act, 2002*, S.O. 2002, c.8, Schedule F, as amended, or a predecessor statute.

#### **Approvals for Development**

5. Education development charges shall be imposed against all lands, buildings or structures undergoing residential development if the development requires one or more of the following:
  - (a) the passing of a zoning by-law or of an amendment thereto under section 34 of the *Planning Act*;
  - (b) the approval of a minor variance under section 45 of the *Planning Act*;
  - (c) a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies;
  - (d) the approval of a plan of subdivision under section 51 of the *Planning Act*;
  - (e) a consent under section 53 of the *Planning Act*;
  - (f) the approval of a description under the *Condominium Act, 1998*, S.O. 1998, c. C.19, as amended; or
  - (g) the issuing of a permit under the *Building Code Act, 1992*, S.O. 1992, C.23, as amended, 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 this by-law comes into

force.

6. 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 future development or redevelopment on the same property.

**Categories of Development and Uses of Land**  
**Subject to Education Development Charges**

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.

**PART II**  
**EDUCATION DEVELOPMENT CHARGES**

**Residential Education Development Charges**

9. Subject to the provisions of this by-law, an education development charge of \$254.00 per dwelling unit shall be imposed upon the designated categories of residential development and the designated residential uses of land, buildings or structures, including a dwelling unit accessory to a non-residential use, and, in the case of a mixed-use building or structure, upon the dwelling units in the mixed-use building or structure.

**Exemptions from Residential Education Development Charges**

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 clause (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 clause (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 4 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 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**

12. Education development charges are payable in full to the Municipality on the date the first building permit is issued in relation to a building or structure on land to which this education development charge by-law applies.
13. The Treasurer of the Board shall establish and maintain an educational development charge account in accordance with the Act, the Regulation and this by-law.

### **Payment by Services**

14. Notwithstanding section 12, but subject to section 257.84 of the Act, the Board may, by agreement, permit an owner to provide land for pupil accommodation in lieu of the payment of all or a part of an education development charge. In such event, the Treasurer of the Board shall advise the Treasurer of the Municipality of the amount of the credit to be applied to the education development charge.

### **Collection of Unpaid Education Development Charges**

15. Section 349 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, applies with necessary modifications with respect to an education development charge or any part of it that remains unpaid after it is payable.

### **Date By-Law In Force**

16. This by-law shall come into force on October 15, 2017. On such date, the Algonquin and Lakeshore Catholic District School Board Education Development Charge By-Law 2012-2013-10-01 shall be repealed.

### **Date By-Law Expires**

17. This by-law shall expire on October 15, 2022, unless it is repealed at an earlier date.

### **Severability**

18. In the event any provision, or part thereof, of this by-law is found by a court of competent jurisdiction to be *ultra vires*, such provision, or part thereof, shall be deemed to be

severed, and the remaining portion of such provision and all other provisions of this by-law shall remain in full force and effect.

**Interpretation**

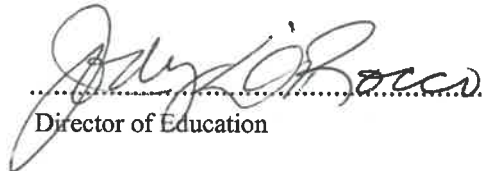
19. Nothing in this by-law shall be construed so as to commit or require the Board to authorize or proceed with any capital project at any time.

**Short Title**

20. This by-law may be cited as the Algonquin and Lakeshore Catholic District School Board 2017 Education Development Charges By-Law (City of Kingston).

ENACTED AND PASSED this 10th day of October, 2017.

  
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Chair

  
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Director of Education