

**ALGONQUIN AND LAKESHORE
CATHOLIC DISTRICT SCHOOL BOARD
EDUCATION DEVELOPMENT CHARGES
BY-LAW NO. 2022-2023-02-09**

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

WHEREAS subsection 257.54 (1) of the *Education Act* (the “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 Act;

AND WHEREAS subsection 257.54(4) of the 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 pursuant to section 257.57 of the Act and section 19 of Ontario Regulation 20/98, as amended, made under the Act, the area of jurisdiction of the Algonquin and Lakeshore Catholic District School Board (the “Board”) is divided into regions and the City of Kingston (the “City”) is part of one of the prescribed regions;

AND WHEREAS 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 for approval:

- (i) the total number of new school pupils and the number of existing school pupil places that could reasonably be used to accommodate those new school pupils, for each of the 15 years immediately following the day the Board intends to have this By-law come into force;
- (ii) the total number of new school pupils who were or who are, for each of the years referred to in paragraph (i), expected to be generated by new dwelling units that were since October 15, 2017 built in the area in which the charges are to be imposed under this By-law;
- (iii) the number of existing and planned school pupil places that could reasonably

be used to accommodate the estimated total number of new school pupils referred to in paragraph (ii); and,

- (iv) the number of school sites used by the Board to determine the net education land cost to be recovered in the 15-year period immediately following the day the Board intends to have this By-law come into force;

which estimates the Minister of Education approved on September 26, 2022 in accordance with section 10 of Ontario Regulation 20/98, as amended;

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

AND WHEREAS at the time of expiry of the Algonquin and Lakeshore Catholic District School Board Education Development Charges By-law, 2017-10-01, the balance in the education development charge account with respect to the said By-law will be less than the amount required to pay outstanding commitments to meet growth-related net education land costs, as calculated for the purposes of determining the education development charges to be imposed under that By-law;

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 13, 2022, in accordance with subsection 257.60(2) of the Act;

AND WHEREAS the Board has given notice of and held public meetings on September 13, 2022 and September 27, 2022, in accordance with subsection 257.63(1) of the Act;

AND WHEREAS the Board has permitted any person who attended the public meetings on September 13, 2022 and September 27, 2022 to make representations in respect of the proposed education development charges and by-law;

AND WHEREAS the Board has determined in accordance with subsection 257.63(3) of the Act that no additional public meeting is necessary in respect of this 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) "City" means the local municipality of Kingston;
 - (d) "development" includes redevelopment;
 - (e) "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 row dwelling (townhouse), back-to-back townhouses, row dwelling (townhouse), the residential portion of a mixed-use building or structure, and a cottage or seasonal dwelling unit that is capable of being occupied year-round. Notwithstanding the foregoing, (i) a unit or room in a temporary accommodation to the travelling or vacationing public and (ii) living accommodation in a nursing home as defined in and governed by the provisions of the Long-Term Care Homes Act, 2007, S.O. 2007, c.8, shall not constitute dwellings units for purposes of this By-law.
 - (f) "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.
- (g) “education development charge” means charges imposed pursuant to this by-law in accordance with the Act;
 - (h) “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;
 - (i) “mixed use” means land, buildings or structures used, or designed or intended for use, for a combination of non-residential and residential uses;
 - (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 4(2), this by-law applies to all lands in the City.
- (2) This by-law shall not apply to lands that are owned by and are used for the purposes of:

- (a) the City or a local board thereof;
 - (b) a board as defined in subsection 257.53(1) of the Act;
 - (c) the Crown in right of Ontario or the Crown in right of Canada; or
 - (d) a public hospital receiving aid under the *Public Hospitals Act*, R.S.O. 1990,c.P.40; or
 - (e) Metrolinx.
- (3) Subject to subsection 4(4), an owner shall be exempt from education development charges if a development on its lands would construct, erect, or place a building or structure, or make an addition or alteration to a building or structure for one of the following purposes:
- (a) a private school;
 - (b) a long-term care home, as defined in the *Long-Term Care Homes Act, 2007*, S.O. 2007, c. 8, as amended;
 - (c) a retirement home, as defined in the *Retirement Homes Act, 2010*, S.O. 2010, c. 11, as amended;
 - (d) a hospice or other facility that provides palliative care services;
 - (e) a child care centre, as defined in the *Child Care and Early Years Act, 2014*, S.O. 2014, c. 11, Sched. 1, as amended; or
 - (f) a memorial home, clubhouse or athletic grounds owned by the Royal Canadian Legion.
- (4) If only a portion of a building or structure, or an addition or alteration to a building or structure, referred to in subsection 4(3) will be used for a purpose identified in that subsection, only that portion of the building, structure, addition or alteration is exempt from an education development charge.
- (5) An owner shall be exempt from education development charges if the owner is,
- (a) a college of applied arts and technology established under the *Ontario Colleges of Applied Arts and Technology Act, 2002*, S.O. 2002, c. 8, Sched. F, as amended;
 - (b) a university that receives regular and ongoing operating funds from the Government of Ontario for the purposes of post-secondary education;

- (c) an Indigenous Institute prescribed for the purposes of section 6 of the *Indigenous Institutes Act, 2017*, S.O. 2017, c. 34, Sched. 20, as amended.

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.

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

- 6. Subject to the provisions of this by-law, education development charges shall be imposed upon all categories of residential development.
- 7. Subject to the provisions of this by-law, education development charges shall be imposed upon all residential uses of land, buildings or structures.

**PART II
EDUCATION DEVELOPMENT CHARGES**

Residential Education Development Charges

- 8. Subject to the provisions of this By-law, an education development charge 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. The education development charge per dwelling unit shall be in the following amounts for the periods set out below:

- (a) October 3, 2022 to October 2, 2023 - \$554.00; and,
- (b) October 3, 2023 to June 30, 2026 - \$601.00.

Exemptions from Residential Education Development Charges

- 9. (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 8 if the total gross floor area of the additional unit or two additional dwelling units exceeds the gross floor area of the existing single detached dwelling.
- (4) Notwithstanding clause (2)(c), education development charges shall be imposed in

accordance with section 8 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.
- (5) For the purposes of this section 9, an “additional dwelling unit” is a dwelling unit for which the application for the building permit for such additional dwelling unit is submitted no sooner than twelve (12) months after the earliest of the dates on which any of the following events occurs:
- (a) the issuance of a certificate of occupancy for the dwelling unit already in the building;
 - (b) if no certificate of occupancy is issued by the City, the occupancy of the dwelling unit already in the building, as established by proper evidence of such occupancy; or,
 - (c) the delivery of the certificate of completion, pursuant to subsection 13(3) of the Ontario New Home Warranties Plan Act, R.S.O. 1990, c. O.31, for the dwelling unit already in the building.
10. (1) Education development charges under section 8 shall not be imposed with respect to the replacement, on the same site, of a dwelling unit that was destroyed by fire, demolition or otherwise, or that was so damaged by fire, demolition or otherwise as to render it uninhabitable.
- (2) Notwithstanding subsection (1), education development charges shall be imposed in accordance with section 8 if the building permit for the replacement dwelling unit is issued more than two (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 the demolition permit was issued.
- (3) Notwithstanding subsection (1), education development charges shall be imposed in accordance with section 8 against any dwelling unit or units on the same site in addition to the dwelling unit or units being replaced. The onus is on the applicant

to produce evidence to the satisfaction of the Board, acting reasonably, to establish the number of dwelling units being replaced.

11. Notwithstanding sections 9 and 10, an education development charge shall be imposed on the issuance of a building permit in respect of the conversion of a cottage or seasonal dwelling unit to a dwelling unit that is capable of being occupied year-round.

PART III ADMINISTRATION

Payment of Education Development Charges

12. The education development charge imposed under this By-law shall be calculated at the rate in effect at the time of issuance of the building permit and paid in full to the Treasurer of City, prior to the issuance of the building permit under the *Building Code Act, 1992*, S.O. 1992, c. 23 for any building or structure in connection with the development in respect of which the education development charge hereunder is payable.
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. Withdrawals from the EDC account shall be made 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 City 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 3, 2022. On such date, the Algonquin and Lakeshore Catholic District School Board 2017 Education Development Charges By-Law (City of Kingston) shall be repealed.

Date By-Law Expires

17. This by-law shall expire on June 30, 2026, 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 2022 Education Development Charges By-Law (City of Kingston).

ENACTED AND PASSED this 27th day of September, 2022.



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Chair



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Director of Education