Appendix A
Board, 26 March 2019

EDUCATION DEVELOPMENT CHARGES BY-LAW
OTTAWA-CARLETON DISTRICT SCHOOL BOARD
BY-LAW No. 01-2019

A By-law for the imposition of education development charges

BACKGROUND

WHEREAS the *Education Act*, R.S.O. 1990, Chapter E.2, as amended authorizes a school board to pass By-laws for the imposition of education development charges against land undergoing residential and non-residential development in the area of jurisdiction of the board where residential development in such area would increase education land costs;

AND WHEREAS the Board has determined that there is residential development and nonresidential development in its area of jurisdiction that will increase education land costs;

AND WHEREAS the Ottawa-Carleton District School Board has referred to the Ministry of Education and Training the following estimates for approval:

(1) the total number of new elementary school pupils and new secondary school pupils; and

(2) the number of elementary school sites and secondary school sites used to determine the net education land costs;

and such estimates have been approved by the Ministry of Education and Training;

AND WHEREAS the Board has complied with the conditions prescribed by section 10 of Ontario Regulation 20/98;

AND WHEREAS the Board has conducted a review of its education development charge policies, given notice, and held a public meeting on January 15, 2019, in accordance with section 257.60 and section 257.63 of the *Education Act;*

AND WHEREAS the Board has permitted any person who attended the public meeting to make representations in respect of the proposed education development charges.

NOW THEREFORE THE OTTAWA-CARLETON DISTRICT SCHOOL BOARD HEREBY ENACTS AS FOLLOWS:

PART 1

APPLICATION

Definitions

1. The Definition and terms contained in the Act and Regulations made in accordance with the Act, as amended from time to time, shall have the same meanings in this By-law. In the event of ambiguity, the Definitions contained in this By-law shall prevail.

2. In this By-law,

(1) "Act" means the *Education Act*, R.S.O. 1990, c.E.2, as amended, or a successor statute;

(2) "Board" means the Ottawa-Carleton District School Board;

(3) "development" means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of increasing the size or usability thereof, and includes redevelopment;

(4) "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) and row dwelling (townhouse). Notwithstanding the forgoing, (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. c.8*, shall not constitute dwellings units for purposes of this Bylaw.

(5) "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).

(6) "education development charge" means development charges imposed pursuant to this By-law in accordance with the Act;

(7) “existing Industrial Building” means a building used for or in connection with:

(a) manufacturing, producing, processing, storing or distributing something,

(b) research or development in connection with manufacturing, producing or processing something;

(c) retail sales by a manufacturer, producer or processor of something they manufactured, produced or processed, if the retails sales are at the site where the manufacturing, production or processing takes place,

(d) office or administrative purposes, if they are,

i. carried out with respect to manufacturing, producing, processing, storage or distributing of something, and

ii. in or attached to the building or structure used for that manufacturing, production, processing, storage or distribution.

(8) "farm buildings" are defined as a building or structure located on a bona fide farm which is necessary and ancillary to a bona fide 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 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;

(9) "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 and for the purpose of this definition, the non-residential portion of a mixed-use building or structure is deemed to include one-half of any area common to the residential and non-residential portions of such mixed-use building or structure;

(10) "mixed use development" means land, buildings or structures used, or designed or intended for use, for a combination of non-residential and residential uses;

(11) "non-residential development" means a development other than a residential development and includes commercial, industrial and institutional development;

(12) "residential development" means a development comprised of land or buildings or structures of any kind whatsoever, used, designed or intended to be used as living accommodations for one or more individuals and includes land or a building or part thereof used, designed or intended for a use in connection therewith.

Application of By-law and Exemptions

3. Subject to any exemption contained herein:

(1) This By-law applies to all lands located within the City of Ottawa subject to any exemption contained herein and for greater clarity, this By-law applies to all lands within the former Cities of Ottawa, Nepean, Kanata, Gloucester, Cumberland, Rockcliffe and Vanier and the former Townships of Goulbourn, Osgoode, Rideau and West Carleton, as constituted on December 31, 2000.[the Area] This By-law shall apply to all categories of Residential Development and all related uses of land, buildings or structures thereof, and all categories of Non-Residential Development and all related uses of land, buildings or structures thereof.

(2) This By-law shall not apply to lands that are owned by and are used for the purpose of:

(1) a municipality;

(2) a district school board;

(3) 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;

(4) Residential Development on lands designated as Farm Retirement Lots as this term is defined in the Official Plan of the City of Ottawa, as amended from time to time;

(5) a 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, R.S.O. 1990, ChapterA.31, c.3. as* amended;

(6) farm buildings as defined herein.

Development Approvals

4. In accordance with the Act and this By-law, the Board imposes an education development charge against land undergoing Residential Development, Non-Residential Development, or redevelopment in the City of Ottawa, if the Residential Development, Non-Residential Development, or redevelopment requires any one of those actions set out in sub-section 257.54(2) of the Act (or any successor provision thereto) as follows:

(1) passing of a zoning By-law or of an amendment thereto under section 34 of the *Planning Act* (or any successor provision thereto)*;*

(2) the approval of a minor variance under section 45 of the *Planning Act* (or any successor provision thereto)*;*

(3) a conveyance of land to which a By-law passed under subsection 50(7) of the *Planning Act* (or any successor provision thereto) applies;

(4) the approval of a plan of subdivision under section 51 of the *Planning Act* (or any successor provision thereto);

(5) a consent under section 53 of the *Planning Act* (or any successor provision thereto);

(6) the approval of a description pursuant to the provisions of the *Condominium Act 1998* (or any successor provision thereto); or

(7) the issuing of a permit under the *Building Code Act, 1992* in relation to a building or structure.

PART II

EDUCATION DEVELOPMENT CHARGES

A. Residential Education Development Charges

5. Subject to the provisions of this By-law, an education development charge of $723.00 per dwelling unit shall be imposed upon all categories of residential development and all 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. An Education Development Charge will be collected once in respect of a particular residential development, but the forgoing does not prevent the application of this By-law to future development of the same property.

Exemptions from Residential Education Development Charges

6. (1) As required by subsection 257.54(3) of the Act an education development charge shall not be imposed with respect to,

(a) the enlargement of an existing dwelling unit that does not create an additional dwelling unit; or

(b) the creation of one or two additional dwelling units as prescribed in section 3 of Ontario Regulation 20/98 as follows:

Name of Class of Residential Building	**Description of Class of Residential Buildings**	**Maximum Number of Additional Dwelling Units**	**Restrictions**
Single detached dwellings	Residential buildings, each of which contains a single dwelling unit, that are not attached to other buildings	Two	The total gross floor area of the additional dwelling unit or units must be less than or equal to the gross floor area of the dwelling unit already in the building
Semi-detached dwellings or row dwellings	Residential buildings, each of which contains a single dwelling unit, that have one or two vertical walls, but no other parts, attached to other buildings	One	The gross floor area of the additional dwelling unit must be less than or equal to the gross floor area of the dwelling unit already in the building
Other residential buildings	A residential building not in another class of residential building described in this table	One	The gross floor area of the additional dwelling unit must be less than or equal to the gross floor area of the smallest dwelling unit already in the building

7. Pursuant to Section 4 Ontario Regulation 20/98:

(1) Education development charges under section 5 of this By-law 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 section 7(1) of this By-law, education development charges shall be imposed in accordance with section 5 of this By-law if the building permit for the replacement dwelling unit is issued more than 2 years after,

(a) the date the former dwelling unit was destroyed or became uninhabitable;

or

(b) if the former dwelling unit was demolished pursuant to a demolition permit issued before the former dwelling unit was destroyed or became uninhabitable, the date the demolition permit was issued.

(3) Notwithstanding section 7(1) of this By-law, education development charges shall be imposed in accordance with section 5 of this By-law against any dwelling unit or

units on the same site which are in addition to the dwelling unit or units being replaced.

(4) An education development charge shall be imposed in accordance with section 5 of this By-law where a non-residential building or structure is replaced by or converted to in whole or in part, a dwelling unit or units.

B. Non-Residential Education Development Charges

8. Subject to the provisions of this By-law, an education development charge of $0.52 per square foot of gross floor area of non-residential development shall be imposed upon all categories of non-residential development and all non-residential uses of land, buildings or structures and, in the case of a mixed-use building or structure, upon the non-residential uses in the mixed-use building or structure. An Education Development Charge will be collected once in respect of a particular non-residential development, but the forgoing does not prevent the application of this By-law to future development of the same property.

Exemptions from Non-Residential Education Development Charges

9. Notwithstanding section 8 of this By-law, education development charges shall not be imposed upon a non-residential development if the development does not have the effect of creating gross floor area of non-residential development or of increasing existing gross floor area of non-residential development.

10. (1) Education development charges under section 8 shall not be imposed with respect to the replacement, on the same site, of a non-residential building or structure that was destroyed by fire, demolition or otherwise, or that was so damaged by fire, demolition or otherwise as to render it unusable.

(2) Notwithstanding section 10(1) of this By-law, education development charges shall be imposed in accordance with section 8 of this By-law if the building permit for the replacement non-residential building or structure is issued more than 5 years after,

(1) the date the former building or structure was destroyed or became unusable; or

(2) if the former building or structure was demolished pursuant to a demolition permit issued before the former building or structure was destroyed or became unusable, the date the demolition permit was issued.

(3) Notwithstanding section 10(1) of this By-law, an education development charge shall be imposed in accordance with section 8 of this By-law against any additional gross floor area of any non-residential development on the same site in excess of the gross floor area of the non-residential building or structure being replaced, subject to the following calculation:-

If the gross floor area of the non-residential part of the replacement building exceeds the gross floor area of the non-residential part of the building being replaced, the exemption applies with respect to the portion of the education development charge calculated in accordance with the following formula:

Exempted portion = [GFA(old) / GFA(new)] X EDC

where,

"Exempted portion" means the portion of the education development charge that the Board is required to exempt;

"GFA (old)" means the gross floor area of the non-residential part of the building being replaced;

"GFA (new)" means the gross floor area of the non-residential part of the replacement building;

"EDC" means the education development charge that would be payable in the absence of the exemption;

(4) Education development charges shall be imposed in accordance with section 5 of this By-law if the non-residential building or structure described in section 10(1) of this By-law is replaced by or converted to, in whole or in part, a dwelling unit or units.

(5) Education development charges shall be imposed in accordance with Section 8 of this By-law where a dwelling unit or dwelling units described in section 10(1) of this By-Law, are replaced by or converted to, in whole or in part with a non-residential development or use.

11. 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 shall be determined in accordance with the following rules:

(a) if the gross floor area is enlarged by 50 percent or less, the amount of the education development charge in respect of the enlargement is zero;

(b) if the gross floor area is enlarged by more than 50 percent the amount of the education development charge in respect of the enlargement is the amount of the education development charge that would otherwise be payable multiplied by the fraction determined as follows:

(1) determine the amount by which the enlargement exceeds 50 percent of the gross floor area before the enlargement;

(2) divide the amount determined under paragraph (i) by the amount of the enlargement.

C. Mixed Use Development

12. The education development charge to be imposed in respect of the Mixed-use development or redevelopment shall be the aggregate of the amount applicable to the residential development component and the amount applicable to the Non-Residential Development component.

13. For the purpose of calculating the education development charge to be imposed in respect of the Mixed-use development or redevelopment, the Gross Floor Area of the non-residential portion of the building shall include a proportional share of the common areas of such building.

PART III

ADMINISTRATION

Payment of Education Development Charges

14. Education development charges are payable in full to the municipality in which the development takes place on the date a building permit is issued in relation to a building or structure on land to which this education development charges By-law applies.

15. 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

16. Pursuant to the Act, the Board may, with the consent of the Minister, accept land for pupil accommodation in place of the payment of all or a part of the education development charge. If the Board accepts land, as stated herein, the owner shall be given credit toward the education development charges imposed on the owner by the Board.

Collection of Unpaid Education Development Charges

17. Part XI of the *Municipal Act 2001* 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

18. This By-law shall come into force at 12:01 a.m. on April 1, 2019.

Repeal

19. By-law No. 02-2014 is repealed upon this By-law, this being By-law No. 01-2019, and coming into force April 1, 2019.

Severability

20. 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

21. Nothing in this By-law shall be construed so as to commit or require the Board to authorize or proceed with any specific school site purchase or capital project at any time.

22. In this By-law where reference is made to a statute or a section of a statute such reference is deemed to be a reference to any successor statute or section.

Short Title

23. This By-law may be cited as the Ottawa-Carleton District School Board Education Development Charges By-law No. 01-2019.

ENACTED AND PASSED this 26th day of March, 2019.

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Chair of the Board Director of Education