

Ministry of Education

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2019: B20

MEMORANDUM TO: Directors of Education
Superintendents of Facilities
Superintendents of Business

FROM: Colleen Hogan
Assistant Deputy Minister (A)
Capital and Business Support Division

DATE: November 8, 2019

SUBJECT: Education Development Charge Policy Framework Update

Further to **Memorandum 2019: B11 Interim Changes to Education Development Charges (EDC)**, I am writing to inform you of the conclusion of the Ministry of Education's review of the EDC framework, and to outline amendments made to the *Education Act*, Ontario Regulation 20/98 (Education Development Charges – General) and Ontario Regulation 444/98 (Disposition of Surplus Real Property).

In June 2019, the *Education Act* was amended, through Bill 108 – *More Homes, More Choice Act, 2019* to update the Education Development Charges policy framework. These amendments support the goals of the government's Housing Supply Action Plan, to enhance cost predictability for developers, and to maintain adequate revenues to support the accommodation of students in new development.

EDC Rate Restrictions:

The EDC rate restrictions previously announced in Memorandum 2019: **Memorandum 2019: B11 Interim Changes to Education Development Charges (EDC)**, remain in-force with a minor adjustment to the non-residential rate as follows:

- A maximum yearly increase of the greater of 5% or \$300 per residential unit; and
- A maximum yearly increase of the greater of 5% or \$0.10 per square foot for non-residential development.

Alternative Projects and Localized Education Development Agreements:

The amendments to the *Education Act* and O. Reg. 20/98 support an updated EDC policy framework which allows for the application of EDC revenue for project costs that will address the needs of the board for pupil accommodation and ensures school boards are better able to align the users of schools to the payers of EDCs by:

- Allowing school boards to use EDC revenues to support lower-cost alternatives (Alternative Projects) to site acquisition; and
- Allowing school boards to enter into a Localized Education Development Agreements (LEDAs) that would exempt land from EDCs for specific developments in exchange for direct alternatives to site acquisition to address student accommodation needs.

Before a school board can enter into a LEDA or implement an Alternative Project, Minister approval is required. A school board can request Minister approval at any point; however, the LEDA or Alternative Project will not come into effect until the boards passes a new by-law.

A school board may make a change to a previously-approved Alternative Project, however boards are required to notify the Minister at least 60 days prior to implementing the change. If the Minister notifies the board, within 60 days from the day the notice was provided, that the proposed changes shall not be made, the board shall not make the change.

Notification of Site Acquisition:

School boards are required to provide the Minister with advance notification of their intent to acquire, lease or expropriate sites that are supported by EDC revenue, Land Priorities or the Temporary Accommodation Grant.

This notification is to be submitted to the ministry at least 60 days prior to the financial close of the transaction. If the Minister notifies the board, within 60 days from the day the notice was provided, that the proposed transaction shall not proceed, the board shall not proceed with the transaction.

In order to allow boards a full 60-day period to provide notification, this requirement will come into effect for transactions that are expected to close after January 10, 2020.

EDC Rate Calculation:

The following regulatory amendments were made that affect the EDC rate determination as follows:

- recently expired by-laws, who are not permanently accommodated should be added to the count of new pupils that are the result of new residential development;
- The following types of institutional development are now exempt from paying EDCs:
 1. Long-term care homes;
 2. Retirement homes;
 3. Private schools;
 4. Publicly-assisted universities and colleges;
 5. Indigenous Institutes;
 6. Memorial homes, clubhouses or athletic grounds of the Royal Canadian Legion;
 7. Hospices; and
 8. Child care centres.
- The number of school spaces that can be used to accommodate new pupils from new residential development are now subject to the Minister's approval; and
- School boards are no longer able to calculate a non-residential EDC rate using the percentage of the declared value of the development.

Administration:

The following regulatory amendments were made that are administrative in nature:

- School boards are no longer required to prepare a pamphlet for each development charge by-law. Instead, school boards are only required to post the required information on the board's website;
- School boards are now permitted to make changes to the geographic boundaries of their by-laws, subject to the existing requirement that a by-law not apply with respect to land in more than one region; and
- When providing notice of a board's meeting regarding the passage of an EDC by-law, a board must provide specifics, including the location, time and date of the meeting.

Changes to the *Education Act* were also made to authorize the Lieutenant Governor in Council to make regulations governing the expiration of Education Development Charge by-laws. This allows for a regulation to be made that would specify an expiration date for by-laws currently in force, thereby ensuring all new by-laws adhere to the new legislative requirements at an appropriate time in the future. No such regulation has been made.

The above EDC-related amendments to the legislation and regulation will be in force at November 8, 2019, and the amended statutes can be found here:
<https://www.ontario.ca/laws/statute/90e02>.

To provide further guidance to school boards regarding the new EDC policy framework, the ministry will post an updated guideline, now titled the **Education Development Charge and Site Acquisition Guideline**. The document will be found here:
<https://efis.fma.csc.gov.on.ca/faab/CapitalPrograms.htm>

The Ministry would like to take this opportunity to thank all stakeholders who provided valuable feedback through the EDC consultation process. We particularly wish to thank those Ontario Association of School Business Officials and Council of Senior Business Officials representatives who provided their expertise to undertake a detailed review the Guideline and forms.

Should school boards require further information regarding these amendments, transition timelines or the Guideline, please contact your board's respective Capital Analyst, or contact Paul Bloye, Director, Capital Programs Branch at 416-325-8589 or at paul.bloye@ontario.ca.

Sincerely,

original signed by:

Colleen Hogan
Assistant Deputy Minister (A)
Capital and Business Support Division
Ministry of Education