

Halton District School Board

Report Number: 19069 (Revised)

Date: April 24, 2019

FOR DECISION

TO: The Chair and Members of the Halton District School Board

FROM: R. Negoi, Superintendent of Business and Treasurer
S. Miller, Director of Education

RE: **2019 Amendment to Education Development Charges By-law, 2018**

Background:

Education Development Charges (EDCs) are used to fund the acquisition of school sites and related costs to accommodate growth-related pupil needs. These levies are applied to all new residential and non-residential development, with limited exceptions. The Board's existing By-law recovers 85% of education land costs (i.e. the purchase price of school sites and associated costs) from residential development and 15% from non-residential development.

The Board's previous EDC by-law (Education Development Charges By-law 2013) expired on June 24, 2018. The Board was not able to pass a new By-law until June 29, 2018, which did not come into force until July 4, 2018. The delay in passing the 2018 EDC By-law was caused by the Ministry's delay in approving the EDC background study, which is a condition precedent to passing a by-law. The 2018 by-law, as per the agreement with the Ministry of Education, contains the rates imposed under the 2013 EDC By-law (as amended), and is in effect for a term of one year (expiring at the close of business on July 3, 2019).

On March 29, 2019, the Ministry of Education issued Ontario Regulation (O. Reg) 55/19 which amended Ontario Regulation ("O. Reg 20/98"); the latter is the regulation that governs EDCs. This amendment to O. Reg 20/98 removed the current cap on EDC rates in order to permit the following restricted rate increases:

- In year 1, the existing EDC rate can be increased by the greater of 5% or \$300.00 per residential dwelling unit;
- In year 1, the existing non-residential rate can be increased by 5%;
- In year 2 of the by-law and in each subsequent year, the residential rate can be increased by a further \$300.00 or 5% of the previous year's EDC rate, whichever is greater. The non-residential rate can be increased by 5% of the previous year's non-residential EDC rate.

This recent amendment to O. Reg 20/98 does not restrict the ability of a school board to pass an EDC by-law for the full five-year term permitted under the *Education Act*. Based on the amendment to O. Reg 20/98, this report is submitted for the purpose of recommending the Board pass a by-law to amend the 2018 EDC by-law in order to implement the increases now permitted under the legislation, as well as extend the term of the by-law to five (5) years.

RECOMMENDATION:

Be it resolved that a separate public meeting is not required in regard to the proposed amendment to the Halton District School Board 2018 EDC by-law; and

THAT the Halton District School Board enact a by-law which will amend the 2018 EDC By-law to apply to the development of land in the Region of Halton; and

THAT the amending EDC By-Law be in the form attached hereto and that it amend the Board's EDC By-Law 2018 in the following respects:

- ***Section 9 be revised to read as follows:***

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.

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The education development charge per dwelling unit shall be in the following amounts for the periods set out below:

- (i) May 20, 2019 to July 3, 2019 - \$4,664.00;*
- (ii) July 4, 2019 to July 3, 2023 - \$4,892.00;*

- **Section 21 be revised to read as follows:**

This by-law shall expire at the close of business on July 3, 2023, unless it is repealed at an earlier date.

Discussion:

In the fall of 2017, the Board initiated the process of renewing its Educational Development Charge By-law, which was set to lapse on June 24, 2018. Section 10 of O. Reg 20/98 provides that the Ministry of Education is tasked with approving a Board's estimated number of growth-related students and the number of school sites required to accommodate such students. Accordingly, on March 15, 2018 Board staff submitted the Background Study to the Ministry for its review and approval.

As the tentative Trustee approval date approached (May 2018), the Capital and Business Support Division of the Ministry of Education advised the Board's EDC consultant they would not approve the Background Study prior to the Provincial election scheduled for June 7, 2018. At that time, the Ministry relayed the message to the Board that the Provincial election would not otherwise impact the EDC approval process. On June 15, 2018, as the Board was approaching its by-law passage meeting, the Ministry verbally advised staff the required approval would be withheld until such time as the new Provincial government was sworn in and a new Minister was appointed.

Ministry staff worked in collaboration with Board staff to reach a solution to replace the Board's 2013 EDC By-law, allowing the Board to successfully pass a one year by-law at 2013 EDC By-law rates, as amended, which to some extent mitigated the loss in revenues. However, due to the timing of the Ministry's delayed approval, the Board's 2013 EDC By-law lapsed on June 24, 2018, which resulted in a gap in collections from June 25 to July 3, 2018.

This gap resulted in a Board loss of approximately \$1,823,819 in EDC revenues. The Board did send letters to those developers (approximately seven developers) who were not charged EDC levies during this time period. The letters respectfully requested if they could remunerate the Halton District School Board the amount that should have been paid during the lapse of the EDC By-law. The Board did not receive a response or any funds from the aforementioned developers.

As well, since the commencement of the 2018 EDC By-law at prior year rates, the Board has collected \$1,318,152 less (up to the end of March 2019) than what should have been collected if the \$4892/per unit rate was in effect from July 4, 2018.

On October 12, 2018, the Provincial government amended O. Reg 20/98. This amendment effectively froze EDC rates for all existing by-laws at whatever EDC rates were in effect as of August 31, 2018.

On March 29, 2019, the Ministry of Education further amended O. Reg 20/98 to remove the cap on EDC rates, and replaced it with the following restricted rate increases:

- a maximum yearly increase of the greater of 5% of the current rate or \$300 per residential dwelling unit; and
- a maximum yearly increase of 5% for non-residential rates.

The amendments to O. Reg 20/98 do not restrict the ability of a school board to pass by-laws for the full five-year term permitted under the *Education Act*.

A review of the amendments to O. Reg. 20/98 with legal counsel and the Board's consultant, concluded the Board should amend the 2018 EDC By-law in order to implement the permitted increases. Most importantly, these amendments would allow the Board to catch-up to the original proposed charges outlined in 2018 EDC Background Study.

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The chart identifies the phase-in of the new EDC rates in accordance with amendments to O. Reg 20/98:

	July 4, 2018: EDC By-law	May 20, 2019-July 3, 2019 Proposed New Charge	July 4, 2019-July 3, 2023 Proposed new Charge
Residential development	\$4,364.00 per residential unit	\$4,664.00per residential unit	\$4,892.00 per residential unit
Non-residential development*	\$1.11per square foot; or (\$11.95 per square metre) of gross floor area	\$1.11per square foot; or (\$11.95 per square metre) of gross floor area	\$1.11per square foot; or (\$ 11.95 per square metre) of gross floor area

**no increase is proposed in the non-residential rate of \$1.11 per square foot of gross floor area because that is the indicated rate in the Background Study.*

As a result, by amending the 2018 EDC by-law as the Board is now permitted, the EDC rate that will be in place effective July 4, 2019, will be the same charge that should have been in place in June of 2018 under normal circumstances. It should be noted the 2018 EDC By-law will also be amended to reflect it will expire at the close of business on July 3, 2023, rather than July 3, 2019.

Board staff have placed a notice in local newspapers advising the development community and the public of the proposed amendments to the 2018 EDC By-law that the Trustees will consider at the meeting of May 15, 2019 (refer to attachment). A letter has been sent to Building Industry and Land Development (BILD) also advising them directly of the proposed amendments and the date when the amendments will be presented for decision. Interested parties will have an opportunity to provide input to the amendments and/or delegate trustees prior to the approval.

Conclusion

Board staff has undertaken a review of the 2018 EDC by-law, as a result of recently approved amendments to O. Reg 20/98. The 2018 EDC by-law is proposed to be amended to reflect these changes. More importantly, the amendments to the by-law will result in the residential levies being increased as of July 4, 2019, to the amount originally proposed for the 2018 by-law. There are no changes to the non-residential rate.

Respectfully submitted,

*Roxana Negoii
Superintendent of Business*

*Stuart Miller
Director of Education4*

HALTON DISTRICT SCHOOL BOARD

EDUCATION DEVELOPMENT CHARGE AMENDING BY-LAW (2019)

A by-law to amend Education Development Charges By-law, 2018

WHEREAS the Halton District School Board enacted Education Development Charges By-law, 2018 on June 29, 2018;

AND WHEREAS Section 257.70 of the Education Act, R.S.O. 1990, c. E.2 (the “Act”), provides for amendments to education development charges by-laws;

AND WHEREAS the Halton District School Board requires amendments to Education Development Charges By-law, 2018;

AND WHEREAS in accordance with the Act, the background study for Education Development Charges By-law, 2018 has been made available to the public;

AND WHEREAS the Halton District School Board has made available to the public sufficient information to allow the public to understand the proposed amendments to Education Development Charges By-law, 2018;

AND WHEREAS the Halton District School Board has given notice of the proposed amendments to Education Development Charges By-law, 2018 in accordance with the Act and Ontario Regulation 20/98;

AND WHEREAS an opportunity was given to interested parties to provide comments and submissions to the Halton District School Board in respect of this amending by-law;

NOW THEREFORE, THE HALTON DISTRICT SCHOOL BOARD HEREBY ENACTS AS FOLLOWS:

1. Section 9 of Education Development Charges By-law, 2018 is hereby repealed and replaced with the following:

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:

- i) May 20, 2019 to July 3, 2019 - \$4,664.00;
- ii) July 4, 2019 to July 3, 2023 - \$4,892.00.

2. Section 21 of Education Development Charges By-law, 2018 is hereby repealed and replaced with the following:

This by-law shall expire five years after the date it comes into force, unless it is repealed at an earlier date.

3. For greater certainty, Education Development Charges By-law, 2018, remains in full force and effect subject to the amendments thereto described in Sections 1 and 2 of this amending by-law.
4. This amending by-law shall come into force on May 20, 2019.

ENACTED AND PASSED this 15th day of May, 2019

Chairperson

Director of Education and Secretary

**NOTICE OF PROPOSED AMENDMENT TO
EDUCATION DEVELOPMENT CHARGES BY-LAW, 2018
BOARD MEETING TO BE HELD ON MAY 15, 2019 AT 7:00 P.M.**

**HALTON DISTRICT SCHOOL BOARD
J.W. Singleton Centre
2050 Guelph Line, Burlington**

Take notice that at its meeting scheduled for May 15, 2019, the Halton District School Board (the “Board”) proposes to pass a by-law that will amend the Halton District School Board Education Development Charges By-law, 2018 (the “2018 By-law”), which came into effect on July 4, 2018.

The schedule of education development charges now imposed by the 2018 By-law is as follows:

Charge on residential development:	\$4,364.00 per dwelling unit
Charge on non-residential development:	\$1.11 per square foot (\$11.95 per square metre) of gross floor area

The proposed amending by-law will increase the education development charge on residential development to the following amounts per dwelling unit for the periods set out below:

- (i) May 20, 2019 to July 3, 2019 - \$4,664.00;
- (ii) July 4, 2019 to July 3, 2023 - \$4,892.

The proposed amending by-law will not increase the education development charge on non-residential development.

The proposed amending by-law will extend the term of the 2018 By-law from July 3, 2019 to July 3, 2023.

The 2018 By-law applies to all lands in the Regional Municipality of Halton. Accordingly, a key map showing the location of the land subject to the 2018 By-law is not provided as part of this notice.

Should the Board pass an amending by-law on May 15, 2019, collection of education development charges pursuant to the 2018 By-law, as amended, will commence on May 20, 2019.

A copy of the proposed amending by-law, the education development charge background study prepared in connection with the 2018 By-law, and information concerning the proposed amendment are available on request during regular business hours at the Board’s administrative offices, 2050 Guelph Line, Burlington, Ontario, and on the Board’s website at www.hdsb.ca.

If a person wishes to address the Board at the May 15, 2019 Board meeting, they are requested to advise the Board on or before noon on Monday, May 13, 2019. Submissions and requests to address the Board as delegations at the Board meeting should be submitted in writing to: Gail Gortmaker, Manager, Office of the Director of Education, Halton District School Board, (905) 335-3663, ext. 3296; gortmakerg@hdsb.ca

Any comments or requests for further information regarding this matter may be directed to Domenico Renzella, General Manager of Planning, Halton District School Board at (905) 335-3663, ext. 3375; renzellad@hdsb.ca