

**ALGONQUIN AND LAKESHORE
CATHOLIC DISTRICT SCHOOL
BOARD**

**EDUCATION DEVELOPMENT
CHARGE POLICY REVIEW
REPORT**

SEPTEMBER 5, 2017



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 **Planning for growth**

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1. THE POLICY REVIEW PROCESS

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1.1 Legislative Requirements

The process and methodology to impose or renew Education Development Charges (EDC) is guided by Provincial legislation. Division E of the *Education Act* as well as Ontario Regulation 20/98, as amended, are the specific pieces of legislation that set out the EDC requirements. One of the requirements that must be met before an EDC by-law can be imposed deals with certain policies that must be passed and approved by the board.

Each EDC by-law has a set of underlying policies which help to determine the structure and type of by-law that will be enacted. While the EDC analysis is guided by legislative requirements and is technical and formulaic in nature, each school board (in conjunction with public participation) is responsible for determining their own policies. For school boards that have existing EDC by-laws in force, before passing a subsequent EDC, they must conduct a review of their existing EDC policies.

Section 257.60 (1) of the *Education Act* states, “Before passing an education development charge by-law, the board shall conduct a review of the education development charge policies of the board.” As part of the policy review the board must also hold a public meeting. Subsection (2) of the same legislation goes on to state, “In conducting a review under subsection (1), the board shall ensure that adequate information is made available to the public, and for this purpose shall hold at least one public meeting, notice of which shall be given in at least one newspaper having general circulation in the area of the jurisdiction of the board.”

The Algonquin and Lakeshore Catholic District School Board (ALCDSB) has an existing EDC by-law in force and as such is required to conduct a review of its existing EDC policies. This report will outline the existing policies of the Board’s current EDC by-law.

1.2 Existing By-law

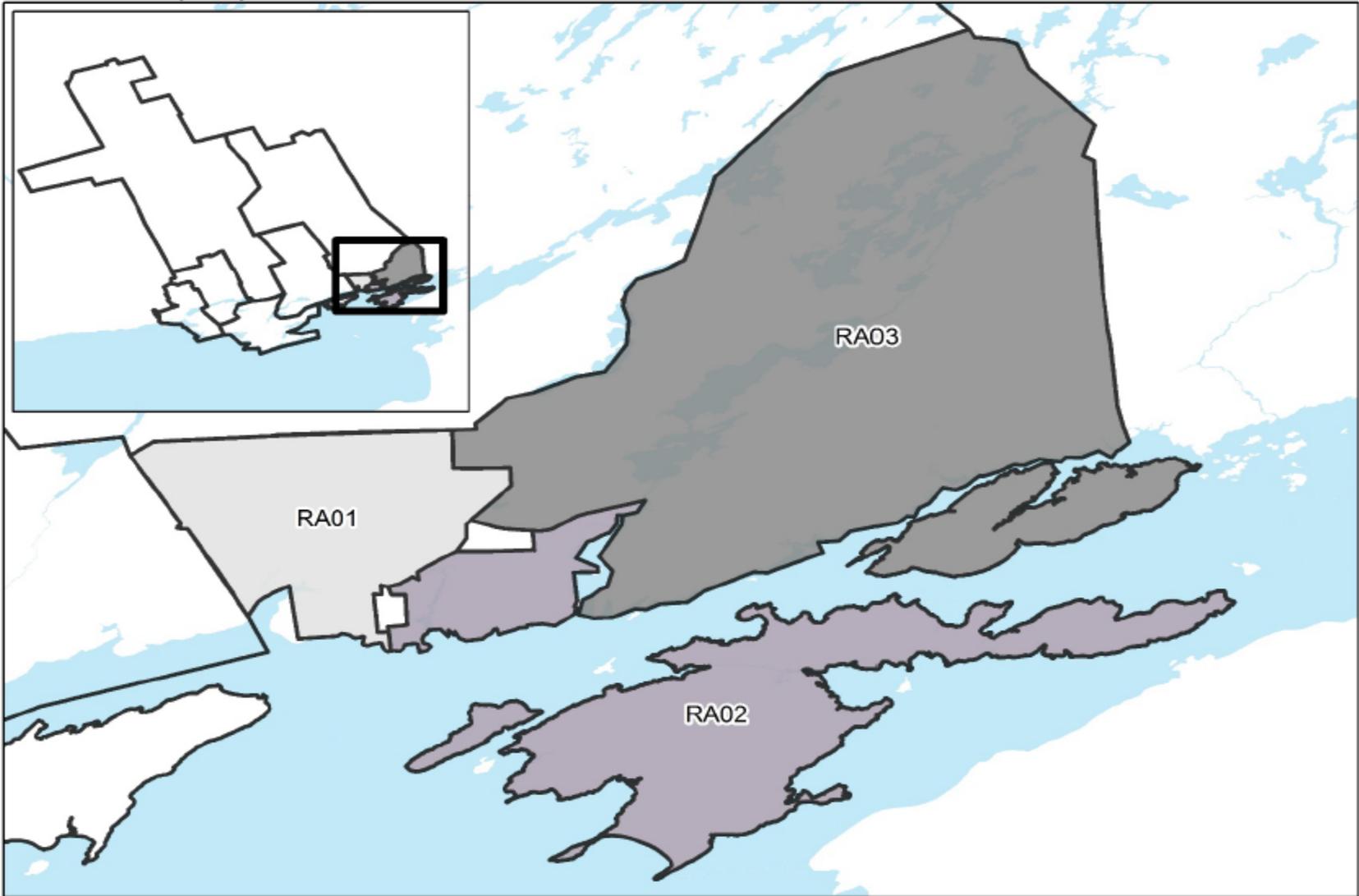
The existing EDC by-law for the Board came into force on October 15, 2012 and is valid for a maximum period of 5 years. The Board’s by-law is an area specific bylaw and cover only the City of Kingston.

The existing by-law is applied on uniform basis across all types of residential development. This means that the by-law has one uniform charge for all types of developments (single family, townhouses apartments etc.). In addition, the while the EDC rate is area specific only to the City of Kingston, it is the same rate throughout the area to which the by-law applies (ie. one rate for all of the City of Kingston). The existing EDC rate is also based on 100% residential allocation,

with no non-residential component. This means that 100% of the education land costs are collected through residential development.

A table outlining the ALCDSB's existing EDC rates can be found below. In addition a map for the Board's area to which the existing EDC by-law applies as well as review areas can be found on the following page.

School Board	Residential/Non-Residential	EDC
ALCDSB	100% Residential	\$124 per dwelling unit



1.3 Public Meetings

Before a school board can pass an EDC by-law, the legislation requires that the board hold at least one public meeting. The purpose of the meeting is to advise any interested stakeholders and the public at large of the board's intentions and address the new proposed EDC by-law. The public meeting also gives the community and stakeholders the opportunity to voice any issues or concerns they have with regard to the proposed by-law.

The board is required to provide at least 20 days notice of the meeting and must make the background study as well as the new proposed by-law available to the public at least two weeks in advance of said meeting. O.Reg. 20/98 states that notice of a public meeting can be given in two ways:

- To every owner of land in the area to which the proposed by-law would apply by personal service, fax or mail.
- By publication in a newspaper that is, in the secretary of the Board's opinion, of sufficiently general circulation in the area to which the proposed by-law would apply to give the public reasonable notice of the meeting.

If a school board already has an existing in-force EDC by-law in place, the Board must hold an additional meeting to review the existing policies of the current EDC by-law. This part of the process is necessary in order to fulfil the necessary requirements of the policy review process. It should be noted that this policy review meeting can be addressed by the Board during its EDC public meeting. The Board intends to hold their policy review meeting on the same night as the EDC public meeting.

The ALCDSB intends to hold both their policy review public meeting and the new proposed EDC by-law public meeting on the same night. The Board will hold their public meeting at the Board office in Napanee on Tuesday, September 26th, 2017 at 6PM. An official notice can be found on the following page.

ALGONQUIN AND LAKESHORE CATHOLIC DISTRICT SCHOOL BOARD**EDUCATION DEVELOPMENT CHARGES –
NOTICE OF PUBLIC MEETINGS**

**POLICY REVIEW PUBLIC MEETING AND
SUCCESSOR BY-LAW PUBLIC MEETING
SEPTEMBER 26, 2017 @ 6:00 PM**

**Board Office
151 Dairy Avenue
Napanee, ON K7R 4B2**

TAKE NOTICE that on September 26, 2017, the Algonquin and Lakeshore Catholic District School Board will hold a public meeting pursuant to Section 257.60 of the *Education Act* (“Act”).

The purpose of the first meeting will be to review the current education development charge policies of the Board and to solicit public input. Any person who attends the meeting may make a representation to the Board in respect of the policies. The Board will also consider any written submissions.

A Policy Review Document setting out the Board's policies for the current education development charge by-law will be available on or after September 12, 2017 **[NTD: to confirm]**, at the Board's administration office, during regular office hours or through the following websites: www.alcddb.on.ca.

Immediately following the conclusion of the first meeting, the Board will hold a second public meeting pursuant to Section 257.63 of the *Act* on September 26, 2017 to consider the continued imposition of education development charges, and to inform the public generally about the education development charge proposal. Any person who attends the meeting may make a representation to the Board in respect of the proposal. The Board will also consider any written submissions. All submissions received in writing and those expressed at the public meeting will be considered prior to the enactment of an education development charge by-law.

The education development charge background study required under Section 257.61 of the *Act* (including the proposed EDC by-law) and setting out the Board's education development charge proposal will be available on or after September 12, 2017 **[NTD: to confirm]** at the Board's administrative office, during regular office hours or through the Board's website. The Board will consider adoption of the by-law imposing education development charges in the City of Kingston on October 10, 2017.

**PUBLIC MEETING – IN CONSIDERATION OF BY-LAW ADOPTION –
OCTOBER 10, 2017 @ 6:00 PM**

**Board Office
151 Dairy Avenue
Napanee, ON K7R 4B2**

The purpose of this meeting is to consider the enactment of a successor EDC by-law for the City of Kingston. Any person who attends the meeting may make representation to the Board in respect of this matter. Written submissions, filed in advance of the meeting, will also be considered.

All interested parties are invited to attend the three public meetings.

The Board would appreciate receiving written submissions one week prior to the public meetings, so that they may be distributed to trustees prior to the meetings. Submissions and requests to address the Board as a delegation should be submitted to:

Doug Campbell
Controller of Plant and Planning Services
Algonquin and Lakeshore Catholic District School Board
151 Dairy Avenue
Napanea, Ontario K7R 4B2
Phone: 613-354-6257 x 403
e-mail: campbell@alcdsb.on.ca

Any comments or requests for further information regarding this matter may be directed to Doug Campbell, Controller of Plant and Planning Services (at the contact points listed above) during regular office hours.

ALGONQUIN AND LAKESHORE CATHOLIC DISTRICT SCHOOL BOARD

John Brisbois,
Chair

Jody DiRocco,
Director of Education

1.4 Appeals and Complaints

Once an Education Development Charge is passed and put into effect there are avenues available to the public to either appeal the by-law itself or to argue payment or application of the charge.

APPEALS

The Education Development Charge by-law can be appealed by any individual or organization in accordance with the provisions in the *Education Act*. Sections 257.64 to 257.69 of the Act outline the legislation dealing with the appeal of the EDC by-law. The by-law is subject to appeal for a maximum of 40 days after the by-law has been passed. The school board must provide a written notice that an EDC by-law has been passed (within 20 days of passage) and this notice must include information on how to file an appeal.

The requirements that must be included in a by-law notice are outlined in O.Reg 20/98 S.12 (5):

1. A statement that the board has passed an education development charge by-law.
2. A statement setting out when the by-law was passed and what its number is.
3. A statement that any person or organization may appeal the by-law to the Ontario Municipal Board under section 257.65 of the Act by filing with the secretary of the board a notice of appeal setting out the objection to the by-law and the reasons supporting the objection.
4. A statement setting out what the last day for appealing the by-law is.
5. An explanation of the education development charges imposed by the by-law on residential development and non-residential development.
6. A description of the land to which the by-law applies.
7. A key map showing the lands to which the by-law applies or an explanation of why a key map is not provided.
8. An explanation of where and when persons may examine the copy of the by-law.
9. A statement that notice of a proposed by-law amending the education development charge by-law or the passage of such an amending by-law is not required to be given to any person or organization, other than to certain clerks of municipalities or secretaries of school boards, unless the person or organization gives the secretary of the board a written request for notice of any amendments to the education development charge by-law and has provided a return address.

According to S.257.64 (4) of the Act, "A notice required under this section shall be deemed to have been given,

- (a) If the notice is by publication in a newspaper, on the day that the publication occurs;
- (b) If the notice is given by mail, on the day that the notice is mailed.

An appeal of the EDC by-law goes to the Ontario Municipal Board (OMB) to be decided. All appeals must be filed in writing with the secretary of the school board within the allotted time allowed. The reasons for the appeal must be included in the notice. It is the responsibility of the secretary of the board to forward a copy of the Notice of Appeal to the OMB within 30 days after the last day of the appeal period. In addition to the Notice, the secretary must provide:

- A copy of the by-law certified by the secretary.
- A copy of the background study.
- An affidavit or declaration certifying that notice of the passing of the by-law was provided in accordance with the *Education Act*.
- The original or true copy of all written submissions and material relevant to the by-law.

After hearing an appeal the OMB may decide to:

- Dismiss the appeal in whole or in part.
- Order the board to repeal or amend the by-law.
- Repeal or amend the by-law itself.

If the by-law is repealed then the EDCs that have already been paid must be refunded. If the by-law is amended and the amended charge is lower than the original charge, the difference must be refunded. All refunds are due within 30 days of the by-law being repealed or amended. While the OMB does have the power to repeal or amend the by-law, they are not able to increase the quantum of the charge, remove or reduce the scope of discretionary exemptions or change the expiration date of the by-law.

An amended EDC by-law can also be appealed and is subject to the same requirements as discussed with regular appeals. One important difference, however, is that in an appeal to an amended by-law, the scope of the appeal is limited to only the provisions that have been amended.

The ALCDSB has not incurred any appeals of their existing EDC by-law.

COMPLAINTS

Once the EDC by-law has been imposed and the appeal period has passed, the public still has the ability to argue the application of the by-law. The *Education Act*, specifically S.257.85 allows land owners to make formal complaints to the Municipality which collects the charge in the area of the EDC by-law.

s.257.85 (1):

An owner, the owner's agent or a board, may complain to the council of the municipality to which an education development charge is payable that,

- (a) The amount of the education development charge was incorrectly determined;
- (b) A credit is or is not available to be used against the education development charge, or that the amount of a credit was incorrectly determined; or
- (c) There was an error in the application of the education development charge by-law.

A complaint must be made in writing and must be made no later than 90 days after the education development charge (in whole or in part) is payable. The complaint must include;

- The name of the complainant.
- Address where notice can be given.
- The reason for the complaint.

Once a complaint is filed with Council, a hearing date is set and the complainant must be notified at least 14 days in advance of said hearing. Each party (the complainant and the school board) is provided with the opportunity to make representations. The municipal council is able to make certain decisions regarding the complaint – they can dismiss the complaint or can rectify any determinations or errors that were the subject of the complaint.

If Council's decision increases the EDC, the amount is immediately payable by the person who originally paid the EDC. If the EDC decreases, the overpayment must be immediately refunded by the school board (including interest) to the complainant.

Within 20 days of Council's decision the clerk of the municipality must give the parties written notice of the decision including the last day (40 days from the decision date) for appealing the decision.

Appeals regarding municipal decisions are filed by submitting a Notice of Appeal to the clerk of the municipality. Within 30 days of the Notice of Appeal being filed, the clerk must provide the OMB with:

- A copy of the EDC by-law certified by the clerk.
- An original or true copy of the complaint and all materials submitted by the parties.
- A certified copy of the decision of the municipal council.
- An affidavit or declaration certifying that the notification of the council's decision was rendered in accordance with the *Education Act*.

In addition to appealing the decision of the municipal council regarding EDC complaints, an appeal may also be filed if the municipality does not deal with the complaint within 60 days of being made.

According to s.257.89 (3) of the Act, in appeals dealing with municipal decisions, the Ontario Municipal Board, "may do anything that could have been done by the council of the municipality under subsection 257.85 (7)."

There have been no formal complaints filed with regard to the existing EDC by-law of the ALCDSB.

2. EDUCATION DEVELOPMENT CHARGE POLICIES

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The purpose of the policy review is to examine the current policies of the Boards' existing EDC by-law (which can be found in appendix A). The examination includes an analysis of the by-laws and any appeals or complaints related to the by-law and related policies. It also allows school boards an opportunity to discuss their policies, both internally and with the public, to determine if changes to their existing policies are necessary for future by-laws. This section of the report explains the key EDC policies which shape the existing by-law of the Board.

2.1 Percentage of Growth-Related Net Education Land Costs to be Borne Through EDCs

This policy determines the percentage of a board's net education land costs that can be collected through the imposition of Education Development Charges. A board can decide to collect anywhere from 0%-100% of its costs through EDCs.

Typically most school boards calculate their EDCs to recover 100% of their net education land costs. However, the granting of non-statutory exemptions would limit boards from actually collecting 100%. Most school boards with existing EDC by-laws collect less than 100% of net education land costs because they have granted some form of non-statutory exemptions through negotiations with development community interests or in response to positions by local governments or other interested stakeholders. Non-statutory exemptions are more common on the non-residential component of EDCs.

It is important to note that EDCs are a major source of funding for new school sites for boards that qualify. School boards no longer have the ability to collect taxes as a funding source and thus have limited ability to make up shortfalls if full cost recovery of land costs is not borne by EDCs. Non-statutory exemptions granted by a school board result in a loss of revenue which must be absorbed by the board.

2.2 Non-Statutory Residential Exemptions

This policy directly relates to the percentage of net education land costs that are borne through EDCs. If less than 100% of land costs are collected it is primarily because of some form of non-statutory exemption. Non-statutory residential exemptions are decided by the Board and would exempt a type or form of residential housing from EDCs.

The legislation sets out certain statutory residential exemptions – these exemptions are factored into the calculation of the EDCs and do not result in a revenue loss to the Board's. The residential exemptions in the legislation deal with the intensification of units and the replacement of units.

If an existing dwelling unit is enlarged or the density is increased (single detached converted into a duplex) the development would be exempt from EDCs. The Act does not allow EDCs to be charged if the action:

- Permits the enlargement of an existing dwelling unit; or
- Permits the creation of one or two additional dwelling units as prescribed, subject to the prescribed restrictions, in prescribed classes of existing residential buildings.

O.Reg. 20/98 S.3 provides a table with the name and description of classes of residential buildings and the maximum number of units that can be added under the intensification exemption.

Class Of Building	Description	Maximum # Of Units	Restrictions
Single Detached	Single dwelling units not attached to another unit.	TWO	Gross floor area of new units must be less than or equal to gross floor area of existing dwelling.
Semi-Detached	Single dwelling units that have only one or two vertical walls attached to other buildings.	ONE	Gross floor area of new units must be less than or equal to gross floor area of existing dwelling.
Other	Dwelling units not described in other parts of this table.	ONE	Gross floor area of new units must be less than or equal to gross floor area of the smallest existing unit in the building.

The legislation ensures that estimates are made with regard to the number of units in the residential forecast that would be exempt under this requirement. Part 3, s.7.1 of O.Reg. 20/98 S.7, paragraph 1 states, “The board shall estimate the number of new dwelling units in the area in which the charges are to be imposed for each of the 15 years immediately following the day the board intends to have the by-law come into force. The board’s estimate shall include only new dwelling units in respect of which education development charges may be imposed.”

Additionally, if an existing dwelling unit has been demolished or destroyed by fire it is also exempt from EDCs subject to certain provisions. O.Reg 20/98 s.4 describes when a replacement unit is exempt.

- The replacement dwelling must be on the same site as the original dwelling unit that was destroyed or rendered uninhabitable by fire, demolition or otherwise. For the exemption to apply the building permit for the replacement dwelling must be issued two years or less

after the date on which the former dwelling unit was destroyed or became uninhabitable, or a demolition permit was issued.

Non-statutory residential exemptions can include certain types of developments like those catered to seniors or adult lifestyles. These units may generate lower numbers of school aged children than typical developments. It should be noted, however, that there is no ability under the *Building Code Act* to limit the number of occupants in a dwelling. This means that regardless of how a development may be marketed there are no guarantees of long term occupancy and thus no guarantees of the resultant number of school aged children. Other forms of residential non-statutory exemptions could relate to affordable housing developments, municipal building initiatives etc. As of the writing of this report, no school board has granted any non-statutory residential exemptions.

The BHNCDSD does not have any non-statutory residential exemptions in their existing EDC by-law.

2.3 Non-Statutory Non-Residential Exemptions

School boards which have a non-residential component to their EDC by-laws can elect to impose non-statutory non-residential exemptions. A non-statutory non-residential exemption would exempt certain determined types of non-residential development that would ordinarily be subject to the EDC. A non-statutory exemption would result in a school board collecting less than 100% of their net education land costs through EDCs.

As with residential development, the legislation classifies certain types of non-residential developments which are statutorily exempt from paying EDCs. There are three primary types of statutory exemptions dealing with non-residential developments:

- Land owned by school boards or municipalities.
- Enlargement of industrial developments.
- Replacement developments (subject to certain provisions).

Section 257.54 (5) of the Act states, “No land, **except land owned by and used for the purposes of a board or a municipality**, is exempt from an education development charge under a by-law passed under subsection (1) by reason only that it is exempt from taxation under section 3 of the Assessment Act.”

With regard to industrial development additions/enlargements the Act goes on to say in Section 257.55 (1-3);

“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 is determined in accordance with this section.”

Enlargement 50% or less:

“If the gross floor area is enlarged by 50% or less, the amount of the EDC in respect of the enlargement is zero.”

Enlargement more than 50%:

“If the gross floor area is enlarged by more than 50%, the amount of the EDC in respect of the enlargement is the amount of the EDC that would otherwise be payable multiplied by the fraction determined as follows:

1. Determine the amount by which the enlargement exceeds 50% of the gross floor area before the enlargement.
2. Divide the amount determined under paragraph 1 by the amount of the enlargement.

Non-residential exemptions related to the replacement of units are similar to the residential replacement exemption with two notable exceptions. In the residential exemption a unit deemed to be exempt because of replacement must have a permit issued within two years of the date the unit was destroyed. With non-residential buildings the permit must be issued within **5** years of the date the building was destroyed for the exemption to apply. The second difference with non-residential replacement exemptions applies when a replacement building is built larger than the original building. O.Reg 20/98, S.5 (2) states;

“If the board determined GFA of the non-residential part of the replacement building exceeds the board determined GFA of the non-residential building being replaced, the board is only required to exempt the owner with respect to the portion of the EDC calculated in accordance with the following formula:

$$\text{Exempted Portion} = [\text{GFA (old)} / \text{GFA (new)}] \times \text{EDC}$$

All statutory non-residential exemptions are factored into the EDC calculation. Estimates of institutional space (school boards/municipalities) and industrial expansions are made and the non-residential forecast is adjusted accordingly to ensure this space is excluded from the projection.

Examples of a non-statutory non-residential exemptions can include, public hospitals, places of worship, farm buildings etc. There have been a variety of non-statutory non-residential exemptions granted in EDC by-laws around the Province.

The ALCDSB does not have a non-residential component to its existing bylaw and as such does not have any non-residential exemptions.

2.4 Jurisdiction-Wide or Area-Specific EDCs

An EDC by-law can apply to the entire region of a school board's jurisdiction or can apply to specific areas of the jurisdiction. The policy allows school boards to determine whether they charge one rate for all units in their jurisdiction, one rate for a specific area in their jurisdiction or various rates for different areas in their jurisdiction.

Section 257.54 (4) of the Act states, "An education development charge by-law may apply to the entire area of jurisdiction of a board or only part of it." It is important to note that some board's jurisdictions are divided into regions and s.257.57 of the Act describes the necessary requirements if a board's jurisdiction is divided into regions:

"If the regulations divide the area of the jurisdiction of a board into prescribed regions for the purposes of this section the following apply:

1. Despite subsection 257.54 (4), an education development charge by-law of the board shall not apply with respect to land in more than one region.
2. The EDCs collected under an EDC by-law that applies to land in a region shall not, except with prior written approval of the Minister, be used in relation to land that is outside that region."

Each EDC by-law in a board's jurisdiction must establish its own separate EDC reserve fund. Section 257.82 (1) of the Act states, "A board that has passed an education development charge by-law shall establish reserve funds in accordance with the regulations." O.Reg 20/98, S.16 (1 and 2) goes on to say:

"A board shall, under section 257.82 of the Act, establish an EDC reserve fund for the area to which an EDC by-law applies."

"Money from an EDC charge reserve fund established under subsection (1) may be used only,

- (a) For growth-related net education land costs attributed to or resulting from development in the area to which the education development charge by-law applies."

The majority of existing EDC by-laws across the Province are applied on a jurisdiction wide basis. The area specific by-laws that are in-force occur in jurisdictions where there is a clear and specific area of growth with little development opportunities elsewhere in the board's jurisdiction which is the case with this bylaw.

The ALCDSB's existing EDC by-law is applied on an area-specific basis to the geographic area of the City of Kingston.

2.5 Percentage of Net Education Land Costs to be Borne by Residential and Non-Residential Development

The total net education land costs that a board is eligible to collect through EDCs can be allocated between residential and non-residential development. A school board can decide to allocate anywhere from 0%-40% of their land costs to be borne by non-residential development.

O.Reg 20/98 s.7, paragraph 8 says, "The board shall choose the percentage of the growth-related net education land cost that is to be funded by charges on residential development and the percentage, if any, to be funded by charges on non-residential development. The percentage that is to be funded by charges on non-residential development shall not exceed 40%."

Existing EDC by-laws in the Province vary between 0% to about 25% non-residential components - the average is approximately 10-15%.

The ALCDSB has an existing EDC by-law which is allocated 100% to residential development, with no non-residential development component. This means that 100% of the net education land costs are currently collected through residential building permits.

2.6 Uniform EDC Rate or Differentiated EDC Rate

This policy deals with the application of the EDC rate either uniformly for all types of developments or differentiated by prescribed types of development. The school board can decide to apply one EDC rate regardless of the type or density of dwelling unit. The board can also choose to apply different EDC rates to different types or densities of developments – for example, single family units could have one rate, townhomes could have one rate etc.

Initially the legislation permitted school boards to only charge a uniform rate across all types of developments. Changes to the EDC regulations in 2002 gave boards the ability to impose EDCs with different charges based on the type of residential development (i.e. single family vs. apartments). O. Reg 20/98, S.7, paragraph 9.1 (as amended) states, "Despite paragraph 9, if the board intends to impose different charges on different types of residential development, the board shall determine,

- i. The percentage of the growth-related net education land cost to be funded by charges on residential development that is to be funded by each type of residential development,
- ii. The charges on each type of residential development, subject to the rules in subparagraphs 9 i, ii, iii.

The differentiated rate is premised on the basis that different units produce school aged pupils at different rates and the land costs are apportioned relative to the distribution of pupils by unit type. The Ministry's EDC Guidelines suggest that boards may define dwelling types based on the nature of developments and criteria that are relevant to the board (e.g. low, medium, high or singles, townhomes, apartments, etc.). The Guidelines encourage the boards to be as consistent as possible with municipalities impacted by the EDCs when determining categories of development if considering a differentiated rate.

The determination of a uniform or differentiated charge does not necessarily impact the revenue collected by the Board. Typically input is sought from the development community and local governments during the public consultation process to determine the ideal by-law structure for the board and its jurisdiction. There are currently no existing by-laws in the Province that have a differentiated EDC rate.

The ALCDSB's existing EDC by-law has a uniform rate that is applied across all types of residential development equally.

2.7 Conversion Credits

There are provisions in the legislation dealing with the payment of EDCs and the replacement of residential and non-residential space. However, there is no specific legislation dealing with the conversion of space from residential to non-residential or vice versa.

The Ministry's EDC Guidelines state that:

"Board by-laws may include provisions for credits for land use conversion. Typically, this situation would arise if an EDC is paid for one type of development (i.e. residential) and shortly thereafter (the period defined in the board's by-law), the land is rezoned and a new building permit is issued for redevelopment (i.e. non-residential). EDC by-laws may include provisions for providing credits to take into account the EDC amount paid on the original development (generally offsetting the EDC amount payable on the redevelopment)."

The existing by-law of the ALCDSB does not have provisions for conversion credits.

2.8 Alternative Accommodation Arrangements and Operating Budget Surpluses

The majority of policies discussed in this report deal with policies that require certain decisions and determinations to be made by the school board. The final two policies that will be outlined are policies that the legislation specifically requires the boards to include before it can pass an EDC by-law. The first policy requires boards to examine possible alternative accommodation arrangements and the second policy requires boards to allocate any operating budget surpluses to offset EDCs.

The first policy that a statement must be provided for is the alternative accommodation arrangement policy. The statement must include information on the board's policy with regard to how it deals with alternative accommodation arrangements to provide pupil accommodation and how it could reduce or eliminate the need for EDCs. If the board has had a previous by-law then information respecting how alternative accommodation arrangements were implemented (or not implemented) must also be provided.

The second policy statement deals with the policy on operating budget surpluses. The EDC must include a board policy that states if savings are achieved in the operating budget they must be used to defray any eligible EDC expenditures. The statement included in the background study must state that the board has reviewed its current operating budget for potential savings that could be applied to the EDC. The statement must also include the amount of potential savings that would be applied to the EDC, if any.

O.Reg. 20/98, S.9 (1), paragraph 6-8 state that the EDC Background Study must include,

- A statement of the board's policy concerning possible arrangements with municipalities, school boards or other persons or bodies in the public or private sector, including arrangements of a long-term or co-operative nature, which would provide accommodation for the new elementary school pupils and new secondary school pupils estimated under paragraph 3 of section 7, without imposing education development charges, or with a reduction in such charges.
- If a previous education development charge background study completed by the board included a statement under paragraph 6, a statement of how the policy referred to in the statement was implemented and, if it was not implemented, an explanation of why it was not implemented.
- A statement from the board stating that it has reviewed its operating budget for savings that could be applied to reduce growth-related net education land costs, and the amount of any savings which it proposes to apply, if any.

The existing EDC by-law of the ALCDSB included policies on alternative accommodation arrangements and operating budget surpluses. The Boards did not undertake any alternative accommodation arrangements that had the effect of reducing or eliminating the land costs of the existing EDC. In addition, the Board did not have any surplus funds in the examination of their operating budgets that could be applied to EDC's. A copy of the Board's existing policies can be found in Appendix B of this report.

APPENDIX A
EDUCATION DEVELOPMENT CHARGE EXISTING BY-LAWS

**ALGONQUIN AND LAKESHORE
CATHOLIC DISTRICT SCHOOL BOARD
EDUCATION DEVELOPMENT CHARGES
BY-LAW NO. 2012-2013-10-01**

**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 9, 2012 in accordance with section 10 of Ontario Regulation 20/98, as amended;

AND WHEREAS the estimated average number of 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 secondary 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 19, 2012, 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 19, 2012, 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 19, 2012 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 subsections (2) and (3), 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 \$124.00 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, 2012. On such date, the Algonquin and Lakeshore Catholic District School Board Education Development Charge By-Law 10-01 shall be repealed.

Date By-Law Expires

17. This by-law shall expire on October 15, 2017, 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

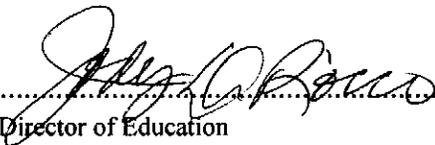
19. Nothing in this by-law shall be construed so as to commit or require the Board to authorize or proceed with any capital project at any time.

Short Title

20. This by-law may be cited as the Algonquin and Lakeshore Catholic District School Board 2012 Education Development Charges By-Law (City of Kingston).

ENACTED AND PASSED this 9th day of October, 2012.


.....
Chair


.....
Director of Education

APPENDIX B
EDUCATION DEVELOPMENT CHARGE POLICIES ON
ALTERNATIVE ACCOMMODATION ARRANGEMENTS AND
OPERATING BUDGET SURPLUS

Algonquin and Lakeshore Catholic District School Board

Alternative Accommodation Arrangements

Paragraph 6 of Section 9(1) of Ontario Regulation 20/98 regarding Education Development Charges, as amended, requires that the Board have a statement concerning the Board's policy regarding possible arrangements with municipalities, school boards or other persons or bodies in the public or private sector, including arrangements of a long-term or co-operative nature which would provide accommodation for new elementary school pupils and new secondary school pupils, without imposing education development charges, or with a reduction in such charges.

Operating Budget Savings

Paragraph 8 of Section 9(1) of Ontario Regulation 20/98 regarding Education Development Charges, as amended, requires that the Board have a statement indicating that it has reviewed its operating budget for savings that could be applied to reduce growth-related net education land costs, and the amount of any savings which it proposes to apply, if any.

4. Other:(i) EDC By-Law 2012 – Statement of Board Policy on Alternative Accommodation Arrangements:**MOVER: Trustee Garrah****SECONDER: Trustee Turkington**

The Board resolves that it continues to seek out suitable opportunities for alternative accommodation arrangements in accordance with Board Policy B-2011-10-2 and Administrative Procedures B-2011-10-2; and that no such opportunities were identified since the passage in 2007 of the Board's Education Development Charge By-Law 10-01 for Kingston; and that the Board has not acquired any school sites since the passage of By-Law 10-01.

CARRIED.

As part of the process of enacting an education development charge by-law, the Board is required to complete an education development charge background study, under Subsection 257.61 (1) of the Education Act, and as per Board Policy B-2011-10-2 Alternative Arrangements for School Facilities. Mr. Campbell indicated that the study must contain specific statements under Subsection 9(1) of Ontario Regulation 20/98.

(ii) EDC By-Law 2012 – Statement of Review of Operating Budget:**MOVER: Trustee Procter****SECONDER: Trustee Murphy**

The Board resolves that it has reviewed its operating budget for the year ending August 31, 2012, as well as its budget estimates for the year ending August 31, 2013, for savings that could be applied to reduce growth related net education land costs. Such review disclosed that there is no surplus of operating funds available for such capital needs. The Board has, therefore, determined that the amount of the savings which it proposes to apply to such costs is nil.

CARRIED.

Mr. Campbell advised that Board Policy B-2011-10-1 School Sites and Operating Budget requires that the Board conduct a review of operating budget savings that could be applied to reduce growth-related net education land costs. Under Subsection 257.61 (1) of the Education Act and Subsection 9(1) of Ontario Regulation 20/98, an education development charge background study must be completed as part of the process of enacting an education development charge by-law, and this study must contain a statement from the Board indicating that it has reviewed its operating budget for savings regarding growth-related net education land costs. He added that only a surplus from the non-classroom part of the Board's budget estimates is eligible to be used to acquire school sites, thereby reducing these costs.

5. Pending Items:

None.

C. INFORMATION ITEMS:

None.