

SIMCOE MUSKOKA
CATHOLIC DISTRICT SCHOOL BOARD
EDUCATION DEVELOPMENT CHARGES BY-LAW NO. ●

A by-law for the imposition of education development charges in Simcoe County, Barrie and Orillia.

PREAMBLE

1. Section 257.54(1) of the *Education Act* (the "**Act**") enables a district school board to pass by-laws for the imposition of education development charges against land if there is residential development in its area of jurisdiction that would increase education land costs and the residential development requires one or more of the actions identified in section 257.54(2) of the Act;
2. The Simcoe Muskoka Catholic District School Board (the "**Board**") has determined that the residential development of land to which this by-law applies increases education land costs;
3. Pursuant to section 257.57 of the Act, this by-law applies only to that portion of the area of jurisdiction of the Board within the upper-tier municipality of the County of Simcoe and the local municipalities of Barrie and Orillia;
4. The Board has conducted a review of its education development charge policies and held a public meeting on September 7, 2023, in accordance with section 257.60 of the Act;
5. The Board has given notice and held public meetings on September 7, 2023 and October 16, 2023, in accordance with section 257.63(1) of the Act, and permitted any person who attended the public meeting to make representations in respect of the proposed education development charges;
6. The balance in the Board's education development charge reserve fund at the time of expiry of Board By-Law No. 50-01-2018 will be less than the amount required to pay outstanding commitments to meet growth-related net education land costs, as calculated for the purposes of determining the education development charges imposed under that by-law;
7. On ● , the Minister of Education approved the Board's estimates which are prescribed under section 10, paragraph 1 of the Regulation.
8. The Board has given a copy of the education development charges 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 in accordance with section 10 of the Regulation;
9. The Board has therefore satisfied the conditions prescribed by section 10 of the Regulation in order for it to pass this by-law;
10. The Board has determined in accordance with section 257.63(3) of the Act that no additional public meeting is necessary in respect of this by-law.

NOW THEREFORE THE SIMCOE MUSKOKA 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;
 - (b) "agricultural building or structure" means a building or structure used, or designed or intended for use for the purpose of a bona fide farming operation including, but not limited to, animal husbandry, dairying, fallow, field crops, removal of sod, forestry, fruit farming, horticulture, market gardening, pasturage, poultry keeping and any other activities customarily carried on in the field of agriculture, but shall not include a dwelling unit or other structure used for residential accommodation or any building or structure or parts thereof used for other commercial, industrial or institutional purposes qualifying as non-residential development;
 - (c) "Board" means the Simcoe Muskoka Catholic District School Board;
 - (d) "development" includes redevelopment;
 - e) "dwelling unit" means a room or suite of rooms used, or designed or intended for use by one person or persons living together in which culinary and sanitary facilities are provided for the exclusive use of such person or persons, and shall include, but is not limited to, a dwelling unit or units in an apartment, group home, mobile home, duplex, triplex, semi-detached dwelling, single detached dwelling, stacked townhouse and townhouse;
 - (f) "education land costs" means costs incurred or proposed to be incurred by the Board,
 - (i) to acquire land or an interest in land, including a leasehold interest, to be used by the Board to provide pupil accommodation;
 - (ii) to provide services to the land or otherwise prepare the site so that a building or buildings may be built on the land to provide pupil accommodation;
 - (iii) to prepare and distribute education development charge background studies as required under the Act;
 - (iv) as interest on money borrowed to pay for costs described in paragraphs (i) and (ii); and
 - (v) to undertake studies in connection with an acquisition referred to in paragraph (i);

- (g) "education development charge" means charges imposed pursuant to this by-law in accordance with the Act;
- (h) "existing industrial building" means a building used for or in connection with,
 - (i) manufacturing, producing, processing, storing or distributing something,
 - (ii) research or development in connection with manufacturing, producing or processing something,
 - (iii) retail sales by a manufacturer, producer or processor of something they manufactured, produced or processed, if the retail sales are at the site where the manufacturing, production or processing takes place,
 - (iv) office or administrative purposes, if they are,
 - a. carried out with respect to manufacturing, producing, processing, storage or distributing of something, and
 - b. in or attached to the building or structure used for that manufacturing, producing, processing, storage or distribution;
- (i) "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 is deemed to include one-half of any area common to the residential and non-residential portions of such mixed-use building or structure;
- (j) "local board" means a local board as defined in the *Municipal Affairs Act*, other than a district school board defined in section 257.53(1) of the Act;
- (k) "mixed use" means land, buildings or structures used, or designed or intended for use, for a combination of non-residential and residential uses;
- (l) "non-residential use" means lands, buildings or structures or portions thereof used, or designed or intended for all uses other than residential use, and includes, but is not limited to, an office, retail, industrial or institutional use;
- (m) "Regulation" means Ontario Regulation 20/98 made under the Act;
- (n) "residential development" means lands, buildings or structures developed or to be developed for residential use; and
- (o) "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 of an agricultural use.

2. Unless otherwise expressly provided in this by-law, the definitions contained in the Act or the regulations under the Act shall have the same meanings in this by-law.

3. In this by-law where reference is made to a statute, a section of a statute, or a regulation, such reference will be deemed to be a reference to any successor statute, section or regulation and any reference to a statute or regulation will be deemed to be a reference to the statute or regulation as amended, re-enacted or remade or as changed under Part V of the *Legislation Act*.

Lands Affected

4. (1) Subject to subsections 4(2) to 4(7) hereof, this by-law applies to all lands in the upper-tier municipality of Simcoe County and the local municipalities of Barrie and Orillia.

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

- (a) a municipality or a local board thereof;
- (b) a district school board;
- (c) a public hospital receiving aid under the *Public Hospitals Act*.

- (3) This by-law shall not apply to:

- (a) a place of worship owned by a religious organization that is exempt from taxation under the *Assessment Act*;
- (b) a cemetery or burial site that is exempt from taxation under the *Assessment Act*; or
- (c) non-residential uses permitted pursuant to section 39 of the Planning Act.

- (3) Subject to subsection (5), an owner shall be exempt from education development charges if a development on its lands would construct, erect, or place a building or structure, or make an addition or alteration to a building or structure for one of the following purposes:

- (a) a private school;
- (b) a long-term care home, as defined in the *Fixing Long-Term Care Act, 2021*;
- (c) a retirement home, as defined in the *Retirement Homes Act, 2010*;
- (d) a hospice or other facility that provides palliative care services;
- (e) a child care centre, as defined in the *Child Care and Early Years Act, 2014*; or
- (f) a memorial home, clubhouse or athletic grounds owned by the Royal Canadian Legion.

- (5) If only a portion of a building or structure, or an addition or alteration to a building or structure, referred to in subsection (4) will be used for a purpose identified in that subsection,

only that portion of the building, structure, addition or alteration is exempt from an education development charge.

- (6) An owner shall be exempt from education development charges if the owner is,
 - (a) a college of applied arts and technology established under the *Ontario Colleges of Applied Arts and Technology Act, 2002*;
 - (b) a university that receives regular and ongoing operating funds from the Government of Ontario for the purposes of post-secondary education;
 - (c) an Indigenous Institute prescribed for the purposes of section 6 of the *Indigenous Institutes Act, 2017*.

(7) This by-law shall not apply to non-residential agricultural buildings or structures that are owned by and are used for the purposes of a bona fide farming operation.

PART II

EDUCATION DEVELOPMENT CHARGES

5. (1) In accordance with the Act and this by-law, the Board hereby imposes an education development charge against land undergoing residential development or redevelopment in the area of the by-law if the residential development or redevelopment requires any one of those actions set out in subsection 257.54(2) of the Act, namely:

- (a) the passing of a zoning by-law or of an amendment to zoning by-law 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 section 50 of the *Condominium Act*; or
- (g) the issuing of a permit under the *Building Code Act, 1992* in relation to a building or structure.

(2) 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.

(3) An education development charge shall be imposed on the issuance of a building permit in respect of the conversion of a cottage or seasonal dwelling unit to a dwelling unit that is capable of being occupied year-round.

6. (1) In accordance with the Act and this by-law, the Board hereby imposes an education development charge against land undergoing non-residential development or redevelopment in the area of the by-law which has the effect of increasing existing gross floor area of such development if the non-residential development or redevelopment requires any one of those actions set out in subsection 257.54(2) of the Act, namely:

- (a) the passing of a zoning by-law or of an amendment to a zoning by-law 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 section 50 of the *Condominium Act*; or
- (g) the issuing of a permit under the *Building Code Act, 1992* in relation to a building or structure.

(2) 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.

7. Subject to the provisions of this by-law, the Board hereby designates all categories of residential development and non-residential development and all residential and non-residential uses of land, buildings or structures as those upon which education development charges shall be imposed.

Residential Education Development Charges

8. Subject to the provisions of this by-law, the Board hereby imposes an education development charge per dwelling unit upon the designated categories of residential development and the designated residential uses of land, buildings or structures, including a dwelling unit accessory to a non-residential use, and, in the case of a mixed-use building or structure, upon the dwelling units in the mixed-use building or structure. The education development charge per dwelling unit shall be in the following amounts for the periods set out below:

- (a) October 30, 2023 to October 29, 2024 - \$1772.00;
- (b) October 30, 2024 to October 29, 2025 - \$2072.00;
- (c) October 30, 2025 to October 29, 2026 - \$2372.00;
- (d) October 30, 2026 to October 29, 2027 - \$2672.00; and,
- (e) October 30, 2027 to October 29, 2028 - \$2972.00.

Exemptions from Residential Education Development Charges

9. (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; or

(b) the creation of one or two additional dwelling units as prescribed in section 3 of the Regulation 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

(c) For the purposes of this paragraph 9, an "additional dwelling unit" is a dwelling unit for which the application for the building permit for such additional dwelling unit is submitted no sooner than twelve (12) months after the earliest of the dates on which any of the following events occurs:

- (i) the issuance of a certificate of occupancy for the dwelling unit already in the building;
- (ii) if no certificate of occupancy is issued by the area municipality, the occupancy of the dwelling unit already in the building, as established by proper evidence of such occupancy; or,
- (iii) the delivery of the certificate of completion, pursuant to subsection 13(3) of the *Ontario New Home Warranties Plan Act*, for the dwelling unit already in the building.

10. (1) An education development charge under section 8 shall not be imposed with respect to the replacement, on the same site, of a dwelling unit that was destroyed by fire, demolition or otherwise, or that was so damaged by fire, demolition or otherwise as to render it uninhabitable.

(2) Notwithstanding subsection (1), education development charges shall be imposed under section 8 if the building permit for the replacement dwelling unit is issued more than 5 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 under section 8 against any dwelling unit or units on the same site in addition to the dwelling unit or units being replaced. The onus is on the applicant to produce evidence to the satisfaction of the Board, acting reasonably, to establish the number of dwelling units being replaced.

(4) Subject to section 15, an education development charge shall be imposed under section 8 where a non-residential building or structure is replaced by or converted to, in whole or in part, a residential building or structure.

Non-Residential Education Development Charges

11. Subject to the provisions of this by-law, the Board hereby imposes an education development charge upon the designated categories of non-residential development and the designated 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. The education development charge per square foot (square metre) shall be in the following amounts for the periods set out below:

- (a) October 30, 2023 to October 29, 2024 - \$0.25 (\$2.69);
- (b) October 30, 2024 to October 29, 2025 - \$0.35 (\$3.77);
- (c) October 30, 2025 to October 29, 2026 - \$0.45 (\$4.84);
- (d) October 30, 2026 to October 29, 2027 - \$0.55 (\$5.92); and,
- (e) October 30, 2027 to October 29, 2028 - \$0.65 (\$7.00).

Exemptions from Non-Residential Education Development Charges

12. (1) As required by section 257.55 of the Act, if a development includes the enlargement of a 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 the following rules:

(a) if the gross floor area is enlarged by 50 per cent 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 per cent 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:

(i) Determine the amount by which the enlargement exceeds 50 per cent of the gross floor area before the enlargement;

(ii) Divide the amount determined under paragraph 1 by the amount of the enlargement.

(c) For the purposes of this subsection 12(1), the following provisions apply:

(i) the gross floor area of an existing industrial building shall be calculated as it existed prior to the first enlargement of such building for which an exemption under section 12(1) of this by-law or a similar provision of any prior education development charge by-law of the Board was sought;

(ii) the enlargement of the gross floor area of the existing industrial building must be attached to such building; and,

(iii) the enlargement must not be attached to the existing industrial building by means only of a tunnel, bridge, passageway, shared below grade connection, foundation, footing or parking facility, but must share a common wall with such building.

(2) As required by section 5 of the Regulation, subject to paragraphs (3) and (4), an education development charge under s. 11 shall not be imposed with respect to the replacement, on the same site, of a non-residential building that was destroyed by fire, demolition or otherwise, or that was so damaged by fire, demolition or otherwise as to render it unusable.

(3) Notwithstanding paragraph (2), an education development charge shall be imposed under section 11 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:

$$\text{Exempted portion} = \frac{\text{GFA (old)} \times \text{EDC}}{\text{GFA (new)}}$$

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) The exemption in paragraph (2) does not apply if the building permit for the replacement building is issued more than five years after,

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

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

(5) Subject to section 15, an education development charge shall be imposed under section 11 where a residential building or structure is replaced by or converted to, in whole or in part, a non-residential building or structure.

13. The education development charge to be imposed in respect of mixed use development shall be the aggregate of the amount applicable to the residential development component and the amount applicable to the non-residential development component.

Interim Review

14. (1) Where it appears to the Board that the land values underlying the education development charge calculation are predicting higher costs than the Board is generally experiencing over a period of time sufficient to show the discrepancy with a reasonable degree of assurance, the Board may consider a motion to study amending the By-law to reduce the charge.

(2) Where it appears to the Board that the land values underlying the education development charge calculation are predicting lower costs than the Board is generally experiencing over a period of time sufficient to show the discrepancy with a reasonable degree of assurance, the Board may consider a motion to study amending the By-law to increase the charge.

PART III
ADMINISTRATION

Payment of Education Development Charges

15. The education development charge in respect of a development is payable to the municipality in which the land is situate on the date that a building permit is issued in relation to a building or structure on land to which the education development charge applies.

16. 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

20. Subject to the requirements of the Act, the Board may by agreement permit an owner to provide land in lieu of the payment of all or any portion of an education development charge. In such event, the treasurer of the Board shall advise the treasurer of the municipality in which the land is situate of the amount of the credit to be applied to the education development charge.

Collection of Unpaid Education Development Charges

21. In accordance with section 257.96 of the Act, section 349 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

22. This by-law shall come into force on October 30, 2023.

Date By-law Expires

23. This by-law shall expire at the close of business on October 29, 2028, unless it is repealed at an earlier date.

Repeal

24. Simcoe Muskoka Catholic District School Board Education Development Charges By-Law No. 50-01-2018 is repealed effective as of the date this by-law comes into force.

Severability

25. Each of the provisions of this by-law are severable and if any provision hereof should for any reason be declared invalid by a court or tribunal, the remaining provisions shall remain in full force and effect.

Interpretation

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

Short Title

27. This by-law may be cited as the Simcoe Muskoka Catholic District School Board Education Development Charges By-law No. ●.

ENACTED AND PASSED this 16th day of October, 2023.

Board Chair

Director of Education and Secretary-
Treasurer