

**Date:** 2021-03-12

**Subject:** **Stormwater Charge for Working Farms**

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**Report Number:** Public Works & Engineering-2021-390

**Recommendations:**

1. THAT the report titled **Stormwater Charges for Working Farms** to the City Council meeting of March 24, 2021 be received;
2. THAT Council consider staff to undertake a verification of the impervious areas to which the stormwater charge applies for all working farm properties, recognizing the characteristics of such properties.

**Overview:**

- On March 10, 2021 Committee of Council discussed a motion tabled by Councillor Palleschi regarding stormwater charge relief for working farms in Brampton.
- The City's Stormwater Charge is designed around two categories of property, residential and non-residential, in order to appropriately distribute the charge payable by property owners.
- A stormwater charge is only assessed where impervious areas are present on a property. Impervious areas are used as the basis for calculation, as it is directly correlated with the amount of stormwater runoff from a property.
- There is a Stormwater Charge reduction (Credit) program available to multi-family and non-residential properties that implement stormwater management practices on-site that reduce the demand on the City's stormwater drainage system.

- **Stormwater Charge subsidies are available by application to Places of Worship, properties used by Veterans' Organizations, and Low-Income Seniors and Disabled Persons who have been approved for the City's Property Tax Rebate.**
- **Farm properties are eligible to apply for Stormwater Charge reductions through the Credit program.**
- **An exemption from stormwater charges or financial relief (including subsidy) for properties with commercial operations, where there is no significant benefit resulting to the City or the general public may be considered as bonusing contrary to the Municipal Act.**
- **Other municipalities that have implemented stormwater charges in Ontario do not exempt farm properties from stormwater charges.**
- **Currently, there are 219 farm properties in Brampton that receive the Farm Property Class Tax Rate. Of these, 102 are subject to stormwater charges. This results in collection of \$124,000 annually in stormwater charges from these properties.**
- **Some large-scale greenhouses may have been assessed as properties benefiting from the Farm Property Class Tax Rate, as determined by the Municipal Property Assessment Corporation (MPAC).**

### **Background:**

Stormwater management is a core municipal service that keeps people and communities safe from flooding, protects against damage to property, and minimizes the social and environmental disruptions and impacts caused by flooding. Brampton has over \$1.2B worth of stormwater infrastructure that serves this vital purpose. These include storm sewers, catchbasins, manholes, stormwater ponds, road-side ditches, watercourses and flood channels. Keeping this system in a state of good repair is essential to ensure public safety, property, and the environment are protected from the adverse effects of uncontrolled stormwater runoff. The City of Brampton introduced a Stormwater Charge beginning June 1, 2020 to provide the sustainable funding for investments in the stormwater system to maintain appropriate levels of service to the community. As prescribed in By-Law 82-2020, stormwater charges are applicable to all properties in Brampton except those exempted by legislation.

### **Calculation of Stormwater Charges**

The City of Brampton's stormwater drainage system is the ultimate recipient of stormwater runoff within the City of Brampton, whether that stormwater runoff arrives directly or indirectly into the system. Unless a property has the means to retain stormwater indefinitely within its boundaries, it is presumed as benefiting from the municipal stormwater drainage system.

The impervious surfaces on a property do not allow for runoff to be absorbed into the ground, and result in stormwater runoff that exceeds that which would have resulted from natural conditions in both volume and rate. Impervious areas include paved or hard surfaces, building rooftops, compacted gravel, artificial turf, and other surfaces on a property which are considered highly resistant to the infiltration of water, thereby increasing stormwater runoff. The amount of impervious surface is directly correlated with the amount of stormwater runoff, and hence is used as the basis for calculation of the stormwater charge to ensure a clear nexus between amount paid and benefit received.

The impervious areas on each property are determined and measured using City building records and high-resolution aerial images. The City has provided the means for a property owner to view and verify the basis of their stormwater charge assessment via an online stormwater charge estimator. The By-law also prescribes an appeal process for property owners to correct errors in their stormwater charge assessment.

All properties subject to the stormwater charge are assessed at the annual rate of \$89 per Billing Unit. A Billing Unit is equivalent to 234 square meters of impervious area, and represents the amount of impervious area on a typical single-family residential property in Brampton.

### Stormwater Charge Reductions

Eligible property owners may apply for reductions in their stormwater charges through:

1. Subsidies
2. Technical Exemptions
3. Stormwater Charge Credits.

Subsidies are available for Places of Worship, Veterans' Organizations, Low-Income Seniors and Disabled Persons. These subsidies are available to property owners that the City already recognizes as eligible for relief through existing programs such as the Property Tax Rebate pursuant to By-law 57-2010 as amended, or which are exempt from property tax assessment through Provincial legislation. Such subsidies are funded by way of a grant made pursuant to s. 107 of the Municipal Act, 2001 to reduce or eliminate the stormwater charge payable.

Owners of properties that do not use any part of the City's stormwater drainage system can apply for a Technical Exemption with supporting documentation prepared by a qualified professional.

The City also has a Stormwater Charge Credit program through which eligible multi-family residential and non-residential property owners can seek a reduction in their stormwater charge based on stormwater management measures on their property that reduce the burden on the City's stormwater management system.

### **Current Situation:**

On March 10, 2021 Committee of Council discussed a motion by Councillor Palleschi regarding stormwater charge relief for working farms in Brampton. The following sections describe typical municipal considerations of farm properties for those municipalities that have established a stormwater charge, and provides guidance on various aspects of stormwater charge relief for farm properties.

### Municipal Scan – Ontario Stormwater Charge Programs

A growing number of municipalities have established stormwater charges to provide more equitable and sustainable funding for the maintenance and upgrades of stormwater drainage systems. Staff reviewed the stormwater charge programs of fifteen (15) municipalities and implications for farms.

Only two municipalities (City of London and Municipality of Middlesex Centre) exclude farms from stormwater charges. However, both municipalities have Drainage Superintendents to oversee the maintenance and upgrades of rural drainage infrastructure through the Drainage Act with the up-front and annual costs paid by the farms benefiting from such infrastructure. Of the remaining 13 municipalities that bill stormwater charges to rural properties, three municipalities (Cities of Orillia, St. Thomas, and Waterloo) only bill some rural properties.

### Stormwater Charges for Working Farms in Brampton

MPAC offers a Farm Property Class Tax Rate for properties that it has assessed as "agricultural," which earn \$7,000 or more a year in farming operations, have a farm business registration number, and have been placed into the Farm Property Tax Class by the Ontario Ministry of Agriculture, Food and Rural Affairs. The Farm Property Class Tax Rate is applied to the portion of the property utilized for farming operations and these sub-areas within each property are identified by MPAC.

The table below summarizes the stormwater charges for farm properties, with a Working Farm defined as "the portion of a property that is subject to the Farm Property Class Tax Rate, as assessed by the Municipal Property Assessment Corporation (MPAC)":

# Working Farms in Brampton (as per MPAC)	# Working Farms subject to stormwater charges	Annual stormwater billings from Working Farms
219	102	\$124,422

Working Farms in Brampton may include some large-scale greenhouse operations wherein the property receives the Farm Property Tax Class rate, but does not include those where the residential tax rate is assigned by MPAC.

#### Exemption from or Subsidy for Stormwater Charges to Commercial Farms in Brampton

Under Section 106(1) of the Municipal Act, 2001 “a municipality shall not assist directly or indirectly any manufacturing business or other industrial or commercial enterprise through the granting of bonuses for that purpose”, and further Section 106(2) prohibits a municipality from granting assistance by “giving a total or partial exemption from any levy, charge or fee” .

Granting an exemption from or financial assistance (including a subsidy) for the stormwater charge to individual owners of one or more classes of commercial farming properties in circumstances where there is no significant benefit resulting to the City or the general public may be considered as bonusing contrary to the Act.

The financial impact of a subsidy of stormwater charges to all working farms in Brampton would be a reduction of \$124,422 in stormwater charges collected, which would have to be funded from the City's other revenue.

#### Internal Re-Assessment of Impervious Areas on Working Farms

In accordance with the Stormwater Charge By-law 82-2020, stormwater charges are calculated based on impervious areas on a property. Adjustments to impervious areas used for stormwater charge calculations may arise as a result of external requests (via appeals) or via internal adjustments initiated by the City. Internal adjustments are made when impervious areas change on a property or when new data becomes available. Several working farms in Brampton have requested a re-assessment of their impervious areas.

As permitted by the Stormwater Charge By-Law, and as directed by Council, City staff may undertake a verification of the impervious areas to which the stormwater charge applies for all Working Farm properties.

#### Stormwater Charge Credit Program

The City of Brampton has a Stormwater Charge Credit Program through which eligible property owners can seek a reduction in their stormwater charge based on stormwater management measures on their property, such as vegetated filter strips, grassed waterways, and stormwater ponds, that control runoff from impervious surfaces. Applicants may seek up to 50% credit, and credit applications must be accompanied by a stormwater management report and other required supporting information as prescribed in the *City of Brampton Stormwater Charge Credit Program* manual. Staff have received no credit applications from working farms in Brampton.

### Other Assistance Available to Farm Properties

Some farms may be eligible for funding to offset the up-front design and installation cost of new or upgraded measures to control stormwater through existing programs such as the Peel Rural Water Quality Program.

### Alternative Strategies to Fund Maintenance of Rural Drainage Infrastructure

Farms in London and Middlesex Centre are not subject to the stormwater charge, which applies to properties in the urban/settlement areas. Both municipalities fund the maintenance and upgrades of rural drainage infrastructure through the Drainage Act, as overseen by each municipality's Drainage Superintendent. As such, farm property owners contribute financially to the maintenance of drainage infrastructure despite being exempt from the stormwater charge. The City of Brampton has no municipal drains established under the Drainage Act and has no Drainage Superintendent.

### **Corporate Implications:**

#### Financial Implications:

A full subsidy of stormwater charges to working farms will result in a corresponding reduction in stormwater charges collected. The annual amount is estimated to be \$124,422 and cannot be covered by increasing the stormwater charge on the remaining properties given that the charges established by the current by-law are calculated on a fair and equitable basis.

#### Legal Implications:

Legal Services has advised that the Municipal Act, 2001 prohibits the City from assisting directly or indirectly any commercial enterprise through the granting of bonuses for that purpose including the granting of assistance by giving a total or partial exemption from any levy, charge or fee.

### **Term of Council Priorities:**

The Brampton Stormwater Charge supports Term of Council Priorities 2019-2022 "A Well-run City" which emphasizes effective management of municipal assets. Stormwater management is a core service under Provincial asset management regulations, and the Brampton Stormwater Charge is a key component of a sustainable, prudent asset management plan for stormwater infrastructure.

## Conclusion:

The Brampton Stormwater Charge was designed to be fair, equitable and transparent and appropriately distribute the cost of paying for stormwater management to those benefiting from the system. It is based on the amount of hard surface on a property, as the amount of impervious surface is directly correlated with the amount of stormwater runoff from a property.

Granting an exemption from or financial assistance (including a subsidy) for the stormwater charge to individual owners of one or more classes of commercial farming properties in circumstances where there is no significant benefit resulting to the City or the general public may be considered as bonusing contrary to the Municipal Act.

Farm properties have larger amounts of natural areas adjacent to, and surrounding the impervious areas on the property, and these may serve to intercept or otherwise reduce the amount of stormwater runoff from such properties. The Stormwater Charge By-law permits internal review, verification and adjustments to the stormwater charges in these circumstances.

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