

Date: 2022-05-31

Subject: **Stormwater Charges for Farm Properties in the City of Brampton**

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Report Number: Public Works & Engineering-2022-607

Recommendations:

1. THAT the report titled Stormwater Charges for Working Farms to the Committee of Council Meeting of June 8, 2022 be received;
2. THAT Council approve a streamlined stormwater credit program for working farm properties as a result of the unique characteristics of such properties.

Overview:

- On March 24, 2021 Council requested staff undertake a verification of the impervious areas to which the stormwater charge applies for all working farm properties, recognizing the characteristics of such properties.
- On May 12, 2021 Committee of Council referred a delegation regarding stormwater charge relief for working farms to staff for a report back, including a review of similar municipal experiences with working farms and greenhouse properties regarding stormwater charges.
- There are currently 219 working farm properties in the City of Brampton (the City), of which 119 have impervious areas and are thus subject to stormwater charges.
- Staff have verified the impervious areas measured as well as eligibility for any technical exemptions based on a property wholly or in part draining directly to a point outside the municipal boundary.

- **Staff engaged a consultant to review how working farms are charged for stormwater services in other municipalities. Some municipalities support farm owners through credits, exemptions or adjusted rates. The credit approach is most applicable to the City.**
- **The City's current Stormwater Charge Credit program is available to working farms that implement stormwater management practices on-site that reduce the demand on the City's stormwater drainage system. However, the program is not optimized for common stormwater management practices implemented on farms.**
- **The City's approach to stormwater charges balances the need to account for the different amounts of runoff from each property with the need for a cost-effective assessment process.**
- **A streamlined credit approval process for stormwater credits on farm properties is an approach that recognizes the greater ability of working farm properties to absorb stormwater runoff, respects the principles on which the stormwater charge has been established, and expedites the process of applying for and receiving stormwater credits.**
- **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.**

Background:

The City of Brampton (the City) operates \$1.34B worth of stormwater infrastructure that includes storm sewers, catchbasins, manholes, stormwater ponds, road-side ditches, watercourses and flood channels. Keeping the stormwater system in a state of good repair is essential to ensure the public, property, and the environment are protected from flooding and other the adverse effects of uncontrolled stormwater runoff. The City implemented a Stormwater Charge on June 1, 2020 to provide sustainable funding for maintaining the stormwater system. 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 system is the ultimate recipient of stormwater runoff within Brampton. Impervious surfaces prevent rainfall from being absorbed into the ground and increase the volume and rate of stormwater runoff compared to natural conditions. Impervious areas include paved or hard surfaces, building rooftops, compacted gravel, artificial turf, and other surfaces that increase stormwater runoff. The impervious area on a property is directly correlated with the amount of stormwater runoff

it contributes to the system, and hence is used as the basis for the stormwater charge to connect the amount paid and to the service provided.

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. Technical Exemptions,
- 2. Subsidies, and/or
- 3. Stormwater Charge Credits.

Properties, or a portion of them, that drain directly to a point outside the municipal boundary of the City of Brampton without using the City’s stormwater drainage system are eligible for a *Technical Exemption*. Technical exemptions are reviewed by staff using contour and stormwater drainage system information.

The City also has a *Stormwater Charge Credit* program through which eligible multi-family residential (such as apartment buildings) 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 system.

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.

Stormwater Charges for Working Farms in Brampton

Within this report, a “working farm” is a property that is subject to the Farm Property Class Tax Rate as assessed by Municipal Property Assessment Corporation (MPAC). MPAC offers this 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 table below summarizes the stormwater charges for working farms in Brampton.

Table 1. Stormwater Charges for Working Farms in Brampton as of August 2021

# Working farms in Brampton:	219
# Working farms subject to stormwater charges:	113

Annual stormwater billings from working farms:	\$168,744
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Working farms in Brampton may include some large-scale greenhouse operations wherein the property receives the Farm Property Class Tax Rate, but does not include those farm properties solely subject to the Residential Tax Rate as assigned by MPAC.

Current Situation:

On March 24, 2021 Council requested staff undertake a verification of the impervious areas to which the stormwater charge applies for all working farm properties, recognizing the characteristics of such properties (C084-2021). On May 12, 2021 Committee of Council referred a delegation regarding stormwater charge relief for working farms to staff for a report back, including a review of similar municipal experiences with working farms and greenhouse properties regarding storm water charges (CW240-2021). The following sections describe the verification of impervious areas for working farms, how farm properties are treated in the stormwater charge programs of other municipalities, and options for stormwater charge relief for farm properties in Brampton.

Verification of Impervious Areas on Working Farms in Brampton

In accordance with the Stormwater Charge By-law 82-2020, stormwater charges are calculated based on impervious areas on a property. As permitted by the Stormwater Charge By-Law, and as directed by Council, City staff verified the impervious areas to which the stormwater charge applies for all working farms in Brampton. Staff reviewed the impervious areas mapped for all 219 working farm properties using high-resolution ortho-imagery and the areas were peer reviewed by a consultant. The exercise made adjustments where appropriate to ensure the base stormwater charges were accurate.

Benchmarking Stormwater Charges for Farms in Other Municipalities

Each community that adopts a stormwater charge has different program challenges and goals while servicing unique demographics and land uses. The addition of impervious surfaces to any property changes the hydrology of it, regardless of its land use, and can impact local stormwater infrastructure. Review of the stormwater charge programs of 12 municipalities found that farms are not typically treated differently from other non-residential properties when implementing an impervious area rate structure to calculate a base charge. Communities with significant portions of farmland within their borders tend to look for ways to support farm owners offered through exemptions of farmlands from the fee altogether, adjustments to the rate to lessen the costs, or credits against a stormwater fee for implementing stewardship practices. Table 2 summarizes the possible stormwater charge reductions for farms in other municipalities and each is described further below.

Table 2. Stormwater Charge Reductions for Farms in Other Municipalities

Location	Basis of Charge for Non-Residential	Exemption	Farm-specific Credits	Eligible for General Credits	Other charge adjustments for agricultural/farm property
Mississauga ON	Impervious Area			X (unsubsidized farms)	Subsidy per MPAC designation
Vaughan ON	Land Use				Flat rate for all agricultural properties
London ON	Land Use	X			
Kitchener ON	Impervious Area			X	Treated as residential
Guelph ON	Impervious Area			X	
Ottawa ON	Land Use	X (some Farm codes)			Adjusted rate in rural service area
Newmarket ON	Land Use			X (major commercial farms only)	Most assigned Low runoff code (<10% IA)
Saskatoon SK	Impervious & Pervious Areas	X (active farms only)		X	
Victoria BC	Impervious Area, Land Use, Street Length			X	
Howard County MD	Impervious Area		X		
St. Albans VT	Impervious Area		X		
Floyd County IN	Impervious Area		X		

The following summarizes the stormwater charge approaches and reductions for farms in other municipalities:

- **Mississauga, ON:** The remaining farms in Mississauga (approximately 20) automatically receive a subsidy for their stormwater charge, which is calculated based on impervious area.
- **Vaughan, ON:** Farms are not exempt from stormwater charges, which are calculated based on land use, and there is no credit program.
- **London, ON:** Stormwater charges are calculated based on land use. Farms are exempt from stormwater charges if they are outside the City's Urban Growth

Boundary, drain to a Municipal Drain, and/or is zoned as Agriculture, Open Space or Resource Extraction. Farm properties were exempted primarily because most are serviced by Municipal Drains and already contribute funds to the City through that program. There is no credit program.

- **Kitchener, ON:** Stormwater charges are calculated based on impervious areas within three land use categories – single residential, multi-residential, and non-residential. An analysis of a sample of farms in Kitchener determined that they should not be exempt because they contribute runoff to the system and led to re-categorization of farms as single residential to reflect the amount of relative runoff they contribute. Farms categorized as residential are only eligible for water quality credits, but not other credits for quantity control, quality control, or education which non-residential/multi-residential properties are also eligible for.
- **Guelph, ON:** Stormwater charges are calculated based impervious areas for non-residential properties and a flat rate is charged to residential properties. Farms are treated as non-residential and can seek a credit of up to 50% based on peak flow reduction, runoff volume reduction, water quality treatment, and/or non-structural measures (e.g. education, pollution prevention).
- **Ottawa, ON:** Stormwater charges for all properties, including farms, are calculated based on land use, service area (rural or urban) and service type (connected or non-connected). Non-connected properties are not serviced by the City's sanitary sewage system and are not subject to the sewer surcharge/wastewater fee. There is no credit program. Some properties are exempted from the stormwater charges based on their land uses, including several types of farms that typically generate less runoff than other farms (e.g. tobacco farms, ginseng farms, exotic farms, farms without buildings/structures, farms without residence & with farm buildings).
- **Newmarket, ON:** Stormwater charges are calculated based on land use and property size. Most farms fall into the Low Runoff category and are not eligible for credits. However, commercial farms in the High Runoff category could qualify for a credit based on peak flow reduction, infiltration practices, pollution prevention, and green space covering more than 25% of the property with trees or has other significant natural heritage features.
- **Saskatoon SK:** Single family residential properties are charged a flat rate. Stormwater charges for non-residential and multi-residential properties are based on their size and the surface type, including impervious and pervious surfaces. Surfaces with higher perviousness such as grass produce less runoff and are therefore assessed a lower runoff value than impervious surfaces such as roofs. Active farms are exempt from the stormwater charge, except where they include hard surfaces which generate runoff to the storm water system (i.e., non-farm buildings or parking areas). Agricultural properties that are not exempt can apply for a credit for controlling quantity and quality of stormwater runoff on site.
- **Victoria BC:** Stormwater charges are based on impervious areas, street frontage and type, and land use type. Different levels of discounts are offered depending on property type and measures implemented on the property. There are few farms in Victoria and they are generally considered commercial/industrial.
- **Howard County, Maryland, US:** Stormwater charges for residential properties are based on tiers while non-residential charges are based on impervious area.

Agricultural land covers approximately 25% of the County and is considered non-residential. Farms can reduce their charges if they commit to implementing specific stewardship practices that manage runoff and minimize erosion, such as nutrient management, agricultural waste management, controls for gully/rill erosion, livestock exclusion areas, livestock stocking rate limits, and riparian buffers.

- **St. Albans, Vermont, US:** Stormwater charges for single family residential properties are billed at a flat rate while charges for all other land uses, including those for farms, are based on the impervious area. Over 50% of the town is rural land use. Non-single family residential properties can apply for credits to recognize stormwater quantity and quality controls. Farms can reduce their charges by 35% through a specific agricultural credit that recognizes rural practices, such as nutrient/waste management, soil conservation, riparian buffer zones and livestock exclusion areas. Farm owners must submit a form verifying compliance of their practices with State guidelines and schedule a verification inspection.
- **Floyd County, Indiana, US:** Residential properties are charged a flat rate while stormwater charges for non-residential properties are based on impervious area. Non-residential properties, including farms, are eligible for credits for peak flow controls and storage. There are several other agriculturally focused credits for 20% of the County that is agricultural. The agricultural credits include cover crops, conservation tillage, fencing livestock out of waterways, and other conservation activities. Property owners must apply for the agricultural credit and demonstrate the extent of the practices used on their farm relative to thresholds for each agricultural credit. For example, providing a receipt for cover crop seed and their planting schedule to receive 1 billing unit credit for every two (2) acres planted each year.

Overall, this review found that stormwater charge relief is offered through:

- exemptions of farmlands from the fee altogether
- rate structure adjustments to lessen the costs
- or credits against a stormwater fee for implementing stewardship practices

The applicability of these approaches in Brampton are discussed below.

Exemptions:

The exemptions in other Ontario municipalities were used in circumstances that differ from Brampton. For example, farms in London are exempt from stormwater charges primarily because they already contribute funds to maintain the municipal drains that service their properties. In comparison, Brampton has no municipal drains and so has not established this alternative means to collect funds for maintaining rural parts of the City's stormwater drainage system. The exemptions for farms in London were focused on a subset of farms that typically have minimal impervious areas because they do not base their charges on impervious areas. In comparison, Brampton's charges are based on impervious areas and as such 46% of the working farms of Brampton are effectively exempt from charges because

they have no impervious area. As reported in the Staff Report to Council (Public Works and Engineering-2021-390), “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.” Technical exemptions for properties in Brampton are discussed in a subsequent section to clarify their applicability to working farms in Brampton.

Rate structure adjustment:

Rate structures are another way to approach stormwater charge relief for farms. However, two of the municipalities using this approach (Ottawa and Newmarket) base their charges on land use whereas Brampton calculates stormwater charges based on impervious areas. Kitchener’s charges are based on impervious areas similar to Brampton and they lowered the rate for some farms to that of an average single family residential property based on their study of a sample of farms in Kitchener. Kitchener also offers credits to farms but they are limited to water quality credits for those farms billed as single family residential. In contrast, single family residential properties are not eligible for credits in Brampton.

Stormwater Credits

The most common approach to offering stormwater charge relief to farms and other non-residential properties was through a credit program, which is offered at nine of the 12 municipalities. These credit programs relate the fee reduction to the services avoided based on stewardship actions on each property. Three of the credit programs include credits tailored to farm stewardship practices, which are not represented in Brampton’s current credit program or Stormwater Charge By-law. An approach similar to that taken by Howard County, Maryland or Floyd County, Indiana would allow Brampton to promote and recognize specific on-site agricultural stormwater best practices which would be a benefit to the City’s stormwater management efforts because they minimize runoff and protect water quality. Examples of such practices include maintenance of stream buffers, nutrient management practices, use of cover crops or conservation tillage methods. Consultation with the Conservation Authorities, Ontario Ministry of Food and Agriculture, and local farmers’ organizations, could be a useful step in developing a set of farm credits and a streamlined application process for working farm owners in Brampton.

Technical Exemptions for Working Farms in Brampton

In accordance with the Stormwater Charge By-law 82-2020, properties (in whole or in part) are technically exempt if they drain directly to a point outside of the City limits without using the City’s stormwater drainage system. The City’s stormwater drainage system includes sewers, ditches, road allowances, streams, creeks and rivers.

Multiple working farm owners have applied for technical exemptions because a large portion of their property is permeable and has the potential to absorb a portion of both the rainfall that lands on the permeable area and runoff from adjacent impervious surfaces. Under the Stormwater Charge By-Law, this does not meet the definition of a technical exemption. The City's system is in place to convey runoff from all storms up to and including the Regional storm event (Hurricane Hazel). There will be runoff from almost all properties within the City under extreme storm events. As such, properties with a positive slope to the City's stormwater drainage system are not eligible for technical exemptions per the By-law.

Draining impervious areas onto permeable, vegetated areas (e.g., lawns) will absorb some runoff from some smaller rainfall events but will generate runoff during the larger or extreme events. As such, draining impervious areas onto permeable, vegetated areas will only control some rainfall events. This level of stormwater control is best recognized for eligible properties through the City's Credit Program.

Properties with isolated depressions that would not overflow to the City's system would also be eligible for a technical exemption but this requires analysis to confirm whether the basin would overflow. Such analysis is beyond the administrative capacity of City staff and the stormwater charge program's allocation for administrative time. As such, property owners are responsible for demonstrating their eligibility for a technical exemption in this circumstance by submitting the assessment of a qualified professional.

Stormwater Charge Credit Program

The City of Brampton has a Stormwater Charge Credit Program through which eligible non-residential and multi-residential 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.

Many farms have large amounts of natural areas adjacent to or surrounding the impervious areas on the property that absorb some rainfall, but not all since rain will saturate the ground and cause runoff. Farmers have also already implemented additional measures to prevent pollution and manage stormwater runoff in ways that are unique to farms compared to urban development. The benefits of these measures should be evaluated and recognized through the credit program for eligible working farm properties, rather than through technical exemptions or subsidies. However, the Stormwater Charge By-law and Credit manual are tailored to recognizing urban approaches to managing stormwater, not rural approaches which would follow different design guidelines. For example, many of the documents required in current credit applications are those that are already prepared to address urban development requirements.

The City could update the Credit Program to support farms in reducing their stormwater charges by recognizing the stormwater benefits of the farm stewardship practices that are already in place. Such updates may include an outline of credits for farm practices, and streamlined application requirements corresponding to the information that owners will have readily available. A streamlined farm credit would be to enable most working farm owners to prepare and submit a credit application on their own without needing to hire a qualified professional to prepare engineering drawings or calculations.

Other Exemption or Subsidy for Stormwater Charges to Working 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.

A full subsidy or exemption of stormwater charges to working farms will result in a corresponding reduction in stormwater charges collected. The annual amount is estimated to be \$177,733 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.

Corporate Implications:

Financial Implications:

There are two potential financial implications of providing relief through the credit program:

1. Should the stormwater credit program be updated to provide a streamlined approach for rural best management practices, the cost to the City to undertake the streamlined approach would be approximately \$60,000 total for all eligible properties. This assumes the best management practices have already been implemented, although property owners may choose to implement new best management practices. This approach would provide most property owners with immediate savings.
2. Stormwater charge credits to working farms will result in a corresponding reduction in stormwater charges collected. The reduction is estimated to about \$89,000 annually assuming all farm properties receive the maximum allowable credit of 50%.

Other Implications:

Implementation of a streamlined credit for working farms would require the Stormwater Charge By-law be amended appropriately to incorporate a revised credit program for working farms, including defined applicability and a phase-in timeline for such credits to be made effective with retroactive relief from June 1, 2020. Other relief options, such as adjusting the rate structure, would also require an amendment to the Stormwater Charge By-law.

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 by distributing the cost of paying for stormwater services 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. Staff have verified the impervious areas on Working Farms and confirmed that 46% of working farms in Brampton are not subject to stormwater charges because they contain no impervious area.

Review of 12 other municipal stormwater charge programs across North America found that stormwater charge relief is offered through exemption of farms from stormwater charges in whole, adjustments to the charging rate to lessen the costs for farms, or credits against assessed stormwater charges that reduce the amount payable for farms that implement stewardship practices. Exemptions and subsidies are likely to conflict with Provincial legislation, and hence the most applicable approach for stormwater charge relief for farms is through stormwater credits.

Working farm owners have already implemented measures to prevent pollution and manage stormwater runoff in ways that are unique to working farms compared to urban development. The benefits of these measures should be evaluated and recognized through the credit program for eligible working farm properties. However, the Stormwater Charge By-law and Credit manual are tailored to recognizing urban approaches to managing stormwater. Upon Council’s direction, staff will update these to introduce a streamlined approach to review and offer credits for Working Farms.

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