



THE CORPORATION OF THE CITY OF BRAMPTON

BY-LAW

Number 82 - 2020

Stormwater Charge By-law

WHEREAS sections 8, 9 and 11 of the Municipal Act, 2001, S.O. 2001, c. 25, authorize a municipality to pass by-laws necessary or desirable for municipal purposes, and in particular paragraph 3 of subsection 11(2) authorizes by-laws respecting the financial management of the municipality;

AND WHEREAS subsection 107(1) of the Municipal Act, 2001 provides that, subject to section 106, a municipality may make grants, on such terms as to security and otherwise as the council considers appropriate, to any person, group or body, including a fund, within or outside the boundaries of the municipality for any purpose that council considers to be in the interests of the municipality;

AND WHEREAS subsection 391(1) of the Municipal Act, 2001 provides that sections 9 and 11 of that Act authorize a municipality to impose fees or charges on any class of persons for services or activities provided or done by or on behalf of the municipality and for the use of the municipality's property, including property under its control;

AND WHEREAS subsection 391(2) of the Municipal Act, 2001 provides that a fee or charge imposed for capital costs related to services or activities may be imposed on persons not receiving an immediate benefit from the services or activities but who will receive a benefit at some later point in time;

AND WHEREAS subsection 391(3) of the Municipal Act, 2001 provides that the costs included in a fee or charge may include costs incurred by the municipality or local board related to administration, enforcement and the establishment, acquisition and replacement of capital assets;

AND WHEREAS subsection 391(4) of the Municipal Act, 2001 provides that a fee or charge may be imposed whether or not it is mandatory for the municipality or local board imposing the fee or charge to provide or do the service or activity, pay the costs or allow the use of its property;

AND WHEREAS subsection 391(5) of the Municipal Act, 2001 provides that, in the event of a conflict between a fee or charge by-law and the Municipal Act, 2001, other than Part XII thereof, or any other act or regulation made under any other act, the by-law prevails;

AND WHEREAS the City of Brampton (the "City") has constructed, and is operating and maintaining a stormwater drainage system for the benefit of residents and other property owners in the City;

AND WHEREAS it is deemed just that the cost of operating, maintaining, repairing, replacing and upgrading the stormwater drainage system is paid for by those who benefit from this system;

AND WHEREAS fees and charges can only be imposed for capital costs that are not precluded by section 2 of Ontario Regulation 584/06, which provides that a fee or charge cannot be used to obtain revenue to pay capital costs, if as a result of development charges by-laws or front- ending agreements under the Development Charges Act, 1997 or a predecessor of that Act that was passed or entered into before the imposition of the fees or charges, payments have been, will be or could be made to the municipality to pay those costs;

AND WHEREAS the City desires to maintain a dedicated funding option for the long-term enhancement and operation of its existing stormwater drainage system through effective and efficient capital construction, operation and maintenance programs;

AND WHEREAS the Council desires to implement a credit program to recognize existing properties with properly operating stormwater management measures already in place and an incentive for certain property owners to provide future on-site stormwater management measures;

AND WHEREAS section 436 of the Municipal Act, 2001 provides that a municipality may pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out inspections to determine compliance with its by-laws, directions, orders and conditions of licenses;

AND WHEREAS the creation of a separate stormwater charge to fund such stormwater management program will bring transparency to the actual costs of providing and maintaining the stormwater drainage system within the City;

AND WHEREAS effective June 1, 2020, the Council desires to impose a stormwater charge on property owners;

AND WHEREAS in establishing the stormwater charge rate tiers set out in this by-law, Council has had regard to the amount of impervious area and property sizes and types;

NOW THEREFORE the Council of The Corporation of the City of Brampton ENACTS as follows:

PURPOSE

The City is responsible for constructing/operating, maintaining, improving and renewing its existing stormwater drainage system to provide stormwater management and drainage services to its residents and businesses. The City has deemed it appropriate and necessary to fund the costs related to these services by way of fees and charges imposed on those residents and businesses that benefit or will benefit in the future, from these services. This By-law is enacted pursuant to the authority of the Municipal Act, 2001 to impose fees and charges for services provided by the City in order to pay for the costs of its stormwater drainage system services, including the costs of operating, administering, maintaining and improving the current stormwater drainage system and any future upgrades. The fees and charges imposed under this By-law, once collected will be allocated expressly to the costs related to operating, administering, maintaining and improving the City's stormwater drainage system.

DEFINITIONS

1. In this By-law,

“Adjustment” means a process by which changes are made to information associated with a given Stormwater Account.

“Appeal” means a process by which a person challenges information that has been associated to their Stormwater Account.

“Applicant” means a Non-Residential or Multi-Family Residential property owner that submits a Stormwater Charge credit application on the City approved form.

“Billing Error” means an undercharge or overcharge caused by an error in the preparation of the Stormwater Bill that is clerical or factual in nature, including the transposition of figures, a typographical error or similar errors.

“By-law” means this Stormwater Charge By-law;

“City” means The Corporation of the City of Brampton or where the context requires the geographical jurisdiction of The Corporation of the City of Brampton.

“Council” means the elected council of the City.

“Credit Program” means the City’s credit program to recognize certain existing properties with stormwater management measures already in place, and to provide an incentive for certain property owners to provide on-site stormwater management measures to reduce the amount of the Stormwater Charge.

“Engineering Commissioner” means the City’s Commissioner of Public Works and Engineering or his/her designate.

“Environmental Engineering Division” means the City’s Environment and Development Engineering Division within the City’s Public Works and Engineering Department.

“Finance Commissioner” means the City’s Commissioner of Corporate Services or Treasurer or his/her designate.

“HST” means harmonized sales tax.

“Low-Income Seniors and Disabled Persons” means persons approved for the City’s Property Tax Rebate program.

“Material Change” means something that was not either expressly addressed by the parties in the credit application process or that cannot be taken as having been in their contemplation; and results in a property no longer being in substantial compliance with the objectives of the Credit Program, or the level of Stormwater Charge credit approved.

“Non-Residential and/or Multi-Residential property” means a property that contains more than one residential unit and/or contains or is zoned for industrial, commercial, or institutional uses.

“person” includes an individual, sole proprietorship, partnership, corporation, municipal corporation, unincorporated association or organization, trust, and a natural person in his or her capacity as trustee, executor, administrator, or other legal representative;

“Place of Worship” means a property recognized as such by the Municipal Property Assessment Corporation (MPAC) by the designation of an MPAC land use property code of 700 (Place of worship - with a clergy residence) or 701 (Place of Worship - without a clergy residence) and with the property tax/class qualifier “EN,” meaning exempt.

“property” means any real property within the City, including buildings, structures and improvements of any nature and kind in or upon such lands, but excludes real property owned by any entity excluded from municipal fees and charges by law;

“property owner” means the registered owner of property and any other person, firm or corporation having control over or possession of the property or any portion thereof, including a property manager, mortgagee in possession, receiver and manager, trustee and trustee in bankruptcy.

“Property Tax Rebate” means the City’s property tax rebate program that provides a tax rebate for low-income seniors and disabled persons.

“Region of Peel” means The Regional Municipality of Peel.

“Stormwater Account” means the Region of Peel’s water and wastewater service customer account to which Stormwater Bills are invoiced.

“Stormwater Bill” means the City’s Stormwater Charge as invoiced by the Region of Peel in the same manner as the Region of Peel’s water and wastewater utility charges and itemized on the same monthly or quarterly invoice or separately as a Stormwater Charge-only invoice.

“Stormwater Billing Unit” means the number of billing units assigned to a property as a result of a stormwater charge assessment. A single “Stormwater Billing Unit” is equivalent to the average total impervious area (234 m²) found on detached single residential properties in the City.

“Stormwater Charge” means the City’s stormwater fees and charges listed in Schedule “A” to this By-law imposed pursuant to ss. 9 and 11 and Part XII of the *Municipal Act, 2001*.

“Stormwater Charge Manager” means a person within the Environmental Engineering Division designated to manage the Stormwater Charge program.

“Stormwater Charge Subsidy” means the City grant provided to reduce or eliminate the amount of Stormwater Charge payable by a person.

“stormwater drainage system” means the infrastructure used, controlled, maintained or operated by the City to manage stormwater flow and drainage and all appurtenances thereto owned, and includes, but is not limited to, storm sewers, catch basins, storm service connections, drains, pipes, overland conveyance systems including road corridors, culverts, channels, ditches, rivers, streams, creeks, ravines and watercourses, stormwater management facilities including landscaping features, storage ponds or tanks, and oil and grease interceptors that control quantity or quality of stormwater runoff, pumping stations, outfalls, swales and all equipment laid within any highway or road allowance, City right-of-way or easement or City property used for the collection, transmission, detention and treatment of stormwater or uncontaminated water.

“Veterans’ Organization Property” means properties recognized by the City as being used and occupied by the Royal Canadian Legion or a branch thereof, specifically Royal Canadian Legion, Branch 609 (1133 Queen ST East, Brampton) and Royal Canadian Legion, Branch 15 (80 Mary Street, Brampton), and any other properties recognized by the City as being used and occupied as a memorial home, clubhouse or athletic grounds by persons or organizations

representing, supporting or advocating for persons, who served in the armed forces of His or Her Majesty or an ally of His or Her Majesty in any war.

SCOPE

2. A Stormwater Charge shall be imposed upon all property owners in the City in accordance with Schedule "A", which is based on the amount of impervious area and property types. In the event a property has more than one property owner, the liability of those property owners shall be joint and several.
3. The Engineering Commissioner shall be responsible for the administration of this By-law and shall prescribe all forms necessary to implement this By-law and may amend such forms from time to time as the Engineering Commissioner deems necessary.
4. Council hereby establishes the Stormwater Charges as set out in Schedule "A" and the Credit Program as set out in Schedule "B" to this By-law. Stormwater Charges will be subject to the HST where applicable.

CREDITS

5. The Credit Program provides property owners of Non-Residential and/or Multi-Residential property with the opportunity to receive a reduction to their Stormwater Charge for implementing and maintaining stormwater management practices or measures on their property.
6. Property owners of Non-Residential and Multi-Residential property may qualify for Stormwater Charge credits where such property owners can clearly demonstrate to the City that their stormwater management practices or measures provide the City with cost savings that the City would otherwise incur as part of its efforts to manage stormwater. Qualifying criteria of the Credit Program are outlined in Schedule "B" hereto.
7. Participation in the Credit Program is by application only. Property owners of Non-Residential and Multi-Residential property must submit a Stormwater Charge credit application in a form approved by the City for qualification and consideration of a Stormwater Charge credit. Stormwater Charge credit applications will be reviewed by, and approved credit amounts will be determined by the Environmental Engineering Division.
8. Reductions to Stormwater Charges made as a result of the approval of a Stormwater Charge credit application shall take effect in accordance with the following schedule:
 - (1) Credit applications received within the first year of the Credit Program (2020): Reductions that result from applications which were received on or before December 31, 2020 will be retroactive from date of first billing (i.e. June 1st, 2020) or the date on which the qualified stormwater management practices or measures were implemented into service, as determined by the Environmental Engineering Division, whichever is later; and
 - (2) Credit applications from January 1, 2021 onward: Reductions that result from applications which were received on or after January 1, 2021 will be retroactive from the date of receipt of the application by the Stormwater Charge Manager or the date on which the qualified stormwater management practices or measures were implemented into service, as determined by the Environmental Engineering Division, whichever is later.

9. Stormwater Charge credits do not apply to any property, or any portions of a property, that receives a Stormwater Charge Subsidy or is exempt from the imposition of Stormwater Charges.
10. Stormwater Charge credits shall be in effect for a period of up to five (5) years or as otherwise specified at the time of credit approval, subject to compliance with the credit approval terms. Credits will expire if not renewed prior to the expiration date of the credit approval.
11. A credit update application must be submitted to the City no later than three (3) months after any Material Change to the approved credit application. Any failure to submit or late submission of the application may result in a discontinuance of the current credit amount. The City may adjust (increase or decrease) the current credit amount.
12. A credit renewal application must be submitted to the City no later than six (6) months prior to the expiration date of the most recent credit approval. Any late submission of the application may result in a discontinuance of the current credit amount. The City may adjust (increase or decrease) the current credit amount.
13. The City reserves the right to conduct audits of, and inspect without hindrance, stormwater management works for which Stormwater Credits have been approved.

SUBSIDIES

14. The City is entitled to provide a Stormwater Charge Subsidy by way of a grant made pursuant to s. 107 of the *Municipal Act, 2001* to reduce or eliminate the amount of Stormwater Charge payable by the following persons:
 - (1) property owners of a property which is a Place of Worship;
 - (2) property owners of a property which is a Veterans' Organization Property; and
 - (3) Low-Income Seniors and Disabled Persons

ADMINISTRATION AND ENFORCEMENT

15. The Region of Peel is hereby authorized to invoice and collect the City's Stormwater Charges pursuant to this By-law, together with any interest and fees related to such collection.
16. The Region of Peel shall deliver a Stormwater Bill, on behalf of the City, to each property owner upon whom a Stormwater Charge is imposed under this By-law in the same manner as the Region of Peel's water and wastewater utility charges and shall be itemized on the same monthly or quarterly invoice or separately as a Stormwater Charge-only invoice.
17. Payment of all Stormwater Charges imposed by the City under this By-law is due and payable upon receipt of a Stormwater Bill. Stormwater Charge credits under the Credit Program will be processed and reflected on the Stormwater Bill.
18. No person shall be entitled to any discounts for the early payment of any Stormwater Charge under this By-law.
19. Interest on any outstanding accounts shall be applied and calculated at the then current Region of Peel interest charge for late payment. Interest shall accrue from the due date, and shall be added to the next subsequent Stormwater Bill that is issued, together with unpaid and carried-forward Stormwater Charges.

20. If Stormwater Charges are not paid when due and remain outstanding, the Region of Peel may enforce collection of the Stormwater Charges under this By-law in the same manner as Region of Peel water and wastewater charges.
21. A Stormwater Charge imposed upon a property owner under this By-law, which shall be deemed to include any interest charges, penalties and all costs of collection, constitutes a debt of the person to the City and to the Region of Peel.
22. Notwithstanding Section 19 of this By-law, all costs, including any interest on such costs, recoverable by the City and the Region of Peel pursuant to this By-law or otherwise pursuant to the *Municipal Act, 2001*, may be recovered by any lawful means available to the City and Region of Peel, and such recovery methods may include pursuant to subsection 398(2) of the *Municipal Act, 2001* and any outstanding monies owed with respect to Stormwater Charges may be added to the tax roll of the property in respect of the money owed, and shall be collected in the same manner as municipal taxes.
23. The Engineering Commissioner shall have delegated authority and is authorized to:
 - (1) approve or reject any application submitted for Stormwater Charge credit or update or renewal of said credit;
 - (2) impose such terms and conditions to any application under this By-law as the Engineering Commissioner considers appropriate;
 - (3) determine and decide any Appeal under this By-law;and that the decision of the Engineering Commissioner shall be final and binding.
24. The Finance Commissioner shall have delegated authority and is authorized to adjust the Stormwater Charge on any property, to the extent it is deemed appropriate due to a Billing Error, and the account may be retroactively recalculated for a period not exceeding one (1) year from the date of detection with resulting credits or charges being applied to the property owner's Stormwater Account, and the decision of the Finance Commissioner shall be final and binding.
25. Notwithstanding any other section of this By-law, the City reserves the right to conduct site inspections and may, at any reasonable time, enter and inspect any property, to review eligibility and may suspend, reduce or cancel credits if the approved stormwater management practices or measures on the property no longer meet the performance criteria as documented in the Stormwater Charge credit application or the credit update or renewal application and/or its supporting documentation and/or the terms and conditions for the Stormwater Charge credit approval, update or renewal.
26. A Stormwater Charge credit may be suspended, reduced or cancelled by the City under the following circumstances:
 - (1) failure of an applicable property owner to make Stormwater Charge payments as invoiced by the Region of Peel;
 - (2) failure of an applicable property owner to meet the terms and conditions of the credit approval;
 - (3) submission of inaccurate or false information by the Applicant;
 - (4) failure of the Applicant to maintain a stormwater management practice or measure as required by the terms and conditions of the credit approval;
 - (5) failure of a stormwater management practice or measure to operate or meet the performance criteria as documented in the Applicant's

Stormwater Charge credit application or credit update or renewal application and/or its supporting documentation and/or the terms and conditions for the Stormwater Charge credit approval, update or renewal; or,

- (6) failure to submit a complete Stormwater Charge credit renewal application by the deadline provided in this By-law.

27. A reduction or cancellation of a Stormwater Charge credit may be appealed by the Applicant in writing to the Engineering Commissioner. The decision of the Engineering Commissioner shall be considered final and binding.

28. Where the City determines that a stormwater management practice or measure is in a state of disrepair or no longer functions as approved, the Applicant shall reimburse to the City the entire amount of the credit received in respect of the property since the date that the application was approved, updated or renewed or since the last inspection by the City, whichever is later. If the credit has been cancelled, the Applicant may not re-apply for a credit for a period of twelve (12) months.

APPEALS

29. There is no service fee for any of the following Appeals:

PERMITTED BASIS FOR APPEAL	CATEGORY	EXPLANATION
Not Subject to Stormwater Charge	A. Legal exemption	The entity occupying the subject property area is not legally subject to municipal fees and charges
	B. Technical exemption	A property, in whole or part, drains directly to a point outside the municipal boundary of the City of Brampton without using the City's stormwater drainage system.
Inaccurate Stormwater Charge Assessment	A. Incorrect category	The property has been incorrectly identified as "single residential" or "multi-residential and/or non-residential"
	B. Incorrect tier	A single residential property is not in the correct size tier, based on its footprint area assessment
	C. Inaccurate impervious Area assessment	<u>For multi-residential and/or non-residential property only: the total impervious area assessment is not accurate</u> <u>For single residential property only: the footprint area assessment is not accurate</u>
Stormwater Reductions	A. Eligibility for Stormwater Charge Subsidy	A property is entitled to a subsidy
	B. Amount of Subsidy	The portion of a property that qualifies for a stormwater subsidy is not correct
	C. Eligibility for Credit	A property may or may not be eligible for a credit
	D. Amount of Credit	The amount of credit approved for an Applicant's property is not appropriate

30. The filing of an Appeal does not stay the requirement for payment of a Stormwater Charge. Any Stormwater Charge billed during the course of the Appeal will be due and payable upon receipt and remain subject to the Region of Peel's standard collection processes.
31. Adjustments made as a result of an Appeal shall take effect in accordance with to the following schedule:
 - (1) Appeal within first year of Credit Program (2020): Adjustments that result from an Appeal which was received on or before December 31, 2020 will be retroactive from date of first billing.
 - (2) Appeal from January 1, 2021 onward: Adjustments that result from an Appeal which is received on or after January 1, 2021 will be retroactive from date of receipt of the Appeal by the Stormwater Charge Manager.
 - (3) Notwithstanding subsections (1) and (2) above, any Adjustment as a result of a credit update application under section 11 will be retroactive up to the date of the subject Material Change as determined by the City. Where the change results in an increased credit, the additional amount will be retroactive for a maximum period of six (6) months.
32. A Person filing an Appeal will be contacted within fifteen (15) business days of submitting a request, subject to the volume of requests received by the City, and may be asked to provide further information to complete review of the Appeal.
33. A Stormwater Charge may be revised in either of the following instances: (i) an external adjustment arising from an update to the assessment, or (ii) an internal adjustment whereby the City may revise, modify or amend a Stormwater Charge assessment, subsidy amount, legal exemption, technical exemption or credit. Internal adjustments include, but are not limited to updates to impervious area assessments as a result of new geomatics information, changes to a property due to redevelopment, changes to MPAC data, and inspections/audits of properties receiving stormwater credits.
34. Appeals will follow the appeal process as determined by the Engineering Commissioner as set out in Schedule "C" to this By-law.

GENERAL

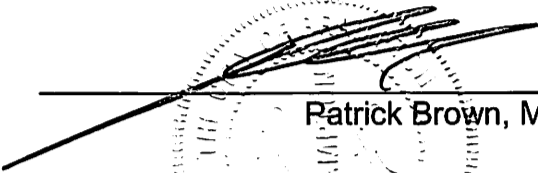
35. Schedules "A" and "B" and "C" shall form and be an integral part of this By-law.
36. Should any part of this By-law, including any part of Schedule "A" or Schedule "B" or Schedule "C", be determined by a court of competent jurisdiction to be invalid or of no force and effect, it is the stated intention of Council that such invalid part of the By-law shall be severable and that the remainder of this By-law, including the remainder of Schedules "A" and "B" and "C", as applicable, shall continue to operate and to be in force and effect.
37. Words importing the singular number shall include the plural, and words importing the masculine gender shall include the feminine, and the converse of the foregoing also applies, unless the context of this By-law otherwise requires.
38. Any decision or determination required to be made by the City or any official of the City under this By-law shall be made in the sole and absolute discretion of the City or the City official.
39. This By-law shall be known as the "Stormwater Charge By-Law".

40. This By-law shall come into force and effect on June 1, 2020.

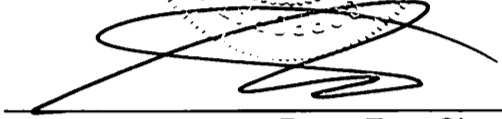
ENACTED and PASSED this 27th day of May, 2020.

Approved as to
form.
2020/May/22
C. Pratt

Approved as to
content.
2020/May/14
J Raina



Patrick Brown, Mayor



Peter Fay, City Clerk

SCHEDULE "A"
STORMWATER FEE AND CHARGE RATE

Stormwater Fee and Charge Rate per Stormwater Billing Unit = \$89.00

The Stormwater Fee and Charge Rate is subject to such adjustments as may be approved by Council from time to time.

Property Category	Tier	Typical Properties Included	Roofprint Range (m²)	Stormwater Billing Units	Charge Basis	Charge (# Stormwater Billing Units x Stormwater Fee and Charge Rate per Billing Unit)
Single Residential (SFH)	Extra Small	Town/rowhouses and residential condos	23.40 - 105.49	0.5	To be assigned based on roofprint impervious area to the satisfaction of the Stormwater Charge Manager	\$44.50
	Small	Semis, linked homes and small single detached homes	105.50 – 140.49	0.7		\$62.30
	Medium	Medium single detached homes	140.50 – 220.49	1.0		\$89.00
	Large	Large single detached homes	220.50 – 250.49	1.3		\$115.70
	Extra Large	Very large single detached homes	> 250.49	1.8		\$160.20
Property Category	Tier	Typical Properties Included	Roofprint Range (m²)	Stormwater Billing Units	Charge Basis	Charge
Other (OTH)	no tier	Multi-residential, non-residential and mixed-use properties, including institutional, industrial and commercial properties and multi- residential properties (apartment/condo buildings), with at least 23.40 m ² of impervious area.	Not Applicable	Total Impervious Area (m ²) divided by 234 m ² per billing unit	Individually Measured Impervious Area	Total Stormwater Billing Units x Stormwater Fee and Charge Rate per Billing Unit

**SCHEDULE "B"
CREDIT PROGRAM**

The Credit Program is intended to provide a Stormwater Charge reduction to owners of Non-Residential and/or Multi-Residential property who implement beneficial stormwater practices on their property.

Eligible stormwater management practices are:

Peak Flow Reduction: managing stormwater runoff rates to reduce flood and erosion risk in downstream areas through such measures as stormwater detention and retention ponds, and onsite stormwater storage.

Water quality treatment: implementing practices, such as water quality ponds and low-impact development, to remove or reduce the amount of contaminants in stormwater runoff.

Runoff volume reduction: reducing the volume of stormwater runoff that leaves a property through such measures as low-impact development and rainwater capture and reuse.

Pollution Prevention: plans, processes and activities to prepare for and manage spills that can cause harmful materials and deleterious substances to enter the stormwater drainage system or the environment.

Stormwater Practice	Evaluation Criteria	Credit (sum of credits across all categories not to exceed 50%)
Peak Flow Reduction	Percent reduction of the 100-year post-development flow to pre-development conditions	Up to 40%
Water Quality Treatment	Meets Provincial stormwater water quality treatment levels	Up to 15%
Runoff Volume Reduction	Percent capture of first 15 mm of rainfall during a single rainfall event.	Up to 15%
Pollution Prevention	Develop and implement a pollution prevention plan.	Up to 5%

**SCHEDULE "C"
APPEALS**

The Credit Program is intended to provide a Stormwater Charge reduction to owners of Non-Residential and/or Multi-Residential property who implement beneficial stormwater practices on their property.

APPEAL TYPE		PROCESS	DECISION-MAKING AUTHORITY
1. Not Subject to Stormwater Charge	A. Legal exemption	An appellant must file a Request for Review of Stormwater Charge Assessment	The outcome of all appeals will first be decided by the Stormwater Charge Manager, and may require further information from the appellant. Appellants who are unsatisfied with the outcome of a Type 1 Appeal may appeal the decision to the Engineering Commissioner.
	B. Technical exemption		
2. Inaccurate Stormwater Charge Assessment	A. Incorrect category		
	B. Incorrect tier		
	C. Inaccurate impervious area assessment		
3. Incorrect Stormwater Reductions	A. Eligibility for Stormwater Charge Subsidy		
	B. Amount of Subsidy		
	C. Eligibility for Credit		
	D. Amount of Credit		