

**RESPONSE
TO
STORMWATER MANAGEMENT
RATE REVIEW**



Dec 2023 - Large utility bills received, upsetting many property owners due to disproportionate SWM fees



Petition circulated requesting a \$200 cap on residential properties; request for a review of a new fee formula based on impervious surface rather than property size



Jan 31, 2024 – Delegation against current fee formula; Motion passed requesting Watson and Associates to explore the impact of \$200 cap on residential properties and other fee options



Mar 27, 2024 – Letter to Council requesting an update on Watson's review and for an extension of interest waiver on unpaid stormwater fees



April 24, 2024 - Letter to Council laying out potential legal challenges to the current stormwater fee



May 29, 2024- Request to Council for an extension of the waiver of interest fees scheduled to begin June 1; Letter from the Minister of Agriculture asking for special consideration for agriculture within urban boundaries

Fee vs Tax

“For an Ontario Municipal government, a user fee can only be charged in exchange for a specific service offered to the person paying the fee...”

<https://spacing.ca/toronto/2014/01/14/difference-fee-tax-city-governments/#:~:text=Nor%20can%20the%20City%20charge,can%20spend%20however%20we%20wish.>

“A tax, by definition, is a payment in return for which no direct and specific *quid pro quo* is rendered to the taxpayer.”

Taxes are collected for the “common good”

<https://www.economicdiscussion.net/difference-between/difference-between-tax-and-fees/17448>

The Supreme Court of Canada decision known as *Eurig Estate (Re)*, [1998] 2 S.C.R. 565 *Eurig* requires that any fees collected by a government program be reasonably matched to its cost to deliver over time.



PROPERTY SIZE
≠
IMPERVIOUS SURFACE

Summary of Suggested Options by Watson and Associates

Option A:

- applies variable rates by property type to total land area, with caps on total chargeable land area (10 acres for residential and vacant land)
- yearly fee for my 2.6 acres changes from \$988 to \$759.94
- agriculture/vacant land of 10 acres or more pays \$2000
- does not reflect usage of the SWM system nor reflect actual impervious area.

Option B

- charges a flat fee for all properties up to 1 acre, then applies additional charges to Commercial, Industrial and Institutional properties larger than 1 acre
- each residential or agriculture/vacant land property owner pays \$104/yr
- flat fee based on a unit of property size brings us closer to a fee that is based on impervious area (rooftop, driveways, etc).

ASSESSMENT OF OPTION A

In the original fee structure 212 residential properties would pay over \$200/year and 65 would pay over \$400/year. In the revised fee structure this inequity becomes worse; 296 residential properties (84 more than currently) would pay over \$200/year, 65 would pay over \$400/year and some would pay up to \$2,200/year. Further, all low density properties smaller than 1.0 acre will pay 17% more	DOUBLE FAIL
In the original fee structure some agricultural properties would pay over \$30,000/year for no benefits. In the new fee structure agricultural properties would pay up to \$2,000/year for nothing.	FAIL
In the original fee structure there were no incentives for residents to become part of the solution rather than the problem. This is not changed in the new fee structure.	FAIL
The misclassification of cemeteries as commercial is not addressed.	FAIL
Charges and rationale easily communicated to residents.	FAIL
Commercial/Industrial/Institutional properties would pay about 17% more to better reflect their impact on stormwater.	PASS

ASSESSMENT OF OPTION B	
In the original fee structure 212 residential properties would pay over \$200/year and 65 would pay over \$400/year. In the revised fee structure no residential property would pay over \$105/year.	PASS
In the original fee structure some agricultural properties would pay over \$30,000/year for no benefits. In the new fee structure no agricultural properties would pay over \$105/year.	PASS
In the original fee structure there were no incentives for residents to become part of the solution rather than the problem. This is not changed in the new fee structure. However, this option lends itself to implementing the incentives used in other towns.	NEEDS IMPROVEMENT
The misclassification of cemeteries as commercial is not addressed.	FAIL
Charges and rationale easily communicated to residents.	PASS
Most properties would pay slightly more to better reflect their impact on stormwater. The impact on most properties would be less than \$5/month.	PASS

REPORT CARD		
Subject	Option ‘A’	Option ‘B’
Equitable for larger residential properties	FAIL	PASS
Equitable for agricultural properties	FAIL	PASS
Incentivizes owner mitigation	FAIL	NEEDS IMPROVEMENT
Addresses cemetery misclassification	FAIL	FAIL
Addresses unbilled properties	FAIL	FAIL
Charge structure easily understood	FAIL	PASS
Garners desired revenue	PASS	PASS

CALL FOR ACTION 1 - WAIVE INTEREST FEES

Many people simply cannot afford the current stormwater management fees so have not paid for all of 2023 and 2024 to date. Interest charges came into effect June 1, 2024.

I ask that Cobourg Council direct Town staff and the Town's billing contractor LUSI to:

- Forego interest charges on overdue Stormwater billings until the later of Dec 31, 2024, or 60 days after the last stormwater billing account reconciliation is approved and notification is sent to all account holders.

<https://www.lakefrontutilities.com/understanding-stormwater-rates/>

CALL FOR ACTION 2 - OPTION B, RETROACTIVE TO 2023

Accept Option B's flat fee structure to replace the existing rate structure retroactively to 2023.

I ask that Cobourg Council direct Town staff and the Town's billing contractor LUSI to:

- Reconcile all stormwater billing and receivable accounts to agree with the new (approved) retroactive stormwater charges.
- Correct all accounts and supply each property owner with a detailed statement including property address, property size and classification, amount paid and amount due or to be refunded.
- Refund all overpayments within fifteen (15) business days after issuing detailed statements or arrange with the account holder for the credit balance to be carried forward and applied to future billings.
- Report to Council monthly on the progress of the above.

CALL FOR ACTION 3: CEMETERIES

- Correct the property classification of cemeteries from commercial to vacant land immediately.

CALL FOR ACTION 4: ADDITIONAL REVENUE

- **Locate and charge businesses currently not paying SWM fees to increase and reapportion revenue within the Industrial, Commercial and Institutional sectors.**
- **Ensure the Town of Cobourg is not granting bonuses based on “giving a total or partial exemption from any levy, charge or fee.” 2001, c. 25, s. 106 (2)**

Municipal Act 2001,

<https://www.ontario.ca/laws/statute/01m25#BK127>

CALL FOR ACTION 5: REVIEW STORMWATER RATE STRUCTURE IN 2 YEARS

Review in 2 years to achieve the following:

- use of an Estimated Residential Unit (ERU) based on impervious surface for fee calculation as implemented in other towns
- an appeal process that allows for multi-faceted reassessment
- public education about the importance of SWM (both grey and green infrastructure)
- incentivization initiatives and credit programs to reduce use of the SWM system, for the environmental benefits of keeping rainwater at its source, and to allow property owners to take some control over their SWM charges
- integration of Low Impact Development (LID) practices into Planning and Development guidelines to balance the cost of expensive grey infrastructure