

Region of Waterloo
Community Services
Housing Services

To: Community and Health Services Committee
Meeting Date: March 5, 2024
Report Title: Property Tax Exemption for Affordable Housing

1. Recommendation

That the Regional Municipality of Waterloo take the following action with respect to the creation of a Property Tax Exemption Program for Affordable Housing as set out in report CSD-HOU-24-004 dated March 5, 2024:

- a) Repeal By-law Number 02-035, attached as Appendix “A”, and replace with By-Law Number 24-***, attached as Appendix “B” for the purposes of updating the by-law to allow Council to exempt regional and education property taxes for municipal housing facilities and also for general house-keeping amendments, which has been prepared in a form satisfactory to the Regional Solicitor;
- b) Approve the Property Tax Exemption for Affordable Housing Program (“Program”) and guidelines for applications made to the Region for properties eligible for the Program attached as Appendix “C”;
- c) Authorize the Commissioner of Community Services to negotiate and execute on behalf of the Region, agreements with housing providers for the Program, to the satisfaction of the Regional Solicitor;
- d) Direct staff to:
 - a. Develop an application process with intake occurring in Q2 of 2024 for the 2025 taxation year;
 - b. Review the uptake and application of the Program to determine property tax impacts due to class shifts, communicating these in advance of 2025 budget process;
- e) Direct staff to work with interested area municipalities within Waterloo Region to exempt the lower tier portion of property taxes for eligible properties under the Program; and
- f) Advocate to the Government of Ontario to amend eligibility for the Ontario Trillium Benefit to allow Ontario residents living in housing deemed affordable by the municipality where the resident resides, to access property tax credits through the Ontario Trillium Benefit, irrespective of property tax exemption.

2. Purpose / Issue:

To recommend the use of property tax exemptions provided through an updated Municipal Housing Facilities by-law as a policy incentive for incentivizing new affordable housing, financial sustainability for existing community housing, and preserving existing affordable housing.

3. Strategic Plan:

This report addresses Strategic Priority 1: Homes for All, by moving to create affordable, accessible, and equitable housing by increasing access to affordable homes that cost less than 30% of household income across the region and investing in upstream solutions to reduce housing and economic precarity by focusing on preventative interventions.

4. Report Highlights:

- Under Section 110(6) of the Municipal Act, municipalities may enter into agreements with housing providers and developers that meet certain criteria as set out in a by-law. Through these agreements, the Region can provide, among other things, a property tax exemption for the Regional and School Board portion of property taxes for units deemed affordable in accordance with the Region's applicable by-law. In a two-tiered municipal structure, Section 110(9) of the Municipal Act allows an area municipality to exempt its portion of property taxes at its discretion.
- By providing property tax exemptions to affordable housing providers the economic viability and financial sustainability of providing affordable housing is improved. Reduced operating costs decrease pressure to increase rents to cover costs, making it possible to offer a lower than market rent for low-to moderate-income tenants.
- Types of properties targeted for this incentive program include:
 - Current affordable housing providers that have capital funding agreements that have or are beginning to expire.
 - Non-profit and Cooperative providers subject to the *Housing Services Act, 2011* who have or are beginning to reach the end of mortgage or operating agreement.
 - Lower rent units typically found in older buildings with long-term tenants. These 'naturally occurring' units are more likely to have rents that meet the criteria of affordable as set out in the program and the Region would like to bring these units into the BBF initiative.
 - New developments where a portion of the units could be designated as affordable.
- While the total tax levy collected is not impacted, this policy will reduce taxable assessment and property tax levies that would otherwise be collected from the

exempt class are shifted to all other property classes resulting in slightly higher tax rates for all taxable classes, including residential, multi-residential, new multi-residential, commercial and industrial. As Education tax rates are set provincially, these do not shift with changes in the assessment base. As a result, the education portion of property taxes that would otherwise be collected from exempted properties represents reduced revenue for the School Board(s) within the boundary of the impacted assessment base.

- Exempting property taxes can result in a negative impact for tenants who apply for and receive the Ontario Trillium benefit, as in accordance with Canada Revenue Agency rules, tenants of properties that are exempt from property taxes are not eligible for this benefit.

5. Background:

Staff provided Council with information on the potential use of property tax exemption for affordable housing in staff report COR-CFN-22-15/CSD-HOU-22-12 Property Tax Policy Update dated May 10, 2022, which described the need for further review of the tax treatment of rental properties in light of the current housing affordability crisis. Property tax exemption provides an avenue that incentivizes the preservation and the addition of affordable housing units within Waterloo Region. It also provides a pathway outside of development to bring forward long-term affordable housing units under the Building Better Futures (BBF) initiative, through which the Region commits to creating 2500 affordable housing units by 2026.

Between the years of 2001 to 2020, 21 buildings were developed by private developers who received Regional capital grants in exchange for providing some affordable units within their buildings for a term of 20 to 25 years. These agreements are beginning to expire; meaning the current affordability of these units is likely to be lost once the existing tenants move out. By entering into an agreement with the property owners of these units, the Region is able to provide a property tax exemption for these units in exchange for maintaining them as affordable, beyond the term set in the expiring agreement. Property tax exemption is also a tool for supporting existing community housing providers under the *Housing Services Act, 2011* in achieving financial sustainability and maintaining these units as a part of the affordable housing stock beyond the end of mortgage or operating agreements.

Property tax exemptions can increase the economic viability of purpose-built affordable rental housing and provide an opportunity for new developments to stack incentives for affordable housing from the Region and other sources such as Canada Mortgage and Housing Corporation (CMHC). As such, this incentive can work in tandem with existing Regional, Federal, and Provincial affordable housing programs. Affordable housing development in receipt of a Regional capital grant for affordable housing can stack this incentive with a property tax exemption by entering into a municipal housing facilities agreement. In this case, the term length of 60 years would apply to the affordable units

in receipt of the property tax exemption, thereby extending the length of affordability for units developed through a capital grant and potentially incenting developers to add more affordable units to meet the Property Tax Exemption for Affordable Housing Program requirements (Appendix C).

“Naturally occurring” affordable housing units primarily exist in older buildings with long-term tenants. In Waterloo Region, the average market rent (AMR) for buildings with pre-1990 construction dates is lower than the rest of the market. Incentivizing landlords to preserve “naturally occurring” affordable housing is an avenue outside of development, which is often timely and costly, for increasing the number of affordable units in Waterloo Region. Further, it can prevent the loss of this form of affordability in the private market and de-incentivize tenant displacement through “renoviction,” as rent increases between tenancies become regulated by the affordability set in the Program, instead of what the market will bear.

While property tax exemption is a tool that benefits landlords and incentivizes the development and preservation of affordable housing, tenants of a tax-exempt property become ineligible for refundable property tax and energy credits through the Ontario Trillium Benefit (OTB), a program designed to help low-to-moderate-income Ontario residents. The OTB program is legislated and funded by the Province of Ontario and the Canada Revenue Agency (CRA) administers this program on behalf of the Province. It is CRA’s position that tenants within a tax-exempt property are not eligible for the OTB. It is estimated that tenants who would otherwise be eligible for the OTB refundable tax credit receive a maximum benefit of approximately \$420 to \$800 per year.

Other municipalities that have implemented property tax exemptions through municipal housing facilities by-laws include Toronto, Ottawa, Hamilton, Chatham-Kent, and Wellington County.

6. Communication and Engagement with Area Municipalities and the Public

Area Municipalities: Through an Intra-municipal Affordable Housing Incentives Working Group (“Working Group”), Region staff work with area municipalities towards the creation of affordable housing, including the implementation of innovative housing solutions that meet the needs of diverse populations across the Waterloo Region. Area municipalities through the Working Group and the Waterloo Area Municipal Treasurers are aware of this report to Council and have been given the report and Program to provide comment and feedback. Both groups were informed of the creation of the Program in fall 2023, with further discussion about the Program occurring in 2024. In a two-tiered municipal structure, the creation of a Regional Program is a first step for using property tax exemption as an affordable housing incentive, as it enables area municipalities the choice to participate through a common program. It remains the area municipalities' right to decide on participation in the common use of property tax exemption as an incentive.

Public: Development of the Plan to End Chronic Homelessness continues with Lived Experts through the Social Development Centre's Prototyping project and with Co-creators who consist of service providers and advocates. Communication with Co-creators provided insight into the need for preventing entrances into homelessness caused by loss and/or lack of housing affordability and informed the creation of the Program.

The Centre for Community Housing Engagement, Excellence, and Resiliency (CHEER) is a group of community housing providers and representatives formed to provide guidance on the End of Mortgage. In December 2023, staff engaged with CHEER who provided feedback and insights into property tax exemption for both the existing pathway for Non-profits provided through the Assessment Act through Provincial legislation and the proposed pathway through a municipal housing facilities by-law.

In September 2023, staff provided an update to Council on the work of the Working Group, including the results of a survey that identifies local constraints for affordable housing development from the perspectives of developers and area municipal staff (CSD-HOU-23-026). Some of the identified constraints are as follows (see Appendix D for the full results of the survey):

- Gap between what tenants can afford to pay and the cost of development;
- Lack of municipal tools to guarantee affordable housing stays affordable;
- Municipal requirements and restrictions due to legislative-mandated guidelines and processes;
- Some programs are only open to non-profits; and
- Public sector programming is not flexible to respond to rapidly changing markets.

These constraints informed the considered use of property tax exemption as a policy incentive for affordable housing in Waterloo Region. In addition to these constraints, survey respondents also identified property tax exemption as an incentive for developing affordable housing.

7. Financial Implications:

Tax exemptions provided through a municipal housing facilities agreement have no impact on the regional or lower tier property tax levy. Moving a property from a taxable status to an exempt status on the assessment roll impacts the overall amount of assessment upon which municipal taxes are levied. This results in a slightly lower level of net assessment growth in the year following the reclassification, as well as an in-year tax adjustment.

Staff have identified the following categories of properties that may be eligible to enter

into a municipal housing facilities agreement with the Region (note all figures are based on the 2023 assessment roll, tax ratios and tax rates):

- Properties that have an existing funding agreement with the Region or for which an agreement has recently expired – there are approximately 21 properties in this category, most of which are in the three cities. Existing agreements will expire over the 2025-2045 period, and in total, these properties represent approximately \$570,000 in regional taxes (approximately 0.15% of the Region's 2023 tax levy). Future assessment impacts will be dependent on how many of these properties choose to participate in the program.
- Non-profits and Cooperatives subject to *Housing Services Act, 2011* - there are approximately 117 properties in this category, almost all of which are in the three cities. Existing agreements will expire over the 2025-2030 period, and in total, these properties represent approximately \$3.5m in regional taxes (approximately 0.75% of the Region's 2023 tax levy). Future assessment impacts will be dependent on how many of these properties choose to participate in the program.
- Naturally occurring affordable housing – while the number of such units is unknown at this time, entering into municipal housing facility arrangements will assist the Region in achieving its Building Better Futures goals.
- New housing development – providing a tax exemption for new housing development will assist the Region in achieving its Building Better Futures goals. Eligible projects would be added to the roll as exempt rather than taxable, resulting in a slightly lower assessment growth in the year of occupancy and assessment.

Adjustments to the assessment roll will happen over a long period of time and it is anticipated that related tax impacts for properties that have current arrangements with the Region will be very minor in any given year. Determining assessment and tax impacts for naturally occurring and new properties is dependent on uptake and staff will report back to Council periodically on the impacts of this program as a whole.

Any area municipality that adopts a policy to exempt the lower tier portion of property taxes for eligible properties will also experience a slightly lower level of assessment growth. Staff will work with any area municipality that expresses an interest in participating to estimate the local impact.

Municipal housing facilities agreements would result in a reduced amount of education taxes collected for and provided to school boards from the Province. For properties that had previously entered into a funding agreement with the Region, entering into new agreements could result in a total reduction of approximately \$127,000 in property tax revenue for impact School Boards. Additionally, if all current Non-profit and Cooperative housing providers in the Region who are subject to the *Housing Services Act, 2011* were to enter into a municipal housing facility agreement with the Region, the foregone

revenue for School Boards would be approximately \$489,000.

8. Conclusion / Next Steps:

The intake process for the Program will take approximately a year as the following steps are completed: (1) application intake, (2) submission review, and (3) approval. Once Council approves the By-Law 24-***, staff will put an annual call out for applications from March to May. Staff will review the submissions and come back to Council by September with properties to exempt. Agreements will be entered into with the successful applicants, with program administration designed to require housing providers to attest to complying with all provisions of the agreement, including annual review by Regional staff to ensure rents remain affordable and new occupants meet income-tested eligibility requirements. Staff will then be in contact with the Municipal Property Assessment Corporation (MPAC) and area municipalities to ensure the appropriate Region and education portion of these property taxes are exempt for the term length set in the agreements. MPAC may take six to 12 months to review and implement property tax exemptions.

Staff will continue to engage with area municipalities to explore area municipalities exempting their portion of property taxes for affordable housing under the use of a common Program application process administered by the Region of Waterloo. This includes collaboration with the area municipalities on a timeline that works for them and supporting interested area municipalities in the creation of their own by-law. Regardless of this ongoing work with the area municipalities, the first step in the process is Regional approval of an updated by-law and implementation of the Program. The intent is to have the Program implemented for the 2025 taxation year.

9. Attachments:

Appendix A: By-law Number 02-035

Appendix B: By-law to Repeal By-law 02-034 (By-law 24-___)

Appendix C: Property Tax Exemption for Affordable Housing Program

Appendix D: Affordable Housing Incentive Survey Responses Summary

Prepared By: Skylar Niehaus, Social Planning Associate, Housing Services

Cheryl Braan, Director, Corporate Finance

Reviewed By: Ryan Pettipiere, Director, Housing Services

Approved By: Peter Sweeney, Commissioner, Community Services

Craig Dyer, Commissioner, Corporate Services and Chief Financial
Officer

BY-LAW NUMBER 02-035

OF

THE REGIONAL MUNICIPALITY OF WATERLOO

A By-law of the Regional Municipality of Waterloo to provide
for municipal housing facilities.

WHEREAS the Regional Municipality is the service manager under the *Ontario Works Act*, 1997 and is authorized to operate and manage housing as well as establish, fund and administer programs for the provision of residential accommodation in its' service area under the *Social Housing Reform Act*, S.O. 2000, c.27;

AND WHEREAS subsection 210.1(2) of the *Municipal Act*, R.S.O. 1990, c. M.45, as amended, allows municipalities to enter into agreements for the provision of municipal capital facilities by any person;

AND WHEREAS Ontario Regulation 46/94, as amended by Ontario Regulation 189/01, made under the *Municipal Act* allows the council of a municipality to enter into an agreement under subsection 210.1(2) of the *Municipal Act* for the provision of a variety of enumerated classes of municipal capital facilities;

AND WHEREAS one of those enumerated classes is municipal housing project facilities;

AND WHEREAS the said Ontario Regulation 46/94, as amended, requires that before a By-law authorizing an agreement respecting municipal housing project facilities is entered into a municipal housing facilities By-law must be enacted, which must comply with requirements set out in that Regulation;

AND WHEREAS Council is of the opinion that making use of subsection 210.1(2) of the *Municipal Act* is a desirable means of increasing the supply of affordable housing by providing financial or other assistance at less than fair market value to private and non-profit housing providers on the criteria set out in this By-law;

THEREFORE the Council of the Regional Municipality of Waterloo enacts as follows:

1. In this By-law,

"Act" means the *Municipal Act*, R.S.O. 1990, c. M.45, as amended, and its regulations;

"affordable housing" means affordable housing as set out in Section 4 of this By-law;

"average CMHC rent" for municipal housing project facilities at any one time means the average unit rent in the Regional Municipality of Waterloo (defined by CMHC as the Kitchener Census Metropolitan Area) as determined and amended from time-to-time by CMHC;

"Region" or "Region of Waterloo" means the municipal corporation known as the Regional Municipality of Waterloo, as the context requires;

"clerk" means the person appointed by Council pursuant to section 73 of the Act;

"CMHC" means the Canada Mortgage and Housing Corporation;

"Council" means the Council of the Regional Municipality of Waterloo;

"housing provider" means a corporation, or individual, legally entitled to own real property in the Regional Municipality of Waterloo;

"municipal housing project facilities" means the municipal housing project facilities class of municipal capital facilities, as set out in Ontario Regulation 46/94, as amended;

"municipal housing project facilities agreement" means a municipal housing project facilities agreement as set out in Section 2 of this By-law;

"municipal housing project facilities By-law" means a By-law enacted by Council pursuant to paragraph 18 of section 2 of Ontario Regulation 46/94, as amended;'

"rent supplement agreement" means rent supplement agreement as defined in the *Social Housing Reform Act*, S.O. 2000, c.27, as amended;

"unit size" means the size of a unit within a municipal housing project facility or potential municipal housing project facility, measured by the number of bedrooms;

"waiting list" means the Waterloo Region Co-ordinated Access System or successor waiting list.

2. Council may pass By-laws permitting the Region to enter into municipal housing project facilities agreements with housing service providers, pursuant to subsection 210.1(2) of the Act, as amended, for the provision of municipal housing project facilities.
3. Upon passing a By-law referred to in Section 2, the Regional Clerk shall give written notice of the By-law to the Minister of Education and Training or successor, as set out in the Act.
4. The definition of "affordable housing" for the purpose of a municipal housing project facilities agreement shall be municipal housing project facilities in which the average rent for each unit size, exclusive of utilities, parking, telephone, cable and other related fees, is less than or equal to the most recently released average CMHC rent for the Region of Waterloo for that unit size.
5. The Region shall not enter into an agreement mentioned in Section 2 unless it has

determined that the housing units to be provided as part of the municipal housing project facilities fall within the definition of affordable housing.

6. Under no circumstances shall housing unit be made available,
 - (a) at rent that is not within the definition of affordable housing; or
 - (b) to individuals or families who, if at the time the housing unit was initially rented to them, would already own a residential property, as determined by the housing provider after making all reasonable inquiries.

7. The municipal housing project facilities agreements shall contain the following:
 - (a) the term of the agreement, which shall not be less than twenty years but within which time, requirements may vary;
 - (b) each unit in the municipal housing project facilities shall meet the definition of affordable housing;
 - (c) provisions reflecting those matters set out in Sections 6 and 7;
 - (d) subject to section 9 of this By-law, units subject to the agreement shall not be rented to the housing provider or shareholders or directors of the housing provider, or any individual not at arm's length to the housing provider or shareholders or directors of the housing provider;
 - (e) the Region must register the agreement on title;
 - (f) the municipal housing project facilities agreement shall be binding on the housing provider's heirs, successors and assigns;
 - (g) during the time period in which the municipal housing project facilities agreement is in force, the housing provider shall, as a condition precedent to a sale to a subsequent purchaser, require the subsequent purchaser to enter into an agreement with the Region, and that agreement shall impose the terms of the municipal housing project facilities agreement on that subsequent purchaser;
 - (h) in addition to a general indemnity, the housing provider shall specifically indemnify the Region if the provision set out in clause (g) is breached;
 - (i) a list of the benefits being conveyed to the housing provider under this By-law, including their estimated present day monetary value;
 - (j) if the housing provider does not carry out its obligations under the agreement, the housing provider shall pay to the Region the entire amount of benefits conveyed under the agreement, together with any applicable costs and interest; and

- (k) such other contractual provisions which are required to be inserted based on fundamental contractual drafting principles satisfactory to the Regional Municipality of Waterloo.
8. As a means of increasing the affordability of housing within the project, the municipal housing project facilities agreement may require that the housing providers enter into a separate rent supplement agreement with the Region:
- (a) if the municipal housing project facilities agreement requires the housing provider to enter into a rent supplement agreement with the Region as set out in subsection (1), the rent supplement agreement shall be entered into concurrently with the municipal housing project facilities agreement and shall be a condition of the Region entering into the municipal housing project facilities agreement.
 - (b) As a further means of increasing the affordability of housing within the project, the municipal housing project facilities agreement may require, in exchange for significant (greater than \$10,000 per unit) capital grants, that lower affordable rents than set out in Section 4 of this By-law may be established for some of the units and that eligible incoming residents be allowed to move in only if they are selected from the waiting list or from Regionally approved categories of minimum wage earners, or recipients of Ontario Works, Ontario Disability Support Payments, or Old Age Supplement/Canada Pension Plan.
9. Despite clause 7(d), units subject to a municipal housing project facilities agreement may be rented to directors of the housing provider or to an individual not at arm's length to directors of the housing provider if:
- (a) the housing provider is a non-profit housing co-operative as defined in the *Co-operative Corporations Act*, R.S.O. 1990, c.C.35, as amended, or a not-for-profit corporation; and
 - (b) the housing provider is at arm's length to any individual or private for-profit corporation with which the director or individual not at arm's length to the director, as the case may be, has a non-arm's length relationship.
10. A municipal housing project facilities agreement may allow for the lease, operation or maintenance of the municipal housing project facilities by any person and, pursuant to subsection 210.1(3) of Act, for the sale or other disposition of municipal land or buildings that are still required for the purposes of the Region.
11. A municipal housing project facilities agreement may, with respect to the provision, lease, operation or maintenance of the municipal housing project facilities that are subject to the agreement:
- (a) provide for financial or other assistance at less than market value rent or at no cost to the housing provider with respect of the provision, lease, operation or maintenance of the facilities that are subject of the agreement,

and such assistance may include:

- (i) giving or lending money and charging interest;
- (ii) giving, lending, leasing or selling property.

12. A municipal housing project facilities agreement containing the provisions set out in Subsection 210 (8) of the Municipal Act may provide for a full or partial exemption for the facilities from the payment of development charges imposed by the Region under the *Development Charges Act, 1997*, S.O. 1997, c.27.

13. This By-law may be cited as the Municipal Housing Facilities By-law.

By-law read a first, second and third time and finally passed in the Council Chamber in the Regional Municipality of Waterloo this * day of * A.D., 20**.

By-Law Number 24-***

of

The Regional Municipality of Waterloo

A By-law to *** and to Repeal By-Law 02-035 of The Regional Municipality of Waterloo, as amended

WHEREAS The Regional Municipality of Waterloo enacted By-Law 02-035, A By-Law to Provide for Municipal Housing Facilities (the "Municipal Housing Facilities By-Law");

WHEREAS The Regional Municipality of Waterloo is a Consolidated Municipal Service Manager and is authorized to operate and manage housing as well as establish, fund and administer programs for the provision of residential accommodation in its service area under the *Housing Services Act, 2011*, S.O. 2011, c.6, Sched.1;

AND WHEREAS section 110 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, allows municipalities to enter into agreements for the provision of municipal capital facilities;

AND WHEREAS Ontario Regulation 603/06, made under the *Municipal Act, 2001*, allows the council of a municipality to enter into an agreement under section 110 of the *Municipal Act* for the provision of a variety of enumerated classes of municipal capital facilities;

AND WHEREAS one of those enumerated classes is municipal housing project facilities;

AND WHEREAS the said Ontario Regulation 603/06, as amended, requires that before a by-law authorizing an agreement respecting municipal housing project facilities is entered into a municipal housing facilities by-law must be enacted, which must comply with requirements set out in that Regulation;

AND WHEREAS Council is of the opinion that making use of section 110 of the *Municipal Act, 2001*, is a desirable means of increasing the supply of affordable housing by providing financial or other assistance at less than fair market value to private and non-profit housing providers on the criteria set out in this by-law;

THEREFORE the Council of The Regional Municipality of Waterloo enacts as follows:

1. In this By-law,

"Act" means the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, and its regulations;

"affordable housing" means, for the purposes of this by-law and for all municipal housing project facilities agreements, housing units at or below average rents;

"average rents" means, in respect of any calendar year:

- (i) the average monthly Region-wide rents by unit type for that calendar year as determined and published annually by CMHC; or

- (ii) the average monthly Region-wide rents as determined by the Commissioner, if CMHC does not publish an annual survey of Region-wide rents for any calendar year;

"clerk" means the person appointed by Council pursuant to section 228 of the Act;

"CMHC" means the Canada Mortgage and Housing Corporation;

"Commissioner" means the Region's Commissioner of Community Services or their designate;

"Council" means the Council of The Regional Municipality of Waterloo;

"housing project" means a project or part of a project designated to provide or facilitate the provision of residential accommodation;

"housing provider" means a person with whom the Region has entered into or will enter into a municipal housing project facilities agreement under section 6 of this by-law to operate a housing project;

"housing unit" includes a unit in a housing project used or intended for use as residential accommodation;

"municipal housing project facilities" means the municipal housing project facilities class of municipal capital facilities as set out in Ontario Regulation 603/06, as amended;

"municipal housing project facilities agreement" means a municipal housing project facilities agreement as set out in Section 2 of this By-law;

"municipal housing project facilities by-law" means a by-law enacted by Council pursuant to paragraph 18 of section 2 of Ontario Regulation 603/06, as amended;

"Region" or "Region of Waterloo" means the municipal corporation known as The Regional Municipality of Waterloo, as the context requires;

"rent supplement agreement" means a contract for a non-portable housing benefit provided directly to landlords for households living in a specific housing unit;

"unit type" means the type of housing unit differentiated by the number of bedrooms;

"waiting list" means the Region's Community Housing waiting list or successor waiting list.

2. Council may pass by-laws permitting the Region to enter into municipal housing project facilities agreements, pursuant to section 110 of the Act, for the provision of municipal housing project facilities.
3. Upon passing a by-law referred to in Section 2, the Regional clerk shall give written notice of the by-law as set out in the Act.
4. The Region shall not enter into an agreement mentioned in Section 2 unless it has determined that the housing units to be provided as part of the municipal housing project facilities fall within the definition of affordable housing.

5. Under no circumstances shall a housing unit be made available,
 - (a) at rent that is not within the definition of affordable housing; or
 - (b) to individuals or families who, if at the time the housing unit was initially rented to them, would already own a residential property, as determined by the housing provider after making all reasonable inquiries.
6. The municipal housing project facilities agreements shall contain the following:
 - (a) the term of the agreement shall not be less than twenty years;
 - (b) each housing unit in the municipal housing project facilities shall meet the definition of affordable housing;
 - (c) provisions set out in Sections 4 and 5;
 - (d) subject to section 8 of this by-law, housing units subject to the agreement shall not be rented to the housing provider or shareholders or directors of the housing provider, or any individual not at arm's length to the housing provider or shareholders or directors of the housing provider;
 - (e) the Region must register the agreement on title;
 - (f) the municipal housing project facilities agreement shall be binding on the housing provider's heirs, successors and assigns;
 - (g) during the time period in which the municipal housing project facilities agreement is in force, the housing provider shall, as a condition precedent to a sale to a subsequent purchaser, require the subsequent purchaser to enter into an agreement with the Region, and that agreement shall impose the terms of the municipal housing project facilities agreement on that subsequent purchaser;
 - (h) in addition to a general indemnity, the housing provider shall specifically indemnify the Region if the provision set out in clause (g) is breached;
 - (i) a list of the benefits being conveyed to the housing provider under this by-law, including their estimated present day monetary value;
 - (j) if the housing provider does not carry out its obligations under the agreement, the housing provider shall pay to the Region the entire amount of benefits conveyed under the agreement, together with any applicable costs and interest; and
 - (k) such other terms and conditions satisfactory to the Regional Solicitor and Commissioner.
7. (1) As a means of increasing the affordability of housing within a housing project, the municipal housing project facilities agreement may require that the housing providers enter into a separate rent supplement agreement with the Region.

- (2) If the municipal housing project facilities agreement requires the housing provider to enter into a rent supplement agreement with the Region as set out in subsection (1), the rent supplement agreement shall be entered into concurrently with the municipal housing project facilities agreement and shall be a condition of the Region entering into the municipal housing project facilities agreement.
 - (3) As a further means of increasing the affordability of housing within the project, the municipal housing project facilities agreement may require that lower affordable rents than affordable housing may be established for some or all of the housing units and that eligible incoming residents be allowed to move in only if they are selected from the waiting list or eligible to be on the waiting list.
8. Despite clause 6(d), housing units subject to a municipal housing project facilities agreement shall not be rent to:
 - (a) the housing provider or shareholder or any manager, officer or director of the housing provider;
 - (b) any individual not at arm's length to the housing provider; or
 - (c) any individual not at arm's length to the housing provider or shareholder or any manager, officer or director of the housing provider,unless the housing provider is a non-profit housing co-operative as defined in the *Co-operative Corporations Act*, R.S.O. 1990, c. C.35, as amended, or such other co-operative corporation that receives approval from the Region.
9. A municipal housing project facilities agreement may allow for the sale or other disposition of municipal land or buildings that are still required for the purposes of the Region.
10. A municipal housing project facilities agreement may, with respect to the provision, lease, operation or maintenance of the municipal housing project facilities that are subject to the agreement:
 - (a) provide for financial or other assistance at less than market value rent or at no cost to the housing provider with respect of the provision, lease, operation or maintenance of the facilities that are subject of the agreement, and such assistance may include:
 - (i) giving or lending money and charging interest;
 - (ii) giving, lending, leasing or selling property.
11. A municipal housing project facilities agreement that is made under subsection 110(1) may, subject to subsection 110(6), exempt from taxation for municipal and school purposes land or the portion of it on which the municipal housing project facility is or will be located that:
 - (a) is owned or leased by the housing provider;
 - (b) is entirely occupied and used or intended for use as a municipal housing project facility; and

- (c) Upon passing a by-law under subsection 110(6), the clerk shall give written notice of the contents of the by-law to the parties listed in subsection 110(8).
12. A municipal housing project facilities agreement containing provisions set out in subsection 110(7) of the Act may provide for a full or partial exemption for the municipal housing facilities from the payment of development charges imposed by the Region under the *Development Charges Act, 1997*, as amended.
13. A municipal housing project facilities agreement containing provisions set out in subsection 110(7.1) of the Act may provide for a full or partial exemption for the municipal housing facilities from the payment of transit station charges imposed by the Region under the *GO Transit Station Funding Act, 2023*, as amended.

Short Title of Bylaw

14. This By-law may be cited as the Municipal Housing Facilities By-law.

Force and Effect Date

15. (1) This By-law shall come into force and effect on DATE, 2024.
- (2) Bylaw 02-035, as amended, of the Region shall be repealed effective on the coming into force of this By-law.
- (3) Despite the repeal of By-Law 02-035, none of the provisions of this by-law shall impact municipal housing project facility agreements entered into passed under By-Law 02-035.
- (4) Any reference to By-Law 02-035, or any provision of it is deemed to be a reference to this by-law, modified as necessary.

Regional Clerk

Regional Chair

Appendix C

Property Tax Exemption for Affordable Housing Program

Non-profit, cooperative, and for-profit housing providers that operate rental housing, or are planning to build and/or operate new rental housing are encouraged to apply. Interested non-profit, cooperative, and for-profit housing providers should submit a complete Property Tax Exemption for Affordable Housing Application package. These applications are accepted annually from March 1st to May 31st. Processing time (including reviewing, evaluating, and obtaining Regional Council approval for successful applications) will be completed before October 31st of each year. Property tax exemption as a municipal housing facility includes operational requirements regarding tenant selection, income verification (on occupancy only, units with existing tenants in affordable units and tenants in Rent-Geared-to-Income units are not required to be income tested for this program), annual reporting, and other administrative matters.

Program Objectives

- Create and preserve long-term affordable rental homes for low-to-moderate-income tenants;
- Increase the financial sustainability of existing affordable housing providers;
- Incentivize housing providers to preserve existing affordable units in the private market; and
- Remove properties from the speculative housing market and de-incentivize unit turnover in the private market.

Program Goals

- Maintain existing affordable housing;
- Increase the stock of units with below average market rents; and
- Prevent experiences of homelessness.

Eligibility criteria:

<input type="checkbox"/>	A. Affordable rental housing represents a minimum of 30% of the total residential units in a building with six or more units, including licensed lodging units; or B. The housing project is under the <i>Housing Services Act, 2011</i>
<input type="checkbox"/>	Affordability for this program means rent is at or below 80% of Average Market Rent (AMR) in the Kitchener – Cambridge - Waterloo Census Metropolitan Area (CMA) by unit type (number of bedrooms), or 30% of the gross annual household income for low- and moderate-income renter households, whichever is lower at the time of application
<input type="checkbox"/>	A. Affordable rents must be provided for a term of 60 years; or B. To the useful life of the building as determined by an independent engineer or appraiser whichever comes first with 20 years as the shortest term possible

Further eligibility information:

- Housing providers may be:
 - Rental housing providers where there is a landlord-tenant relationship governed by the *Residential Tenancies Act, 2006*;

- A non-profit housing co-operative under the *Co-operative Corporations Act*; or
- A housing provider with an existing operating agreement to provide supportive housing with the Region of Waterloo.
- Determining unit affordability:
 - Average Market Rent is determined by the most recently reported average market rent (AMR) by the Canada Mortgage and Housing Corporation (CMHC). The most recent CMHC AMRs, published in 2023 for the Kitchener – Cambridge - Waterloo Census Metropolitan Area (CMA), is as follows:

Unit Type	80% of the Average Market Rent
Bachelor	\$931
One Bedroom	\$1,077
Two Bedroom	\$1,326
Three Bedroom +	\$1,714

- The Government of Ontario annually reports 30% of the gross annual household income for low- and moderate-income renter households. 30% of the most recently reported gross renter household income for low- and moderate-income households was \$1,960, in 2022.
- The 80% AMR calculation provides the lower rents for calculating monthly occupancy cost in 2024, which would then be the rents for affordable units eligible for a tax exemption.
- Existing tenants in affordable units:
 - Housing providers with existing tenants renting units that are at or below affordability for this program (i.e., 80% AMR or 30% low- and moderate-income for renters, whichever is lower at time of application) are encouraged to apply.
 - Housing providers are not required to income test for affordable units with **existing** tenants.
 - For units with **existing** tenants renting at or below affordability for this program housing providers shall provide copies of lease agreements and rent rolls for these units at time of application to the program. Housing providers under the Housing Service Act, 2011 are not required to provide this documentation upon application.
- Tenant selection for new affordable units (e.g., new development, unit addition, conversion) and unit vacancy during term of agreement:
 - Housing providers are required to:
 - A. Income test **new** tenants before occupancy to ensure they fall under the maximum income for the unit type; or
 - B. Select **new** tenants from the Waterloo Region centralized community housing waitlist.
 - New tenants are only required to be income tested before occupancy. After occupancy, tenants are not required to be income tested for this program.
 - The Region of Waterloo annually establishes income limits for new tenants. These limits are the maximum amount of gross annual income that the household may have to be

eligible to occupy vacant units rented directly by the housing provider and not referred from the Region. The following table is the 2024 income limits for vacant units by unit type:

Unit Type	Maximum Household Income
Bachelor	\$55,872
One Bedroom	\$64,608
Two Bedroom	\$79,584
Three Bedroom +	\$85,134

- Term of affordability:
 - Independent appraisal is the responsibility of the housing provider; otherwise, 60 years is automatically applied.
 - A phase-out period during the last five years may occur. During the phase-out period, market rents can be charged on units that become vacant, subject to provincial legislation.
- The housing project may be:
 - New purpose-built rental construction
 - Conversion of non-residential buildings to purpose-built rental housing
 - Addition of new units to existing sites
 - Rental units in sites with existing affordability (either through a funding agreement with the Region or affordable units in the private market that are “naturally occurring” because of the length of tenancy and/or the age of the building)
 - Units provided under the *Housing Services Act, 2011*

Projects that are not eligible

The following projects are not eligible for this program:

- Nursing and retirement homes
- Shelters and crisis care facilities
- Student residences
- Hotels and motels
- Rental housing provided in a condominium-registered building

Determining portion of property tax exemption

The Region of Waterloo can only exempt the Regional and educational portions of property taxes; area municipality property tax still apply. In mixed-use developments or those with a mix of affordable and market homes, only the affordable rental residential portion of the development is eligible for property tax exemption. The exemption is based on the eligible number of units depending on the relevant approach to fee calculations, unless the housing project is under the *Housing Services Act, 2011*. The Region provides exemptions only and does not refund fees already paid. Projects under the *Housing Services Act, 2011* are not required to complete this calculation and the entire residential portion of these projects may be exempt for Regional and educational property taxes. The Municipal Property Assessment Corporation (MPAC) will provide final determination of the exemption calculation. A

Housing Provider may request an amendment to an existing agreement to which the Region of Waterloo will review if the program objectives and goals are not being fulfilled through the existing agreement, or if a housing provider requests to add affordable units to an existing agreement.

Ontario Trillium Benefit

It is the responsibility of Housing Providers to provide tenants with notification informing them of their ineligibility for claiming property tax and energy credit through the Ontario Trillium Benefit once in receipt of property tax exemption.

Documents for application

Non-profit, cooperative, and for-profit housing providers wishing to apply for the Property Tax Exemption for Affordable Housing Program must submit an Application Form providing the following:

- Housing provider information
- Description of the property
- Lease agreements for existing tenants renting affordable units
- Operating budget
- New construction and conversion projects will be subject to further information requirements

Review process

Housing Services and Finance staff will review applications annually between the months of April to June. A council report with the recommended properties for property tax exemption will annually occur between August and September. Staff will then inform Municipal Property Assessment Corporation (MPAC) of the portion of exemption and term length for the approved properties. Please note, that it may take MPAC six to 12 months to process exemptions.

Approval process

Successful applicants will meet with Region staff and review next steps, including a timeline for Region Council approvals. Note that Region staff must obtain Council approval to request that the Municipal Property Assessment Corporation (MPAC) exempt qualifying units from municipal and education property taxes. Within 60 days following Council approval, successful applicants are to sign an agreement with the Region which will include details of the affordable housing to be provided by the applicant and the exemption provided by the Region. The Region of Waterloo reserves the right to deny applications irrespective of meeting criteria. The annual number of successful applicants is also subject to staff's ability to process the volume of applications.

Non-compliance penalty

If the housing provider does not carry out its obligations under the agreement, the housing provider shall pay to the Region the entire amount of benefits conveyed through the Property Tax Exemption for Affordable Housing Program, together with any applicable costs and interest.

Ongoing Reporting

An annual attestation of program requirements will be required, subject to review/audit by Region of Waterloo Housing staff. Housing providers will be required to provide annual documentation of rent

rolls for affordable units to Housing Services staff to review and ensure appropriate rates of affordability for the term of the agreement. This includes, but is not limited to annual documentation of unit vacancy, new tenant occupancy including income testing for annually set income limits, and lease agreements for affordable units. These ongoing operating requirements are detailed in the agreement.

Affordable Housing Incentive Survey Responses Summary



Region of Waterloo
COMMUNITY SERVICES

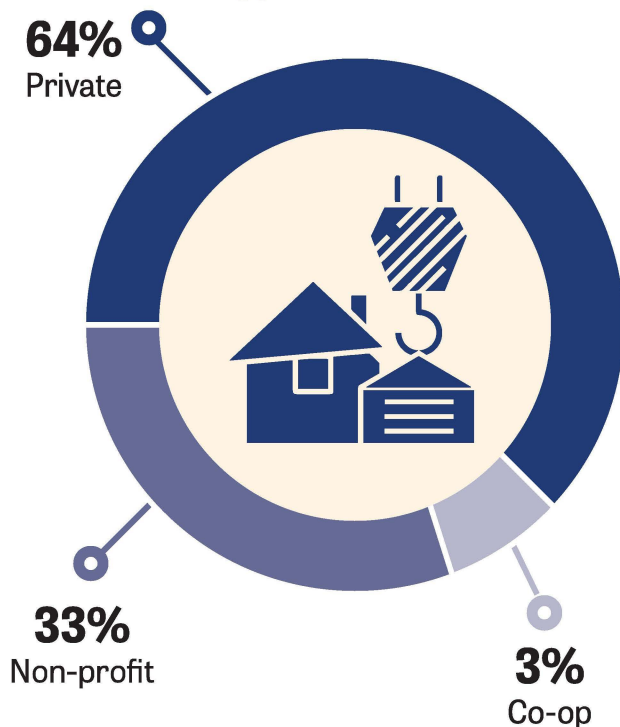
Overview

In the fall of 2022, the Region of Waterloo distributed three surveys to learn about the types of incentives that would be necessary to support the creation of more affordable housing.

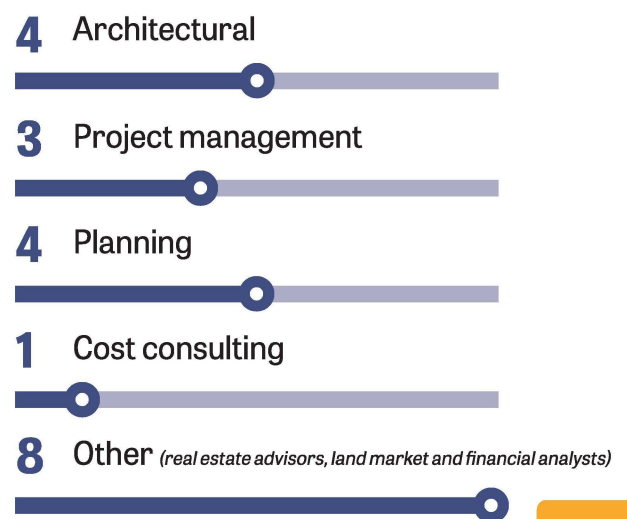
The survey was sent to local housing builders (both private and not for profit), consultants who support builders, and all seven area municipalities within Waterloo Region.

All **seven** area municipalities, **30** builders, and **20** consultants responded.

Survey respondents by type of builder

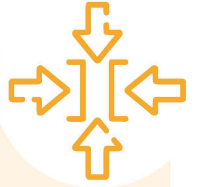


Survey respondents by type of consulting services provided



What we learned

What do you consider the biggest constraints and the lesser constraints to affordable housing development?



Biggest constraints

- Development feasibility
 - Cost of land, construction, development fees
 - Cost inflation – for all parts of the process (land, soft costs, municipal fees, and construction costs)
 - Cost of labour, supply of skilled labour
 - Increasing interest rates
 - Ability to make a return on investment
 - Long-term equity required by lenders (10% of costs) is not enough to cover the cash required to float a project
- Government Funding
 - Lack of government funding
 - Accessing the available funding is difficult and time consuming
 - Lack of certainty about what funding is available and related criteria
 - Challenging reporting and time frame requirements of the funding
- Canada Mortgage and Housing Corporation's (CMHC's) calculation of Average Market Rent (AMR) is not reflective of market rents today
- Municipal requirements and restrictions
 - Development charges and parkland fees
 - Zoning by-laws that limit density
 - Incentives entangled in bureaucracy
 - Approval complexity is increasing and taking more time
 - Approval processes are not predictable
- Others
 - Lack of land
 - Lack of development experience for non-profits
 - Gap between what tenants can afford to pay and the cost of development
 - Long term maintenance and management costs
 - Lack of municipal tools to guarantee affordable housing stays affordable

Lesser constraints

- Stigma against future tenants
- Supply chain issues
- Minimum parking requirements for affordable housing are too high
- Only having some programs open to non-profits
- No funding for on-going supports
- Lack of an integrated approach to incentives (e.g. cash contributions for affordable housing are not coordinated)
- Reluctance on the part of municipalities to innovate with new technology (e.g. modular)
- Timing of when the municipal fees are due causes cash flow problems
- Public sector programming is not flexible to respond to rapidly changing markets



We asked builders and their consultants if they wanted to see a high, medium, or low level of coordination across the region in a future incentive package for affordable housing.



Builders (**60%**) and Consultants (**80%**) want to see a high level of coordination* in a future incentive package.

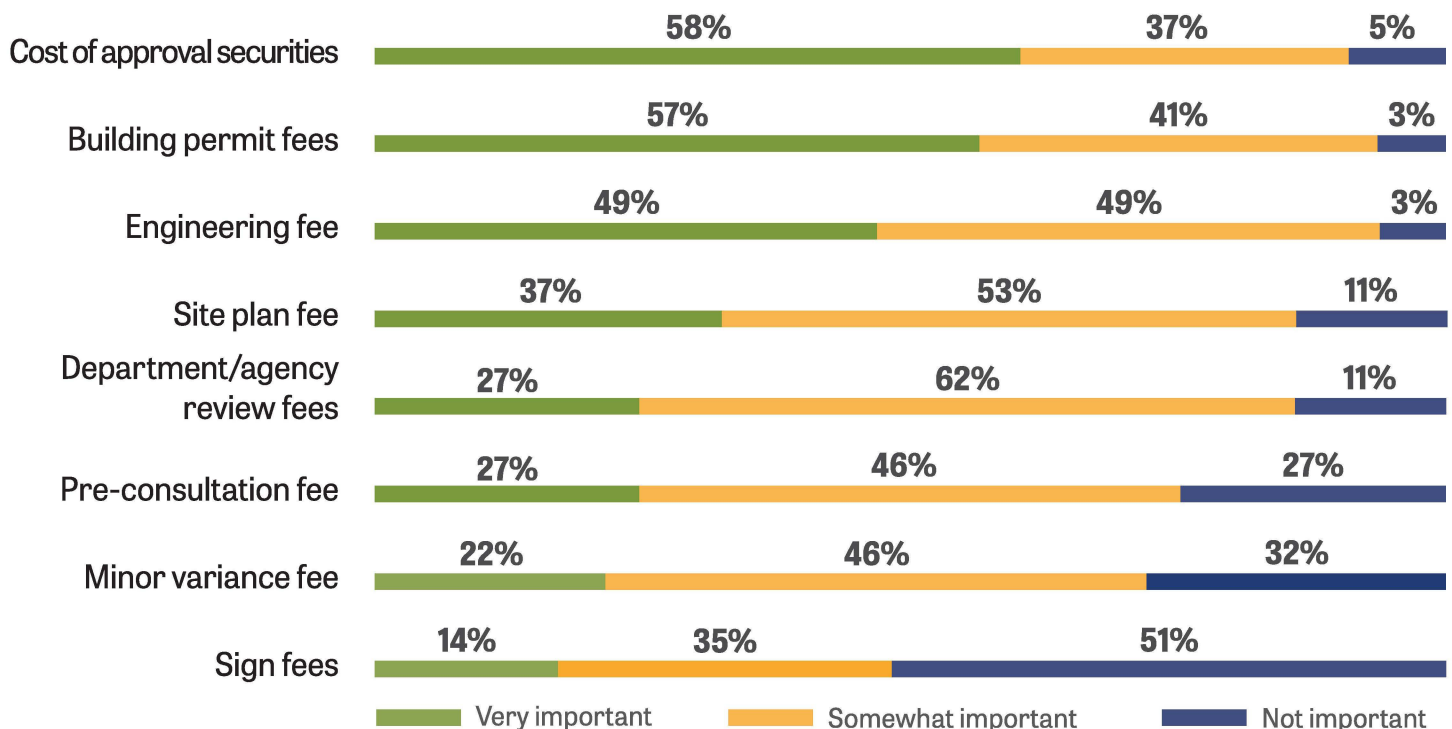
*High level of coordination means that every municipality has the same toolbox of incentives accessed through a common application process.

Incentives required for various rent levels according to 75% of the builders surveyed

	Capital grant	Development charge grant	Parkland fee waiver	Parking ratio reduction	Application fee waivers	Tax reduction	Prioritized application review
\$497/month	✓	✓	✓	✓	✓	✓	✓
\$907/month	✓	✓	✓	✓			
\$1,134/month	✓	✓	✓				

Respondents were asked to be more specific about which application fees were the most important to waive.

The larger the fee - the more important that it be waived.



Reduced parking is an incentive

Do you see a reduced parking ratio for affordable housing units as an incentive?



Of the 6 respondents who said no to this question, 4 indicated that they didn't see it as an incentive because they felt **builders should have the ability to decide how much parking the market demands.**

Current programs used to create affordable housing

When asked about current programs used to create affordable housing, it was clear that both private and non-profit builders use CMHC financing and funding.

Private builders (18 respondents)



Non-profit builders (9 respondents)



Suggestions for planning process improvements

Development review



- Have concurrent approval processes where possible – site plan, building permit, demolition permit, zoning by-law amendments, plans of condominium
- Implement strict review and comment timelines for clear expectations
- Site plan comments from different municipal departments should not be conflicting
- Find the balance between acquiring the necessary information and approvals and not encumbering the process
- Do not add new requirements once the review has started
- Prioritize affordable housing projects by having dedicated staff for projects with a minimum number of affordable units
- Increase planning and technical staff but involve as few as possible on each application
- Focus comments on Planning Act requirements only
- Eliminate non-legislated community meetings
- Make the application process online

Zoning



- Make sure a project can be feasible with the zoning that is currently in place
- Reduce process by pre-zoning land to higher densities
- No height and density limits on transit corridors and nodes
- Remove parking minimums and let the market decide how much parking to provide

What are some other ideas for ways to deliver affordable housing?



Build partnerships with non-profit housing providers to obtain a property tax exemption through Municipal Property Assessment Corporation (MPAC)

Help those with no development experience get started with development

Look into innovative, fast design construction methods and support their use in the planning and building permit process

Consider adding affordable housing as infrastructure for which development charges can be collected – a more regular and stable source of funding (*note: Recent changes through Bill 23, More Homes Built Faster Act, 2022 has eliminated this as a possibility*)

Specific questions asked to the area municipalities

Incentives for ownership versus rental

Area municipal staff were divided about whether or not incentives should be provided for both ownership and rental tenure. Those who chose only rental indicated that rental should be the focus and incentives extended to ownership once rental stock has increased.



What are some incentives area municipalities currently have to support affordable housing?

- Securing donations to an affordable housing reserve fund as a condition of draft approval of plans of subdivision
- Case by case council approved fee exemptions
- Fee waiver program for non-profits (development charges and building permit fee waived, and development charge deferrals to occupancy)
- Development charge rebate program for non-profits (2022)*
- Parkland (cash or land) exemption for affordable housing projects*

** Recent changes through Bill 23 make Development Charge and Parkland (Fee or Land) exemptions mandatory for non-profit builders. These exemptions may also become mandatory for units which meet a specified definition of affordable constructed by the private sector when other parts of Bill 23 come into effect.*



**Thank you to all who participated.
Your feedback is helping to shape the Affordable Housing Incentive Toolkit.**