



**Clean Air Partnership**

# **USING NONPROFITS**

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**TO DELIVER MUNICIPAL CLIMATE ACTION**





## ABOUT THE CLEAN AIR PARTNERSHIP:

Clean Air Partnership (CAP) is a registered charity that works in partnership to promote and coordinate actions to improve local air quality and reduce greenhouse gases for healthy communities. Our applied research on municipal policies strives to broaden and improve access to public policy debate on air pollution and climate change issues. Clean Air Partnership's mission is to enable communities to improve air quality, advance active and sustainable transportation options, take bold climate action, increase community resilience to climate impacts and accelerate the transition to a low carbon economy. We convene networks, lead research and knowledge transfer, and catalyse transformative action. Our vision is that Canadian communities are sustainable, healthy and resilient.

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1.0 |

# INTRODUCTION



## 1.0 | INTRODUCTION

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In Ontario, municipal governments are responsible for providing most services within the municipal boundary including, but not limited to, water and sewage, electric utilities, road maintenance, snow removal, childcare, long term care, garbage collection and recycling. By law in Ontario, municipalities must publish and implement Conservation and Demand Management (CDM) plans. These plans must summarize municipal energy consumption and greenhouse gas emissions (GHGs), describe measures for conserving energy, and estimate the expected results of current and proposed measures. Municipalities are also responsible for climate action planning, although they are not mandated to do so.

To deliver the services they provide for their communities, municipal governments must raise money. They finance these services from the property taxes paid by residents and businesses in the local area, with additional funding from non-tax revenues (user fees, fines etc.) and provincial government payments. For all Ontario municipalities, revenue is a major concern. Infrastructure debt and provincial downloading have pushed municipal finances to the limit. Additionally, COVID-19 has considerably reduced commercial property taxes and diverted municipal funds towards the much-needed pandemic response.

While municipalities of all sizes are constrained, when it comes to the creation and delivery of climate action plans, small municipalities are at a particular disadvantage. In addition to the aforementioned constraints, small municipalities also struggle with declining populations which can result in a declining property tax base. Due to a combination of geography and demography, many of these municipalities have limited economic development opportunities, and some find it tremendously difficult to attract and retain business. Despite this, these municipalities must reduce their GHGs.

Statistics Canada defines small municipalities as those with a population of between 1,000 and 29,999. Eighty percent, or 357 of Ontario's 444 municipalities are classified as small. These 357 municipalities house only 17% of Ontario's population. They generally have limited staff and as such are constrained in GHG reduction planning and implementation. To develop and implement climate action plans, all municipalities, but especially smaller municipalities, must use all opportunities available to them. Due to a lack of staff resources, and bureaucratic issues common in all orders of government, many municipalities have turned to local nonprofits or other 'arm's length' entities to develop and deliver their climate action planning.

This Guide describes the various mechanisms available to municipalities to deliver on climate action through non-governmental organizations. It provides examples of how local governments have used charities, nonprofits, and unincorporated entities to advance climate action while minimizing scarce staff and financial resources. For each mechanism, we will highlight the pros and cons of the approach and provide an existing Ontario example of how this has been put into place and what the results have been.



2.0 |

# DEFINING THE NONPROFIT SECTOR





## 2.0 | DEFINING THE NONPROFIT SECTOR

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The nonprofit world is incredibly diverse, with actors that straddle many sectors including universities, museums, hospitals, sports organizations, arts groups, social service delivery agents, trade associations, food banks and social clubs. Despite their diversity, there are certain key characteristics that all nonprofits share.

They must be nongovernmental, that is, institutionally separate from government. They must be self-governing, regulating and directing their own activities. They must not distribute profits back to owners or directors. They must be organized, while not necessarily being legally incorporated. And they must be voluntary, benefiting (to some degree) from voluntary time or money. Nonprofits can be registered as charities, registered as nonprofits or have no legal registration (unincorporated).

Incorporating a nonprofit means it is recognized by the legal system as having certain rights and responsibilities. Incorporated nonprofits can acquire bank accounts in their name, enter into contracts, acquire land and borrow money. Unlike unincorporated nonprofits, directors and staff of incorporated nonprofits have limited liability against litigation and creditors. Incorporated nonprofits are better able to ensure organizational continuity and can access a wider range of funding opportunities due to greater stability.

Incorporation requires the nomination of at least three directors in most provinces, with five required in Nova Scotia and British Columbia. To incorporate provincially costs between \$40 (Nova Scotia) and \$245 (Yukon). To incorporate federally requires an additional federal fee of \$250, plus extra-provincial registration fees ranging from \$30 (Yukon) to \$260 (Newfoundland and Labrador). Processing times for these applications range from 10 days (Alberta) to 60 days (Ontario).

The Canada Revenue Agency (CRA) notes that registered charities and nonprofit organizations both operate on a nonprofit basis, however they are not the same. They note that nonprofit organizations (NPOs) are associations, clubs, or societies that are not charities and are organized and operated exclusively for social welfare, civic improvement, pleasure, recreation, or any other purpose except profit.

Registered charities on the other hand are charitable organizations, public foundations, or private foundations that are created and resident in Canada. They must use their resources for charitable activities and have charitable purposes that fall into one or more of the following categories; the relief of poverty; the advancement of education; the advancement of religion; or other purposes that benefit the community.

Under the Income Tax Act, a charity can apply to the Canada Revenue Agency for registration. Once accepted, a registered charity is exempt from income tax. The charity can then issue charitable donation receipts for tax purposes. An NPO does not have to register federally or provincially to acquire its tax-exempt status. An NPO cannot issue tax receipts for donations or membership fees contributed.

In Canada, charities are further segregated into one of three distinctions: 1) Public foundations; 2) Private foundations; or 3) Charitable organizations. Public foundations are required by law to disburse over 50% of their annual income to qualified donees. Private foundations carry on their own charitable activities and are also required to disburse funds to other qualified donees. Charitable organizations primarily carry on their own charitable activities. They may give funds to other qualified donees but may not disburse more than 50% of their income annually to qualified donees unless they are associated charities.

Registering as a charity is a considerable undertaking when compared to incorporating as a nonprofit. The process is administered by the CRA and takes between six and eighteen months. A key benefit of charitable registration is the ability to issue receipts to donors who can then claim tax credits. Charities also receive additional tax credits as compared to other NPOs and have greater GST/HST exemptions. Charities must file a T3010 charity return to CRA annually, while nonprofits that are not registered charities may have to file a less onerous T2 corporate return (if they are incorporated) and/or an information form T1044 (if unincorporated). Although registered charities are required to provide a copy of their financial statements with their T3010, the statements do not have to be audited. However, CRA recommends that charities file audited financial statements if their gross income from all sources is more than \$250,000.





## UNINCORPORATED ORGANIZATION – CREW

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[CREW](#) (Community Resilience to Extreme Weather) grew out of a community meeting in January 2014 that was held in Toronto in response to flooding and ice storm events in 2013. The meeting was attended by local activists, municipal staff, and representatives from 21 community-based groups. It was agreed that in order to optimize the City's scarce resources, an active and committed volunteer network was needed to provide information and resources to help communities and residents prepare for future extreme weather. CREW was created to identify where resilience is present, tenuous or absent, and to help community members act to increase their ability to withstand extreme weather events.

CREW promotes emergency preparedness actions such as the possession of 72-hour emergency kits and the use of "neighbours-helping-neighbours" strategies. CREW employs asset-based community development methods, inclusive stakeholder participation and recruitment of local leaders. The work has dovetailed well with a COVID-19 response that includes food distribution, virtual interactions that mitigate isolation, and continues to promote the green meeting spaces that are sorely lacking in underserved areas.

In 2018, CREW joined [MakeWay's](#) shared platform, a unique model where administration and governance structures are centralized, with projects becoming a part of an overarching charitable organization. Projects that operate on the platform access a range of supports including HR & financial management, access to systems, tools, insurance coverage, legal and regulatory advice etc. MakeWay's Board of Directors and staff team manage incorporation and charity tax filings, while a Steering Committee for each project determines the direction, focus, strategy and runs the day to day activities. To maintain the platform, each project contributes 10-12% of their revenues.



# 3.0 | NONPROFIT BENEFITS



## 3.0 | NONPROFIT BENEFITS

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### 1) TAX EXEMPT STATUS

NPOs enjoy certain tax privileges that vary depending on status (incorporated or not, charitable status or not etc.) They generally do not pay income tax and can receive rebates on provincial and federal sales taxes.

### 2) SEPARATE ENTITY STATUS

By incorporating, NPOs can protect staff and directors from litigation and personal exposure to credit risk. They can also raise private capital and acquire assets that are the property of the nonprofit.

### 3) CONTINUITY

Incorporated nonprofits and charities, as distinct legal entities, have a degree of shelter from changing staff and directors. Similarly, where municipalities establish these entities, they are protected from changing political priorities.

### 4) AGILITY

Compared to government, nonprofits are agile and nimble. They are able to respond quickly to changing priorities (while working within their mandate), apply to various funding sources, and recruit staff and volunteers without more lengthy bureaucratic processes.

## 5) CREDIBILITY

Nonprofits, especially charities, are generally perceived as more credible than individual actors and often governments also. Nonprofits are generally non-political. Donors are generally attracted by this sense of credibility and purpose.

## 6) ACCESS TO FUNDING

Many government, foundation and private funds are structured such that nonprofits, and charities in particular, are prioritized for funding. For this reason, municipalities and private sector actors will often partner with nonprofits in funding proposals.





## INCORPORATED NONPROFIT – OUR ENERGY GUELPH

In 2007, the City of Guelph created the Community Energy Initiative (CEI), a 25-year plan to use less energy and reduce greenhouse gases. The CEI Update Task Force was established by Guelph City Council to evaluate CEI progress in 2017. Early in its mandate, the Task Force renamed itself [\*Our Energy Guelph\*](#). This action responded to City direction to “put the Community back in Community Energy Initiative” and recognized that a permanent community entity was needed to fulfill this direction. In May 2018, Council passed resolutions that 1. Council acknowledge the role of Our Energy Guelph as the implementer of the CEI going forward in principle, and 2. Council approve the City of Guelph’s continued association with Our Energy Guelph as a primary stakeholder and partner.

Our Energy Guelph was incorporated as a not-for-profit enterprise in May 2019 with the aim to make Guelph a net zero carbon community by 2050. The first meeting of its permanent Board of Directors was held in July 2019. As Our Energy Guelph moves to implement the pathway to net zero carbon, key activities underway include:

**GUELPH ENERGY MANAGERS (GEMS)** - a community of practice for energy and environment managers of major Guelph employers who meet quarterly to discuss advancement of emerging energy management practices.

**EDUCATION, COMMUNICATION, OUTREACH AND AWARENESS (ECO A)** - ECOA builds on Guelph’s environmental sustainability leadership to build awareness about actions that contribute to the goals of the Community Energy Initiative at individual, group, and community-wide levels.



# 4.0 | NONPROFIT CHALLENGES



## 4.0 | NONPROFIT CHALLENGES

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The [National Survey of Non-profit and Voluntary Organizations](#) found that the nonprofit sector had substantial strengths in terms of human capital and their ability to draw on their relationships with people and on organizational networks. The Survey also noted that nonprofits are highly dependent on external sources of revenue such as grants, contracts, and donations, and are constrained by the restrictions that funders place on their support. Some key findings from the survey are highlighted below.

### FUNDER EMPHASIS ON PROJECT FUNDING

Many funders fund specific projects only. This means that as those specific projects end, nonprofits often scramble to move seamlessly into other projects, losing staff in the process. The emphasis on project-specific funding (as opposed to broader thematic- or organization-specific) means NPOs spend a lot of time on administration, reporting and fundraising, and less on the delivery of their mandates.

### ACCESSING CORPORATE SUPPORT

Many NPOs, especially smaller and more rural entities, struggle to attract corporate funding. Corporate charitable giving is generally centralized in large urban centres, despite their presence in rural areas. Corporate funders are also more likely to fund larger, more established NPOs, which are typically located in large municipalities.

## **GOVERNMENT FUNDING POLICIES AND PRACTICES**

Government funding is generally project specific, where small percentages of the funding can be allocated to administration. This means NPOs have difficulty setting aside funds to maintain them between projects. Many NPOs also report lengthy delays in receiving funds and difficulties in receiving funding advances. Governments, and ministries within governments, have inconsistent reporting and compliance requirements which NPOs must become familiar with. Government funding priorities are changeable, following political direction. Additionally, no entity exists to coordinate government funding, so there is no alignment on timelines or priorities among all three orders of government, municipal, provincial and federal.

## **VOLUNTEER AVAILABILITY**

NPOs have difficulties attracting and retaining volunteers. This is understandable given the unpaid nature of volunteer work. NPOs in small or rural communities are particularly challenged given their lower populations and population densities.

## **DIFFICULTIES ATTRACTING STAFF**

NPOs have difficulty attracting and retaining staff. NPOs generally pay lower than market-rate wages. As such, they tend to attract staff who are at the beginning or end of their careers, viewing the NPO as either a steppingstone to a larger more stable employment source, or as a place to finish one's career. Like the point regarding volunteer availability, NPOs in small or rural communities have considerable challenges attracting and retaining staff given their lower populations and population densities.

## NEGATIVE PERCEPTION

High-profile stories involving charities can damage the whole nonprofit sector. Stories relating to the extremely high compensation of hospital foundation executives, or the 2020 WE Charity controversy negatively affect the 170,000+ nonprofits in Canada, of whom 85,000 are registered charities.







# Clean Air Partnership

## REGISTERED CHARITY – CLEAN AIR PARTNERSHIP

Clean Air Partnership (CAP) was established by the City of Toronto in 2000. Originally incorporated as the Toronto Atmospheric Fund Foundation, CAP's governance structure is established by Toronto City Council, and CAP must be headquartered in Toronto. As a registered charity, CAP's work is determined by its charitable objects, which are to receive, control and use donations to:

- ℒ **1. Promote global climate stabilization** by the reduction of emissions of greenhouse gases and greenhouse gas precursors into the atmosphere through public education, scientific research and technology development.
- ℒ **2. Promote air quality improvement.**
- ℒ **3. Promote public understanding of global warming** and air quality problems and their implications for the urban environment.
- ℒ **4. Promote projects related to energy conservation** and efficiency, global climate stabilization and air quality improvement, including projects promoting the creation and preservation of carbon sinks.

CAP enables communities to improve air quality, advance active and sustainable transportation options, take bold climate action, increase community resilience to climate impacts and accelerate the transition to a low carbon economy. We convene networks, lead research and knowledge transfer, and catalyze transformative action.

Two core projects of CAP are the **Clean Air Council (CAC)** and **The Centre for Active Transportation (TCAT)**. The CAC brings together over thirty municipalities and health units to share best practices, policies, programs and technical solutions for climate challenges. TCAT advances knowledge and evidence to build support for safe and inclusive streets for walking and cycling. CAP has many other projects relating to greenhouse gas reduction and urban sustainability, funded by all orders of government, foundations, other nonprofits, and through fee-for-service work.

# 5.0 | CONCLUSION



## 5.0 | CONCLUSION

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While they do not offer a panacea for the delivery of municipal climate action, nonprofits can complement municipal activities with positive outcomes for our environment, the municipality, and the community as a whole. Nonprofits often have closer ties to the community than the municipal corporation and are well positioned to consult with the community around climate action planning, and to attract third party funds for the implementation of key actions. Both the municipal government and nonprofit sectors are not without their challenges, but through municipal-nonprofit partnerships, we can advance environmental progress with greater efficiency and speed. A range of additional resources are provided so readers can learn more about using nonprofits to deliver climate action at the municipal scale.



# 6.0 | ADDITIONAL RESOURCES





## 6.0 | ADDITIONAL RESOURCES

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- » [For Public Benefit. City of Toronto framework for working with community-based not-for-profit organizations](#)
- » [Imagine Canada resources for establishing nonprofits and charities](#)
- » [Wellesley Institute Canada's non-profit maze: A scan of legislation and regulation impacting revenue generation in the non-profit sector](#)
- » [Charity Village learning centre resources](#)
- » [University of British Columbia Nonprofit guide](#)
- » [Enterprising Non-Profits Canadian Social Enterprise Guide](#)
- » [Corporation Centre Guide to Non-Profit incorporating](#)
- » [Council on Foundations Nonprofit Law in Canada Guide](#)
- » [Government of Canada charities and giving resources](#)
- » [A Qualitative Study of the Challenges Facing Canada's Nonprofit and Voluntary Organizations](#)



