

Municipal Bonusing in Ontario

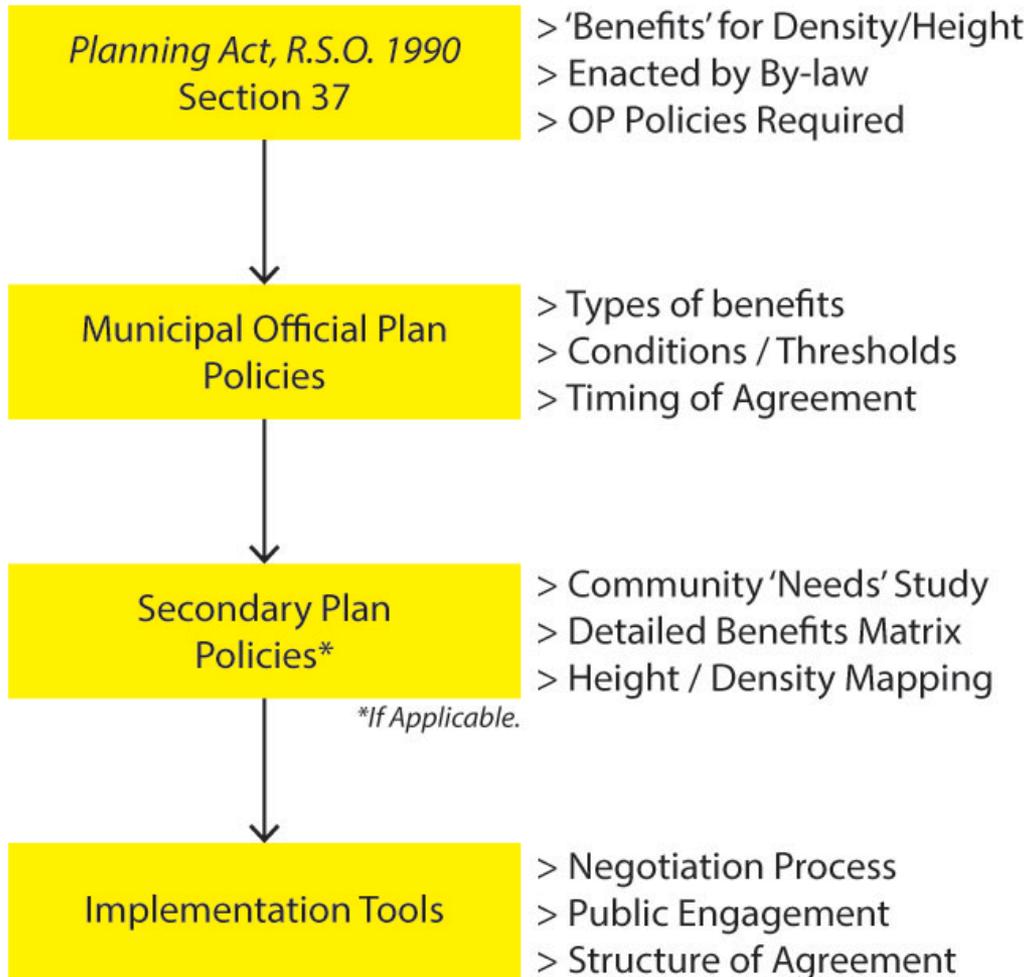
City of Hamilton



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Regulatory Context



Increased density, etc., provision by-law

37.(1) The council of a local municipality may, in a by-law passed under section 34, **authorize increases in the height and density of development** otherwise permitted by the by-law that will be permitted **in return for the provision of such facilities, services or matters as are set out in the by-law.**

Condition

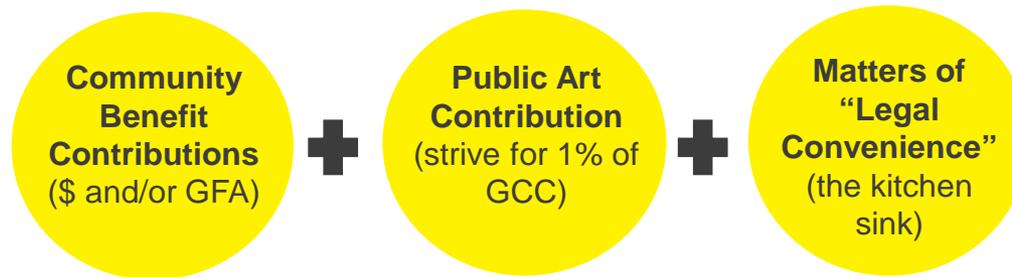
(2) A by-law shall not contain the provisions mentioned in subsection (1) unless there is an official plan in effect in the local municipality that contains provisions relating to the authorization of increases in height and density of development.

Section 37 Policies – City of Hamilton

- Hamilton Official Plan contains policies permitting Section 37 Agreements
- No existing mechanisms for securing Section 37 benefits
- Potential benefits include a broad list, including:
 - Child care facilities
 - Cultural and arts facilities;
 - Public art;
 - Recreational facilities;
 - Preservation of Natural Heritage features, etc.
- No minimum threshold criteria for triggering a Section 37 Agreement

GTHA Overview - Toronto

- Minimum threshold (e.g., greater than 10,000sq.m. GFA and where net increase exceeds 1,500sq.m. or significant height increase)
- Policies recognize existing Secondary Plan bonusing policies.
- Implementation Guidelines provide direction on
 - Setting baseline zoning;
 - timing for agreement and payment;
 - Internal/external consultation protocols



Structure of a Community Benefit Agreement

GTHA Overview - Mississauga

- Official Plan sets out policies for applicable community benefits
- Minimum development of 5,000sq.m. with a net increase in GFA of 1,500sq.m subject may be subject to a Section 37 Agreement
- May also apply to smaller residential developments that increase unit size by more than 10% over permitted density
- City retains an independent real estate appraiser to determine 'uplift', and may seek as much as 40% of this value in benefits.

GTHA Overview - Burlington

- Official Plan provides broad policy framework and describes applicable community benefits, complemented by an Implementation Protocol
- Concerns raised that the Protocol did not allow for sufficient community engagement and consultation
- Statutory meetings on planning applications are now scheduled in advance of application decisions at Community Development Committee.
- Statutory public meetings provide information on possible Section 37 benefits with an opportunity for input from stakeholders and the community

Common Issues & Opportunities

- Define applicable benefits in statutory OP policies
- Draft protocols/guideline document
- Determine need for more precise Secondary Plan policies
- Establish a level playing field for valuation

Common Issues & Opportunities

- Account for discrepancies between OP and 'legacy' zoning
- Timing and scope of public consultation
- Role of Ward Councillor in negotiations
- Forthcoming Section 37 reporting requirements (Bill 73)

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