An Essential Tool for Building Healthier Neighbourhoods

A little section of Ontario’s Planning Act has a big impact on the quality of life in our city. You can see the benefits of Section 37 in your neighbourhood, whether it be improvements to community recreation facilities, or street trees for a greener city. This tool helps us adapt to the needs of a growing city by securing the necessary community benefits and facilities that are a vital part of building Toronto’s healthy neighbourhoods.

www.toronto.ca/section37

THE ROLE OF SECTION 37 IN TORONTO

As Toronto grows and matures as a city, improvements to its public facilities and services are required to meet increasing needs. Section 37 of Ontario’s Planning Act is one of the key planning tools available to the City of Toronto to help ensure new development is accompanied by the necessary investment to enhance our high quality of life.

Section 37 enables the City to negotiate contributions towards local community benefits for development applications that exceed a site’s zoned height and density. Unlike other municipal financing tools such as Development Charges and Parkland Contributions, Section 37 benefits are provided primarily in the local community within which the development is located. Section 37 also provides greater flexibility and precision than other tools, allowing secured benefits to be direct, tangible, and responsive to local community needs.

FUNDING COMMUNITY BENEFITS AND INFRASTRUCTURE

The term “Section 37” refers to the section of Ontario’s Planning Act which allows the City to ask for benefits to construct or improve facilities when a development requires a Zoning By-law amendment.

Under Toronto’s Official Plan, developments that exceed a threshold of 10,000 square metres of gross floor area, and where the application increases the permitted density by at least 1,500 square metres, and/or significantly increases the permitted height, are typically subject to Section 37 provisions.

Section 37 benefits differ from other revenue tools available to the City of Toronto.

- Section 37 benefits cover a variety of community services and facilities, allowing greater flexibility than Development Charges and Parkland Contributions. Typical benefits are outlined in the Official Plan’s Section 5.1 or in Secondary Plans.
- Section 37 cash-in-lieu benefits are held in a separate reserve fund account, while other revenue sources are collected by the City and distributed centrally.
- As Section 37 is intended to address the needs created by growth, the Planning Act requires benefits to have a reasonable geographic relationship with a proposed development.

Did You Know?

- Section 37 benefits are mainly for local community needs, unlike Development Charges which benefit the entire City.
- Section 37 provides greater flexibility than other tools, allowing secured benefits to be direct, tangible, and responsive to local community needs.

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AN ESSENTIAL TOOL
Swansea Town Hall Conservation and Rehabilitation
Section 37 retains our most vulnerable heritage assets by securing their conservation and rehabilitation.

Affordable Rental Housing for Artists at Wychwood Barns
Section 37 protects the diversity of Toronto’s neighbourhoods by contributing towards affordable housing, and by securing purpose-built affordable rental housing.

Public Art “Between Heaven and Earth” on the Queensway
Section 37 creates a city of beauty by giving art the opportunity to flourish within the public realm.

Warden Hilltop Community Centre
Section 37 enhances the physical and social health of our communities by upgrading existing recreation centres and by building new facilities.

Parkway Forest Community Child Care Facility
Section 37 increases the quality of life of our families by supporting the creation of non-profit child care facilities.

Community Facilities in Regent Park
Section 37 enables our non-profit arts, cultural and community sector to thrive by providing access to affordable space.

New Playground Equipment in Oates Park
Section 37 strengthens the success of our extensive green space network by improving park facilities.

Bloor/Yorkville Streetscape Improvements
Section 37 delivers a vibrant public realm by financing streetscape improvements such as street trees, benches and pedestrian infrastructure.
Section 37 benefits are secured by the City through two different methods, in-kind and cash-in-lieu.

In-kind contributions occur where a development applicant agrees to directly provide the negotiated benefit, such as dedicating physical space within a building for use by non-profit groups.

Alternatively, a development applicant can provide cash-in-lieu of the negotiated benefit, transferring responsibility for implementation to the City. Cash-in-lieu can occur either as a single contribution towards a community benefit, or be saved for future use in cases where the City is pooling funds to achieve a major investment, or a number of identified benefits.

Over the past five years, the City of Toronto has secured approximately 850 Section 37 benefits, 55% of which were in-kind, and 45% of which were cash-in-lieu contributions valued at over $200 million.
When a developer submits an application that requests more height and density than what is currently allowed, City Planning staff initiate a review process. As part of this review, staff lead public consultations with local residents and the Ward Councillor to discuss the development application. If the increased height and density meet the thresholds/policies specified in the Official Plan, Section 37 policies will apply to the development. These consultations are also an opportunity for the Ward Councillor to review existing Section 37 priorities with the local community and discuss benefits that could come from the proposed development.

Section 37 benefits are negotiated on a case-by-case basis with developers. City Planning staff typically lead this process, coordinating consultations with the Ward Councillor, the community, and various City Divisions and Agencies. In these negotiations, the City seeks to capture a portion of the appraised value of the additional density requested by the development applicant. If the City and the applicant are able to reach an agreement on appropriate Section 37 benefits during the negotiation process, an agreement is finalized as a condition of the approval of the development application.

After being reviewed by staff, the development application is brought to the local Community Council for their recommendation. If Community Council recommends the application, it then continues to City Council for final approval.

After approval by City Council, the proposed Section 37 benefits are considered to be secured and City staff prepare an agreement for the applicant and the City to enter into. Under a secured agreement required by a Zoning by-law, the developer has a legal obligation to provide the benefit at a future date, usually when making an application for a building permit. A benefit is considered to be “received” at the point where a developer pays their cash-in-lieu contribution to the City, or delivers the negotiated in-kind benefits.