

Municipal Government Act

progressive powers for municipalities

INFORMATION BULLETIN #27

INCENTIVE or BONUS ZONING

Summary: The Municipal Government Act clarifies that a zoning technique referred to as incentive or bonus zoning can be incorporated into a land use by-law.

Legislation: *Municipal Government Act (MGA)* - s.191(g), s.220(5)(k)
Halifax Regional Municipality Charter (HRMC) – s.31A, s.209(g), s.235(k)

Discussion: In order to use this zoning technique in the land use bylaw there must be appropriate policy in the municipal planning strategy that explains the uses or classes of uses that may be controlled by this process. The rationale for what Council desires to achieve over and above the standard as-of-right zoning requirements should be carefully explained to ensure there is policy support for the bonus provisions found in the land use by-law.

Incentive or bonus zoning is a flexible zoning technique that permits a trade-off between the as-of-right requirements of the land use bylaw and the desired changes in those requirements by a developer. It allows for the relaxation of certain bylaw requirements in exchange for an increased amenity that would benefit the residents of the development and their neighbours. For example, in exchange for a higher number of units in an apartment building unit, the developer would have to provide an increased level of landscaping or other amenity space that would not otherwise be required by the standard zone provisions. The trade-offs could be applied to a variety of land use bylaw requirements such as the height of buildings, parking requirements, landscaping requirements or any other provision that a land use bylaw would normally control. The principle is that both the municipality and the developer can gain from the application of this technique.

The important thing to remember is that the terms of the trade-off must be clearly stated in the land use bylaw so the development officer can issue a municipal development permit without any ambiguity concerning the requirements of the bonus or incentive offered in the standard provision of the land use bylaw. The choice is up to the developer to use the positive incentive or not-- it is not mandatory.

Note: The reader is cautioned that preparation of this and subsequent Information Bulletins containing practical suggestions must necessarily involve interpretation of legislation as it applies in general situations. Specific situations may require careful legal analysis and therefore reference should be made to the *Municipal Government Act* or the *Halifax Regional Municipality Charter*, other relevant legislation and to legal advisors.