

## TOWN OF MARKHAM

### Policy for Establishing Telecommunication Facilities

January 2012

#### **INTRODUCTION**

Radiocommunication and broadcasting services have become an integral component of the way society operates today. These services are used daily by the public, safety and security organizations, government, wireless service providers, broadcasters, utilities and businesses. In order for radiocommunication and broadcasting services to work, antenna systems including masts, towers and other supporting structures are required. There is a certain measure of flexibility in the placement of antenna systems which is constrained to some degree by the need to achieve acceptable coverage for the service area; the availability of sites; technical limitations and safety. Municipalities are challenged with balancing the location and design requirements of the proponent while also minimizing the impact of telecommunication facilities on the community and local surroundings.

This policy applies to anyone (referred to in this document as the proponent) who is planning to install or modify an antenna system, regardless of the type of installation or service. This includes, amongst others, Personal Communications Services (PCS) and cellular, fixed wireless, broadcasting, land-mobile, license-exempt and amateur radio operators.

#### **JURISDICTION**

The federal government has exclusive jurisdiction over telecommunication facilities. The Radiocommunication Act appoints Industry Canada as the approval authority for the location and operation of telecommunication facilities in Canada. Industry Canada does recognize the importance of municipal consultation as part of the approval process and as such, encourages proponents to consult with the local municipality to obtain their input and comments. In addition, Industry Canada encourages local municipalities to establish a policy framework outlining their preferences with respect to the siting and design of telecommunication facilities, as well as, public consultation requirements.

Industry Canada's most recent release of a "Client Procedures Circular" in June 2007, came into effect on January 1, 2008 ("CPC-2-0-03"). CPC-2-0-03 outlines the process that must be followed by Proponents seeking to install or modify a Telecommunication Tower, where a Land Use Authority (municipality) does not have a consultation protocol. Although Industry Canada has provided a Default Public Consultation Process in CPC 2-0-03, they encourage the establishment of policies from local municipalities recognizing they are best positioned to contribute to optimum siting of facilities to meet their own community needs. The Town of Markham fully recognizes its role as a commenting agency as part of the approval process for telecommunications facilities.

## **OBJECTIVES**

The purpose of this policy is to establish a local land-use consultation framework to guide proponents, the Town and the public when considering proposals for possible telecommunication facilities within the Town of Markham. Specifically, the objectives of this policy are:

- To outline a consistent and timely process to be followed by the Proponent and the Town for reviewing and commenting on Telecommunication Facility proposals which are not exempt by this policy;
- To outline the Town's expectations and preferences regarding appropriate site selection and design for telecommunications facilities which encourage proposals that minimize impacts on residents, and respects natural heritage, cultural heritage and sensitive land uses , to the greatest extent possible;
- To establish criteria and guidelines, including timeframes, for evaluating proposals and issuing Municipal Letters of Concurrence or Non-concurrence;
- To provide a clear consultation process that requires proponents to adequately engage and inform the Public, and other required agencies, regarding non-excluded telecommunications facilities;
- To identify the Town of Markham as the designated "Land Use Authority" (LUA) for all lands within the Town of Markham's municipal boundaries.
- To provide for a high calibre wireless telecommunications service, to promote economic development and to meet the business and safety needs of the community.

## **CONSULTATION EXEMPTIONS**

### **i. Municipal Consultation Exemptions**

The following telecommunication facilities proposals are exempt from the requirement to consult with the Town and do not require the submission of a site plan application:

- Maintenance of existing radio apparatus including the antenna system, transmission line, mast, tower or other antenna-supporting structures
- Addition or modification of an antenna system (including improving the structural integrity of its integral mast to facilitate sharing), the transmission line, antenna-supporting structure or other radio apparatus to existing infrastructure, a building, water tower, etc. provided the addition or modification does not result in an overall height increase above the existing structure of 25% of the original structure's height;
- Maintenance of an antenna system's painting or lighting in order to comply with Transport Canada's requirements;
- Installation, for a limited duration (typically not more than 3 months), of an antenna system that is used for a special event, or one that is used to support local, provincial, territorial or national emergency operations during the emergency and is removed within 3 months after the emergency or special event;

- Co-location on an existing Telecommunication Tower; and
- Amateur radio Telecommunication Towers provided:
  - a. they are strictly for personal use
  - b. the antenna boom or other appurtenance attached to the antenna are more than 1 metre from the property line;
  - c. no structure is placed in a front yard; and,
  - d. the antenna and associated equipment is less than 10 metres in height;

Despite the above exemptions, individual and local circumstances may vary and it may be prudent for the proponent to consult with the municipality. Therefore, despite a proposal meeting the exclusion criteria above, the following should also be taken into consideration when determining if municipal consultation is required:

- The antenna system's physical dimensions, including the antenna, mast and tower, compared to the local surroundings;
- The location of the proposed antenna system on the property and its proximity to neighbouring residents;
- The likelihood of an area being a community-sensitive location; and
- Transport Canada marking and lighting requirements for the proposed structure.

## ii. Public Consultation Exemptions

Public consultation is not required for telecommunication facilities which meet one, or more, of the following criteria:

- All Telecommunication Facility proposals exempt from municipal consultation.
- New antenna systems, including masts, towers or other antenna-supporting structure, with a height of less than 15 metres above ground level.
- Telecommunication Towers within industrial, institutional and commercial zoned areas, where the Telecommunication Tower base is located a minimum of 120 metres or a distance of 3 times the height of the proposed Telecommunication Tower, whichever is greater, away from lands that contain known sensitive land uses such as residential, schools and daycares.

In addition to the above, the replacement of an existing tower is exempt from public consultation provided all of the following is met:

- The proposed height of the replacement tower does not exceed the height of the existing tower by more than 25%
- Public consultation notification area for proposed location of replacement tower and existing tower remains the same (ie. location of replacement tower does not generate the need to notify additional properties, agencies, etc.)

Despite the above exemptions, individual and local circumstances may vary and it may be prudent for the proponent to consult with the municipality. Therefore, despite a proposal meeting the exclusion criteria above, the following should also be taken into consideration when determining if public consultation is required:

- The antenna system's physical dimensions, including the antenna, mast and tower, compared to the local surroundings;
- The location of the proposed antenna system on the property and its proximity to neighbouring residents;
- The likelihood of an area being a community-sensitive location; and
- Transport Canada marking and lighting requirements for the proposed structure.

### **PRELIMINARY CONSULTATION**

Where not exempt from the requirement to consult with the Town under this policy, preliminary consultation shall be required between the Proponent and Town staff prior to submitting a site plan application. The purpose of the pre-consultation meeting is to:

- Determine if the proposal is exempt from municipal consultation, as outlined in this policy;
- Discuss the appropriateness of the proposed location and/or appropriateness of co-location opportunities;
- Discuss preliminary issues and concerns;
- Review the process to be followed, including possible requirements for public consultation;
- Identify additional documents, drawings, information, etc., required as part of the application;
- Discuss application fees;
- Identify list of agencies to be consulted; and,
- Consider possible appropriate locations on Town owned land or facilities that may be suitable for the proposed Telecommunication Tower.

The preliminary consultation meeting shall **not** mark the official commencement of the 120-day consultation and site plan review process, between the Town and the Proponent, as identified in the Application Process section of this policy.

Where not exempt from the requirement to consult with the public under this policy, the Proponent will be requested to consult adjacent municipalities within 120 metres or three times the height of the proposed Telecommunication Tower, whichever is greater, by circulating proposals to the Clerk and Planning Director/Commissioner of the adjacent municipality. The Proponent shall provide confirmation of this consultation to the Town.

## APPLICATION PROCESS

All proposals for telecommunication facilities that are not exempt from municipal review as per this policy, shall be required to submit a site plan application for review. Applications for site plan review shall be submitted to the attention of the Director of Planning and Urban Design.

The Town recognizes that while this policy requires proponents to follow the site plan application review process, site plan approval is not required in accordance with the Planning Act.

Due to the exclusive federal jurisdiction over telecommunication facilities, traditional land use controls such as zoning by-laws and site plan control do not apply. The submission of a site plan application for telecommunication facilities in the Town of Markham merely serves as a framework for consultation with the Town and the public, if required. A site plan application shall be supported by an information package which includes the following information:

- site plan application, including standard submission requirements and applicable processing fee
- site selection/justification report outlining the following:
  - description of other alternatives considered such as co-location, use of existing support structures and other sites, including a map/inventory of all telecommunication facilities within search area;
  - rationale for the proposed site as the preferred option;
  - the purpose of the proposed telecommunications facility;
  - a site plan outlining the proposed location of the telecommunication facility and associated equipment with setbacks to existing lot lines and buildings and structures;
  - existing and proposed landscaping (including an inventory of existing vegetation and proposed vegetation for screening purposes); and,
  - colour photographs of the site with the proposed telecommunication facility superimposed
- information required as per municipal building permit process (if required)
- information required as per Conservation Authority permit process (if required)
- Environmental Impact Statement, if required, under the existing land use designation
- confirmation of appropriate utility locations, such as gas companies and hydro providers, have been consulted
- confirmation that municipalities and all other public authorities having an interest in the lands located within 120 metres or three times the height of the proposed telecommunication facility, whichever is greater, have been consulted

The Town, when it receives an application for a Telecommunication Tower, shall:

- Circulate the application to relevant departments and external agencies, including the local ward councillor, for information and comment. All comments received will be forwarded to the proponent;

- Work with the proponent to address all reasonable and relevant concerns as identified through the application review process and/or public consultation process. If revisions are required to plans, these should be submitted to the Town;
- Provide guidance to the Proponent regarding the public consultation process, including direction regarding the format to be used for the notices for the community information meeting, if required;
- Make recommendations to be received by Development Services Committee, if required, when the Proponent presents the proposal, based on the outcome of application review process and/or public consultation process; and,
- Conclude the site plan review process/municipal consultation process by issuing a letter of concurrence or non-concurrence. There is no requirement for a site plan agreement. However, the proponent may be required to enter into an undertaking acceptable to the Town which may include requirements including, but not limited to:
  - The location and design of the Telecommunication Tower;
  - In the case of a lease between the Town and a Proponent, the removal of all structures upon expiration of the lease;
  - The provision of landscaping and tree preservation, including any required financial securities;
  - Compliance with the requirements of Industry Canada's CPC-2-0-17 Conditions of License for Mandatory Roaming and Antenna Tower and Site Sharing and to Prohibit Exclusive Site Arrangements;
  - In case of a lease between the Town and a Proponent, lease provisions acceptable to the Town Solicitor

**Submission of the site plan application shall mark the official commencement of the consultation and site plan application review process with the Town. The consultation and site plan application review process shall take no more than 120 days to complete for proposals that require Public Consultation. The Town will endeavour to complete the circulation of an application and make its views known to the Proponent within 60 days.**

**In cases where public consultation is not required, the Town shall apply its best efforts to finalize the site plan application review process within 2 weeks of receiving a written request from the proponent.**

#### **PROPOSALS ON TOWN OWNED LANDS/FACILITIES**

Telecommunication facility proposals on Town owned lands/facilities will require an internal municipal review and endorsement by the Development Services Committee. In addition, lease agreements will be required to be executed as a final step in the approval process, to the satisfaction of the Chief Administrator Officer and Town Solicitor. Where Public Consultation is not required, as per this policy,

the Town shall apply its best efforts to finalize the site plan application review process as soon as possible.

### **SITE SELECTION CRITERIA**

The Proponent shall make every effort to identify a location that minimizes the total number of Telecommunication Towers in the area, existing or proposed. In this regard, the Proponent shall be encouraged to co-locate on existing Telecommunication Towers, and support structures such as water towers, light standards, traffic lights, rooftops, , etc. wherever possible. Proponents shall consider the visual impact when proposing co-location on existing Telecommunication Towers within sensitive areas (ie., residential, schools & daycares, etc) in consultation with Staff. Where Proponents require a new Telecommunication Tower to meet network needs, when selecting a location, the following shall be considered:

- Maximizing the distance from sensitive land uses such as residential, schools and daycares, where possible, and minimizing any negative visual impacts;
- Avoiding significant natural features (both topographical and vegetative), including hazard lands (floodplains, steep slopes);
- Avoiding areas of topographical prominence, where possible, to minimize any negative visual impacts;
- Use of existing support structures (ie. existing towers, light poles, roofs, etc.) where appropriate and possible;
- Ensuring that access requirements are sensitively integrated;
- Avoiding new Telecommunication Towers in Heritage Conservation Districts, Heritage Conservation Study Areas and properties listed and designated under Part IV of the Ontario Heritage Act, where possible;
- integration of telecommunication facilities with new buildings (engagement with service providers required early in the development process), where possible; and,
- Use of Town owned lands and/or facilities where technically feasible and of a location and design acceptable to the Town.

### **DESIGN**

Telecommunication Facilities shall be located and designed to minimize visual impacts. The type, size, location, height, width, configuration, and colour of a Telecommunication Facility shall be selected to be compatible and complementary with the surroundings and to be as unobtrusive as possible, where permitted by Transport Canada and/or NAV Canada. Telecommunication Tower designs that mimic other features customarily found in an area context are encouraged where appropriate. Camouflage designs and Public Art installations are highly encouraged, particularly at prominent locations. Examples of these types of designs may include clock towers, flag poles, church steeples, etc. Where appropriate, the Proponent shall be encouraged to consult with other telecommunication providers in an effort to co-locate or build Telecommunication Towers that can accommodate additional users, subject to

compliance with Industry Canada's CPC-2-0-17 Conditions of License for Mandatory Roaming and Antenna Tower and Site Sharing and to Prohibit Exclusive Site Arrangements.

The following design guidelines should be taken into consideration when designing a new telecommunication facility:

- New telecommunication facilities which are located more than 120 metres from sensitive land uses such as residential, schools and daycares, shall be designed with co-location capacity
- New telecommunication facilities which are located within 120 metres of sensitive land uses such as residential, schools and daycares are not required to be co-locatable. However, these facilities shall use stealth design techniques, including but not limited to, camouflaging with church steeples, clock towers, flagpoles, etc.
- New telecommunication facilities which are located at prominent locations, community sensitive locations and/or are of a size and scale that may negatively impact the local surrounding area, public art installations are highly encouraged to mitigate any potential impacts.
- Accessory equipment shall be buried underground, if feasible, or incorporated within buildings located on the same property, if possible. For outdoor, above grade equipment shelters, landscaping at the base of the telecommunication facility is encouraged to provide screening and to enhance the appearance of the area. Landscaping or a lump sum cash payment in lieu of landscaping will be provided where appropriate, at the discretion of the Town.
- Colours for all components of the telecommunication facility shall be neutral, non-reflective and colour-matched, if possible.
- No signs or other material not directly related to the telecommunication facility, or other on-site land uses, shall be permitted on the Telecommunication Tower unless Proponents comply with the Town's sign by-law. A small plaque shall be provided at the base of the telecommunication facility, identifying the owner/operator and contact information.

## **PUBLIC CONSULTATION**

The Proponent is responsible for organizing and holding a community information session. For proposed Telecommunication facilities that require public consultation, the Proponent is responsible for providing a notification package, by regular mail, to the following recipients:

- all owners of properties within a radius 120 metres or 3 times the height of the proposed Telecommunication Tower, measured from the base of a tower or the outside perimeter of a supporting structure (ie. the furthest point of the supporting mechanism such as a rooftop, building edge, etc.), whichever is greater;



- adjacent municipalities within 120 metres or three times the height of the proposed Telecommunication Tower, whichever is greater, by circulating proposals to the Clerk and Planning Director/Commissioner of the adjacent municipality.
- area rate payer associations;
- condominium developments. Notice may be provided to the condominium corporation instead of individually assessed property owners within the condominium development; and,
- the Chairman of Town's Development Services Committee, the local Ward Councillor, the Director of Planning & Urban Design and the Town Clerk.

The notification package shall include the following information:

- The municipal address of the proposed telecommunication facility and a map of the proposed location of the facility on the subject property;
- A description of and rationale for the proposed telecommunication facility, and any accessory equipment, including its dimensions, colour, type, design, etc.
- Simulated images of the proposal;
- An attestation that the general public will be protected in compliance with Health Canada's Safety Code 6 including combined effects within the local radio environment at all times;
- Identification of areas accessible to the general public and the access/demarcation measures to control public access;
- The project's status under the Canadian Environmental Assessment Act;
- Transport Canada's aeronautical obstruction marking requirements (whether painting, lighting or both), if available; if not available, the proponent's expectation of Transport Canada's requirements together with an undertaking to provide Transport Canada's requirements once they become available;
- An attestation that the installation will respect good engineering practices including structural adequacy;
- Reference to the Town of Markham's Telecommunication Facilities Policy (URL)
- Notice that general information relating to antenna systems is available on Industry Canada's Spectrum Management and Telecommunications website (<http://strategis.ic.gc.ca/antenna>);
- The time and location of the community information session;
- Information on how to submit comments to the proponent, including the closing date for submission of comments (minimum of 30 days must be provided from receipt of notification)
- Contact information for a representative of the proponent, the Town of Markham and the local Industry Canada office;
- A statement that specifies the Town's role as a commenting agency only and that any decision relating to the application will be made by Industry Canada.

Confirmation of the above notification (to required recipients) must be provided to the Town once the required notice has been provided. In addition to the above notification requirements, proposed telecommunication facilities which are 30 metres in height or greater, require notice in the local community paper. The newspaper notice shall contain the following information:

- A description of the proposed telecommunication facility;
- The address of the proposed telecommunication facility including a map of the proposed location on the subject property;
- Contact information for a representative of the proponent, the Town of Markham and the local Industry Canada office;
- A statement that specifies the Town's role as a commenting agency only and that any decision relating to the application will be made by Industry Canada.

### **COMMUNITY INFORMATION SESSION**

The proponent is responsible for organizing and facilitating the community information session. A representative from the Town and the local ward councillor may attend for information purposes or to assist with answering questions.

The proponent shall distribute comments cards at the community information session and prepare a record of all attendees and comments submitted.

Following the community information session, the proponent shall provide a follow-up letter addressed to the Director of Planning & Urban Design (copied to the Chairman of the Development Services Committee, the Ward Councillor, the Town Clerk and to all those who submitted comments (either at community information session or written submission), indicating how all "reasonable and relevant" concerns raised have been addressed. Should any modification of the proposed facility be agreed to, in order to address any reasonable and relevant concerns, revised plans or drawings (and any other required information) must be submitted to the Town as soon as possible.

The proponent will also be required to provide a presentation to the Development Services Committee, advising the Committee of the proposal and how all reasonable and relevant concerns have been addressed.

### **ADDITIONAL CONSULTATION REQUIRED**

Proponents shall undertake to consult with interested agencies, including but not limited to, Transport Canada, NAV Canada, Ministry of Transportation, Toronto Region Conservation Authority, and the Regional Municipality of York, if required. Proposed telecommunication facilities that require municipal consultation will be circulated to relevant outside agencies for comments as part of the Town's site plan circulation and review process.

## **CONCLUDING CONSULTATION**

Once the site plan application review process has been completed, the following will take place:

### **Where Public Consultation is Not Required**

For a Telecommunication Facility proposal that is exempt from public consultation as identified in this policy, the Director of Planning and Urban Design has the authority to provide a letter of concurrence or non-concurrence. A letter of concurrence or non-concurrence, signed by the Director of Planning & Urban Design, subject to conditions if required, shall document concurrence or non-concurrence between the Town and the proponent and shall conclude the consultation process. Where the Town issues a letter of non-concurrence associated with a proposal, the Town's letter shall specify the reasons why.

### **Where Public Consultation is Required**

For Telecommunication Tower proposals requiring public consultation, the Proponent will provide a deputation to the Development Services Committee to seeking concurrence from the Committee following the public information session. The Development Services Committee will either provide a position of concurrence, subject to conditions if required, or non-concurrence. The Committee Resolution will be forwarded to Industry Canada. If the Committee provides concurrence, the Proponent will be required to submit 15 copies of the site plan and elevations to the Director of Planning and Urban Design. An letter of concurrence or non-concurrence, signed by the Director of Planning and Urban Design, subject to conditions if required, shall document concurrence or non-concurrence between the Town and the Proponent and shall conclude the consultation process. Where the Town issues a letter of non-concurrence associated with a proposal, the Town's letter shall specify the reasons why.

For a Telecommunications Tower located on town owned lands and/or facilities, lease agreements will be required to be executed as a final step in the approval process, to the satisfaction of the Chief Administrator Officer and Town Solicitor.

## DEFINITIONS

**Co-location** – the sharing of a Telecommunication Tower (or other support structure) by two or more proponents

**Telecommunication Facility** – the components (individually or combined) required to provide wireless communication service such as transmitters, receivers, antennae, signalling and control equipment, support structures and accessory equipment.

**Proponent** – anyone planning to install or modify a telecommunication facility such as Personal Communications Services (PCS) and cellular, fixed wireless, broadcasting, land-mobile, license-exempt and amateur radio operators.

**Telecommunication Tower** – all types of towers, including but not limited to, a monopole, tripole, lattice tower, guyed tower, self-support tower, pole, mast, or other support structure, which is used to support one antenna or more and which may be located at ground level or on the roof of a building.

**Reasonable and Relevant Concerns** – relate to the requirements of Industry Canada’s “Client Procedures Circular” (“CPC 2-0-03”)(January 2008) and to the particular amenities or important characteristics of the area surrounding the proposed telecommunication facility. Examples of reasonable and relevant concerns, as per Industry Canada’s CPC 2-0-03, are:

- Why is the use of an existing antenna system or structure not possible?
- Why is an alternate site not possible?
- What is the proponent doing to ensure that the antenna system is not accessible to the general public?
- How is the proponent trying to integrate the antenna into the local surroundings?
- What options are available to satisfy aeronautical obstruction marking requirements at the proposed site?
- What are steps the proponent took to ensure compliance with the general requirements of this document including the Canadian Environmental Assessment Act (CEAA), Safety Code 6, etc.?

Examples of concerns that are not reasonable and relevant, as per Industry Canada’s CPC 2-0-03, are:

- Disputes with members of the public relating to the proponent’s service, but unrelated to antenna installations;
- Potential effects that a proposed telecommunication facility will have on property values or municipal taxes;

- Questions whether the Radiocommunication Act, CPC-2-0-03, Safety Code 6, locally established by-laws, other legislation, procedures or processes are valid or should be reformed in some manner.