

## **TOWN OF MARKHAM**

### **Policy for Establishing Telecommunication Towers**

**June 2009**

#### **INTRODUCTION**

Radiocommunications and broadcasting services (e.g. personal communications services and cellular, fixed wireless, broadcasting, etc.) have become an important component of the way business, and society in general, operates today. These services are used daily by the public, safety and security organizations, government, wireless service providers, broadcasters, utilities and businesses; from cell phones and pagers to instant text and photo messaging, e-mail messages and connection to the web. For these services to work, systems including masts, towers, antennae and other supporting structures are required. There is a certain amount of flexibility in the placement of Telecommunication Towers constrained by some degree by: the need to achieve acceptable coverage for the service area; the availability of sites; technical limitations; and safety. Accordingly, municipalities are experiencing an increasing demand to accommodate Telecommunication Towers by balancing the location and design requirements of the Proponent with the desire to minimize the impact on the community and local surroundings.

The approval authority for Telecommunication Towers is with Industry Canada under the *Radiocommunication Act*. Their most recent release of a “Client Procedures Circular” was June 2007, which 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 (“LUA”) 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 LUA’s recognizing they are best positioned to contribute to optimum siting of facilities to meet their own community needs. The Town of Markham established its own policy in June 2002 and due to Industry Canada’s update and changing technology, the Town is proposing to update its policy at this time. The purpose of this policy is to provide guidance to the Town, Proponents, and the general public in considering proposals to locate Telecommunication Towers within the Town of Markham.

It is intended that by outlining the procedures to be followed for Telecommunication Tower proposals, a framework for identifying and resolving any land use conflicts at an early stage in the process will be established. The consultation process for a Telecommunication Tower will be in accordance with the Town’s site plan process, as outlined in this policy. It is acknowledged that Proponents following the Town’s usual site plan process are not subject to Site Plan approval in accordance with the *Planning Act*. Final approval for Telecommunication Towers is with Industry Canada. It is anticipated that Proponents will continue to pursue innovative technology that will reduce the visual impact on the community.

## **DEFINITIONS**

**Co-location means** the sharing of a Telecommunication Tower by two or more Proponents.

**Telecommunication Tower** - means all types of towers including but not limited to: a monopole; tripole; lattice tower; guyed tower; self-support tower; pole; mast; or other structure, which are used to support one or more telecommunication antennae for the purpose of radio telecommunications and which may be located at ground level or on the roof of a building.

**Proponent** means a company, organization or person that is subject to Industry Canada's CPC-2-0-03, or its successors.

## **OBJECTIVES**

The intent of this policy is:

- to balance demands for new Telecommunication Towers on both private and publicly owned property, with
  - i) a desire to preserve the natural and cultural landscape and minimize community impacts
  - ii) a view to generating a new source of non-assessment based revenue for the Town;
- to outline a general process to be followed by the Proponent and the Town for reviewing and commenting on Telecommunication Tower proposals, which are not exempt by this policy, and to provide an opportunity for public consultation;
- to provide for high calibre wireless telecommunications service, in order to promote economic development, and meet the business and safety needs of the public and community;
- To provide a process to implement Industry Canada's CPC-2-0-03 for all Proponents;
- To clarify that the Town of Markham is the designated "Land Use Authority" (LUA) for all lands within the Town of Markham municipal boundaries.

## **PRELIMINARY CONSULTATION**

Where not exempt from the requirement to consult with the Town under this policy, preliminary consultation shall be required between Proponents and Town staff through a process outlined on Markham's web page at Markham.ca under Forms and Applications and Planning. At the pre-consultation meeting, municipal staff shall provide details outlining:

- consider the appropriateness of the proposed location and/or appropriateness of co-location opportunities
- provide preliminary comments;
- the process to be followed, including requirements for public consultation;
- any additional documents, drawings required as part of the application;
- fees for the application;
- list of agencies to be consulted; and
- location of Town owned land or facilities that may be a suitable site for a Telecommunication Tower.

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.

### **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, such as water towers, rooftops, existing towers, etc. wherever possible. Proponents shall consider the visual impact when proposing co-location on existing Telecommunication Towers within sensitive areas such as residential zones 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 residential zones, where possible, and minimizing any negative visual impacts;
- avoiding significant natural features (both topographic and vegetative), including hazard lands (floodplains, steep slopes);
- avoiding areas of topographical prominence, where possible, to minimize any negative visual impacts;
- ensuring that access requirements are sensitively integrated ;
- avoiding new Telecommunication Towers in Heritage Conservation Districts and Heritage Conservation Study Areas; and
- consider the use of Town owned lands and/or facilities where technically feasible and of a location and design acceptable to the Town.

### **DESIGN**

Where co-location is not available, a Telecommunication Tower shall be located and designed to minimize visual impact and to avoid disturbance of significant natural features. The type, size, location, height, width, configuration, and colour of a Telecommunication Tower shall be selected to blend in with the surroundings to be as unobtrusive as possible, where permitted by Transport Canada and/or NAV Canada. (Landscaping or a lump sum cash payment in lieu of landscaping will be provided where appropriate, at the discretion of the Town.)

Telecommunication Towers should be designed to fit into and be compatible with the immediate context and the surrounding area. Telecommunication Tower designs that mimic other features customarily found in an area context are encouraged where appropriate. These features may include appropriately located clock towers, flag poles, church steeples etc. No signs or other material not directly related to this equipment, or other on-site land uses shall be permitted on the Telecommunication Tower unless Proponents comply with the Town's sign by-law.

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 Licence for Mandatory Roaming and Antenna Tower and Site Sharing and to Prohibit Exclusive Site Arrangements*.

The Proponent will be encouraged to relocate the Telecommunication Tower if another more suitable location becomes available provided:

- a) the move to an alternate location is economically feasible;
- b) the alternate location is appropriate from a radio frequency engineering perspective;  
and
- c) that the alternate location is one on which the Proponent is permitted to locate on subject to reasonable commercial terms.

A small plaque shall be placed at the base of the Telecommunication Tower identifying the owner/operator and a contact number.

### **APPLICATION PROCESS**

A proposal for a Telecommunication Tower and modifications to an existing Telecommunication Tower, that are not exempt from Municipal Review under this policy, shall be supported by an information package including the information required as outlined in the checklist attached as part of this policy. Each Telecommunication Tower Proponent shall follow the Town's site plan process for consultation purposes including the pre-consultation process as outlined on the Town of Markham web page and the accompanying application.

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

- provide guidance to the Proponent regarding the public consultation process;
- provide direction to the Proponent regarding the format to be used for the notice for the community information session and a mailing list of parties to be notified;
- provide direction to the Proponent to determine an appropriate location for the community information session;
- make recommendations to be received by Development Services Committee when the Proponent presents the proposal, based on the public consultation process and discussions with the Proponent;

Any Telecommunication Tower proposed on Town owned lands and/or facilities will require an internal municipal review. No public consultation will be required for Telecommunication Towers on Town owned lands and/or facilities where the proposed Telecommunication Tower is otherwise exempt from the requirement to consult with the public by CPC-2-0-03 or this policy.

### **SITE PLAN FEES**

The Proponent shall be subject to the Town's existing site plan application fee determined at the time of application. Other fees may apply if additional applications to other approval authorities, e.g. Regional Municipality of York, TRCA, etc. are required.

### **UNDERTAKING**

The Proponent may be required to enter into an undertaking acceptable to the Town which may include such requirements as:

- 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 for landscaping;
- compliance with the requirements of Industry Canada's CPC-2-0-17 *Conditions of Licence for Mandatory Roaming and Antenna Tower and Site Sharing and to Prohibit Exclusive Site Arrangements*;
- in the case of a lease between the Town and a Proponent, lease provisions acceptable to the Town Solicitor.

### **EXEMPTIONS TO MUNICIPAL REVIEW**

The following proposals for a Telecommunication Tower will be exempt from the requirement to consult with the Town and will 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 structure;
- 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; and
- 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 any 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;

### **PUBLIC CONSULTATION**

The Proponent is responsible for organizing and holding a community information session. For a proposed Telecommunication Tower or alterations to an existing Telecommunication Tower that requires public consultation, the Proponent shall provide the following notices of the information session:

- give notice by regular mail to all owners of properties within a radius 120 metres or 3 times the height of the proposed Telecommunication Tower, measured from the base, whichever is greater;
- Give notice by regular mail to area ratepayer associations;
- For a Telecommunication Tower that is proposed to be 45 metres or more in height, place a notice in the local community paper;

- If a condominium development is located within the required circulation radius, notice may be given to the condominium corporation, instead of all owners assessed in respect of the condominium development; and
- Notice is to be provided to the Chairman of Development Services Committee, the Ward Councillor, Director of Planning and the Town Clerk

The notification of the information session shall include the following information:

- the proposed location of the Telecommunication Tower within the subject property;
- physical details of the Telecommunication Tower including its height, colour, type, design, including any accessory equipment;
- the time and location of the community information session;
- the name and telephone number of a contact person employed by the Proponent, as well as a Town contact person;
- information package.

The Proponent shall distribute comment cards at the public information session and prepare a record of all attendees who submitted a comment card and:

- provide a follow-up letter addressed to the Director of Planning, copied to the Chairman of Development Services Committee, the Ward Councillor, the Town Clerk and to all attendees of the community information meeting who submitted comment cards and those who made written submissions, to indicate the Proponent's formal response to any concerns or issues raised in the comment cards or from written submissions. Should any modification of the proposed structure be agreed to, then further details e.g. revised plans or drawings must be submitted to the Town as soon as possible;
- the Proponent shall also include a request to provide a presentation to the Development Services Committee.

### **EXEMPTIONS TO PUBLIC CONSULTATION**

For a Telecommunication Tower which meets the following criteria, public consultation is not required.

- All Telecommunication Tower proposals exempt from Municipal Review;
- 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 a residential zone;

(In cases where no public consultation is required, the Town shall apply its best efforts to finalize the site plan application within 2 weeks of receiving a written request from the Proponent.)

### **APPROVALS REQUIRED**

Proponents shall undertake to get all required approvals, including but not limited to, Transport Canada, NAV Canada, Ministry of Transportation, Toronto Region Conservation Authority, and the Regional Municipality of York, if required.

## **CONCLUDING CONSULTATION**

### **Where Public Consultation Is Not Required**

For a Telecommunication Tower proposal that is exempt from public consultation as identified in this policy, the Director of Planning has authority to approve the site plan application. Approval of the site plan by the Director of Planning, subject to conditions if required, shall document concurrence between the Town and the Proponent.

### **Where Public Consultation Is Required**

For Telecommunication Tower proposals requiring public consultation, the Proponent will provide a deputation to the Development Services Committee to seek approval of the site plan application from the Committee following the public information session. The Development Services Committee will either approve the application subject to conditions if required, or deny the application. The Committee Resolution will be forwarded to Industry Canada. If the Committee approves the proposal, the Proponent will be required to submit 15 copies of the site plan and elevations for final approval to the Director of Planning. Approval of the site plan by the Director of Planning, subject to conditions if required, shall document concurrence between the Town and the Proponent.

For a Telecommunication 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

The Town will endeavor to complete the circulation of the Proposal and make its views known to the Proponent within 60 days. In all cases, the entire consultation process shall not exceed 120 days, as per Industry Canada's requirement.

**CHECKLIST FOR TELECOMMUNICATION TOWERS**

1. Site Plan Application (including all standard submission requirements)
2. A site selection/justification report outlining the location of non-tower and co-location options which have been considered, and why the Proponent's proposal is the preferred option. This report shall include details with respect to the coverage and capacity of the existing facilities in the surrounding area, and confirm the need for a new tower at the proposed location with this context.  
 Yes  No
3. Map/inventory of all towers within the Proponent's search area.  
 Yes  No
4. PIN printout/survey  
 Yes  No
5. Colour images with support structure superimposed (simulated).  
 Yes  No
6. Information required as per municipal building permit process (if required)  
 Yes  No
7. Information required as per Conservation Authority permit process (if required)  
 Yes  No
8. Environmental impact statement, if required under the existing land use designation.  
 Yes  No
9. Confirmation of appropriate utility locates, such as gas companies and hydro providers, have been consulted.  
 Yes  No
10. Confirmation that Transport Canada has been consulted.  
 Yes  No

11. Copy of Standard Town Telecommunications Lease, if required.

Yes

No

12. Sign-off from/circulation to other Proponents

Yes

No