

# **TOWN OF MARKHAM**

## **Policy for Establishing Telecommunication Antenna Sites**

**April 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, antenna systems including masts, towers and other supporting structures are required. For the purpose of this policy each antenna system is identified as a Cell Site, whether it is located on a 30 metre pole, a street pole or on a building and would include the mechanical/electrical units as required. There is a certain amount of flexibility in the placement of Cell Sites 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 Cell Sites by balancing the location and design requirements of the Proponent with the desire to minimize the impact on the community and local surroundings.

The purpose of this policy is to provide guidance to the Town, Proponents, and the general public in considering proposals to locate Cell Sites within the Town of Markham.

The approval authority for Cell Sites is with Industry Canada using the Radiocommunication Act. Their most recent release of a "Client Procedures Circular" was June 2007, which came into effect on January 1, 2008. This document outlines the process that must be followed by proponents seeking to install or modify Cell Sites. Although Industry Canada has provided a Default Public Consultation Process, they encourage the establishment of policies from Land Use Authorities (LUA) 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 this policy at this time.

It is intended that by outlining the procedures to be followed in considering proposals, a framework for identifying and resolving any land use conflicts at an early stage in the process will be established. The approval process for telecommunication facilities will be in accordance with site plan control approval by the Town, as outlined in this document, however the actual final approval for Cell Sites is with Industry Canada. It is anticipated that the telecommunications industry will continue to pursue innovative technology that will reduce the visual impact on communities.

## **OBJECTIVES**

The intent of this policy is:

- to balance demands for Cell Sites 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 Cell Site proposals which are not exempt by this policy, and to provide an opportunity for public consultation;
- to provide for high calibre wireless telecommunications facilities, in order to promote economic development, and meet the business and safety needs of the public and community.

## **PRELIMINARY CONSULTATION**

Preliminary consultation shall be required between Proponents and Town staff through a process outlined on Markham's web page at [Markham.ca](http://Markham.ca) under Forms and Applications and Planning. At the pre-consultation meeting, municipal staff shall provide details outlining:

- 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.

The Proponent will be requested to consult adjacent municipalities within 120 metres or 3 times the height of the facility, whichever is greater of the proposed Cell Site 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**

Definitions:

Cell Site	A site where antennas and electronic communications equipment are placed to create a cell in a network. A cell site can be a tower or other elevated structure (building) for mounting antennas including the accessory equipment.
Cell Tower	a ground oriented elevated structure (monopole, flagpole, transmission tower) that is not a building.
Accessory Equip.	Infrastructure that includes any combination of shelter box, fence, air-conditioning equipment, diesel electric generator, battery, electrical supply, mechanical equipment within technical premises and easements required to operate the Cell Site.

The Proponent shall make every effort to identify a Cell Site that minimizes the total number of Cell Sites in the area, existing or proposed. In this regard, the Proponent shall be encouraged to co-locate at existing Cell Sites such as water towers, rooftops, existing towers, etc. wherever possible. Where Proponents require a new Cell Site that requires a Cell Tower (i.e., monopole, tri-pole, flag pole, etc.) to meet capacity needs, when selecting a Cell Site, the following shall be considered:

- maximizing the distance from residential areas and minimizing any negative visual impacts;
- maximizing the distance from public facilities such as schools, hospitals, community centres, day care facilities, and senior's residences 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 Cell Sites in Heritage Conservation Districts and Heritage Conservation Study Areas; and
- consideration of the use of Town owned lands.

## **DESIGN**

Where co-locations are not available, Cell Sites 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 Cell Sites shall be selected to blend in with the surroundings to be as unobtrusive as possible. Landscaping or a lump sum cash payment in lieu of landscaping will be provided where appropriate, at the discretion of the Town. Cell Sites should be designed to fit into and be compatible with the immediate context and the surrounding area. Cell 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 Cell Tower. Any signs erected must comply with the Town's sign by-law.

Where appropriate and for certain locations as identified by the Town, Proponents are encouraged to consult with area artists or host a public art competition to develop innovative and creative solutions to the design and installation of fencing, gates, accessory structures or Cell Towers. The Town welcomes the consideration of options that support and further public art and the Town's public art objectives and policies. Consultation with Markham's Public Art Advisory Committee may be required in certain instances.

Where appropriate, the proponent shall be encouraged to consult with other telecommunications providers in an effort to co-locate or build Cell Sites that can accommodate additional users.

The Proponent will demonstrate that the lease includes provision for the removal of the tower at the end of the lease period at the proponent's cost, unless the carrier or owner of the property on which the tower is located can demonstrate the tower is required for other purposes. The Proponent will be encouraged to remove the Cell Tower and accessory equipment, if other more suitable locations to relocate become available. A small plaque shall be placed at the base of the Cell Tower, identifying the owner/operator and a contact number.

### **APPLICATION PROCESS**

All proposals for new Cell Sites and modifications to existing Cell Sites that are not exempt from municipal review shall be supported by an information package including the information required as outlined in the checklist attached as part of this policy. Each Cell Site shall follow the Town's site plan process including the pre-consultation process as outlined on the Town of Markham web page and the accompanying application.

### **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 from other approval authorities, e.g. Regional Municipality of York, TRCA, etc. are required.

### **AGREEMENT**

The Proponent may be required to enter into an agreement or undertaking acceptable to the Town, that may be registered on title, which may include such requirements as:

- the removal of all structures upon expiration of the lease;
- the posting of securities for the construction of the facilities;
- the provision for landscaping;
- a commitment to accommodate other providers on site where feasible
- lease provisions acceptable to the Town Solicitor.

### **EXEMPTIONS TO MUNICIPAL REVIEW**

The following proposals for Cell Site locations will be exempt from municipal review and will not require submission of a site plan application:

- Co-location on existing Cell Towers. If additional accessory equipment is constructed as part of the co-location, the Proponent shall notify the Town of this installation prior to construction
- In the case of proposed Cell Sites constructed on buildings, the first cell tower mast, (including co-location of more than one antenna on this mast) provided that the mast is located on any building where the height of the antenna does not exceed 25% of the height of the building or 15.0 metres above grade, whichever is less, and a municipal building permit is not required.
- Replacements of, and modifications to, existing Cell Towers if they meet all of the following criteria:
  - the proposed height does not exceed the originally approved height by more than 10%;
  - Cell Tower replacement remains within the identified development envelope/leased area.

Any Cell Site proposed on Town owned lands **will** require municipal review.

### **PUBLIC CONSULTATION**

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

- For sites within the Town's urban area, give notice by regular mail to all owners of properties within a radius of 120 metres or within a distance of 3 times the height of the proposed tower, whichever is greater, measured from the Cell Tower base
- For sites in the rural area, give notice by regular mail to all owners of properties within a radius of 250 metres or within a distance of 3 times the height of the proposed tower, whichever is greater, measured from the Cell Tower base
- Give notice by regular mail to area ratepayer associations
- For Cell Towers that are proposed to be 30 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
- 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 Cell Site within the subject property;
- physical details of the Cell Site 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 prepare a record of attendees and prepare minutes responding to concerns raised at the information session including the following:

- 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 all attendees to the community information meeting and those who made written submissions, to indicate the Proponent's formal response to any concerns or issues raised during the community information meeting. 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 Cell Sites which meet the following criteria, public consultation is not required.

- Cell Towers less than 15.0 metres in height above ground level;
- Replacement of, or modifications to, existing Cell Towers where the proposed height does not exceed the existing height by more than 25%;
- Cell Sites within industrial and commercial zoned areas, where the Cell Tower base is located a minimum of 120 metres or a distance of 3 times the height of the proposed Cell Tower, whichever is greater, away from residential
- Cell Sites to be constructed on buildings that require municipal review.

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**

In addition to the Town's site plan approval the following approvals may be required, as determined at the preliminary consultation meeting:

- access approval from Ministry of Transportation/Regional Municipality of York/Town;
- Conservation Authority fill, construction and alterations to waterways approval;
- Transport Canada approval

For applications that do not require public consultation as identified in this policy, the Director of Planning has authority to approve the site plan application.

For applications 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. The Development Services Committee will either approve the application or deny the application. After the Proponent has received direction from the Committee, the processing of the application for site plan approval will be completed. The Committee Resolution will be forwarded to Industry Canada. If the Committee endorses 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/Urban Design. Final approval of telecommunication facilities rests with Industry Canada.

For Cell Sites located on Town owned lands, lease agreements will be required to be executed as a final step in the approval process.

## **TOWN ACTION**

The Town, when it receives a site plan application for Telecommunications Tower/Antenna Facilities shall:

- Consider the appropriateness of the proposed location and provide preliminary comment
- 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;
- contact the Regional Municipality of York if there are any cross-boundary issues;
- 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;
- endeavour to complete circulation of the proposal and make its views known to the applicant within 60 days and complete the review and approval process within 120 days..

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## **CHECKLIST FOR TELECOMMUNICATION FACILITIES**

1. Site Plan Approval 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  

☐ Yes
 ☐ No
12. Sign-off from/circulation to other Cell Providers  

☐ Yes
 ☐ No