



Town of East Gwillimbury

Protocol for Establishing Telecommunications Tower/Antenna Facilities

1.0 INTRODUCTION

Wireless telecommunications have become an important component of the way business, and society in general, operates today. Accordingly, municipalities are experiencing an increasing demand to accommodate telecommunications facilities. In considering proposals to locate telecommunications facilities, there is a need to balance the locational and design requirements of the proponent with the desire to minimize the impact on the community.

The purpose of this Protocol is to provide guidance to the Town, proponents, and the general public in considering proposals to locate telecommunications facilities. It is anticipated that the telecommunications industry will continue to pursue innovative technology that reduce the visual impact on communities.

Industry Canada, which is the approval authority for telecommunications facilities, encourages the establishment of Protocols, recognizing that land use authorities are best positioned to contribute to optimum siting of facilities. Although Industry Canada does not play a direct role in the land use consultation process, it is expected that Industry Canada will ensure, by a condition of the licenses that it issues, that land use authority consultation has taken place prior to the erection of individual antenna structures.

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 process to be followed is similar to the site plan approval process used by the Town. Some variation from the details of this Protocol may be required depending on case-specific circumstances.

1.1 OBJECTIVES

The intent of this Protocol is to:

- Contribute to the orderly development and efficient operation of a reliable, strong radio communication network in the Town;
- Encourage proponents of telecommunication facilities to use existing tower facilities, structures and infrastructure, such as utility poles, street light poles, etc., to minimize the proliferation of new towers within the Town of East Gwillimbury;
- Provide a clear and concise outline of the public consultation processes when proponents intend to modify or install a tower facility within the Town;
- Ensure effective local public notification and consultation when a tower facility is proposed within a community;

- Discourage proponents from locating tower facilities on lands designated as Greenbelt which are generally associated with natural hazards lands and/or natural area systems;
- Discourage proponents from locating tower facilities on heritage listed or designated properties under the authority of Part IV or Part V of the Ontario Heritage Act;
- Encourage proponents to locate and design tower facilities which minimize visual impact in high profile and sensitive areas and to ensure land use compatibility with the surrounding area;

1.2 Jurisdiction and Roles

Industry Canada: Under the Radio communication Act, the Minister of Industry has sole jurisdiction over inter-provincial and international communication facilities. The final decision to approve and licence the location of Antenna systems is made only by Industry Canada. Therefore, Provincial legislation such as the Planning Act, including zoning by-laws, does not apply to these facilities. The Town can only provide comments to Industry Canada and does not have the authority to stop the construction of a tower facility.

In June 2007, Industry Canada issued an update to its Radio communication and Broadcasting Antenna systems Client Procedures Circular (CPC-2-0-03) which outlines the process that must be followed by Proponents seeking to install or modify Antenna systems, effective January 1, 2008. Industry Canada also requires that Proponents intending to install or modify an Antenna system notify and consult with Town (Land Use Authority), and the local community within a Prescribed Distance from the proposed structure. Industry Canada also published a Guide to Assist Land-use Authorities in Developing Antenna Siting Protocols in January 2008, stating that it “considers that the Town’s and local residents’ questions, comments and concerns are important elements to be considered by a Proponent seeking to install, or make modifications to, an antenna system.” The CPC also establishes a dispute resolution process to be used where the Proponent and Town have reached an impasse.

The Town: The ultimate role of the Town is to issue a statement of concurrence or non-concurrence to the Proponent and to Industry Canada. The statement considers the land use compatibility of the Antenna system, the responses of the affected residents and the Proponent’s adherence to this Protocol. The Town also guides and facilitates the siting process by:

- Communicating to Proponents the particular amenities, sensitivities, planning priorities and other relevant characteristics of the area;
- Developing the design guidelines for Antenna systems as contained in this Protocol; and
- Establishing a community consultation process, where warranted.

Land Use Authority’s Designated Official

For the purpose of this Protocol, the designated municipal official for the Town of East Gwillimbury having the authority to administer this Protocol is the General Manager, Development Services Department, or designate. All correspondence and materials submitted as part of this consultation process shall be directed to the attention of the General Manager or designate.

2.0 EXCLUDED STRUCTURES

2.1 Exemptions

For the following types of installations, Proponents are generally excluded by Industry Canada from the requirement to consult with the Town and the public:

- a) New antenna systems, including masts, towers or other antenna-supporting structure, with a height of less than 15 metres;
- b) Maintenance of existing radio apparatus including the antenna system, transmission line, mast, tower or other antenna-supporting structure;
- c) 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., including additions to rooftops or support pillars, 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;
 - the existing antenna system is at least 15 metres in height; and
 - the existing antenna system has not previously been modified to increase its original height by 25%;
- d) Maintenance of an antenna system's painting or lighting in order to comply with Transport Canada's requirements; and
- e) 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 an emergency, and is removed within 3 months after the emergency or special event.

Individual circumstances vary with each antenna system installation and modification, and the exclusion criteria above should be applied in consideration of local circumstances. Consequently, it may be prudent for the proponents to consult the Town and the public even though the proposal meets an exclusion noted above. Therefore, when applying the criteria for exclusion, proponents should consider such things as:

- 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.

2.2 Municipal Review of Exempt Antenna systems

Notwithstanding Industry Canada's exemption criteria for certain tower facilities, proponents should consult with the Town to confirm that their proposed tower facility meets the criteria for exclusion as set out in this Protocol.

In cases where a proponent believes that a proposal meets exclusion, the proponent will provide the following materials to the attention of the General Manager (or designate):

- a) Applicable processing/review fees;
- b) Cover letter describing the proposed tower facility including the location (i.e. address and/or legal description), height and dimensions and any antenna that may be mounted on the supporting structure. The letter should also identify all existing facilities within the vicinity of the proposed location and why co-location on an existing tower facility is not a viable alternative to the construction of a new tower facility;
- c) Description of how the proposal meets the exclusion criteria of this Protocol;
- d) Site plan or survey plan of the subject property showing the location of the proposed tower facility in relation to the site and/or building on the property; and
- e) Elevation plan and simulated images of the proposed tower facility.

Proponents are encouraged to consider and incorporate the Location and Design Guidelines identified in this Protocol.

Following receipt and review of the required materials and the proposal is deemed to meet the applicable exclusion criteria and the Location and Design Guidelines identified in this Protocol, the Town will issue a Notice of Telecommunication Tower/Antenna Facility Exclusion to the proponent with a copy to members of Town Council and Industry Canada.

In the event that the proposed tower facility does not comply with the Location and Design Guidelines identified in this Protocol, the Town will indicate the outstanding issues/concerns. In such cases, the proponent and Town will then work toward a mutually agreeable alternative/solution, which may include the Town requesting the proposal be subject to all or part of the preliminary consultation, formal submission and public consultation process outlined in this Protocol, as applicable.

Proponents should anticipate that the Town will request that all proposals for freestanding tower facilities and additions to existing freestanding tower facilities that are proposed in a residential area or within 120 metres (393.7 feet) from the nearest residential area will be subject to all or part of the preliminary consultation, formal submission and public consultation process outlined in this Protocol, as applicable. For this reason, proponents are strongly encouraged to initiate this process before investing in a final design or site.

3.0 CONSULTATION WITH THE TOWN

3.1 Preliminary Consultation with the Town

Proponents will notify the Designated Municipal Officer that locations in the community are being physically assessed for potential Antenna system siting. Proponents are also required to have a preliminary consultation with the Town prior to submitting a formal request to install or modify a tower facility. During this meeting, the Town will provide preliminary input and comments regarding the proposal, such as, but not limited to, land use compatibility, potential impacts on high profile and sensitive areas, alternative sites, aesthetic or landscaping preferences, other agencies to be consulted, and whether a peer review by a consultant will be required. This meeting will also provide an opportunity to inform the proponent of the consultation process outlined herein.

The following information must be provided to the Development Services Department to the attention of the General Manager (or designate) in order to schedule a preliminary consultation meeting:

- a) Cover letter describing the proposed tower facility including its height and dimensions and any antenna that may be mounted on the supporting structure;
- b) Letter Report prepared by a qualified professional, such as a land use planner or engineer. The report should identify all tower facilities within the vicinity of the proposed location. It should also include details with respect to the coverage and capacity of the existing tower facilities in the surrounding area and provide detailed documentary evidence as to why co-location on an existing tower facility is not a viable alternative to the construction of a new tower facility;
- c) Draft site plan or survey plan of the subject property showing the location of the proposed tower facility in relation to the site and/or building on the property; and
- d) Elevation plan or simulated images of the proposed tower facility.

After the preliminary consultation meeting, the General Manager (or designate) will notify Town Council and Senior Management of the meeting.

Where the Town has an initial concern with the proposed siting of the proposal they will discuss with the proponent alternative locations within the proponent's search area for consideration. A subsequent preliminary consultation meeting may be required, during which the proponent should present: potential alternative locations; the type and height of the proposed antenna system; and, preliminary drawings or visual renderings of the proposed antenna system superimposed to scale.

3.1.1 Confirmation of Land Use Authority Preferences and Requirements

During or after the preliminary consultation meeting, the General Manager (or designate) will provide the proponent with an information package that includes:

- a) Formal submission requirements;

- b) A list of plans and studies that may be required;
- c) A list of municipal departments and other agencies to be consulted; and
- d) An indication of the Town's preferences regarding co-location for the site(s) under discussion.

To expedite the review of the proposal, the proponent is encouraged to consult with the applicable municipal departments and agencies, and obtain applicable written comments/clearances before making a formal submission.

3.2 Formal Consultation with the Town

3.2.1 Proposal Submission

For a proposed Antenna system, except for cases in which consultation is not required, the Proponent will submit to the Town an antenna system siting proposal and the applicable fee.

3.2.2 Proposal Submission Requirements

The Proponent must include the following information when submitting an antenna system siting proposal:

- a) A tower facility request form and fees;
- b) A Site Selection/Justification Report prepared by a qualified professional, such as a land use planner or engineer. The report should identify all tower facilities within the vicinity of the proposed location. It should also include details with respect to the coverage and capacity of the existing tower facilities in the surrounding area and provide detailed documentary evidence as to why co-location on an existing tower facility is not a viable alternative to the construction of a new tower facility;
- c) A public notification package;
- d) A site plan or survey plan which shall include a compound layout, an elevation and parking/loading statistics if the proposal is located on parking/loading areas;
- e) A copy of the draft newspaper notice and the proposed date on which it will be published (no sooner than 14 days from the date of request being submitted), if applicable;
- f) A copy of the draft notice sign; and
- g) Any other required information requested during or after the preliminary meeting.

A determination on the completeness of an application or request for additional information will be provided within five working days of receipt of the proposal.

4.0 CONSULTATION PROCESS

If the proposed antenna system is not exempt from the public consultation process, the proponent will initiate the following public consultation process, including issuing notice, undertaking written consultation, hosting a public information session where required and reviewing the consultation results with the Town.

4.1 Notice Recipients

After the proponent has submitted an Antenna systems siting proposal, the Proponent will give notice to:

- a) All property owners, resident associations and adjacent municipalities within a radius of the greater of 120 metres or three times the tower height measured from the furthest point of the tower facility ('Prescribed Distance');
- b) Town Council;
- c) The Designated Municipal Officer; and
- d) The Industry Canada regional office.

The Town will assist the proponent in compiling a mailing list of addresses of the affected residences within the Prescribed Distance from the proposed Antenna system. The Town may charge a fee for this service.

4.2 Notice Requirements

The notice will be sent by regular mail or hand delivered, a minimum of 30 days before the public information session (where a public information session is required in accordance with Section 4.4), and include:

- a) Information on the location, height, type, design and colour of the proposed antenna system, including a 21 cm x 28 cm (8 1/2" x 11") size copy of the site plan submitted with the application;
- b) The rationale, including height and location requirements, of the proposed antenna system;
- c) The name and contact information of a contact person for the Proponent;
- d) The name and contact information of the Designated Municipal Officer;
- e) An attestation that the Antenna system will respect Health Canada's Safety Code 6 which sets safe radiofrequency emission levels for these devices;
- f) The date, time and location of the public information session where required; and
- g) A deadline date for receipt by the Proponent of public responses to the proposal.
 - Where a public information session is required, the deadline date must be no more than five days before the date of the session.
 - Where a public information session is not required, the deadline date must be at least 30 days after the notices are mailed.

The notification shall be sent out in an envelope addressed to the “Occupant” and shall clearly show in bold type on the face of the envelope the statement:

“NOTICE FOR RESIDENTS WITHIN [INSERT PRESCRIBED DISTANCE] OF A NEW PROPOSED CELL TOWER. INFORMATION IS ENCLOSED.”

The Town may also require the proponent, based on local conditions such as a high proportion of rental accommodation in the vicinity of the site, to provide such additional forms of notice as deemed necessary. Additional notification requirements will be identified by the Town during or following the site investigation meeting. Other forms of notification may include, but are not limited to:

- A large format notice board sign or signs, posted on the site of the proposed antenna system, that is clearly visible from any roadway abutting the site;
- Publication of the notice in a local newspaper(s); and/or,
- Hand delivery of notices to specified buildings.

4.3 Written Consultation Process

Following the delivery of the notification, the Proponent will allow the public to submit written comments or concerns about the proposal. The Proponent will:

- a) Provide the public at least 30 days to submit questions, comments or concerns about the proposal;
- b) Respond to all questions, comments and concerns in a timely manner (no more than 60 days from the date of receipt); and
- c) Allow the party to reply to the Proponent’s response (providing at least 21 days for public reply comments).
- d) Keep a record of all correspondence that occurred during the written consultation process. This includes records of any agreements that may have been reached and/or any concerns that remain outstanding.
- e) Provide a copy of all written correspondence to the Town and the regional Industry Canada office.

4.4 Public Information Session

The Town may request the Proponent chair a public information session in cases where there is significant public interest in the proposed antenna system. The type of public meeting to be conducted (open house, drop-in or town hall format) is up to the discretion of the Proponent, however:

- An appropriate date, time and location for the public information session will be determined in consultation with the Designated Municipal Officer.
- The Proponent will make available at the public information session an appropriate visual display of the proposal, including a copy of the site plan submitted with the application and an aerial photograph of the proposed site.

The Proponent will provide the Town with a package summarizing the results of the public information session containing at a minimum, the following:

- a) List of attendees, including names, addresses and phone numbers (where provided voluntarily);
- b) Copies of all letters and other written communications received; and
- c) A letter of response from the Proponent outlining how all the concerns and issues raised by the public were addressed.

4.5 Post Consultation Review

The Town and the Proponent will communicate following completion of the public consultation process (and arrange a meeting at the Town's request) to discuss the results and next steps in the process.

Consultation with the Town is to be completed within 60 days of the proposal being accepted as complete by the Town.

Where public consultation is required, consultation with the Town and public consultation are both to be completed within 120 days of the proposal being accepted as complete by the Town.

The Town or Proponent may request an extension to the consultation process timeline. This extension must be mutually agreed on by both parties.

In the event that the consultation process is not completed in 270 days, the Proponent will be responsible for receiving an extension from the Town or reinitiating the consultation process to the extent requested by the Town.

4.6 Exemptions to Public Consultation

For ground supported towers, which meet the following criteria, public consultation is not required:

- Towers less than 15 metres in height above ground level;
- All proposals exempt from municipal approval.

Proposed towers within industrial designated or zoned areas located a minimum of 3 times the tower height away or more measured from the tower compound, if determined by the Town from residential areas, shall be exempt from public consultation.

5.0 SITE SELECTION AND DESIGN GUIDELINES

Antenna systems should be sited and designed to respect local sensitivities and preferences as identified by the Town.

The Town has set out a number of guidelines for the selection of sites and/or construction of new Antenna systems. The Proponent should review the guidelines identified below as early as possible, and should attempt to resolve any outstanding issues prior to submitting its antenna system siting proposal and undertaking the public consultation, where required by the Town. Because expressed preferences may be location- or site-specific, the Proponent is encouraged to discuss the guidelines fully with the Town at the consultation meeting(s). Proponents are also required to obtain all applicable building permits for additions and/or modifications to existing buildings.

5.1 Location

5.1.1 Co-location

Before submitting a proposal for an Antenna system on a new site, the Proponent must explore the following options:

- Consider sharing an existing Antenna system, modifying or replacing a structure if necessary;
- Locate, analyze and attempt to use any feasible existing infrastructure, including (but not limited to) rooftops, water towers, utility poles or light standards.

Where Co-location on an existing Antenna system or structure is not possible, a new Antenna System should be designed with Co-location capacity, including in Residential Areas when identified as the Town's preference. In addition, proponents should consider:

- The availability of Town owned land in non-residential areas
- Property and/or infrastructure owned by the Town that meets the proponent's network objectives

The Proponent should, in all cases, verify the Town's site-specific design preferences during the pre-submission consultation process before investing in a final design or site.

5.1.2 Preferred Locations

When new antenna systems must be constructed, the following locations are preferred:

- Areas that maximize the distance from Residential Areas.
- Industrial and commercial areas.
- Areas that respect public views and vistas of important natural or manmade features.
- Agricultural areas.
- Transportation and utility corridors.

- As near as possible to similarly-scaled structures.
- Located in a manner that does not adversely impact view corridors.

5.1.3 Discouraged Locations

New Antenna systems should avoid the following areas:

- Locations directly in front of doors, windows, balconies or residential frontages.
- On lands designated as Greenbelt which are generally associated with natural hazards lands and/or natural area systems;
- On heritage listed or designated properties under the authority of Part IV or Part V of the Ontario Heritage Act;
- Sites of topographical prominence.

5.2 Design Guidelines

Antenna systems should be designed in terms of appearance and aesthetics to respect their immediate surroundings, including being unobtrusive and inconspicuous, minimizing visual impact, avoiding disturbance to natural features, and reduce the need for future facilities in the same area, where appropriate. The Town's preferred design and development guidelines are described below.

5.2.1 Style and Colour

- The architectural style of the antenna system should be compatible with the surrounding neighbourhood and adjacent uses
- In all instances the Proponent should mitigate negative visual impacts through the use of appropriate landscaping, screening, stealth design techniques, etc.
- An antenna system may be designed or combined as a landmark feature to resemble features found in the area, such as a flagpole or clock tower, where appropriate.
- Towers and communication equipment should have a non-reflective surface.
- Antennas that extend above the top of a supporting utility pole or light standard should appear (e.g. in colour, shape and size) to be a natural extension of the pole.

5.2.2 Buffering and Screening

- Antenna systems and associated equipment shelters should be attractively designed or screened and concealed from ground level or other public views to mitigate visual impacts. Screening could include using existing vegetation, landscaping, fencing, or other means in order to blend with the built and natural environments.
- A mix of deciduous and coniferous trees is preferred to provide year-round coverage.
- Where adjacent to a principal building, equipment shelters should be constructed of a material similar in appearance to at least one of the materials used in the facades of the principal building and one of the same colours used in the principal building.

5.2.3 Structure

- Individual wall-mounted antennas should be fixed as close to the wall as possible and should not project above the height of the wall face they are mounted on, in order to avoid visual clutter, and should be painted to match the wall colour for stealth.
- Facilities located on rooftops should be not be visible (to the extent possible) from the street.
- The appropriate type of telecommunication antenna structure for each situation should be selected based upon the goal of making best efforts to blend with the nearby surroundings and minimize the visual aesthetic impacts of the telecommunication antenna structure on the community.

5.2.4 Yards, Parking and Access

- Adequate yards, to be determined on a site-by-site basis, should separate Antenna Systems from adjacent development without unduly affecting the development potential of the lot over the lease period.
- Parking spaces, where provided at each new Antenna system site, should have direct access to a public right-of-way at a private approach that does not unduly interfere with traffic flow or create safety hazards.

5.2.5 Signage and Lighting

- Small owner identification signs up to a maximum of 0.19 square metres may be posted on antenna systems and associated equipment shelters or perimeter fencing.
- No advertising sign or logo is permitted.
- Unless specifically required by Transport Canada and/or NAV Canada, the display of any lighting is strongly discouraged.
- Where Transport Canada and/or NAV Canada requires a structure to be lit, the lighting should be limited to the minimum number of lights and the lowest illumination allowable, and any required strobe lightning should be set to the maximum strobe interval allowed by Transport Canada.
- The lighting of Antenna systems and associated equipment shelters for security purposes is supportable provided it is shielded from adjacent residential properties, is kept to a minimum number of lights and illumination intensity, where possible, is provided by a motion detector or similar system.

5.2.6 Design in High Profile and/or Sensitive Areas

When new tower facilities must be located in a high profile and/or sensitive area, such as, but not limited to, major nodes and community nodes, the facility should be designed and sited to minimize visual impact within the context of the surrounding area.

6.0 STATEMENT OF CONCURRENCE OR NON-CONCURRENCE

6.1 Concurrence and Concurrence with Conditions

The Town will provide a letter of concurrence to Industry Canada (copying the Proponent) where the proposal addresses, to the satisfaction of the Town, the requirements as set out within this Protocol and the Town's technical requirements, and will include conditions of concurrence, if required.

6.2 Non-concurrence

The Town will provide a letter of non-concurrence to Industry Canada (copying the Proponent) if the proposal does not conform to Town requirements as set out within this Protocol. The Town will also forward to Industry Canada any comments on outstanding issues, including those raised during the public consultation process.

6.3 Rescinding a Concurrence

The Town may rescind its concurrence if following the issuance of a concurrence, it is determined by the Town that the proposal contains a misrepresentation or a failure to disclose all the pertinent information regarding the proposal, or the plans and conditions upon which the concurrence was issued in writing have not been complied with, and a resolution cannot be reached to correct the issue.

In such cases, the Town will provide notification in writing to the Proponent and to Industry Canada and will include the reason(s) for the rescinding of its concurrence.

6.4 Duration of Concurrence

A concurrence remains in effect for a maximum period of three years from the date it was issued by the Town. If construction has not commenced within this time period the concurrence expires and a new submission and review process, including public consultation as applicable, is necessary prior to any construction occurring.

In addition, if construction has not commenced after two years from the date the concurrence was issued, the Town requests that the Proponent send a written notification of an intent to construct to the Designated Municipal Officer, Town Council and any Designated Community Association once the work to erect the structure is about to start.

This notification should be sent 60 days prior to any construction commencing. No further consultation or notification by the Proponent is required.

6.5 Transfer of Concurrence

Once concurrence has been issued, that concurrence may be transferred from the original Proponent to another Proponent (the current Proponent) without the need for further consultation provided that:

- a) All information gathered by the original Proponent in support of obtaining the concurrence from the Town is transferred to the current Proponent;
- b) The structure for which concurrence was issued to the original Proponent is what the current Proponent builds; and
- c) Construction of the structure is commenced within the Duration of Concurrence period.

Definitions

The following definitions are to provide clarity in the Protocol.

Co-location means the placement of an antenna system on an existing telecommunication tower/antenna facility.

Designated Municipal Officer (and his or her designate): the municipal staff member(s) tasked with receiving, evaluating and processing submissions for telecommunication antenna systems.

Equipment shelter means a structure used to house the required equipment for the operation of a telecommunication tower/antenna facility.

Proponent/Applicant means any company, organization or person who puts forward a proposal to install or modify a telecommunication tower/antenna facility.

Residential Area means lands used or zoned to permit residential uses, including mixed uses (i.e. commercial use at-grade with a residential dwelling unit(s) above).