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| Department: | Development Services |
| Division: | Planning Services |
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1. Intention

This Protocol is intended to outline the requirements and submission process associated with applications to establish radiocommunication and broadcasting antenna systems (hereafter referred to as “antenna systems”) within the Town of Essex (“the Town”).

2. Background and Overview

Antenna systems are authorized and approved at the federal level, specifically by Innovation, Science and Economic Development (ISED) Canada. Anyone proposing, using or owning an antenna system, as well as third party tower owners, must comply with the requirements established by ISED in *CPC-2-0-03 - Radiocommunication and Broadcasting Antenna Systems*, as amended.

The following protocol is informed by the federal requirements. It has additionally been prepared using the federal *Guide to Assist Land-use Authorities in Developing Antenna System Siting Protocols* and the **Federation of Canadian Municipalities’ and Canadian Wireless Telecommunications Association’s Antenna System Siting Protocol Template**.

2.1. Objectives

The objectives of this Policy are to:

- 2.1.1. Balance the location and design requirements of Proponents with the **need to minimize a telecommunication facility’s visual impact;**
- 2.1.2. Address local land use concerns while respecting federal jurisdiction; and,
- 2.1.3. Ensure co-location opportunities for telecommunication antennas are explored and acted upon, where appropriate.

3. Definitions and Key Terms

The following are key terms and definitions for the purpose of this protocol. Proponents are to consult the Town of Essex Zoning By-law and federal protocols for additional definitions.

- 3.1. **Antenna System** - normally composed of an antenna and some sort of supporting structure, normally a tower. Most antennas have their own integral mast so that they can be fastened directly to a building or a tower. Thus, where this document refers to an “antenna,” the term includes the integral mast.
- 3.2. **Co-location** - the placement of antennas and equipment operated by one or more Proponents on a telecommunication Antenna System operated by a different Proponent, thereby creating a shared facility.
- 3.3. **Cultural Heritage Resource** – includes archaeological resources, and built heritage resources, cultural heritage landscapes, and Heritage Conservation Districts designated or listed on the Town of Essex Heritage Register.
- 3.4. **Designated Municipal Official** – has the meaning ascribed thereto in paragraph 4.2.3.
- 3.5. **Equipment Shelter or Cabinet** - a structure that is accessory to an antenna system that contains equipment necessary to transmit and receive signals.
- 3.6. **Height** - measured from the lowest ground level at the base, including the foundation, to the tallest point of the antenna system. Depending on the particular installation, the tallest point may be an antenna, lightning rod, aviation obstruction lighting or some other appurtenance. Any attempt to artificially reduce the height (addition of soil, aggregate, etc.) will not be included in the calculation or measurement of the height of the antenna system.
- 3.7. **ISED** - Innovation, Science and Economic Development Canada.
- 3.8. **Land Use Authority** - the Corporation of the Town of Essex.
- 3.9. **Proponent** - anyone planning to install or modify an antenna system, regardless of the type, including: telecommunications carriers, businesses, governments, Crown agencies, operators of broadcasting undertakings and the public.
- 3.10. **Public Consultation** - commenced as soon as the Proponent makes any initial consultation with the public, such as through sending a notification package, posting signs or publishing an announcement in local media.



- 3.11. **Sensitive Institutional Uses** - non-facility related institutional uses, such as schools, churches, community centres, and day care centres.
- 3.12. **Telecommunications Facility** - a telecommunication tower and/or antenna and all associated equipment that is subject to this Policy.
- 3.13. **Telecommunications Carrier** - a person who owns or operates a transmission facility used by that person or another person to provide telecommunications services to the public for compensation.
- 3.14. **Telecommunication Tower** - a structure designed and constructed to support one or more antennae, including guyed towers, self-supporting lattice towers, tripoles, and monopoles.
- 3.15. **Third Party Tower Owners** - anyone who installs towers or antenna systems on behalf of others or for leasing purposes.

4. Jurisdiction and Roles

Different parties with varying roles and responsibilities are involved in the process for applications to establish antenna systems. This includes ISED, the land-use authority (LUA), and the Proponent.

4.1. Innovation, Science and Economic Development (ISED)

- 4.1.1. Under the Radiocommunication Act, ISED is the federal department with sole jurisdiction over inter-provincial and international communication facilities.
- 4.1.2. ISED has established guidelines, CPC-2-0-03, that outlines the process that must be followed by proponents seeking to install or modify antenna systems.
- 4.1.3. The final decision to approve and license the location of antenna systems is made by ISED.

4.2. The Land-use Authority (LUA)

- 4.2.1. The Town of Essex is the LUA for applications within its jurisdiction. The LUA works to guide Proponents through the application and siting process including:
 - 4.2.1.1. Communicating to Proponents the amenities, sensitivities, planning priorities and other relevant characteristics of the area;

- 4.2.1.2. Developing the design guidelines for antenna systems contained in Section 7 of this Protocol; and
 - 4.2.1.3. Establishing a community consultation process.
 - 4.2.2. The Town is responsible for issuing a statement of concurrence or non-concurrence to the Proponent and to ISED. The statement considers the land use compatibility of the Antenna System, the responses of affected residents and local parties, and the Proponent's **adherence to this Protocol**.
 - 4.2.3. The Designated Municipal Official for processing antenna systems Proposals will be the Manager of Planning Services.
- 4.3. **The Proponent**
- 4.3.1. The Proponent is the applicant seeking to install or modify antenna systems within the Town of Essex. The Proponent must:
 - 4.3.1.1. Contact the Town to determine local requirements regarding antenna systems;
 - 4.3.1.2. Explore opportunities to share or use existing infrastructure before proposing new antenna-supporting structures;
 - 4.3.1.3. Strategically locate antenna systems to satisfy technical criteria and operational requirements in response to public demand;
 - 4.3.1.4. Undertake public notification and address relevant concerns as is required and appropriate;
 - 4.3.1.5. Adhere to the Town of Essex Radiocommunication and Telecommunication Facilities protocol, the guidelines established in CPC-2-0-03, and other federal legislation and/or regulations where warranted, including:
 - 4.3.1.5.1. **Health Canada's Safety Code 6**;
 - 4.3.1.5.2. The *Canadian Environmental Assessment Act*; and
 - 4.3.1.5.3. **NAV Canada and Transport Canada's** painting and lighting requirements for aeronautical safety.

5. Pre-Consultation Process with the Town

- 5.1. The Proponent will initiate a pre-consultation meeting with the Town prior to submitting an antenna system siting proposal. This will:
 - 5.1.1. Identify preliminary issues of concern;
 - 5.1.2. Identify requirements for public consultation (including the need for additional forms of notice and a public information session);
 - 5.1.3. Guide the content of the proposal submission; and
 - 5.1.4. Identify the need for discussions with any Municipal Departments and Other Agencies as deemed necessary by the Designated Municipal Officer.

- 5.2. The following information is to be provided by the Proponent:
 - 5.2.1. The proposed location;
 - 5.2.2. Potential alternative locations;
 - 5.2.3. The type and height of the proposed Antenna System;
 - 5.2.4. Preliminary drawings or visual renderings of the proposed Antenna System superimposed to scale; and
 - 5.2.5. Documentation regarding the investigation of co-location potentials on existing or proposed Antenna systems within 500 metres of the proposal.

- 5.3. Town staff will provide the Proponent with the following information:
 - 5.3.1. This protocol;
 - 5.3.2. Proposal submission requirements;
 - 5.3.3. A list of plans and studies that may be required;
 - 5.3.4. A list of Municipal Departments and Other Agencies to be consulted; and
 - 5.3.5. An **indication of the Town's preferences regarding Co-location** for the site(s) under discussion.

- 5.4. It is advised by the Town that the Proponent review this provided information before submitting the application so that the interest of the County, Indigenous Communities and agencies are considered.

6. Development Guidelines – Preferred Locations and Design Requirements

The following section addresses the preferences of the Town as it relates to site location and design requirements for antenna systems.

Antenna systems should be sited and designed to respect local sensitivities and preferences. This can be achieved by deploying antenna systems in a manner that considers the local



surroundings and conforms to infrastructure preferences in local policy. In consideration of these policies, the Town has set out development guidelines through this Protocol.

6.1. Location

6.1.1. Co-Location

6.1.1.1. Co-location on an existing antenna system is the preferred option instead of constructing a new antenna system. The Proponent must explore the following options:

6.1.1.1.1. Sharing an existing Antenna System, modifying or replacing a structure if necessary;

6.1.1.1.2. Locate, analyze and attempt to use any feasible existing infrastructure, such as rooftops, water towers, utility poles or light standards.

6.1.1.2. Owners and operators of existing antenna systems are to respond to a request to share in a timely fashion and to negotiate in good faith to facilitate sharing where feasible. It is anticipated that 30 days is reasonable time for existing antenna system owners/operators to reply to a request by a Proponent in writing with one of the following:

6.1.1.2.1. a proposed set of reasonable terms to govern the sharing of the antenna system; or

6.1.1.2.2. a detailed explanation of why sharing is not possible.

6.1.1.3. Where Co-location on an existing Antenna System or structure is not possible, a new Antenna System should be designed with co-location capacity.

6.1.2. Preferred Locations

6.1.2.1. When Co-location is not possible, newly constructed antenna systems should be designed to accommodate future co-location of additional carriers, where appropriate.

6.1.2.2. Where technically feasible, the Proponent will select a site location to minimize the total number of telecommunication tower sites required.

6.1.2.3. The following locations, in order of preference, are preferred:

6.1.2.3.1. New locations on an existing facility;

6.1.2.3.2. **New locations in lands designated “Industrial”;**

6.1.2.3.3. New locations on institutional uses, excluding sensitive institutional land uses; and

6.1.3. **Discouraged Locations**

6.1.3.1. Where a new antenna system must be constructed, the new antenna system should not be located:

6.1.3.1.1. Near existing residential development;

6.1.3.1.2. Near areas intended for future residential developments;

6.1.3.1.3. On prime agricultural lands designated as Class 1, 2 or 3;

6.1.3.1.4. In community areas including parks, green spaces and schools;

6.1.3.1.5. In areas where there are identified environmental hazards or natural heritage features;

6.1.3.1.6. On properties that contain or may contain a cultural heritage resource; and

6.1.3.1.7. In areas that would obscure public views and vistas of important natural or human-made features.

6.1.4. **Siting on a Property**

6.1.4.1. Where a new antenna system must be constructed, the following location guidelines should be followed:

6.1.4.1.1. Locate antenna systems away from street line to minimize visual impact of the tower from the streetscape;

6.1.4.1.2. Associated equipment shelter(s) measuring greater than 5.0 square metres (53.8 square feet) should comply with the applicable zoning by-law regulations (e.g. minimum setbacks, minimum landscaped buffers, etc.); and

6.1.4.1.3. Avoid locating antenna systems on parking and/or loading spaces as it may cause a non-compliance situation for a property with the zoning by-law and/or impact future development for the site.

6.1.4.1.4. A new antenna system should be setback a minimum of 120 metres, or three times the height of the system (whichever is

greater), from an area zoned Residential or a property containing a dwelling.

6.2. Design and Landscape Preferences

The Town encourages telecommunication facilities to be camouflaged or designed to blend in with and fit the context of the surrounding area.

6.2.1. Design and landscaping preferences of the Town must be considered to achieve compatibility with the surrounding area. This includes decreasing the size and visibility of the antenna system. The Proponent should also consider:

6.2.1.1.1. design features;

6.2.1.1.2. structure type;

6.2.1.1.3. colour;

6.2.1.1.4. materials;

6.2.1.1.5. landscaping; and

6.2.1.1.6. screening.

6.2.2. Where contextually suitable, stealth techniques mimicking features should be used by the proponent to achieve compatibility with the surrounding area. An antenna system may take on a designed form resembling a flagpole, clock tower, lighthouse, tree, silo, streetlight or other agricultural infrastructure.

6.2.3. Monopole towers are the preferred tower type for any new antenna system in the town.

6.2.4. Antenna systems should have non-reflective surfaces and be painted with neutral colours that blend with the surrounding landscape, unless Transport Canada requires the use of other materials or colours (e.g., for aeronautical safety purposes).

6.2.5. Where appropriate, the planting of trees and shrubs at the tower site is encouraged to enhance the character of the surroundings.

6.2.6. Towers should not be illuminated, unless required by Transport Canada.

- 6.2.7. The visual impact of the built form of required equipment shelters shall be mitigated through the use of colour, decorative fencing, screening, and/or landscaping.
- 6.2.8. Only signage directly related to the antenna system as required by ISED Canada shall be permitted.
- 6.2.9. Antenna systems that are attached or adjacent to existing buildings, including rooftop installations, should be screened and/or designed to complement the architecture of the building with respect to form, materials and colour.
- 6.2.10. Where a new antenna system is proposed to be located on a roof of building, the Proponent is encouraged to minimize height from roof level and maximize the setback from the roof edge, where possible.
- 6.2.11. Should the proposal proceed, construction of the antenna system must be completed within three years of conclusion of consultation.
- 6.2.12. The antenna system should be designed in a manner that will allow for future co-location in accordance with section 7.1.1 of this Protocol.

7. Public Consultation

Unless specified in Section 11, all proponents must follow the public consultation process **established in this Protocol, which has been modeled after ISED's public consultation process.**

Meaningful consultation is required to ensure that opportunities exist for public input, Indigenous Community engagement, and coordination with other relevant agencies.

7.1. Public Notification

- 7.1.1. Proponents must provide a notification package to the local public, neighbouring land-use authorities, businesses, and property owners, etc. located within a radius of 120 metres or three times the tower height, whichever is greater.
- 7.1.2. In consultation with the Town, the Proponent is responsible for determining the best manner to notify seasonal residents to allow for their engagement.
- 7.1.3. It is **the Proponent's responsibility to ensure that the notification provides at least 30 days for written public comment.**

- 7.1.4. Proponents of an antenna system proposed to be 30 metres or more in height must also place a notice in a local community newspaper circulating in the proposed area. The notice must be synchronized with the distribution of the public notification package. It must be legible and placed in the public notice section of the newspaper. The notice must include:
 - 7.1.4.1. A description of the proposed installation;
 - 7.1.4.2. Its location and street address;
 - 7.1.4.3. Proponent contact information and mailing address; and
 - 7.1.4.4. An invitation to provide public comments to the Proponent within 30 days of the notice.
- 7.2. **Responding to the Public**
 - 7.2.1. Proponents are to address all reasonable and relevant concerns, make all reasonable efforts to resolve them in a mutually acceptable manner and must keep a record of all associated communications. The Proponent is expected to engage the public in a manner it deems most appropriate.
 - 7.2.2. If the public or the land-use authority raises a question, comment or concern relating to the antenna system as a result of the public notification process, then the Proponent is required to:
 - 7.2.2.1. respond to the party in writing within 14 days acknowledging receipt of the question, comment or concern, and keep a record of the communication;
 - 7.2.2.2. address in writing all reasonable and relevant concerns within 60 days of receipt or explain why the question, comment or concern is not, in the view of the proponent, reasonable or relevant; and
- 7.3. **Public Reply Comments**
 - 7.3.1. The Proponent must clearly indicate that the party has 21 days from the date of the correspondence to reply to the response.
 - 7.3.2. The Proponent must keep a record of all correspondence/discussions that occurred within the 21-day public reply comment period.
- 7.4. **Concluding Consultation**



- 7.4.1. Consultation responsibilities will normally be considered complete when the Proponent has:
 - 7.4.1.1. Provided the Town of Essex with a package summarizing the results of the public consultation, containing the following at minimum:
 - 7.4.1.1.1. Copies of all letters and other written communications received; and
 - 7.4.1.1.2. A letter of response from the Proponent outlining how all the concerns and issues raised by the public were addressed.
 - 7.4.1.2. Concluded consultation requirements with the Town of Essex;
 - 7.4.1.3. Carried out public consultation; and
 - 7.4.1.4. Addressed all reasonable and relevant concerns put forward by the Town and/or the public.

8. Proposal Submission Requirements

- 8.1. The following must be submitted by the Proponent with the antenna system proposal:
 - 8.1.1. A submission package or report prepared by the Proponent, which:
 - 8.1.1.1. Provides a detailed rationale to demonstrate the need for the project and legislative compliance;
 - 8.1.1.2. Identifies all telecommunication towers within a radius of 500 metres of the proposed location;
 - 8.1.1.3. Includes details with respect to the coverage and capacity of the existing telecommunication towers in the surrounding area;
 - 8.1.1.4. Provides detailed documentary evidence as to why co-location of an existing telecommunication tower is not a viable alternative to a new telecommunication tower; and
 - 8.1.1.5. Documents the site selection process followed by the applicant for selecting this site in accordance with this protocol.
 - 8.1.2. Visual rendering(s) of the proposed Antenna System superimposed to scale;

- 8.1.3. A site plan showing the proposed development situated on the site, including or accompanied by a property survey;
 - 8.1.4. A map showing the horizontal distance between the property boundary of the proposed site and the nearest property in residential use;
 - 8.1.5. For antenna systems requiring public consultation, a map showing all properties located within the Prescribed Distance from the proposed Antenna System;
 - 8.1.6. Confirmation of legal ownership of the lands subject to the proposal, or a signed letter of authorization from the registered property owner of the land, their agent, or other person(s) having legal or equitable interest in the land;
 - 8.1.7. An attestation that the antenna system will respect Health **Canada's Safety** Code 6 which sets safe radiofrequency emission levels for these devices;
 - 8.1.8. An archaeological assessment, if required by the Town; and
 - 8.1.9. Any other documentation as identified by the Town.
- 8.2. The Proponent is expected to attempt to resolve outstanding issues brought forward by the Town prior to submitting the antenna system siting proposal and before undertaking the public consultation. The Proponent is also required to obtain all applicable building permits for additions and/or modifications to existing buildings.
- 8.3. The required fee to be paid to the Town.

9. Statement of Concurrence or Non-Concurrence

- 9.1. Following a complete application, and subject to Council approval, the Town will provide a letter of concurrence to ISED confirming that the requirements as set out within this Protocol and CPC-2-0-03 have been met. If these requirements have not been met, a letter of non-concurrence will be provided by the Town to ISED.
- 9.2. A concurrence remains in effect for a maximum period of three years from the date it was issued by the Town. If construction is not completed within this time, the concurrence expires except in the case where a Proponent secures the agreement of the Town to an extension for a specified time period in writing.
- 9.3. A concurrence may be transferred from the original Proponent to another Proponent (the current Proponent) provided that:

- 9.3.1. All information gathered by the original Proponent in support of obtaining the concurrence from the Town is transferred to the current Proponent;
 - 9.3.2. The structure for which concurrence was issued to the original Proponent is what the current Proponent builds; and
 - 9.3.3. Construction of the structure is commenced within the Duration of Concurrence period.
- 9.4. 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.

10. Exclusions

- 10.1. All proponents must consult the land-use authority and the public unless a proposal is specifically exempted.
- 10.2. The following proposals are exempted from land-use authority and public consultation requirements, as established in CPC-2-0-03:
 - 10.2.1. **New antenna systems where the height is less than 15 metres above ground level:** This exemption does not apply to antenna systems proposed by telecommunications carriers, broadcasting undertakings or third-party tower owners.
 - 10.2.2. **Existing antenna system where modifications are made, antennas added or the tower replaced, including to facilitate sharing, provided that the total cumulative height increase is no greater than 25% of the height of the initial antenna system installation:** The exemption for the replacement of existing antenna systems applies to replacements that are similar to the **original design and location; "initial antenna system installation" refers to the system as it was first consulted on, or installed. No** increase in height may occur within one year of completion of the initial construction. This exemption does not apply to antenna systems using purpose-built antenna supporting structures with a height of less than 15 metres above ground level operated by telecommunications carriers, broadcasting undertakings or third party tower owners.



- 10.2.3. **Non-tower structures including antennas on buildings, water towers, lamp posts, etc.:** These may be excluded from consultation provided that the height above ground of the non-tower structure, exclusive of appurtenances, is not increased by more than 25%. Telecommunications carriers, operators of broadcasting undertakings and third-party tower owners may benefit from local knowledge by contacting the land-use authority when planning an antenna system that meets this exclusion criteria.
- 10.2.4. **Temporary antenna systems used for special events or emergency operations:** Temporary antenna systems must be removed within three months after the start of the emergency or special event.
- 10.3. **Regardless of whether an exemption applies to a Proponent's proposal, it should be noted that all proponents must satisfy the general requirements outlined in Section 7 of CPC-2-0-03.**