

CITY OF CALGARY



TELECOMMUNICATION ANTENNA STRUCTURES PROCEDURES MANUAL

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OR

WHAT DOES THE CITY ACTUALLY DO WHEN IT RECEIVES A CELL TOWER PROPOSAL?

Introduction

It is important to state at the outset that The City of Calgary is not the approving authority for telecommunication antenna structure (cell tower) submissions. The federal Minister of Industry retains this authority, which is overseen by Industry Canada's Spectrum Management and Telecommunications Branch.

That said, The City does play a significant role in the processing of submissions for those telecommunication antenna structures that are required by federal regulation to be circulated to it for consultation. In this regard, The City has the ability to receive, analyze, evaluate, negotiate and express its support (concurrence) or lack of support (non-concurrence) for a telecommunication antenna structure proposal. It cannot, however, prevent a telecommunication antenna structure from being installed within the city even if it finds it cannot support a particular proposal.

The City's role and responsibilities regarding the processing of telecommunication antenna structure submissions are set out in Section 2.0 – The City's Authority Regarding Telecommunication Antenna Structures, and Section 4.0 – The City's Role in Reviewing a Telecommunication Submission, of The City of Calgary *Telecommunication Antenna Structures Siting Protocols*. The protocols can be accessed on-line at www.calgary.ca.

Background

The request for concurrence (City support) to install telecommunication antenna structures in The City of Calgary is a complex process. The method used to do this work is based primarily on the use of a set of procedures consistently applied to review, evaluate and decide upon telecommunication antenna structure proposals.

Commenced in 1997 and prepared in co-operation with the wireless service providers (the proponents), as well as in consultation with Industry Canada representatives, and in light of comments and feedback received from the citizens of Calgary, the process has evolved to its present form and practice. Much of this process is detailed in The City of Calgary's *Telecommunication Antenna Structures Siting Protocols*. However, the protocols do not include a "behind the scenes look" at how a submission is actually handled by The City Administration.

In learning about how the process works, a key factor to take note of is that telecommunication antenna structure proposals are not processed by a development permit (DP) application. Development permits are used to process the development of land and uses upon the land, such as a proposal for a new house in an older, established part of the city, or a change of use of a commercial retail unit from a book store to a restaurant. These types of "development" are governed by the [Alberta]

Municipal Government Act (MGA), which gives authority to municipalities to make decisions about land use development proposals.

Telecommunication antenna structures, on the other hand, are regulated by federal legislation (the Radiocommunication Act) which out ranks the provincial MGA provisions. Consequently, telecommunication antenna structures are not subject to and cannot be processed under The City's land use bylaw, which gets its mandate and authority from the MGA.

Under the federal regulations (Client Procedures Circular CPC-2-0-03) the proponents are required to consult with municipalities that have adopted a consultation process to deal with telecommunication antenna structures. Thus, The City does have a role to play in the processing of telecommunication antenna structure placement proposals. In order to avoid confusion by the public regarding the ultimate authority for decisions concerning telecommunication antenna structures, the Administration refers to each request for concurrence for a telecommunication antenna structure as a *submission* rather than an *application*.

As a final observation in this segment, it should be noted that The City's involvement with and procedures for handling telecommunication antenna structure submissions are dynamic processes that are in constant evolution and refinement. As new technologies are introduced, as new proponents arrive to establish their networks in Calgary, as new concerns and considerations are brought forward by the proponents and citizens, impacts upon the protocols and the decision making process may result. This could mean a need for additional or amended provisions to address these elements, or the development of a whole new way of administering the submission process.

Prior to Making a Submission

Over approximately the last twelve years of working with telecommunication antenna structure proposals, Development and Building Approvals business unit staff (the Administration) tasked with processing these submissions discovered that the earlier in the process discussions were held with the proponents the more likely better sites for these structures might be found. In addition, issues regarding co-location, design features, proximity to residential development, screening and so on could also be addressed. To this end, proponents have been encouraged to contact the Administration before making a submission to The City and, if possible, before finalizing a lease agreement with a landlord for a particular location.

When the Administration is made aware of a proponent's intent to install a telecommunication antenna structure in a particular area of the city, the Administration will discuss the proposal with the proponent. In some cases, a location has already been chosen by the proponent and in others no specific site has been selected yet, though an area (usually about 500 metres in diameter) may have been identified by the proponent's radio frequency (RF) engineers as the optimum location for the installation.

Discussing a proposed telecommunication antenna structure installation early on in the course of its development and before a public consultation meeting is held and a submission is made allows the Administration to accomplish a number of things.

First, the Administration gets to learn about what is coming in terms of a request for concurrence and can start to consider what resources may be required for processing this specific submission. This will usually mean the assignment of a Senior Planning Technician (SPT) to the file, and arranging a meeting with the Alderman in whose Ward the installation is proposed and the affected community association. In addition, depending on the discussions and negotiations arising from items 2, 3, 4 and 5 below, this may also include arranging meetings with staff from The City's Corporate Properties & Building group, Calgary Roads, Transit and Parks.

Second, the Administration gets an opportunity to advise the proponent about areas or sites that may be particularly sensitive in the community or locations where particular attention should be paid to the design and / or disguising or camouflaging of a telecommunication antenna structure. The Administration may even indicate a specific location being considered for a telecommunication antenna structure is unlikely to be supported by The City. In these cases, alternative locations may be suggested for investigation, including City owned sites (for example, a park, a community association building, or a utility storage lot). Note, however, that a City owned site will only be suggested by the SPT if the proponent cannot find another private property location that The City agrees would be appropriate and supportable.

Third, the Administration also gets an opportunity to negotiate the type of installation and, as an example, may be able to convince the proponent to install a roof top antenna array or place an antenna on a streetlight pole instead of using a tower structure. An opportunity to explore the possibility of co-location, either on a proposed new tower or on an existing tower, is another option in this negotiation segment.

Fourth, the Administration is able to give the Alderman a heads-up and, in many cases, will meet with him / her so that the Alderman has some knowledge of the proposal and can speak to it should he / she be contacted by the public in this regard. This also gives the Administration an opportunity to receive preliminary comments about the proposal from the Alderman.

And, fifth, the affected community association can also be contacted and advised of what is being proposed. As with the Aldermanic notification noted above, this gives the Administration an opportunity to receive preliminary comments from the community association.

Once the pre-submission stage has been completed, the proponent may then proceed to hold a public consultation meeting if one is required. (See Section 6.0 of The City of Calgary *Telecommunication Antenna Structures Siting Protocols* for when and for what types of antenna structures a public consultation is required.) If no public consultation

meeting is required, the proponent may now make a submission to The City for concurrence.

Notification of a Public Consultation Meeting

When it has been determined, pursuant to Section 6.0 of The City of Calgary *Telecommunication Antenna Structures Siting Protocols* that a public consultation meeting is required, the proponent is tasked with sending out a notification to all residential development within 300 metres (984 ft) of the base of a proposed cell tower. In most cases the proponent will also include any commercial properties that lie within this notification area as well to produce a more comprehensive notification.

The City protocols state that the notice may be delivered by mail service or by hand. In nearly every case the proponent will opt for the hand delivery method of notification as it is faster and considered to be more assured than relying on the mail. By more assured, it is meant that the proponent can keep track of what addresses and properties a notice was delivered to. While The City does not get involved with the delivery of these notices, the Administration usually provides the proponent with a list of addresses and a map showing the notification area and the location of each of these addresses within that area.

The City cannot provide both a name and an address for use by a proponent undertaking the notification process. This is due to Freedom of Information and Protection of Privacy Act (FOIP) issues. For that reason, the proponent addresses the notice to the *Occupant*. Unfortunately, despite the text in bold print on the outside of the envelope advising that a proposed cell tower is being considered in the area, this can (and has) resulted in the notice being mistaken for junk mail and discarded without being opened and the contents inside reviewed. The end result is the receipt of complaints that a notice was never provided – another reason the proponent keeps track of the hand deliveries. It is extremely important; therefore, that you take the time to examine any envelope you receive to ensure that you are not the recipient of a notification for a cell tower proposal. The City will not expect or require the proponent to make a second attempt to deliver a notification.

For additional information regarding the notification process, see Section 9.0 of The City of Calgary *Telecommunication Antenna Structures Siting Protocols*.

At the Public Consultation Meeting

Neither the protocols nor the Administration stipulate which meeting format to use. It is the sole discretion of the proponent to decide what type of meeting will be held: formal or open house. From past experience, this means the proponent is most likely to choose the open house format to convey information to and receive feedback from the public rather than a more formally structured meeting where rows of chairs that face a panel of proponent representatives are provided and the attendees receive information as a presentation and then ask questions.

The reason for this is that the proponents have found that the open house format is more productive in terms of getting the information to people who attend the meeting and receiving feedback about the proposal than a formal meeting would be.

Those members of the public attending an open house meeting are able to walk through a series of poster panels containing general information about cell phones and cell towers, Safety Code 6, the plans showing where the proposed installation is and what it will look like as well as how the site was chosen. In addition, the proponent will have a number of technicians and sometimes an RF engineer on hand to answer questions about these items and related concerns in a one-on-one manner. In this way, attendees can discuss their specific issues with a representative of the telecommunication firm proposing the cell tower.

Those attending the consultation meeting will also be asked to sign a guest sheet and to fill out a questionnaire/comment sheet provided by the proponent. It is the proponent's obligation to answer any questions arising from the public consultation meeting and resolve any issues prior to making a submission to The City. Documentation of this information must be provided as part of the submission to The City and must also include an explanation as to why any issues remain unresolved, should this be the case.

A representative from The City also attends the public consultation meeting. This involves a staff member from the Development and Building Approvals business unit and will most likely be the Senior Planning Technician that will process the antenna submission resulting from the consultation. The Senior Planning Technician's task at these meetings is to observe the proceedings and, if asked, explain The City's protocols and role in processing telecommunication antenna structure submissions. Attendance at the meeting also provides the Administration with a firsthand opportunity to confirm whether or not the meeting was conducted properly, how many attended, what the issues were and so forth. The specifics of what the Senior Planning Technician's duties are at a public consultation meeting are set out in Section 3.0 of The City of Calgary *Telecommunication Antenna Structures Siting Protocols*. Additional requirements regarding the public consultation process are established in subsections 9.6 to 9.10 inclusive of the document.

Receipt of a Telecommunication Antenna Structure Submission

In order for the proponent to receive concurrence from The City, a submission must first be made. The protocols for making a submission are detailed in Section 5.0 of The City of Calgary *Telecommunication Antenna Structures Siting Protocols* (see subsections 5.2 for specific details on the requirements).

The material required to make a submission is usually received by The City in one of two ways: it is either mailed in to the Development & Building Approvals business unit or it is taken in through the front counter, where all other permit applications dealing with land use development and building are received. In either case, a City generated

address is required, and must be obtained prior to a submission being brought in for processing.

In most cases, one of the Senior Planning Technicians will be advised in advance by a proponent's representative that one or more submissions will be coming in on a particular day. The SPT arranges a time to meet the proponent's representative at the front counter and assists the Planning Services Technician (PST) in receiving the submission and getting it into the system for processing. If received as a mail-in, the PST in the mail-ins area will contact the SPT to advise him of the receipt, and the SPT will then go to the mail-ins area to assist the PST if there are any issues that arise while getting the material into the processing system.

The City uses Posse (Public One Stop Service) to track the progress of all development and building type applications through the decision making process. This includes land use amendment applications, subdivision applications, development permit applications, building permit applications, plumbing, gas, and HVAC permits and so on. Each application for a permit, or in the case of a telecommunication antenna structure, submission, is assigned its own unique file number, which includes information regarding the application / submission type, year and number received. For example, a telecommunication antenna structure submission with the file number ANT2010-0113 means a telecommunication antenna file (ANT), received in the year 2010 and is the 113th antenna submission received for year.

Processing a Telecommunication Antenna Structure Submission

Once a submission has been received and entered into the Posse system, the file containing the material is forwarded to one of two Senior Planning Technicians tasked with processing telecommunication antenna structure submissions.

Upon receipt of the file, the SPT confirms what type of submission has been received, pursuant to Section 6.0 of The City's protocols, and sends out two form letters as formal notification of the receipt of a submission. One letter is sent to the Alderman in whose area the telecommunication antenna structure is proposed; and one is sent to the Community Association in whose community the structure is proposed. Pursuant to The City's *Telecommunication Antenna Structures Siting Protocols*, a reply from these two parties is required within 21 days at which time a decision to support or not support the proposal must be made.

The SPT then reviews the submission, pursuant to the details set out in Section 4.0 of the protocols. If the proponent contacted The City and conducted a pre-submission meeting, the basics of the proposal should already be known. However, changes to the proposal may have occurred as a result of negotiations arising from the pre-submission meeting, from the public consultation meeting (if one was required) or as a result of the circulation comments received from the Alderman or the community association. In addition, further information regarding co-location of other proponents' antenna arrays on the structure may need to be addressed or finalized. Any of these elements may cause further discussion for clarity or confirmation of a particular outcome.

The SPT also reviews the brief accompanying the submission, if a public consultation was done, to see what comments were made by the public and how the proponent has addressed any issues arising from that meeting. If there are still outstanding issues, the proponent will be asked to address them and bring them to a conclusion prior to any decision being made by The City.

The Decision: Concurrence or Non-concurrence

Once the 21 day processing and circulation period has concluded and the SPT is satisfied that the proposal is appropriate and in the best interests of The City's overall growth, progress and development, a letter of concurrence is issued. Copies of this concurrence are sent to the Alderman and the affected Community Association.

If, after the 21 day processing and circulation period has concluded, the SPT is not satisfied with the proposal further negotiations can be entered into with the proponent to seek improvements to it. This may involve a review and renegotiation of any of the elements of the proposal (height, type, co-locators, location, etc.). Failing to reach a satisfactory conclusion in this regard means that the SPT will issue a non-concurrence letter and the file is closed. Copies of the non-concurrence correspondence are sent to the Alderman and the community association, and a copy is also sent to the local Industry Canada representative for information.

Post Processing Follow-ups

Unlike development and building permits, there is no expiry or lapse date associated with a concurrence for a telecommunication antenna structure. Once a telecommunication antenna structure has received concurrence it may not be constructed for up to two years after the event. Consequently, post processing follow-ups are not part of the procedures for cell towers submissions.

On occasion, a proponent's representative may advise The City that an installation has been delayed, or a delayed installation is finally being constructed, but this is not always the case. Therefore, it is only if the SPT notices a new telecommunication antenna structure in the area while out conducting a site visit for another telecommunication antenna structure, or if a complaint is received regarding a newly built telecommunication antenna structure that will prompt a visit and review to check that it was built according to the approved plans issued with the concurrence.

If a telecommunication antenna structure has not been built according to the plans that received concurrence, the proponent is contacted and the issue is discussed. The result may be a new submission for concurrence, or a request to have the telecommunication antenna structure built in accordance with the plans that received concurrence. Should the proponent fail to take action to correct the situation, the SPT may contact the Industry Canada representative to seek assistance in getting the proponent to make the telecommunication antenna structure comply with the approved plans, make a new submission for the "as built" installation, or remove the structure altogether.