



STAFF REPORT ACTION REQUIRED

Proposed Protocol for the Installation of Telecommunications Towers and Comments on Industry Canada's Draft Client Procedure Circular

Date:	December 12, 2007
To:	Planning and Growth Management Committee
From:	Chief Planner and Executive Director, City Planning
Wards:	All
Reference Number:	File No. 20 07 198491 CPS

SUMMARY

This report provides recommendations on a finalized protocol for the Development of Telecommunication Towers and Antennas.

Under the *Radiocommunications Act*, Industry Canada has the final authority to approve the location of telecommunication towers and antennae. Industry Canada has a process for taking municipal and public concerns into consideration during their review of telecommunications proposals. While other Canadian municipalities have developed protocols to review telecommunication proposals, the City of Toronto has not developed a protocol.

The proposed City of Toronto Telecommunication Tower and Antenna Protocol establishes a harmonized City-wide process and criteria for evaluating telecommunication proposals. The protocol includes criteria and guidelines: to minimize the number of new telecommunication towers; to appropriately site and locate new towers where necessary; and to establish a public consultation process.

The Protocol will ensure that the installations which might be a concern to the public undergo both a City review and public consultation. It addresses the desire to review telecommunications towers and antennas within the context of the City's limited jurisdiction.

RECOMMENDATIONS

The Chief Planner and Executive Director, City Planning Division recommends that Council:

1. Approve the City of Toronto Telecommunication Tower and Antenna Protocol attached to this report as Attachment 1.
2. Direct that the protocol come into effect 30 days after the date of Council approval.
3. Direct the Chief Planner and Executive Director, City Planning to review the protocol in two year's time and report back to the Planning and Growth Management Committee on any issues arising from the review.
4. Enact a by-law in a form required by the City solicitor to amend Chapter 441, Fees, to include application fees for the processing of applications under the City of Toronto Telecommunication Tower and Antenna Protocol in the amounts as set out in the body of this report.
5. Request the City Clerk to:
 - (a) Forward a copy of this report and the attached protocol to Industry Canada for its information.
 - (b) Forward a copy of this report and the attached protocol to the Federation of Canadian Municipalities and representatives of the telecommunication industry for their information.

Financial Impact

Staff currently estimates that the annual number of new cellular towers on an ongoing basis is expected to be approximately 10 per annum. However, Industry Canada's new regulations may encourage Telecommunications providers to modify their proposals so that they will be exempt from municipal review. This may result in a lower number of applications.

If approved, this application fee could result in additional revenues of \$20,000 annually, based on the estimation of 10 applications per year. City Planning's 2009 Operating Budget submission will include revenue adjustments based on application activity in 2008.

Operating costs associated with the implementation of the City's Telecommunications Protocol will be dependant on the number of applicants, and will be absorbed within the Program's 2008 Operating Budget. Staff will monitor the impact of the Protocol on the operations of City Planning and report back as part of the 2009 operating budget process on any need for additional resources to be funded through the anticipated revenue stream.

The Deputy City Manager and Chief Financial Officer have reviewed this report and agree with the financial impact information.

DECISION HISTORY

City Council on May 4, 2005 adopted Clause 8a, Planning and Transportation Report 3 "installation of Telecommunication Towers."

<http://www.toronto.ca/legdocs/2005/agendas/council/cc050504/pltc1008a.pdf>

At its meeting on July 19-21, 2005, City Council adopted the staff recommendations of a June 13, 2005 report, which submitted a draft protocol for the installation of telecommunication towers.

<http://www.toronto.ca/legdocs/2005/agendas/committees/plt/plt050627/it001.pdf>

The report's recommendations directed staff to circulate the draft protocol to Industry Canada and representatives of the telecommunication industry for their review and comment and to report back to Planning and Transportation Committee with recommendations on a finalized protocol.

Council also adopted motions to direct staff to meet with Councillors Filion, Stintz, Moscoe and Palacio to:

- develop a set of principles to guide the development of the protocol;
- delete certain exemptions in the draft telecommunication protocol; and
- report back on a number of matters regarding the draft telecommunication protocol to Planning and Transportation Committee.

Staff met with the Councillors during August and September of 2005 and advised them that Industry Canada would be releasing a new draft Client Procedure Circular (CPC). Industry Canada's draft CPC sets out the process to be followed by telecommunication proponents regarding telecommunication installations, including consultation with municipalities. It was agreed that staff should defer finalizing the City's proposal until Industry Canada released its new draft CPC and that staff should review and provide comment on the draft CPC to Planning and Transportation Committee.

As a result of an application filed against the City by Telus Communications Inc., a court decision was issued on March 2, 2007 which held that telecommunications installations are not subject to site plan control on the basis of inter-jurisdictional immunity. The Court concluded that given that site plan control covers essentially the entire City, the potential exists for the City to interfere with, or delay or deny approval, for the placement

of telecommunications towers or antennas City-wide. The Court also commented that to the extent that site plan control enables the City to control the placement or siting of wireless towers, or to refuse or significantly delay permission to establish wireless towers, it would allow the City to substantially impair Telus' essential activities as a federal undertaking. At its meeting of April 23 and 24, 2007, City Council adopted the recommendation that no appeal of this decision be pursued. City Council also directed that:

- The matter of the siting of the telecommunications tower be referred to the Planning and Growth Management Committee for the development of a protocol for carriers to follow in siting telecommunications towers.
- The City Solicitor be requested to report to Planning and Growth Management Committee on the extent to which City Staff can apply the new architectural control authority recently acquired by the City of Toronto Act to the design of telecommunication towers and incorporate that into the protocol.
- The Chief Planner and Executive Director, City Planning, be requested to develop a protocol or guidelines with respect to municipal and community consultation for the installation of telecommunication towers that adheres to Industry Canada's policy at the earliest possible time.

A new CPC was released by Industry Canada in June of 2007.

[http://strategis.ic.gc.ca/epic/site/smt-gst.nsf/vwapj/cpc2003-issue4e.pdf/\\$FILE/cpc2003-issue4e.pdf](http://strategis.ic.gc.ca/epic/site/smt-gst.nsf/vwapj/cpc2003-issue4e.pdf/$FILE/cpc2003-issue4e.pdf)

Although Planning and Growth Management Committee did not comment on the draft CPC prior to the release of a final CPC, the final CPC does address most of the matters which concerned staff in the draft document. The CPC comes into affect on January 1, 2008, in order to allow municipalities to prepare for the new procedures.

In December 1999, the Board of Health recommended that the protocol for the siting of cell phone towers incorporate a policy of prudent avoidance.

http://www.toronto.ca/health/hphe/pdf/rf_boh_final.pdf

Specifically the Board of Health recommended that the protocol require applicants to demonstrate that radio frequency exposures in those areas used by people other than telecommunications workers (e.g., roof-top gardens, balconies, or grounds) will be at least 100 times lower than those currently recommended by Health Canada's Safety Code 6. It also recommended that this protocol include a mechanism to notify the public of the proposals for new antennas, and that when the public expressed concerns over exposures to an existing antenna, the owner or operator of a facility measure and report on levels of radiofrequency around the antenna.

Further to this, in May 2006, the Board requested that the Medical Officer of Health, in collaboration with the Chief Planner and Executive Director, City Planning, report back on the incorporation of the Toronto Public Health prudent avoidance policy into the corporate protocol for the installation of telecommunication towers. (<http://www.toronto.ca/legdocs/2006/minutes/committees/hl/hl060515.pdf>)

ISSUE BACKGROUND

Industry Canada's CPC establishes the process to be followed by proponents regarding telecommunication installations. It requires proponents to follow municipal telecommunication protocols for the siting of antenna systems. If a municipality does not have a protocol, then applicants must follow a standard consultation process as set out in the CPC. It is in the City of Toronto's interest to establish a made-in-Toronto protocol to meet the City's interests.

COMMENTS

A revised draft telecommunications protocol is attached to this report as Attachment 1. It contains a number of revisions to the previous draft protocol that accompanied the June 13, 2005 report, including revisions suggested by:

- the Planning and Transportation Committee (Attachment 3)
- consultation with Councillors Filion, Stintz, Moscoe and Palacio (Attachment 4)
- consultation with Industry Canada (Attachment 5)
- consultation with the Telecommunication Industry (Attachment 6)

It also incorporates changes required to comply with the procedures established in Industry Canada's new Client Procedure Circular.

The Main Points of the Draft Telecommunications Protocol

The City's proposed protocol:

- establishes a harmonized City-wide process and criteria for reviewing telecommunication proposals;
- establishes a municipal consultation process that allows the City to provide input on proposals to proponents and Industry Canada;
- minimizes the number of new telecommunication towers (co-location);

- where new towers are necessary:
 - encourages new towers to locate:
 - outside of *Neighbourhoods, Apartment Neighbourhoods* and *Centres*; and
 - in areas zoned to permit industrial uses or utilities;
 - minimizes the visual impact of new towers (example photographs of tower and antenna installations are shown in Attachment 3 of this report);
 - sets out the preferred type and design of towers including: siting, design and landscaping and minimum setbacks to all property lines; and
- establishes a public consultation process for certain types of proposals located within or in close vicinity to *Neighbourhoods, Apartment Neighbourhoods* and *Centres*.

The draft City protocol establishes a new type of application designed to allow City staff to review telecommunication tower proposals to ensure conformity with the requirements set out in the protocol.

The proponent is required to consult with City staff and the Ward Councillor before submitting any application. The purpose of the pre-consultation is to: identify issues of concern; determine whether an application to the City is required; identify requirements for public consultation; explore preferred site locations and siting, design and co-location considerations; and confirm compliance of the proposal with Safety Code Six.

The protocol sets out the following three categories of telecommunication proposals and the requirements for each:

1. Proposals where no City application for review is required;
2. Proposals where a City application for review is required; and
3. Proposals where both a City application for review and public consultation is required.

If an application is made, it will be circulated to the Ward Councillor and applicable City Divisions for review and comment. A flow chart illustrating a “decision tree” for the review of telecommunications proposals is attached to this report as Attachment 2.

The proposed protocol also clearly sets out which types of telecommunication tower proposals are subject to public consultation. Where the need for public consultation is identified, the proponent is required to organize and chair an open house/community meeting and notify area residents, City staff and the Local Councillor, all at the proponent’s expense. After the public consultation is completed, the proponent is required to provide the City with a follow-up letter outlining how the concerns and issues raised at the meeting will be addressed.

The City's response to the proponent and Industry Canada will take into consideration all City Division and agency comments received during the application process. It will forward the comments raised during the public consultation process. The City's response will include a recommendation regarding the tower proposal of either concurrence (including recommended conditions of concurrence) or non-concurrence, depending on whether the proposal conforms with the City requirements as set out in the proposed protocol. Since the City does not have any approval power over Telecommunications installations, Industry Canada should resolve the matters raised during the public consultation if they cannot be resolved under the City's Protocol process.

The City should establish an application fee to cover the City's costs in reviewing the applications. Staff recommend that a fee of \$2,133 be required. This is equivalent to the fee charged for similar Planning applications. Staff propose that the amount of the fee increase at the same rate as other planning application fees when those fees are adjusted.

Toronto Public Health Concerns

The Toronto Public Health Division (TPH) has expressed concerns about the potential health affects of exposure to radio frequency fields. Industry Canada developed its CPC based on the exposure limits identified in "Safety Code Six". Safety Code Six is the responsibility of Health Canada.

Unfortunately, Industry Canada has indicated in the new CPC that, where a proposed telecommunications installation meets the requirements of Safety Code Six, it will not consider further complaints respecting the standards contained in Safety Code Six to be relevant concerns for the purpose of approving the proposed location. It is therefore staff's view that attempting to include a more stringent standard under a City protocol will undermine its effectiveness as part of the Industry Canada regime.

Since Health Canada has not yet revised Safety Code 6 to address the concerns highlighted in the 1999 staff report on radiofrequencies, it continues to be prudent to take steps to minimize exposures to radiofrequencies. Industry Canada advises proponents that it may be prudent to consult with local authorities and the public even when it is not required, such as the proximity of the antennas to neighbouring residents or a community-sensitive location. The Medical Officer of Health in collaboration with other City Divisions reported on prudent avoidance to the Board of Health on December 4, 2007.

Conclusion

The revised draft Telecommunications Protocol attached as Attachment 1 to this report sets out standards for the location of telecommunications towers and antennas. It will ensure that the installations which might be a concern to the public, undergo both a City review and a public consultation. It addresses the desire to review telecommunications towers and antennas within the context of the City's limited jurisdiction.

Toronto Building, Toronto Public Health, Technical Services and Legal Services were consulted in the preparation of this report.

CONTACT

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SIGNATURE

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ATTACHMENTS

Attachment 1: Revised Draft Telecommunications Protocol
Attachment 2: Telecommunications Review Flow Chart
Attachment 3: City Council Direction of July 19-21, 2005
Attachment 4: Consultation with Councillors
Attachment 5: Consultation with Industry Canada
Attachment 6: Consultation with the Telecommunications Industry

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Attachment 1: Revised Draft Telecommunications Protocol

CITY OF TORONTO TELECOMMUNICATION TOWER AND ANTENNA PROTOCOL (Industry Canada Local Land-use Authority Consultation)

1. BACKGROUND

A. Purpose

The purpose of this protocol is to outline the local land-use consultation process and guidelines to be followed in evaluating telecommunication tower and telecommunication antenna proposals within the City of Toronto, providing guidance to the telecommunication industry, Industry Canada, City Council, City staff and members of the public.

B. Objectives

The objectives of this protocol are:

1. To establish a harmonized City-wide process and criteria for reviewing telecommunication tower and telecommunication antenna proposals;
2. To set out a straightforward, objective process, criteria and guidelines for the evaluation of telecommunication tower and telecommunication antenna proposals that:
 - (a) minimizes the number of new telecommunication towers;
 - (b) discourages new towers within or adjacent to *Neighbourhoods, Apartment Neighbourhoods, Centres* and other sensitive land uses;
 - (c) provides an opportunity for meaningful local public consultation with affected property owners; and
 - (d) allows Industry Canada and the telecommunications industry to identify and resolve any potential land use, siting or design concerns with the City at an early stage in the process.
3. To provide an expeditious review process for telecommunication tower and telecommunication antenna proposals that are established in accordance with this protocol; and
4. To establish a local land-use consultation framework that allows the City to provide input on all telecommunication tower and telecommunication antenna proposals to proponents and Industry Canada in order that the proponent can satisfy the requirements of Industry Canada regarding local land-use consultation.

2. DEFINITIONS

- (a) **Apartment Neighbourhoods** – means all lands designated as Apartment Neighbourhoods in the Official Plan for the City of Toronto.
- (b) **Centres** – means all lands shown as *Centres* on Map 2 (Urban Structure) in the Official Plan for the City of Toronto.
- (c) **Co-location** - means the sharing of a telecommunication tower or placement of a telecommunication antenna on a building, structure or tower by more than one proponent.
- (d) **Neighbourhoods** – means all lands designated as *Neighbourhoods* in the Official Plan for the City of Toronto.
- (e) **Parks and Open Space Areas** – means all lands designated as *Parks and Open Space Areas* in the Official Plan for the City of Toronto.
- (f) **Proponent** – means a company, organization or person which offers, provides or operates wireless broadcasting or communication services to the general public and includes, but is not limited to companies which have a radio authorization from Industry Canada.
- (g) **Telecommunication Antenna** - means the components, either individually or in combination, needed to operate a wireless communication network for the purpose of radio telecommunications, including but not limited to: cell sites; transmitters; receivers; signaling and control equipment; and an equipment shelter containing electronic equipment and which is not staffed on a permanent basis and only requires periodic maintenance **but does not include a telecommunication tower.**
- (h) **Telecommunication Tower** - means all types of towers including but not limited to: a monopole; tripole; lattice tower; guyed tower; self-support tower; pole; mast; or other structure, which are used to support one or more telecommunication antennae for the purpose of radio telecommunications and which may be located at ground level or on the roof of a building and may include an equipment shelter containing electronic equipment and which is not staffed on a permanent basis and only requires periodic maintenance.

3. PRELIMINARY CONSULTATION

- (a) A preliminary consultation meeting between the proponent and the District Planning Consultant and/or City Planning Staff and Toronto Building Division staff is required for all telecommunication tower and telecommunication antenna proposals, before a Telecommunication Tower Review Application and/or Building Permit application is submitted. The purpose of this meeting is to: determine if the proposal is exempt from a Telecommunication Tower Application

Review in accordance with Section 9 of this protocol; determine if a Building Permit is required; determine emission levels in compliance with Safety Code Six and if applicable, explore preferred site locations and siting, design & co-location considerations in accordance with this protocol.

- (b) This meeting may involve staff from other City Divisions. It will identify issues of concern and concurrence and identify requirements for public consultation; will guide the content of the application submission; and will identify the need for any other applications or approvals.
- (c) At the preliminary consultation meeting, City staff will provide the proponent with an information package that includes:
 - (i) This protocol, which outlines the approval process, requirements for public consultation and guidelines regarding site selection, co-location, siting, design and landscaping;
 - (ii) Telecommunication Tower Review Application, including submission requirements included in Section 6; and
 - (iii) List of City divisions and agencies to be consulted.
- (d) To expedite the review of the application, the proponent will review this information package before the submission is made so that the interests of the City and agencies are taken into account. The proponent is encouraged to consult with affected divisions and agencies, as well as the Local Ward Councillor before submitting the application.

4. GUIDELINES

A. Site Selection

- (a) The proponent will select a site location to minimize the total number of telecommunication tower sites required.
- (b) The proponent will be encouraged to use existing telecommunication towers.
- (c) It is preferred that Telecommunication towers be located outside of *Neighbourhoods*, *Apartment Neighbourhoods* or *Centres*, preferably in areas zoned to permit industrial uses or utilities.
- (d) Telecommunication towers will be strongly discouraged within or within 120 m. of *Neighbourhoods*, *Apartment Neighbourhoods*, *Centres* and on listed and/or designated heritage buildings and sites.
- (e) When selecting a site for a new telecommunication tower, the following will be considered:
 - (i) maximizing distance from *Neighbourhoods* and *Apartment Neighbourhoods*;
 - (ii) maximizing distance from *Centres*;

- (iii) maximizing distance from listed heritage buildings and sites;
- (iv) avoiding sites containing sites located within *Parks and Open Space Areas* (with the exception of sites zoned to permit utilities);
- (v) avoiding sites of topographical prominence, where possible;
- (vi) avoiding sites that would obscure public views and vistas of important natural or human-made features;
- (vii) ensuring compatibility with adjacent uses; and
- (viii) access.

B. Co-Location

- (a) The City expects proponents to share telecommunication towers (co-locate) in order to minimize the impact on the City's urban environment.
- (b) Proponents will work co-operatively in reaching agreements which allow for co-location so as to minimize the total number of telecommunication towers in the City.
- (c) Proponents for new telecommunication towers will be required to submit a Site Selection / Justification Report, prepared by a certified engineer or land use planner. The report should identify all telecommunication towers within a radius of 500 metres of the proposed location. It should also include details with respect to the coverage and capacity of the existing telecommunication towers in the surrounding area and provide detailed documentary evidence as to why co-location of an existing telecommunication tower is not a viable alternative to a new telecommunication tower.

The report should also document the site selection process followed by the applicant for selecting this site in accordance with this protocol. In recognition of the sensitive nature of such information. City staff will, subject to the requirements of this protocol in respect of public notice and public consultation and the Municipal Freedom of Information and Protection of Privacy Act, maintain confidentiality of information where requested by the proponent.

- (d) Any exclusivity agreement which limits access to a telecommunication tower by other proponents is unacceptable. A signed agreement is to be submitted to the City stating that the proponents will allow co-location with other proponents, provided all safety, structural and technological requirements are met.

C. Siting

- (a) A telecommunication antenna mounted on a high-rise building or structure such as an existing telecommunication tower, hydro transmission tower, utility pole or water tower, is to be explored by the proponent before any proposal is made for the construction of a new telecommunication tower.
- (b) The construction of a new telecommunication tower to accommodate a telecommunication antenna is discouraged and will be accepted only when all other options to accommodate the telecommunication antenna are not viable. A new telecommunication tower shall be designed with co-location capacity.

- (c) Where co-location is not possible, a new telecommunication tower will be designed to minimize visual impact and to avoid disturbance to natural features.

D. Design and Landscaping

- (a) Where co-location is not possible, a telecommunication tower located outside of *Neighbourhoods*, *Apartment Neighbourhoods* and *Centres* will be built to accommodate the proponent and a minimum of two additional users whenever possible.
- (b) The architectural style of telecommunication tower will be chosen which is most compatible with the surrounding neighbourhood.
- (c) Where a telecommunication tower must be located within or in close proximity (within 120 m.) to *Neighbourhoods*, *Apartment Neighbourhoods* and *Centres*, monopoles will be used.
- (d) Proponents will be encouraged to locate telecommunications towers with a minimum setback to all property lines of a distance equivalent to the height of the telecommunication tower (measured from grade) whenever possible.
- (e) One parking space will be provided at each new telecommunication tower site with access from a public right-of-way at a location acceptable to the City. Where parking is provided for another use on the site and this parking is within 20 metres of the telecommunication tower, the parking space for the tower is not required (parking spaces need not be exclusively devoted to telecommunications tower usage.)
- (f) All efforts will be made to decrease the size and visibility of all telecommunication antennas and telecommunication towers, so that they will blend in with the surroundings. To ameliorate the scale and visual impact of telecommunication towers and telecommunication antennas, mitigation measures should include consideration of: design features, structure type, design, colour, materials, landscaping, screening and decorative fencing. In general, Towers and telecommunications equipment shall have a non-reflective surface and be of a neutral colour (e.g. light grey) which is compatible with the sky and the surroundings. Where appropriate, a telecommunication tower will be designed as a landmark feature to punctuate the urban landscape to resemble features found in the area, such as a flagpole or clock tower.
- (g) Lighting of telecommunication antennas and telecommunication towers is prohibited unless required by Navigation Canada. Proof of this requirement should be provided by the applicant.
- (h) Telecommunication towers will accommodate only telecommunication antennas. Only identification or information signs or other material directly related to the identification or safe operation of this equipment will be permitted on the tower. A small plaque must be placed at the base of the structure, (or at the main entrance to the site where the site is not accessible under normal

circumstances), identifying the owner/operator of the structure and a contact telephone number. No third party advertising, or advertising or promotion of the proponent or the proponent's services shall be permitted.

- (i) Where equipment shelters are on roofs of buildings, they shall be encouraged to maintain a setback of a minimum of 3.0 metres to the roof edge and to a maximum height of 4.0 metres.
- (j) Where telecommunications towers are proposed to be located on roofs of buildings they will be encouraged to be a maximum of 5 m in height from roof-level and set-back a minimum of 5 m. from the roof edge.

5. APPLICATION SUBMISSION

- (a) Once a site has been selected for establishing a telecommunication tower, the proponent will complete a **Telecommunication Tower Application Review Form** and submit a fee for each proposal.
- (b) Upon receipt of a complete application, the City will begin its review of the proposal.
- (c) The application will be circulated to affected City Divisions and agencies, abutting municipalities within 120 metres of the site and the Local Ward Councillor for review and comment.

6. APPLICATION SUBMISSION REQUIREMENTS

- (a) All proposals for telecommunication towers that are not exempt from this protocol will be supported by the following information:
 - (i) Site Selection / Justification Report, as outlined in Section 4B(c) of this protocol;
 - (ii) colour photograph(s) with proposed telecommunication tower superimposed;
 - (iii) Site Plan showing the proposed leased area;
 - (iv) map showing the horizontal distance between the proposed leased area boundary and the nearest property zoned for low density residential uses; and
 - (v) for telecommunication towers requiring public consultation, a map showing all properties within a 120-metre radius of the leased area boundaries and a mailing list of all affected property owners and tenants.

7. APPLICATION FEES

- (a) The proponent must pay an application fee to the City.

- (b) Other fees may apply if applications for other matters (curb cuts, tree removal etc.) from other City divisions and agencies are required.

8. AGREEMENT

- (a) The proponent may be required, if requested by the City, to enter into an agreement, which may include the following requirements:
 - (i) The removal of the telecommunication tower upon expiration of the lease or if the telecommunication tower is deactivated and left unused (abandoned) for a continuous period of more than six months;
 - (ii) The posting of a security for the construction of any proposed fencing, screening and landscaping;
 - (iii) A commitment to accommodate other telecommunication providers on site or on their telecommunication tower, where feasible; and
 - (iv) Other conditions of concurrence.

9. EXEMPTIONS TO TELECOMMUNICATION TOWER APPLICATION REVIEW

Telecommunications antennas and towers, which are exempted from the requirement to consult with the City under the provision of Industry Canada's CPC-2-0-3 ("Radio Communication and Broadcasting Antennae Systems", June 2007 (Effective January 1, 2008)) will be exempt from a Telecommunications Review Application.

10. BUILDING PERMITS

- a) Notwithstanding Section 9, all telecommunication antenna and telecommunication tower proposals shall remain subject to the applicable provisions of the *Ontario Building Code Act 1992 and its regulations*. For instance, a building permit is required:
 - (i) When a telecommunication antenna or telecommunication tower is to be located on the roof of an existing building; and/or
 - (ii) For all buildings associated with either a telecommunication antenna or telecommunication tower.

11. PUBLIC CONSULTATION

A. Exemptions to Public Consultation

Public consultation under Section 11B is not required for the following:

- (a) New Telecommunication towers located outside of *Neighbourhoods, Apartment Neighbourhoods* or *Centres*, where the tower lease area boundaries are located a minimum of 120 metres from *Neighbourhoods, Apartment Neighbourhoods* and *Centres*;
- (b) Replacement of and/or modification to existing telecommunication towers located outside of *Neighbourhoods, Apartment Neighbourhoods* and *Centres*, where the tower lease area boundaries are located a minimum of 120 metres from *Neighbourhoods, Apartment Neighbourhoods* and *Centres*, provided that any increase in height does not exceed 25% of the originally approved height and any telecommunication tower replacement is located within the originally-approved development envelope;
- (c) All proposals exempt from Local Land-Use Review included in Section 9.

B. Procedure for Public Consultation

- (a) For proposals that do not meet the exemption criteria in Section 11A, the proponent will be responsible for organizing and chairing an open house/community meeting.
- (b) The proponent, in consultation with the City Planning Division and the Local Ward Councillor, will schedule an appropriate date, time and location for the meeting.
- (c) The proponent will give notice to all property owners and tenants within 120 metres of the lease area boundaries of the telecommunication tower.
- (d) The proponent will provide City Planning with a copy of this mailing list for our records.
- (e) The proponent will give notice to these property owners and tenants, the Local Ward Councillor, the Director of Community Planning and Industry Canada. This notice will be sent by regular mail, a minimum of 30 days before the meeting. The proponent will provide an affidavit to the City in this regard.
- (a) The notice will be sent by regular mail, a minimum of 30 days before the meeting. The proponent will provide an affidavit to the City confirming that notice has been given as required under this section 11.

The notice will include:

- (i) the date, time and location of the meeting;
- (ii) information on the location, height, type, design and colour of the proposed structure, including a 8½" x 11" size site plan;
- (iv) the rationale for the selection of the designated site;
- (v) an agenda; and
- (vi) the name and telephone number of a contact person for the applicant

- (g) The proponent will also make available at the open house/community meeting an appropriate visual display, including at a minimum, a display-size (24"x36") colour photograph of the subject property with a superimposed image of the proposed telecommunication tower.
- (h) To clarify the application process and jurisdictional matters, Industry Canada will be requested to attend open community information meetings for complex or sensitive applications.
- (i) The proponent will provide the City with a record containing the following:
 - (i) List of attendees, including names, addresses and phone numbers;
 - (ii) Minutes indicating the topics discussed and concerns and issues raised, resolutions and any outstanding issues;
 - (iii) Copies of letters or other communications received from the public; and
 - (iv) A follow-up letter of response outlining how the concerns and issues raised at the meeting and in any letters will be addressed within 20 days of the meeting, or alternatively, clearly setting out the reasons why such concerns cannot be addressed.

12. RESOLVING CONCERNS

- (a) The City will provide the proponent with division and agency comments from the Telecommunication Tower Review Application process.
- (b) If any revisions are agreed to, the proponent will be encouraged to resubmit drawings and documents to address to concerns identified during the Telecommunication Tower Review Application and public consultation processes.
- (c) Any revised plans will be submitted to the City for review, circulation and comment.

13. CONFIRMATION OF LOCAL LAND-USE AUTHORITY CONSULTATION

- (a) The City's response to the proponent and Industry Canada will take into consideration all division and agency responses from the Telecommunication Tower Review Application process and will forward the comments raised during the public consultation process.
- (b) The City will inform the proponent and Industry Canada in a letter stating whether the local land-use consultation process has been completed in accordance with the City's protocol and will include recommendations regarding the proposal and including recommendations regarding the proposal as follows:
 - (i) Concurrence, if the proposal conforms with: the City requirements as set

out within this protocol; the City's technical requirements and will include conditions of concurrence if required. The City will also forward comments raised during the public consultation process for Industry Canada to resolve; or

- (ii) non-concurrence, if the proposal does not conform with City requirements as set out within this protocol. The City will also forward comments raised during the public consultation process for Industry Canada to resolve.
- (c) The City will provide a copy of this letter to all interested parties and the Local Ward Councillor.

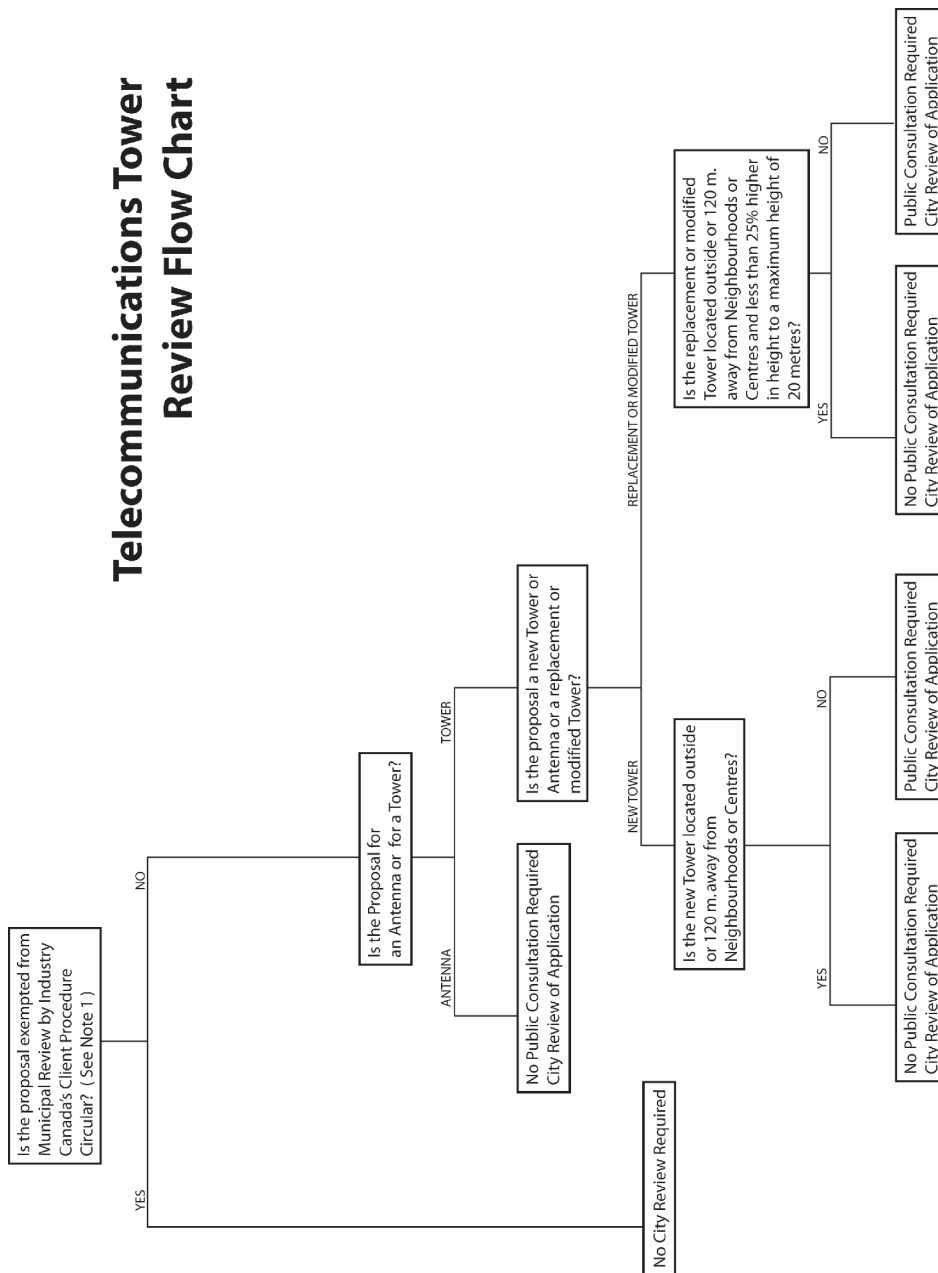
14. APPLICATION PROCESS TIMEFRAME

- (a) The City will endeavour to expedite the local land-use authority consultation within 60 days.
- (b) For proposals that require public consultation, a time period of up to 120 days may be required.
- (c) In the event of unavoidable delays preventing the completion of the application process within the 120 days period, the City shall identify such delays to the proponent and indicate when the completion is expected to occur.

15. COMMENCEMENT

- (a) This protocol will come into effect 30 days after the date of its approval.

Attachment 2: Proposed Telecommunications Review Flow Chart



Note 1 - Proposals Exempt from Municipal Consultation by Industry Canada:

- maintenance of existing radio apparatus including the antenna system, transmission line, mast, tower or other antenna-supporting structure;
- new antennas and towers or modification of antennas or towers (including improving the structural integrity of its integral mast to facilitate sharing), the transmission line, antenna-supporting structure or other radio apparatus to existing infrastructure, a building, water tower, etc. provided the addition or modification does not result in an

- overall height increase above the existing structure of 25% of the original structure's height;
- maintenance of an antenna system's painting or lighting in order to comply with Transport Canada's requirements;
 - installation, for a limited duration (typically not more than 3 months), of an antenna system that is used for a special event, or one that is used to support local, provincial, territorial or national emergency operations during the emergency, and is removed within 3 months after the emergency or special event; and
 - new antenna systems, including masts, towers or other antenna-supporting structure, with a height of less than 15 metres above ground level.

Attachment 3 – City Council Direction of July 19-21, 2005

City Council Motions

At its meeting on July 19-21, 2005, City Council directed staff to amend certain provisions in the draft telecommunication protocol (see attachment 1) and to report back to Planning & Transportation Committee (P&T) on the following matters regarding the draft protocol:

- deleting the exemptions for Telecommunication Tower Review Applications;
- deleting the exemptions for Telecommunication Tower Review Public Consultation;
- establishing definitions for “structure” and “significant”; and
- identifying urban design opportunities and strategies available to improve on the appearance of towers.

a) Exemptions for Telecommunication Tower Review and Exemptions for Public Consultation

P&T recommended that the exemptions for Telecommunication Tower Review Applications in the draft protocol be deleted. Since the matter was before P&T, Industry Canada released its new Client Procedures Circular (CPC). The CPC sets out the rules for the telecommunications industry for the placement of new telecommunications towers and antennas. The CPC specifically exempts proponents from consultation with local municipalities for certain types of applications. Telecommunications is a matter of Federal jurisdiction and the City cannot force proponents to consult with the City on these matters. Staff recommend that the City’s protocol should be consistent with the CPC to avoid confusion for the industry, the public, Council and staff. In addition, on April 23 and 24, 2007, Council directed that staff prepare a telecommunications protocol, “that adheres to Industry Canada’s Policy”.

The CPC exempts the following proposals from consultation with municipalities:

- maintenance of existing installations;
- new antennas or towers located on existing buildings or structures, provided that they do not increase the height of the existing or structure by more than 25%; and
- All installations (towers) with a height of less than 15 m. above ground.

Staff are not recommending any further exemptions.

b) Exemptions for Telecommunication Tower Public Consultation

P&T recommended that there should be no exemptions of telecommunication installations from public consultation.

The draft protocol includes the following exemptions to public consultation:

- all proposals exempt from a City application;
- replacement or modification to existing telecommunication towers located outside of neighbourhoods that do not exceed 25% of the original height of the tower; and
- new towers within non-residential areas located at least 120 metres from any residential neighbourhood. (New towers under 15 metres in height are exempted from municipal consultation by Industry Canada).

Except as outlined in Part (a) above, new towers in the City will require the submission of a complete Telecommunication Tower Review application for review by City staff to ensure conformity with the requirements set out within the protocol.

Past experience has shown that telecommunication tower proposals within or in close proximity to neighbourhoods generate a significant amount of public interest. Two of the key objectives of this protocol are to ensure the protection of residential neighbourhoods from the visual impact of towers, while providing a review process for proposals in accordance with this protocol.

To implement these objectives, public consultation exemptions are included that encourage towers to locate outside of neighbourhoods. Where a new tower is necessary, the proponent is encouraged to locate the tower outside of neighbourhoods, preferably in areas zoned to permit industrial uses or utilities.

For proposals within or in close proximity to low density neighbourhoods, proponents would be required to follow the public consultation process to engage the public and address questions, comments and concerns from the public about the proposal. The City approval process timeframe for proposals that require public consultation is up to 120 days, and 60 days for proposals not requiring public consultation, such as towers in non-residential areas.

To provide greater clarity and certainty regarding these public consultation exemptions, the following revisions have been incorporated into the draft protocol.

First, the *Neighbourhoods and Apartment Neighbourhoods* designations in the Official Plan for the City of Toronto have been utilized to establish public consultation exemptions.

Second, after further consultation with the Councillors, telecommunication tower proposals within or in close proximity to *Centres* generate a significant amount of public interest. The *Centres* include the *North York, Scarborough, Etobicoke* and *Yonge-Eglinton Centres* shown on Map 2 of the Official Plan for the City of Toronto. Since building a high quality public realm and civic presence are key objectives in the Official Plan for *Centres*, public consultation exemptions have been revised to require public consultation for new tower proposals within or in close proximity to the *Centres*.

Similar requirements are not required in Toronto *Downtown*, because telecommunications towers are a line-of-sight technology and towers are generally not effective there because of the large number of tall buildings. In *Downtown*, telecommunication facilities are usually located on the top of tall buildings rather than on stand-alone towers.

b) Definition of Structure and Significance

Staff were directed to report back on establishing the following definition:

“Structure – means that a tower shall be considered a structure if its circumference exceeds 120 centimetres measured at a height of one metre from the base.”

A concern was expressed that Industry Canada’s previous CPC did not define what constitutes a significant structure and some confusion may result as to which telecommunication installations the municipality would be reviewing.

The new CPC no longer provides proponents with the discretion to determine what is “significant” and instead specifically exempts certain types of installations. Proponents do not need to consult with municipalities where they are exempted. Therefore, a definition of “significant” is no longer required.

c) Setbacks

Staff were directed to report back on amending Section 4D(d) to delete the words “wherever feasible” so that it reads “The minimum setback of a telecommunication tower to a road right-of-way will be the height of the tower.”

Staff were also directed to report back to P&T on establishing the following definition:

Significant – means a tower shall be considered significant if, in a residential or commercial area, any part of it pierces a 45 degree plane projected from the roof line of any adjacent building towards the tower or in any zone if it pierces a 45 degree plane projected from the curb line of a road towards the tower;

Adding such a definition would be onerous to administer as it would be difficult for staff to assess compliance and would require proponents to prepare surveys for buildings on adjacent properties.

A similar outcome can be achieved by including setbacks in the proposed protocol, which provide greater certainty regarding the location of proposed tower installations. The protocol has been revised to encourage a minimum setback of the height of the tower to all property lines. For example, a new 16-metre tower would be encouraged to provide a

minimum 16-metre setback to all property lines. This is equivalent to a 45 degree plane from the property line.

d) Conditions of Concurrence

Staff were directed to report on amending the draft protocol to include site plan conditions.

It has been confirmed that both Industry Canada and the providers have no objections to the City setting out conditions of concurrence as part of the City's recommendations to Industry Canada regarding telecommunication proposals. Section 13 of the protocol has been revised to include a requirement that conditions of concurrence be included in the City's recommendations to Industry Canada. These conditions will be forwarded to Industry Canada for consideration and final decision on the proposal.

e) Urban Design Guidelines for Telecommunication Towers

Staff were directed by Planning and Transportation Committee to submit a report identifying the urban design opportunities and strategies available to improve on the appearance of towers, and in particular, co-located towers, within the City.

It is clarified that co-location typically refers to the placement of antennas, rather than towers on an existing telecommunication tower or building.

In response to this direction, the following matters are addressed in the proposed protocol:

The proposed protocol addresses site selection, siting and site organization, along with the design aspects of the tower feature itself. These are key considerations in mitigating the impact of towers on the surrounding area. Site selection guidelines are as follows:

- Sites should be selected to ensure compatibility with adjacent land uses;
- Distances between towers and *Neighbourhoods*, *Apartment Neighbourhoods* and *Centres* and listed heritage building and sites should be maximized;
- Sites that obscure public views and vistas of important natural or human-made features should be avoided; and,
- Sites of topographical prominence and within the *Parks and Open Space Areas* (with the exception of sites owned and utilized by utilities ie. hydro corridors) should be avoided.

The proposed protocol also includes design guidelines. The design and type of a tower should also be considered in relation to the local context with a goal to its being compatible with and appropriate to the local neighbourhood or district character. Where a telecommunication tower must be located within or in close proximity to *Neighbourhoods*, *Apartment Neighbourhoods* and *Centres*, monopoles are encouraged.

Monopoles are shorter, thinner and less obtrusive than guyed or self-supported towers. Mitigation measures to ameliorate the scale and visual impacts of telecommunication tower include consideration for colour, materials, base landscaping, screening, design features or accessory structures and fencing as well as the appropriateness of the tower structure by type. Where appropriate, a telecommunication tower will be designed as a landmark feature to augment the urban landscape by resembling features found in the area such as a flagpole or clock tower.

Examples of Cell Tower Types:

Monopole Tower



Self Supporting Tower



Guyed Tower (supported by guy wires)



Disguised As Clock Tower



Disguised as a Tree



Tower on Building Roof



Antenna



Antenna on Side of Building



Attachment 4 – Consultation with Councillors

At its meeting on July 19-21, 2005, Council directed City Planning Division staff to meet with the Chair of Planning and Transportation Committee (Councillor Fillion) and Councillors Stintz, Moscoe and Palacio to develop a set of principles to guide the draft protocol discussions.

Staff met with the Councillors and reviewed the principles that guided the development of the draft protocol. The principles can be summarized as follows:

- To establish a harmonized City-wide process and criteria for reviewing telecommunication proposals;
- To set out criteria and guidelines for the evaluation of telecommunication tower proposals regarding co-location, siting, design and landscaping, including minimum setbacks to all property lines;
- To establish a municipal consultation process that allows the City to provide input on proposals to proponents and Industry Canada;
- To establish a public consultation process for certain types of proposals such as new towers or significant replacements or modifications to existing towers located within or in close vicinity to *Neighbourhoods* and *Centres*; and
- To discourage new telecommunication towers within or in close proximity to *Neighbourhoods* and *Centres*.

A number of issues, such as the appearance of towers, dispute resolution and public consultation have been addressed in previous sections of this report. The following additional issues were raised by the Councillors:

a) Maintenance

A concern was raised regarding maintenance of the tower sites regarding property maintenance and refuse. The harmonized Property Standards By-law adopted as part of the City's Clean and Beautiful Initiative is the most effective tool to deal with these matters.

All properties in the City, including tower sites are subject to this By-law. The proposed protocol requires that a plaque be placed at the base of the tower, identifying the owner/operator of the tower and a contact telephone number. This will help City Municipal Licensing and Standards Division staff to contact the provider about site maintenance.

b) Need for Site Plan Control

It was suggested that a protocol would not be required if Site Plan Control is applied to all towers to ensure public consultation for proposals.

A recent court decision confirmed that telecommunication facilities are a matter of federal jurisdiction, and are not subject to Site Plan Control.

c) Monitoring

It was suggested that the draft protocol should be monitored to allow for changes to fine-tune and improve the process and that staff be directed to report back after the implementation of the protocol.

The draft protocol has been revised to require that staff review the protocol two years after its implementation and report back regarding any issues arising from this review. This review should also include consultation with the telecommunication providers and Industry Canada.

d) Health Impacts

It was suggested that a study be prepared by either Toronto Public Health or Industry Canada on the health risks associated with telecommunication towers, including what concentration of towers is acceptable.

Industry Canada's CPC requires that all installations comply with Health Canada's Safety Code 6 limits. In its CPC, Industry Canada indicates that biomedical studies in Canada and other countries indicate that there is no scientific or medical evidence that a person will experience adverse health effects from exposure to radiofrequency fields, provided the installation complies with this Code. Industry Canada has therefore indicated in the new CPC that, where a proposed telecommunications installation meets the requirements of Safety Code Six, it will not consider further complaints respecting the standards contained in Safety Code Six to be relevant concerns for the purpose of approving the proposed location. It is therefore staff's view that attempting to include a more stringent standard under a City protocol will undermine its effectiveness as part of the Industry Canada regime.

Toronto Public Health has some concerns with the Safety Code 6 limits. Industry Canada developed its CPC based on the exposure limits identified in Safety Code Six. Safety Code Six is the responsibility of Health Canada.

On December 4, 2007, the Toronto Board of Health considered a report from Toronto Public Health on the health risks of Telecommunication facilities.

Attachment 5 – Consultation with Industry Canada

On November 22, 2007, City Planning Division staff met with staff from Industry Canada. Industry Canada has reviewed the City's draft protocol and confirms that it is reasonable.

The following additional issues were raised by Industry Canada with respect to the City's draft protocol:

a) **Public Consultation**

Industry Canada advises that its staff may be available to attend open house/community meetings to clarify its approval process and jurisdictional matters on a case-by-case basis at its discretion and subject to operational requirements.

In addition, for tower proposals that do not meet the public consultation exemption criteria, the draft protocol requires that the applicant organize and chair an open house/community meeting. Industry Canada suggests that more flexibility be provided on the type of meeting format that is used. City Planning staff clarified the intent of this policy is to establish a harmonized City-wide practice for the meeting format that provides certainty for the proponent, Council, City staff, Industry Canada and members of the public.

b) **Lighting**

To provide greater clarity, Industry Canada recommends that the draft protocol be revised to state that lighting of telecommunication antennas and telecommunication towers is prohibited unless required by Navigation Canada. The draft protocol has been revised accordingly to address this matter.

Attachment 6 – Consultation with the Telecommunications Industry

City Planning Division staff have met with representatives of the three major telecommunication providers.

To fulfill the requirements of Industry Canada, the telecommunications industry acknowledges the benefit of a harmonized City-wide practice for review telecommunication tower and facility proposals. The providers stated that they are committed to working together with the City to create a realistic and effective guide and process for the telecommunication industry, including public consultation in appropriate cases.

The following issues were raised by the telecommunication industry with respect to the draft protocol:

a) Permitted Tower Locations

The providers expressed a concern that telecommunication towers are not permitted within residential and mixed-use areas.

It is clarified that the proposed protocol does not prohibit towers in any area within the City. Where new towers are necessary, new towers are encouraged to locate outside of *Neighbourhoods, Apartment Neighbourhoods* and *Centres*. Where a telecommunication tower must be located within or in close proximity to *Neighbourhoods, Apartment Neighbourhoods* and *Centres*, public consultation is required.

b) Well-Designed and Camouflaged-Designed Towers and Antenna Installations

The providers expressed a concern that the draft protocol discriminates against all towers including well-designed and camouflage-designed towers and antenna installations.

It was clarified that one of the City's objectives is to provide an expeditious review process for telecommunication tower and telecommunication antenna proposals that are established in accordance with this protocol, which specifically encourages well-designed and camouflaged-designed tower and antenna installations.

It is acknowledged that not all towers can be designed to be well-camouflaged. In such cases, an appropriate level of review and public consultation is required by the City for all parties to explore ways to mitigate the impact of these structures through site selection, site organization, landscaping and structure type.

c) Roof-mounted Antennas

The providers expressed a concern that buildings must be a minimum of 13 to 14 storeys tall to be exempted from a City application. The providers stated that a height of 4.5

metres is required for a roof-mounted antenna to comply with Safety Code 6 requirements, which has subsequently been confirmed by Industry Canada. The providers also expressed a concern that the number of people required to be contacted for public consultation is greater for roof-mounted antenna installations than compared to antenna installations mounted on a tower.

Industry Canada's new CPC exempts roof-mount antennas in most circumstances. Only roof-mounted towers that will result in an increase in a buildings height by more than 25% are subject to municipal review. Thus only buildings shorter than 6-7 storeys are likely to be subject to public consultation.