

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed by 
Jacques Dubé, Chief Administrative Officer

DATE: February 1, 2021

SUBJECT: **Amendments to the Telecommunication Antenna Administrative Order
2015-005-GOV**

ORIGIN

On March 22, 2016, Halifax Regional Council approved 2015-005-GOV, the Siting of a Telecommunication Antenna Administrative Order (AO). This order outlined the process to deal with requests for telecom towers within the municipality. In late 2020, a request was made by members of the telecommunication consulting industry for modest amendments to the existing process. These proposed amendments would allow for a one-year extension to the existing three-year window within which a tower must be constructed. This amendment would avoid consultants re-completing the engagement process in circumstances where the context surrounding the tower site has remained unchanged from when the application was first assessed.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter

58 (1) The Council shall make decisions in the exercise of its powers and duties by resolution, by policy or by by-law.

Halifax Regional Municipal Planning Strategy

SU-26 HRM shall, in cooperation with Industry Canada and industry stakeholders, work to create an effective consultation approach for the siting of telecommunication towers and antenna.

Radiocommunication and Broadcasting Antenna Systems Client Procedures Circular CPC2-0-03

4.4 "... construction of an antenna system must be completed within three years of the conclusion of consultation. After three years, consultations will no longer be deemed valid except in the case where a proponent secures the agreement of the relevant Land-Use Authority to an extension for a specified time period in writing....

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Adopt the Amendments to Administrative Order 2015-005-GOV, the Siting of a Telecommunication Antenna Administrative Order, as set out within Attachment C of this report.

EXECUTIVE SUMMARY

Telecommunication towers are the exclusive jurisdiction of the Federal Government. This notwithstanding, the Federal Government still requires applicants to consult with the relevant Land Use Authority (Municipality). This consultation process is outlined in 2015-005-GOV, the Siting of a Telecommunication Antenna Administrative Order (AO). This AO has been in place for 5 years and used to process dozens of applications over this period of time. It has recently been identified that an amendment is needed to the AO so as to allow for 1-year extensions to the required construction commencement dates in the rare cases where telecom towers are not constructed within the 3 year window presently allowed. Staff recommend Council adopt these changes, subject to certain conditions, including ensuring that no new homes have been constructed and occupied in the vicinity of the tower site since the first approval was granted, and ensuring the zoning or land use designation of surrounding properties have not been altered since first approved.

BACKGROUND

Legislative Framework & Existing Process

Telecommunication towers are an integral part of the radiocommunication and telecommunications network within Canada and are the exclusive jurisdiction of the Federal Government. While the final decision of approval for these towers lies with the Federal Government, the Federal governing body still requires that the proponents of telecom towers consult with the relevant Land Use Authority (Municipality) prior to a decision being made. The Municipality may 'concur' with the proposal, 'concur with conditions', or may issue a letter of 'non-concurrence' if the Municipality feels that the proposed installation is not contextually appropriate.

The Municipality is not the approving authority for telecom towers. The federal government has exclusive and comprehensive jurisdiction over radiocommunication and telecommunications (radio and television broadcasting, microwave communication, private radio transmissions, etc.). For wireless communications facilities (cell towers, antennae, etc.), Innovation, Science and Economic Development Canada - Spectrum Management & Telecommunications, is the licensing body which regulates these facilities under the provisions of the *Telecommunications Act* (S.C. 1993, c.38). Communication companies must apply to Innovation, Science and Economic Development Canada for a license to operate an installation at a given location.

Prior to 2016, decisions on municipal concurrence with these applications were made by the applicable Community Council. That process included a staff recommendation report and community input in a manner similar to the public hearings process held for planning matters. This process created a number of issues such as extended processing timelines, as well as Community Council being seen as the decision-maker when it is in fact the Ministry of Innovation, Science and Economic Development Canada.

On March 22, 2016, Halifax Regional Council approved 2015-005-GOV, the Siting of a Telecommunication Antenna Administrative Order (AO). In this process, telecommunication tower applications are no longer considered by Community Council, and instead are assessed by staff against Council approved guidelines held within the Administrative Order as well as considering feedback as provided by the public through a public consultation process. The process was developed in consultation with the Canadian Wireless Telecommunications Association, the Ministry of Innovation, Science and Economic Development Canada

(then called Industry Canada), as well as individual wireless service providers such as Bell, Rogers, and Eastlink. An outline of the current HRM telecommunication tower application workflow can be found in Attachment B of this report.

Over the course of the past 5 years, several dozen telecom tower installations have been processed, and reviewed through this new process. While concerns do arise from time to time about the location, height, or appearance of individual tower proposals, the new process has been well received in its clarity and relative efficiency.

Request for Amendment to Existing Process

Under the current Administrative Order, HRM requires that if a tower has not been constructed within three years of the issue date of the concurrence letter, the application process will be required to be re-started in order to receive a further letter of concurrence. This would involve the re-submission of detailed plans, the completion of a pre-application process, re-completing community engagement for the proposal, and the re-submission of a full application following the completion of engagement.

Since the adoption of the 2016 AO, staff have become aware of only a single incidence where a tower was not constructed within the three-year timeframe. Further to this, staff notes the following content on the Innovation, Science and Economic Development Canada website:

"...after 3 years, consultation will no longer be deemed valid except in the case where the proponent secures the agreement of the relevant land use authority to an extension for a specified time period in writing."

It further states that:

"Land Use Authorities may wish to consider include in their protocols procedures relating to extending the time limit for construction."

Individuals from the telecommunications industry have inquired as to the possibility of amending the existing Administrative Order to provide the possibility of an extension to the time limit for construction in accordance with the permissions that Federal legislation provides. Construction may not have occurred within the permitted three-year window for any number of reasons inclusive of continued land lease or purchase negotiations, availability of tower materials and equipment, or availability of technical staff to complete the necessary work. Additional time could afford the applicant for a tower a modest amount of further flexibility with limited downside from the perspective of the Municipality.

DISCUSSION

Staff recommend Council consider changing the existing Administrative Order to allow for modest extensions for letters of concurrence without the requirement to re-complete the full application process. Changes are included as Attachment C of this report, and include the following:

- Allowance for an extension of 1 year to the existing letters of concurrence;
- A requirement for applicants to request the extension before the date of expiry of the letter of concurrence, and no earlier than three (3) months prior to the date of expiry;
- Stipulation in the Administrative Order where an extension could not be granted if the zoning or land use designation had changed for any properties within the notification area referenced in Section 4 of Attachment C of the existing Administrative Order. In these cases, a new application would need to be submitted; and
- Stipulation in the Administrative Order where an extension could not be granted if a new residential dwelling unit had been constructed in the areas noted in Sections 4, 5, and 6 of Attachment B of the existing Administrative Order.

Each of these changes are outlined in further detail in the subsequent sections of this report below:

1 Year Extensions

Granting additional time for development projects to commence is a regular occurrence in many of HRM's other types of planning applications. While rezonings do not expire, Development Agreements typically contain dates by which construction must be commenced before and completed by within the agreement. The intent of these dates is to ensure development is assessed against the most recent planning policies approved by Council and to ensure that individuals consulted via the planning process are by and large still the individuals living in the community at the time of construction. In Development Agreements, commencement and completion dates can vary widely depending on the size of the project, and the time it may take to construct and/or sell each of its components. Commencement dates typically range between three years at the low end to upwards of 20 years or more for large multi-building projects.

The proposed amendments would result in a letter of concurrence being extended by one year, potentially lasting four years from the date the letter was originally provided. Staff advise that this timeline is reasonable and is similar to the timelines afforded to other development permissions.

Timing of Request for Extension

The proposed amendments to the Administrative Order would require individuals seeking a time extension to submit their request within three months of the letter of concurrence expiry. This timeline is similar to the clause held in many development agreements relating to time extensions. Its purpose is to ensure the most up to date planning policy and contextual considerations are being given to the requested extension.

Changes to Policy of Physical Context of the Subject Site

The existing Administrative Order requires HRM planners to assess a proposed telecom tower against existing Municipal Planning Strategy policies to determine if public engagement may be required. The Administrative Order also takes care to ensure the distance between a tower and any surrounding residential uses is maximized to the greatest extent possible using a number of setback and buffering standards created and endorsed by Innovation, Science and Economic Development Canada. The present HRM policies require engagement to be undertaken if any residential homes are within a prescribed diameter of the tower site, or if the future land use designation as contained within the applicable Municipal Planning Strategy is any designation other than industrial, resource, or utility.

Issues could arise if, during the three years since a letter of concurrence was issued, the future land use designation applied to the site was changed, or new residential uses were developed in close proximity to the tower location. This would have the unintended consequence of allowing a tower in a location that may in fact no longer be appropriate given the changing context of its surroundings. To mitigate this issue, the proposed amendments stipulate the extensions cannot be granted in cases where either the MPS designation has been changed, or where new residential development exists in locations deemed potentially inappropriate within the preferred site criteria of the policy. This would then allow all new residents to the area the opportunity to comment on the installation, and further allow for a full reassessment of the installation by HRM staff in light of the evolving community context.

FINANCIAL IMPLICATIONS

At present, a processing fee of \$500 is required at the time of application. A single fee is collected which encompasses both the Pre-Consultation Application as well as the Formal Submission Application. Advertising fees are not charged for these applications as advertisement is the exclusive responsibility of the applicant. In the proposed Administrative Order amendments, a request for a 1-year extension would also be charged the same fee of \$500. The applications occur infrequently with only one occurring in the last 5 years. The expenses to process the application, and revenues generated by the fee, would be immaterial to overall budgets.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report.

COMMUNITY ENGAGEMENT

The community engagement process for this project has been consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement has been information sharing and consultation. Policy SU-26 of the Regional Plan requires HRM to prepare a functional plan / protocol to address telecommunication Tower/Antenna in consultation with both industry stakeholders as well as Industry Canada. The original Administrative Order was a result of discussions with Innovation, Science and Economic Development Canada and the telecommunication industry. No concerns were identified with the changes proposed.

The amendments proposed within this report were outlined in a notification sent to these same stakeholders and feedback requested. A total of two responses were received at the time of report writing, both indicating support for the proposed changes to allow a 1-year time extension.

ENVIRONMENTAL IMPLICATIONS

All tower proposals must comply with the Federal *Environment Act*. HRM will continue to evaluate telecom proposals relative to environmental considerations (such as wetlands, riparian buffers, etc.) as part of the Telecom Tower Protocol, but will not review or make revisions to Safety Code 6 which is the Federal environmental regulations for wireless telecom structures. The Municipality has no ability to revise Federal legislation.

ALTERNATIVES

1. Regional Council may choose to take no action and retain the Administrative Order in its present form. Applicants for telecommunication towers seeking the right to construct a tower beyond the three-year window provided in a letter of concurrence would need to re-apply, and have their application be considered by the full process.
2. Regional Council may choose to modify the Administrative Order in a manner not outlined within this report. Such modifications may warrant further consultation with the telecommunication industry and may require a supplementary report.

ATTACHMENTS

Attachment A: Existing Administrative Order 2015-005-GOV
Attachment B: Current HRM Telecommunication Tower Application Workflow
Attachment C: Proposed Amendments to Administrative Order 2015-005-GOV

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

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**ADMINISTRATIVE ORDER 2015-005-GOV
THE SITING OF A TELECOMMUNICATION ANTENNA
ADMINISTRATIVE ORDER**

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WHEREAS the Minister of Industry is the approving authority for the development and operation of radiocommunication in Canada pursuant to the *Radiocommunication Act*, including the installation or modification of an antenna system,

AND WHEREAS section 5 of the *Radiocommunication Act* allows the Minister of Industry to take into account all matters the Minister considers relevant for ensuring the orderly development and efficient operation of radiocommunication in Canada, including approving each site on which radio apparatus are located,

AND WHEREAS a “radio apparatus” includes an antenna system;

AND WHEREAS Industry Canada requires an applicant for an installation or modification of an antenna system, regardless of its type, to consult with the local-land use authority;

AND WHEREAS Industry Canada suggests that the local land-use authority facilitate the implementation of local radiocommunication services by establishing a consultation process for the siting of an antenna system;

AND WHEREAS Industry Canada requires an applicant to engage the person the local land-use authority has designated as the official to deal with for an antenna system on behalf of that authority;

AND WHEREAS Industry Canada allows the Municipality to exclude installations in addition to those identified by Industry Canada’s own consultation exclusions, as set out in the *Client Procedures Circular*, as amended from time to time;

AND WHEREAS the Municipality is the local land-use authority for the Halifax Regional Municipality;

AND WHEREAS the Council of the Municipality may designate an employee of the Municipality as the official with whom an applicant will engage;

AND WHEREAS the Council of the Municipality desires to establish a consultation process to provide input and comment with respect to land use compatibility of an antenna system;

BE IT RESOLVED AS AN ADMINISTRATIVE ORDER by the Council of the Halifax Regional Municipality as follows:

Short Title

1. This *Administrative Order* may be cited as *Administrative Order 2015-005-GOV*, the *Siting of a Telecommunication Antenna System Administrative Order*.

Purposes

2. The purposes of this *Administrative Order* are to:

- (a) provide a consultation process respecting an antenna system, as set out in the *Client Procedures Circular*;
- (b) encourage using existing antenna systems;
- (c) minimize the impact of an antenna system on the landscape; and
- (d) provide a municipal review process for an antenna system submission.

Interpretation

3. In this *Administrative Order*,

- (a) “*Act*” means the *Radiocommunication Act*, R.S.C., 1985, c. R-2, as amended;
- (b) “antenna system” means an antenna and an antenna structure, including:
 - (i) the supporting brace, cable, line, and wire used or intended to be used for mounting a telecommunication antenna or series of antennas on it, and
 - (ii) a cabinet or shelter containing electronic or other equipment associated with the antenna structure and any compound required to accommodate them;
- (c) “applicant” means the person or body corporate consulting with the Municipality respecting the erection of an antenna system;
- (d) “business day” means Monday through and including Friday, excluding holidays;
- (e) “*Client Procedures Circular*” means the most recent version of the *Radiocommunication and Broadcasting Antenna Systems Client Procedures Circular CPC2-0-03* issued by Industry Canada;
- (f) “Director” means the Director of Planning & Development for the Municipality, or such other person as may be designated by the Chief Administrative Officer of the Municipality;
- (g) “Municipality” means the Halifax Regional Municipality;
- (h) “owner” means:
 - (i) a part owner, joint owner, tenant in common or joint tenant of the whole or any part of land or a building,
 - (ii) in the case of the absence or incapacity of the person having title to the land or building, a trustee, an executor, a guardian, an agent, a mortgagee in possession or a person having the care or control of the land or building, and
 - (iii) in the absence of proof to the contrary, the person assessed pursuant to the Assessment Act for the property;
- (i) “radio apparatus” means a device or combination of devices intended for, or capable of being used for, radiocommunication; and
- (j) “watercourse” means a lake, river, stream, ocean or other body of water.

4. All words that are not expressly defined in this *Administrative Order* shall be defined as set out in the *Act*.

5. If a word is not defined under this *Administrative Order*, the *Act* or the *Halifax Regional Municipality Charter*, the word’s ordinary meaning shall apply.

Delegation

6. (a) The Council hereby delegates to the Director the powers and duties necessary and incidental to administer this *Administrative Order*, including making decisions on behalf of the Municipality respecting an antenna system.

(b) The Director may appoint one or more delegates who shall assist the Director in carrying out the Director's powers and duties.

(c) Anyone appointed pursuant to subsection 6(b), shall act in the place and in the stead of the Director when the Director is absent or at the request of the Director.

Application of Administrative Order

7. This *Administrative Order* shall apply to an antenna system:

- (a) mounted to a roof top, a building or the ground by a pole, a tri-pole, a spire, or lattice work;
- (b) mounted to a roof top, a building or the ground by a structure or tower that is freestanding, including a streetlight or parking lot light; or
- (c) that is a combination of clauses (a) and (b) of this section.

Exemption from the Application of Administrative Order

8. This *Administrative Order* shall not apply to an antenna system:

- (a) that is exempt by Industry Canada from the local consultation requirement, as set out in the *Client Procedures Circular*, or
- (b) an amateur radio apparatus.

Pre-Consultations for any Antenna System

9. Prior to submitting a formal submission to install or modify any antenna system, an applicant shall follow the pre-consultation requirements set out in Attachment A.

10. An applicant shall not initiate public consultation until the pre-consultations are complete and comments from the Director have been received by the applicant.

Public Consultations for an Antenna System (if Required)

11. Where the public consultation process is required, the applicant shall follow the public consultations requirements as set out in Attachment C.

Formal Submission Requirements

12. (1) When an applicant submits a formal submission for the siting of an antenna system, the applicant shall provide to the Director a submission package containing all of the relevant material as set out in Attachment D.

(2) The Director shall review and evaluate each submission he or she receives for the siting of an antenna system in accordance with Attachment D to ensure the submission is complete.

Completed Antenna System

13. The standard conditions for a completed antenna system are set out in Attachment E.

Attachments

14. Attachments A, B, C, D and E attached hereto shall form part of this *Administrative Order*.

Done and passed in Council this 22nd day of March, 2016.

Mayor

Municipal Clerk

I, Kevin Arjoon, Municipal Clerk of Halifax Regional Municipality, hereby certify that the above-noted Administrative Order was passed at a meeting of Halifax Regional Council held on March 22, 2016.

Kevin Arjoon, Municipal Clerk

Notice of Motion:
Approval:

February 23, 2016
March 22, 2016

Attachment A
Pre-Consultation Requirements

1. The information the applicant shall provide to the Director for a pre-consultation discussion includes:
 - (a) a cover letter describing the proposed antenna system, including its height and dimensions and whether an antenna will be mounted on the supporting structure;
 - (b) a site selection justification report prepared by a qualified professional and such report shall:
 - (i) identify all tower facilities within the vicinity of the proposed location, and
 - (ii) identify all details with respect to the coverage and capacity of the existing tower facilities in the surrounding area;
 - (c) if the installation of a new antenna system is being proposed, detailed documented evidence explaining why co-location on an existing antenna system is not a viable alternative to the construction of a new antenna system by a qualified professional;
 - (d) a draft site plan or survey plan of the subject property showing the location of the proposed antenna system in relation to the site and surrounding properties, including any buildings on the property or adjacent sites;
 - (e) an elevation plan or simulated images of the proposed antenna system;
 - (f) the reasons for the site selection; and
 - (g) any other information required by the Director.
2. During the pre-consultation discussions, the Director may require a meeting to be held with the applicant to discuss the antenna system.
3. Within ten (10) business days from the date of receipt of all the information required pursuant to section 1 of this Attachment, the Director shall review the information and notify the applicant if such information is incomplete.
4. Within twenty (20) business days from the date of receipt of all the information required pursuant to section 1 of this Attachment, the pre-consultations shall be completed.
5. Within ten (10) business days of the completion of the pre-consultations, the Director shall advise the applicant, in writing, that:
 - (a) the application satisfies the preferred location criteria as outlined within Attachment B and that public consultation is not required, at which time the Director shall provide to the applicant confirmation that the proposal may proceed to the formal submission stage; or
 - (b) the application does not satisfy the preferred location criteria as outlined within Attachment B, at which time the Director shall provide to the applicant confirmation that public consultation, as set out in Attachment C, is required and that the proposal may proceed to the formal submission stage after the public consultation is completed.

Attachment B
Location Preference, Design Guidelines, and Setback Guidelines

Preferred Site Locations

1. Where a new antenna system is proposed, the following locations are preferred:
 - (a) on lands identified as industrial, resource, or utility designation within the applicable Municipal Planning Strategy or Land Use By-law and which conform to sections 3, 4, 5, and 6 of this Attachment; or
 - (b) antennas using existing structures where no additional height is added to the structure except where otherwise exempt by Section 8 of the Administrative Order.

Discouraged Site Locations

2. Where a new antenna system is proposed, the following locations are discouraged:
 - (a) on lands impacting or identified as containing significant cultural, environmental, or heritage features under the Municipal Planning Strategies of the Municipality;
 - (b) on Federally, Provincially, or municipally registered heritage properties or districts; or
 - (c) in the Regional Centre as defined by the Regional Plan of the Municipality.

Conflict Between Locational Criteria

3. Where there is a conflict between the conditions of section 1 and section 2 of this Attachment, the applicant shall conduct a public consultation as set out in Attachment C shall apply.

Antenna System Placement Guidelines

4. Where a new antenna system is constructed, the following location guidelines should be followed:
 - (a) all facilities should be located a minimum of twenty (20) metres away from the street line to minimize visual impact of the tower from the streetscape; and
 - (b) facilities should not be located on parking spaces or loading spaces.
5. With regard to an antenna system being proposed in proximity to residential development, the following shall be considered:
 - (a) the placement of an antenna system in close proximity to residential developments is not a preferred location;
 - (b) to be considered a preferred site, a site abutting an existing dwelling should be located:
 - (i) for towers less than fifteen (15) metres in height, at least three times the height of the proposed tower away from residential dwelling units,
 - (ii) for towers fifteen (15) to thirty (30) metres in height, at least seventy-five (75) metres away from residential dwelling units,
 - (iii) for towers thirty-one (31) to forty-five (45) metres in height, at least one hundred (100) metres away from residential dwelling units,

(iv) for towers forty-six (46) to fifty-five (55) metres in height, at least one hundred and twenty-two (122) metres away from residential dwelling units, and

(v) for towers fifty-six (56) metres or greater in height, at least three (3) times the height of the proposed tower away from residential dwelling units;

(c) the distance referred to in clause 5(b) shall be determined by measuring from the nearest wall of the nearest dwelling unit, including any secondary suite located in a rear yard or within an accessory building, to the proposed tower; and

(d) where the height of a tower is between whole numbers, the measurement shall be rounded up to the next full number. For example, if the tower measures thirty and thirty-four hundredth (30.34) metres in height, it will be considered to be thirty-one (31) metres in height.

6. The Director may modify the residential setback guidelines on a site by site basis by:

(a) taking into account factors of the site, including:

(i) buffering topography and vegetation,

(ii) intervening major transportation and utility corridors,

(iii) watercourses,

(iv) intervening non-residential buildings,

(v) information arising from public consultation concerning the antenna system, and

(vi) consideration of the impact on nearby significant, cultural, environmental, or heritage features; and

(b) considering whether the antenna system is hidden or screened by design, structure or other camouflaging techniques.

Design Guidelines

7. An antenna system should be designed in accordance with the following design guidelines:

(a) the use of an antenna system that is designed to be as unobtrusive and inconspicuous as possible is encouraged, particularly in either residential areas, on sites abutting residential uses, or in areas of heritage or cultural significance;

(b) the appropriate type of antenna system for each situation should be selected based on the best effort to blend with the nearby surroundings and minimize the visual aesthetic impacts of the antenna system on the community;

(c) the preferred built forms are:

(i) roof top installations, or

(ii) a freestanding antenna system in the form of:

(A) a monopole with no visible antenna, and

(B) streetlight, parking lot light poles, sign poles and bridges which completely contain the antenna system within;

(d) landscaping and fences on and around the equipment compounds, shelters and cabinets associated with an antenna system shall be utilized to screen the equipment and site; and

(e) the antenna system should not contain lighting unless specifically required by Transport Canada.

Attachment C Public Consultation Requirements

Public Notification Package Requirements

1. Where the public consultation process is required, the applicant shall:
 - (a) post a site sign;
 - (b) undertake written consultations;
 - (c) undertake a public information session; and
 - (d) pay all the costs associated with the public information session, written consultations, and site sign.
2. A public notification package shall include the following information:
 - (a) a location map, including the address, clearly indicating the exact location of the proposed antenna system in relation to the surrounding properties and streets;
 - (b) a physical description of the proposed antenna system, including the height, dimensions, antenna system type and design, any antennas that may be mounted on the tower, its colour and the location and any required lighting;
 - (c) an elevation plan and coloured simulated images of the proposed antenna system;
 - (d) the purpose for the antenna system, the reasons why existing towers or other infrastructure cannot be used, a list of other structures that were considered unsuitable, and future sharing possibilities for the proposal;
 - (e) an attestation that the installation will respect good engineering practices, including structural adequacy;
 - (f) a description on how to submit written public comments to the applicant and the closing date for submission of such comments;
 - (g) the applicant's contact information;
 - (h) reference to this *Administrative Order* and where it may be viewed;
 - (i) the following sentences regarding jurisdiction:

“Antenna Systems are exclusively regulated by Federal legislation under the *Radiocommunication Act* and administered by Industry Canada. Therefore, Provincial legislation such as the *Halifax Regional Municipality Charter*, including zoning by-laws, do not apply to these facilities. It is important to understand that Industry Canada, while requiring applicants to follow the Municipality's *Siting of a Telecommunication Antenna System Administrative Order*, makes the final decision on whether or not an antenna system can be constructed. The Municipality is provided the opportunity to influence the location and design of proposed antenna systems by commenting to Industry Canada, but does not have the authority to approve or refuse the construction of an antenna system.”;

(j) written confirmation that the general public will be protected in compliance with Health Canada's Safety Code 6, as amended from time to time, including combined effects within the local radio environment at all times;

(k) notice that general information relating to health concerns and Safety Code 6 is available on Health Canada's website;

(l) notice that general information relating to antenna systems is available on Industry Canada's Spectrum Management and Telecommunications website;

(m) the contact information for Industry Canada; and

(n) such other information the Director considers necessary.

3. The envelope for the public notification package should have the following statement in red ink:

"IMPORTANT NOTICE REGARDING PROPOSED CELL TOWER IN YOUR
NEIGHBOURHOOD INFORMATION IS ENCLOSED."

Notice Requirements

4. The applicant shall distribute public notification packages by ordinary mail or hand delivery to the following people:

(a) all the owners where any portion of their property:

(i) directly abuts the subject property, or

(ii) is located within the radius of thirty (30) metres or three (3) times the tower height, whichever is greater, measured from the furthest point of the antenna system ;

(b) the applicable Councillor for the district in which the proposed antenna system will be located; and

(c) all adjacent municipalities within a radius of 3 times the height of the proposed antenna system.

Newspaper Notice

5. A newspaper notice shall be completed as follows:

(a) the applicant shall place a notice in a Saturday edition of the Chronicle Herald and be a minimum size of 10 centimetres x 10 centimetres (3.9 inches x 3.9 inches); and

(b) the notice shall contain the following information:

(i) a description of the proposed antenna system , including the height,

(ii) the address of the proposed antenna system site,

(iii) a location map (key plan) of the proposed site,

(iv) an invitation for public comment, which shall be minimum of thirty (30) calendar days,

(v) the closing date for public comments,

(vi) an invitation to the public information session, and location and time of the session,

(vii) the applicant's contact information,

(viii) the wording “antenna systems are exclusively regulated and approved by Federal government”, and

(ix) the contact information for Industry Canada; and

(c) be published at least fourteen (14) days before the date of the public information session.

6. A copy of the newspaper notices, including the date of the newspaper in which the notice was placed, shall be forwarded to the Director within ten (10) calendar days of the newspaper notice being published.

Sign

7. (1) In addition to the notice in the newspaper, the applicant shall erect a sign on the subject site notifying the public of the proposal to establish an antenna system on the subject property.

(2) The sign shall be erected on the property so that it is clearly visible and legible from all street frontages.

(3) The sign shall:

(a) be professionally prepared;

(b) be at least 1.2 metres x 1.2 metres (3.9 feet x 3.9 feet) (width x height) in size but shall not exceed 2.4 metres x 1.2 metres (7.9 feet x 3.9 feet) (width x height) in size;

(c) located a minimum of 0.61 metres (2.0 feet) and a maximum of 1.2 metres (3.9 feet) from the ground; and

(d) contain the following wording with the particulars of the specific application completed by the applicant:

“PUBLIC NOTICE

[Name of applicant] is proposing to locate a Telecommunications Pole being [#] metres ([#] feet) in height, on this property. (If applicable) A public information session (if required) is scheduled on [date of meeting] from [start time] to [end time] at [location of meeting]. Public comment is invited and shall be provided to the applicant. The closing date for submission of written comments is [applicable closing date]. For further information, contact [applicant’s name, phone number and e-mail address]. While feedback is important to the process, telecommunication tower/antenna facilities are exclusively regulated by Federal legislation under the *Radiocommunication Act* and administered by Industry Canada. The Municipality is provided the opportunity to influence the location and design of proposed antenna systems by commenting to Industry Canada, but does not have the authority to approve or refuse the construction of an antenna system.”

(4) The erection of the sign should be coordinated with the distribution of the public notification packages.

8. Photographs showing the sign posted and the date on which it was erected on the subject property shall be submitted to the Director within ten (10) calendar days after the sign has been erected.

9. The sign shall remain on the subject property for the duration of the public consultation process.

10. The applicant shall remove the sign no later than twenty-one (21) calendar days after the completion of the public consultation process.

Website

11. (1) The applicant shall establish an on-line website that provides full details of the proposal and how comments can be forwarded to the applicant.

(2) The website shall include the information required for the public notification package pursuant to section 2 of this Attachment.

(3) The website shall remain active and functioning beginning from the time of the distribution of the public notification packages until at a minimum the conclusion of the municipal process.

Public Information Session

12. A public information session shall be done in accordance with the following:

(a) be open and accessible to all members of the public and local stakeholders;

(b) occur on a weekday evening, no sooner than twenty-one (21) calendar days and no later than thirty-five (35) calendar days, from the date that the public notification packages are mailed and the sign erected;

(c) be at least one (1) hour in duration, depending on attendance and community interest in the specific application as determined by the applicant and the Director;

(d) a minimum of two (2) panels shall be displayed containing a site plan drawing and colour photographs of the subject property with superimposed images of the proposal;

(e) a presentation shall be given regarding the antenna system proposal which addresses all reasonable and relevant concerns, including the purpose of the tower, general information relating to health concerns and Safety Code 6 and clear statement indicating that antenna system are exclusively regulated by Federal legislation under the *Act* and administered by Industry Canada;

(f) public notification packages, including a public comment sheet, shall be made available for attendees;

(g) the closing date for written public comments shall be clearly announced at the public information session; and

(h) a record shall be taken of all the names, addresses, email addresses and phone numbers of the attendees, subject to applicable privacy laws in respect of personal information.

13. If an applicant believes that subsequent public information sessions are required, the applicant may conduct the sessions by way of any method felt appropriate by the applicant.

Responding to the Public

14. The applicant shall:

(a) provide the public fourteen (14) calendar days to submit questions, comments or concerns about the proposal following the date of the Public Information Session as described in Section 12 and keep a record of the communication;

(b) respond to all questions, comments and concerns in a timely manner as follows:

(i) acknowledge receipt of the question, comment or concern within fourteen (14) calendar days;

(ii) respond, in writing, to all reasonable and relevant concerns within either sixty (60) calendar days of receipt or prior to making a Formal Submission – whichever comes first, or explain why the question, comment or concern is not, in the opinion of the applicant, reasonable or relevant;

(iii) indicate that the party has twenty-one (21) calendar days from the date of the correspondence to reply to the applicant's response under subclause 14(b) (ii); and

(iv) if the party replies within the twenty-one (21) calendar day, the applicant shall address all reasonable and relevant concerns within an additional twenty-one (21) calendar days, by contacting the party by telephone or engaging the party in an informal meeting;

(c) keep a record of all correspondence that occurred during the written consultation process, including any agreements that may have been reached or any concerns that remain outstanding; and

(d) provide a copy of all written correspondence to the Director.

Attachment D Formal Submissions

Formal Submission Requirements

1. When an applicant submits a formal submission for the siting of an antenna system, the applicant shall provide to the Director, the following:

(a) one (1) electronic copy and ten (10) paper copies of the type of antenna system being proposed and its location including a site plan or survey plans;

(b) one (1) electronic copy and ten (10) paper copies of the applicant's name, company name and address, phone and fax numbers;

(c) one (1) electronic copy and ten (10) paper copies of colour photographs showing the proposed location of the antenna system as well as its immediate surroundings;

(d) one (1) electronic copy and ten (10) paper copies of a site selection or justification report prepared by a qualified professional, and the report shall:

(i) identify all tower facilities within the vicinity of the proposed location;

(ii) details with respect to the coverage and capacity of the existing tower facilities in the surrounding area; and

(iii) provide detailed documentary evidence as to why co-location on an existing antenna system is not a viable alternative to the construction of a new antenna system ;

(e) a letter of authorization to use the land at the proposed site from the owner of the land, their agent, or other person(s) having legal or equitable interest in the land, if an agent is authorizing the use on the property proof verifying the agent's authority shall be submitted;

(f) a planning application form and fees in accordance with the *Administrative Order 15* of the Municipality, as amended from time to time;

(g) a public notification package as outlined in Attachment C;

(h) a public consultation package summarizing the public consultation process, if public consultation occurred, which shall include:

(i) a picture of the on-site signage in place on the property,

(ii) a copy of the newspaper advertisement,

(iii) a map showing all properties to which a public notification package was sent to as well as a copy of the public notification package that was sent,

(iv) details pertaining to the public information session, including:

(A) the date, time, and location of the public information session,

(B) the record taken of the names, addresses, email addresses and phone numbers of the attendees, subject to applicable privacy laws in respect of personal information,

- (v) the total number of attendees at the meeting,
- (vi) a summary of comments and feedback provided by each individual and any responses provided by the applicant,
- (viii) copies of all correspondence received from the public through this process in addition to responses provided in return by the applicant,
- (ix) any comments or concern the applicant considered not reasonable or relevant and the explanation for such consideration,
- (x) a summary of how, if at all, the application has been amended to respond to concerns or feedback received through the public consultation process; and
- (i) any other required information listed in the information package provided to the applicant during or after the pre-consultation meeting.

2. The formal submission shall be accompanied by the fees for an antenna system as set out in *Administrative Order 15* of the Municipality as amended from time to time.

Role of the Director in Reviewing Formal Submission

3. The Director shall determine whether a formal submission for the siting of an antenna system is complete or incomplete within ten (10) business days of receipt of such submission.
4. When the formal submission is deemed complete, the Director shall notify the applicant and the applicable Councillor of the completed submission and process it.
5. In the reviewing and evaluating a completed submission, the Director may consider:
- (a) the proposed location in the community or area;
 - (b) any existing and proposed on-site uses and structures;
 - (c) the adjacent sites and their existing and proposed uses and structures;
 - (d) compliance with this *Administrative Order* ;
 - (e) conformity with the policies of the Municipality regarding historic sites and environmentally sensitive areas;
 - (f) the design aspects of the proposal; and
 - (g) any other consideration considered appropriate by the Director.
6. The Director shall attempt to review the completed formal submission within twenty-one (21) business days from the date the Director receives a completed formal submission.
7. Upon completion of the review, the Director shall provide the applicant with a Letter of Response respecting the formal submission which outlines the decision.
8. (1) A Letter of Response shall notify the applicant whether the formal submission is acceptable to the Municipality and if the formal submission is deemed not acceptable, the Director shall provide the reasons for the non-support.

- (2) A Letter of Response may deal with:
- (a) the colour of the antenna system;
 - (b) landscaping requirements;
 - (c) the maintenance of the property;
 - (d) the height of the antenna system;
 - (e) the location and appropriate siting of the antenna system; and
 - (f) any other matter the Director considers necessary.
- (3) A copy of the Letter of Response shall be forwarded to Industry Canada.

Duration

9. A Letter of Response shall be valid for a period of three (3) years from the date it was issued by the Director, or such shorter period of time as set out by the Director in the Letter.

Attachment E
Completed Antenna System

Confirmation of Need

1. (a) At any time, the Director may request confirmation from a network operator clarifying that a specific antenna system is still required to support communication network activity; and

(b) The network operator will respond within thirty (30) calendar days of receiving the request from the Director, and shall provide any available information on the future status or planned decommissioning of the antenna system.

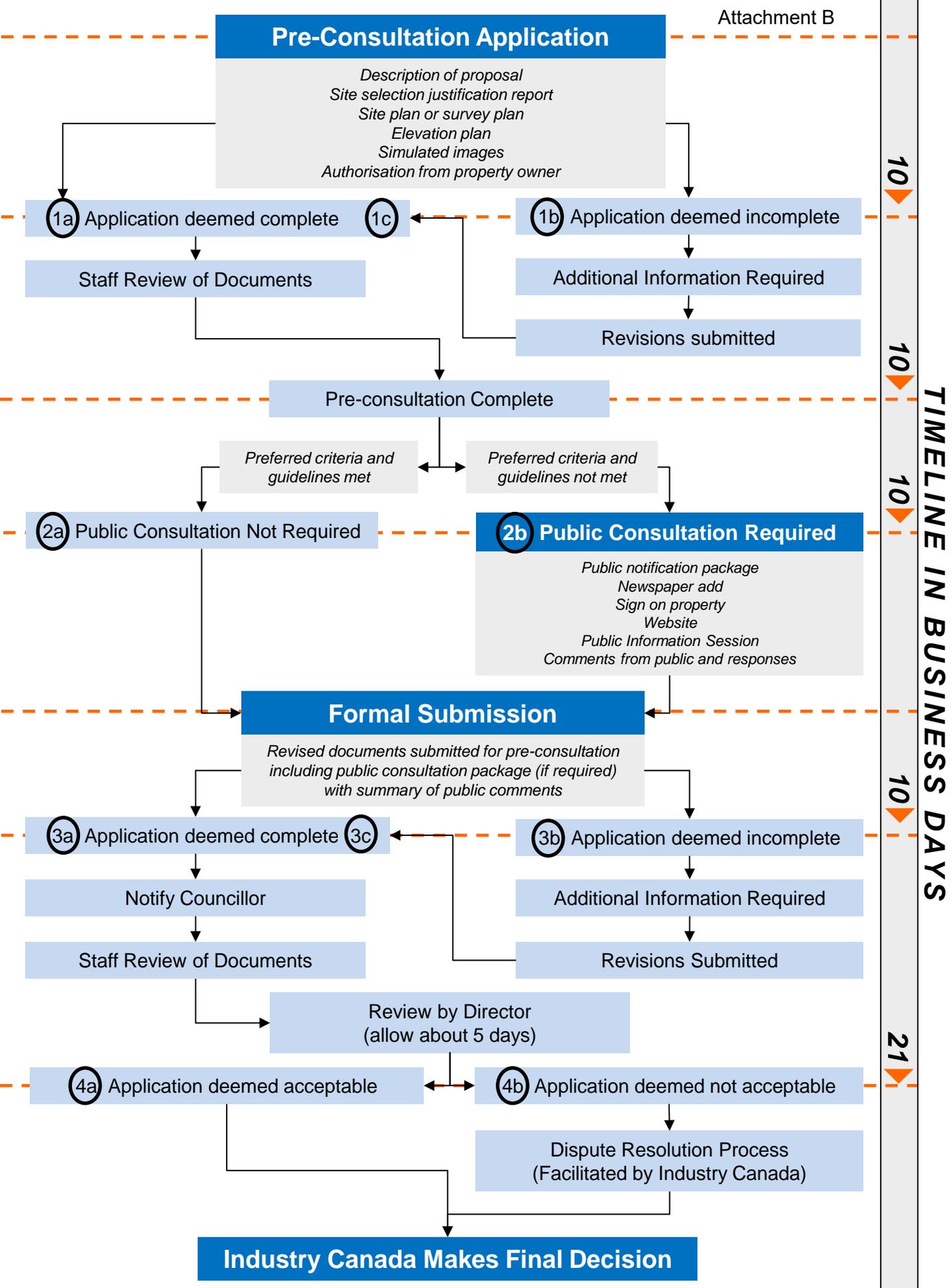
Non-Conformity of As Built Antenna System

2. The Director may request that measurements be provided by the owner or operator establishing the as built height of the antenna system.

3. Establishing the as built height of the antenna system may require the owner or operator to engage the services of a qualified third party to verify that the height of the antenna system from the ground.

4. (a) If the Director determines that the as-built antenna system is not in accordance with the plan or the condition(s) set out in the Letter of Response, the Director may notify, in writing, the owner or operator advising of the non-conformity.

(b) In the event the owner or operator does not respond to the non-conformity within thirty (30) calendar days of receiving the written notification, or the owner or operator and the Director cannot agree on the manner to remediate the non-conformity, the Director may advise Industry Canada of the non-conformity and request assistance.



Attachment C: Administrative Order Amendments

ADMINISTRATIVE ORDER 2015-005-GOV THE SITING OF A TELECOMMUNICATION ANTENNA ADMINISTRATIVE ORDER

BE IT RESOLVED as an Administrative Order of the Council of the Halifax Regional Municipality that Administrative Order 2015-005-GOV Respecting the siting of telecommunication antenna, is amended as follows:

1. Attachment D is amended by adding the following sections immediately following the existing Section 9:
 10. Notwithstanding Section 9 above, an extension to the three (3) years validity for a Letter of Response may be requested by an applicant.
 11. A request for an extension referenced in Section 10 may be made to add no more than one (1) additional year to the validity of a Letter of Response. The one (1) year is to be added to the date the original Letter of Response expires.
 12. A request for an extension referenced in Section 10 must be made to the Municipality before the date of expiry for the Letter of Response, and no earlier than three (3) months prior to the date of expiry for the Letter of Response.
 13. A request for an extension referenced in Section 10 must not be granted if any new residential dwelling units have been granted occupancy, or if the zoning or land use designation has changed for any properties within the notification area referenced in Section 4 of Attachment C of the Administrative Order since the date the first Letter of Concurrence was sent.