



Dave Goodwin, VE3KG
Regulatory Affairs Officer
regulatory@rac.ca

THE REGULATORY ROUNDUP

Topic: ISED's Rules On Antenna Systems | Tips on Dealing with Municipalities

In the "Regulatory Roundup" column in each issue of *The Canadian Amateur* magazine, I will provide an overview of our regulatory priorities and also discuss some topics of interest.

Regulations Relating to Antennas

Our regulator, Innovation Science and Economic Development Canada (ISED), has rules governing the use and installation of antenna systems. These are contained in an ISED policy document called "Radiocommunication and Broadcasting Antenna Systems" (CPC-2-0-03).

"Antenna systems are normally composed of an antenna and some type of supporting structure, often called an antenna tower. Most antennas have their own integral mast so that they can be fastened directly to a building or a tower."

There is a certain measure of flexibility in the placement of antenna systems, which is constrained to some degree by the need to achieve acceptable coverage for the service area, the availability of sites, technical limitations, and safety. In exercising its mandate, Innovation, Science and Economic Development Canada (ISED) believes that it is important that antenna systems be deployed in a manner that considers the local surroundings."

This policy is binding on "anyone who is planning to install or modify an antenna system, regardless of the type... including for Amateur Radio operation and over-the-air TV reception." It sets out procedures for "proponents" to consult with the land-use authorities before putting up antennas.

Under the Canadian Constitution, responsibility for regulating radio communications lies with the Parliament of Canada. That includes the antennas and structures to support them. However, local land-use authorities, such as municipalities, can have quite legitimate interests in antenna structures as they can have an impact on zoning.

In 2003, ISED's predecessor, Industry Canada, commissioned a study on the issue led by Professor David Townsend of the Faculty of Law of the University of New Brunswick. The "Townsend Report" examined six key policy issues related to antennas and made 34 recommendations. These recommendations are the basis for the current ISED policy.

The general thrust of this policy is that "proponents" (in our case, Radio Amateurs) must consult with the local land-use authority before putting up permanent antenna structures. We are expected to come to an agreement with the local authority before beginning work. This may require us to follow the local authority's approval procedures. If your local authority has no procedure, then ISED has a default procedure for consultation that we must follow. Except...

"Fifteen metres is a gift."

This pearl of wisdom comes from RAC's Honorary Legal Counsel, Marcel Mongeon VA3DDD. It refers to the key exemption in ISED's policy. In most cases, if you put up an antenna system with a total height no greater than 15 metres or 49 feet, you do not have to consult with the local land-use authorities.

Section 6 of ISED's policy lists circumstances when "proponents" may not be required to consult. These exemptions include:

- New antenna systems 15 metres tall or less
- Increasing the height of existing antenna structures by no more than 25%
- Installing an antenna on an existing "non-tower" structure, so long as the antenna does not increase the height of the structure by more than 25%
- Temporary antenna systems – structures erected for three months or less

For most Amateurs, the most important point is that 15 metre "exemption". That 15 metres is all-inclusive, from ground level to the top-most part of the antenna system. In most circumstances, you are not required to consult with anyone when erecting an antenna system with a height of 15 metres or less

Even with these exemptions, there may be circumstances where it would be wise to follow a consultation process. ISED's policy lays out some suggestions which you can read yourself.

There Are Risks

If you are intent on going higher than 15 metres, and you do go through a consultation process, you are bound by the results of that process.

If you and the local land-use authority come to an impasse, ISED are supposed to be the final decision-maker.

ISED may decide in your favour. Or they may not. You cannot count on ISED rescuing you from an unsympathetic local authority. You cannot even count on ISED to roll back the clock and authorize a 15 metre tall structure. Opening that process to go above 15 metres binds you to whatever ultimate decision ISED makes.

As Marcel said "15 metres is a gift". Going beyond 15 metres is risky. Be as well-informed as possible.

I know of one very ambitious Amateur who planned to move to a new community. He wanted to put up multiple large towers and began going through the municipality's consultation process. The process was designed for telecommunications companies and involved massive costs. The process did not even consider the possibility of an individual putting up an antenna system for their personal use. Through negotiation, the Amateur was able to employ a modified and much less-expensive process. The public notification element of the process unearthed some wild and frankly unsustainable objections from some neighbours. At the time of writing, the result of the process is pending.

Municipalities Are Not Always The Enemy

There are many municipalities and local land-use authorities that will authorize quite tall structures for Amateur antennas even beyond 15 metres. The City of Ottawa has a remarkably accommodating set of rules for "Residential Use Antenna Systems." The policy specifically mentions Amateur Radio. Ottawa's rules allow backyard antenna systems up to 18 metres tall, and 29 metres tall if your lot is greater than one acre. Ottawa Amateurs can thank Ray Perrin, VE3FN, who worked tirelessly on this issue over a period of a few years. Ray showed real leadership when local clubs and prominent Ottawa Amateurs simply gave up.

In my own case, my rural township was very accommodating, and agreed almost instantly to my plans to erect two 22-metre tall towers with additional antennas on top. I have had the same experience in every place I have lived. I have lived in five different provinces and put up towers in all of them with no objections from the land-use authority or the neighbours. In fact, some of my neighbours helped dig the holes for my towers!

Be Careful What You Sign

Even with ISED's policy and the exemptions, there may be circumstances where you may not put up what you want, even if it's less than 15 metres tall. If you are renting your home, your landlord has a definitive say. ISED won't intervene. You will have to be your most charming to overcome your landlord's concerns about their property.

Since the 1980s, many housing developments have restrictions written into the deeds. These are often called "covenants" and are intended to maintain a similarity in style and quality among the houses in a development. When you buy a house that has restrictions written into the deed, you are signing a contract in which you agree to be bound by those restrictions.

Developers aren't consciously targeting Amateur Radio, they use covenants to help them raise the capital required to get a project going. Developers often use a "stock" covenant in order to convince their investors or financiers to lend them the money required to build. Once developers are ready to start selling units, covenants give buyers reassurance about the quality of the house and the neighbourhood. ISED can't get you out of a contract you willingly signed.

When buying a house, you should make sure your realtor and your lawyer are well aware that the wrong wording in a deed could be deal-killer. I once bought a house where the covenants forbade "satellite dish antennas greater than two metres in diameter". The intended target was the two- and three-metre diameter TV receive-only (TVRO) dishes that were appearing in suburban neighbourhoods in the 1980s. These large dishes were widely seen as eyesores by judgmental neighbours. Seeing as my antennas bore no resemblance to satellite dishes, I was in the clear.

Words Count

The lexicon we use among Amateurs is mysterious and puzzling to non-Amateurs. When you deal with local authorities or your neighbours, be careful what words you use. The word "tower" scares people. Your neighbours may picture something like a massive hydro pylon. You want to put up "an antenna system." Keep the concept simple and clear for an audience that may have no understanding of radio.

If someone complains about you "broadcasting," that may be an indicator that they have no idea what they're talking about and are trying to hide their ignorance with large words. In Amateur Radio, we do not "broadcast". Broadcasts are radio transmissions intended to inform and entertain the general public. We are involved in the "art and science of radio communications"; and we don't do it 24/7, like broadcasters do. We are not conducting a commercial enterprise. We are indulging a personal interest.

Your neighbours do not have a veto on your plans. They do not have to like your antennas. They may still object even after they go up. All they really need is to have you listen to their reasonable concerns and to hear a reasonable response from you. The "Radiocommunication and Broadcasting Antenna Systems" policy (CPC-2-0-03) provides six examples of the types of concerns you should be prepared to address, as well as three examples of potential concerns that are not relevant. Among the irrelevant matters, the CPC identified "potential effects... on property values or municipal taxes". You don't have to waste your time on the irrelevant concerns.

Be Prepared

I have only given a brief overview of ISED's policy. If you are planning to put up a permanent antenna structure, please read the CPC carefully. Please find out what your local bylaws might say about antennas. Check if you have restrictions written into the deed to your property. Make sure you are on the right side of the rules.

Relevant Links

CPC-2-0-03 – <https://tinyurl.com/yt3w4r9e>

Townsend Report – <https://tinyurl.com/yvdbmnc4>

City of Ottawa Rules on Towers –

See sections 4.1 and 5.1: <https://tinyurl.com/2nxtpx9>

– 73, Dave Goodwin, VE3KG