

NO: **R035**

COUNCIL DATE: **February 18, 2013**

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## REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **February 13, 2013**

FROM: **City Solicitor**

FILE: **3900-20-13680/#3**

SUBJECT: **Business Licensing for Affixed/Mounted Radio-communication Antennas**

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## RECOMMENDATION

The Legal Services Division recommends that Council:

1. Receive this report as information;
2. Instruct staff to undertake an appropriate public consultation process in relation to proposed amendments to the Business License By-law, 1999, No. 13680 (the "Business License By-law") as documented in Appendix "A" to this report, which if adopted would act to introduce a new form of business license and a related fee on the owner of a property that has a lease or license with a Radio-communication Service Provider for the purpose of siting and operating a Radio-communication Antenna(s) on the property; and
3. Request that staff provide a further report to Council complete with recommendations after the public consultation process is complete.

## INTENT

The purpose of this report is to provide information about amendments that are proposed to the Business License By-law, that if adopted, would introduce a new form of business license and a related fee on the owner of a property that has a lease or license with a Radio-communication Service Provider (a "Provider") for the purpose of siting and operating a Radio-communication Antenna (an "Antenna") on the property. The buildings and/or structures to which the Antennas are affixed or mounted are hereinafter referred to as "Antenna Sites".

The licensing program will identify and audit Antenna Sites to improve public safety and ensure compliance of such sites with existing building, electrical, and fire safety standards. The proposed by-law amendments will curtail the proliferation of unauthorized Antennas affixed to or mounted on buildings in the City.

## BACKGROUND

Based on a recent preliminary survey there are approximately 155 Antenna Sites in Surrey. The Providers include the five (5) national cellular service providers; being Telus, Bell, Rogers, Globalive (operates the WIND network) and Mobilicity (formerly DAVE wireless) as well as others such as Shaw, Terago, Fleetcom, Tele-Mobile and Canadian Satellite Radio. There are approximately 2,400 antenna located at these Antenna Sites. City staff is in the process of inspecting and auditing each of these sites. Property owners, including the City, lease or license these sites to Providers.

Radio-communication Antennas fall under federal jurisdiction with respect to the allocation of radio-wave band width and general location; however, addressing nuisance, land use regulation and building regulation with respect to Antenna remain with local governments.

The Business License By-law does not currently include provisions related to owners who lease or license all or part of a building or structure on their property to a Provider.

## DISCUSSION

The leasing or licensing of a building or structure to a federally-regulated activity constitutes a local business that can be subject to a business license fee.

The introduction of a business category for Antenna Sites and Antenna will promote public safety, curtail the proliferation of unauthorized Antennas, and serve to ensure that safeguards are in place to identify and address potential safety concerns, including fire safety and concerns related to the construction, operation and maintenance of Antennas and Antenna Sites.

The imposition of a business licence and related fee on a property owner who leases or licences all or part of his/her building to a Provider will enable the City to inventory and inspect these locations on an ongoing basis. Being able to determine that every Radiocommunication Antenna within Surrey is authorized by Industry Canada is necessary for the City to have assurance that such Antennas are installed with Industry Canada's knowledge and that such installations comply with all applicable building, electrical, and safety codes. As such, the proposed business license process will complement and support Industry Canada's ongoing efforts to manage a radiocommunications industry that is both safe and well-regulated while at the same time addressing local public safety concerns by ensuring compliance with building, electrical and fire safety standards.

The business license process as discussed in this report will follow all the same procedures as are applied to other businesses in the City for which a business license is necessary. The proposed amendments to the Surrey Business License By-law are documented in Appendix "A" to this report and include the following business license fees:

- An annual business license fee of \$300 is proposed for each Antenna Site that is leased or licensed to a Provider; and
- An annual business license fee of \$200 is proposed for each Antenna on each Antenna Site.

Should the amendments ultimately be approved by Council, staff will focus on inspections and identification of Antenna Sites and Antennas that are not federally authorized and/or that have been installed without requisite City permits. This has been identified as a concern in recent municipal studies. Unauthorized Radio-communication Antennas have also been found to have faulty and unsafe electrical and structural work.

**Public Consultation Process:**

Subject to Council approval of the recommendations of this report, staff will undertake a public consultation process in relation to proposed amendments to the Business License By-law including a public open house at which information regarding the proposed changes will be communicated and comments received. Information will also be posted on the City's website and comments invited from the public. Staff will inform the Providers that are known to have installations in Surrey about the proposed By-law amendments.

Once the public consultation process is complete, a further report complete with recommendations will be forwarded to Council for consideration.

**SUSTAINABILITY CONSIDERATIONS**

The proposed amendments to the Business License By-law will assist in achieving the objectives of the City's Sustainability Charter; more particularly, the following scope action items:

- SC6: Public Safety and Security;
- EC3: Sustainable Infrastructure Maintenance and Replacement;
- EC6: Sustainable Practices through Business Licensing Operational Requirements;
- EC7: Sustainable Building and Development Practices; and
- EC15; Building/Energy Codes and Standards.

**CONCLUSION**

The Legal Services Division recommends that Council instruct staff to:

- undertake an appropriate public consultation process in relation to proposed amendments to the Business License By-law, 1999, No. 13680 (the "Business License By-law") as documented in Appendix "A" to this report, which if adopted would act to introduce a new form of business license and a related fee on the owner of a property that has a lease or license with a Radio-communication Service Provider for the purpose of siting and operating a Radio-communication Antenna(s) on the property; and

- provide a further report to Council complete with recommendations after the public consultation process is complete.

CRAIG MacFARLANE  
City Solicitor

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Appendix "A" – Proposed Amendments to Business License By-law, 1999, No. 13680

**APPENDIX "A"**  
**PROPOSED AMENDMENTS TO BUSINESS LICENSE**  
**BY-LAW, 1999, NO. 13680, AS AMENDED (the "By-law")**

That the By-law be further amended as follows:

1. That Section 2 – Interpretation be amended by adding the following new definitions:

"Radiocommunication Antenna" means an antenna used by a Radiocommunication Service Provider to provide radiocommunication services to third parties.

"Radiocommunication Antenna Site" means all or part of a building leased or licensed by an owner of property to a Radiocommunication Service Provider for the purpose of siting Radiocommunication Antenna(s).

"Radiocommunication Service Provider" means a person who provides radiocommunication services to third parties.

2. By adding a new Section 39.1 immediately following Section 39 as follows:

39.1 (1) All Radiocommunication Antennas shall be authorized (whether by license, certificate, approval or otherwise) by Industry Canada.

4. By adding a new category in Schedule "A" as follows:

"Radiocommunication Antenna Site \$300.00 per year (plus \$200.00 per Radiocommunication Antenna)".