WIRELESS TELECOMMUNICATION TALKING POINTS

- **Federal Ownership of the Airwaves**
  The U.S. Government technically, owns and regulates the airwaves known as The Radio Spectrum.
  https://upload.wikimedia.org/wikipedia/commons/4/45/United_States_Frequency_Allocations_Chart_2003_-_The_Radio_Spectrum.jpg

  http://reboot.fcc.gov/spectrumdashboard/searchSpectrum.seam

- **Who is the FCC?**
  The Federal Communications Commission (FCC) is the federal agency that regulates the use of the Radio Spectrum. The FCC regulates interstate and international communications by radio, television, wire, satellite and cable in all 50 states, the District of Columbia and U.S. territories. It is an independent U.S. government agency overseen by Congress, the commission is the United States' primary authority for communications law, regulation and technological innovation.
  https://www.fcc.gov/what-we-do

- **Who gets to use the Airwaves**
  The U.S. Government, sells licenses for use of radio frequencies to carriers such as AT&T, Verizon, Sprint, T-Mobile etc.
  http://www.cnet.com/news/fcc-rakes-in-45-billion-from-wireless-spectrum-auction/

  http://reboot.fcc.gov/license-view/

- **Who gets the revenue from the FCC licenses and how does it benefit the public?**
  Part of the funds from the sale of wireless licenses will fund First.Net, the Nation's First Public Safety / First Responder Broadband Network
  http://www.firstnet.gov/

- **The Telecommunications Act of 1996**
  The 1996 Telecom Act restructured the U.S. telecommunications markets to foster competition amongst carriers, advance technological improvements, removed regulatory barriers, and envisioned a network of interconnected networks that are composed of complementary components and generally provides both competing and complementary services.
  https://transition.fcc.gov/telecom.html

- **How did the 1996 Telecom Act affect Local Cities' Regulation of Wireless and Cellular Antennas and Towers?**
  Section 332(c)(7) of the 1996 Telecom Act preserves state and local authority over zoning and land use decisions for personal wireless service facilities, but limits that authority. Specifically, a state or local government may not unreasonably discriminate among providers of functionally equivalent services, may not regulate in a manner that prohibits or has the effect of prohibiting the provision of personal wireless services, must act on applications within a reasonable period of time, and must make any denial of an application in writing supported by substantial evidence in a written record. The statute also preempts local decisions premised directly or indirectly on

the environmental effects of radio frequency (RF) emissions, assuming that the provider is in compliance with the Commission's RF rules.

> *"Section 704(a) of the 1996 Act expressly preempts state and local government regulation of the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the FCC's regulations concerning such emissions. 47 U.S.C. §332(c)(7)(B)(iv).*
>
> *Review: Parties may seek relief from the FCC if they are adversely affected by a state or local government's final action or failure to act that is inconsistent with this provision. 47 U.S.C. § 332(c)(7)(B)(v)."*

The following FCC factsheets discuss this further:

http://wireless.fcc.gov/fact1.pdf
http://wireless.fcc.gov/fact2.pdf

- **Who determines if a carrier is in compliance with the FCC regulations and RF emissions?**
  The FCC has measurement instrumentation for evaluating RF levels in areas that may be accessible to the public or to workers. If there is evidence of potential non-compliance with FCC exposure guidelines for an FCC-regulated facility, staff from the FCC's Office of Engineering and Technology or the Enforcement Bureau can conduct an investigation, and, if appropriate, perform actual measurements. It should be emphasized that the FCC does not perform RF exposure investigations unless there is a reasonable expectation that the FCC exposure limits may be exceeded. Potential exposure problems should be brought to the FCC's attention by contacting the FCC at: 1-888-225-5322 or by e-mailing: rfsafety@fcc.gov.
  https://transition.fcc.gov/oet/rfsafety/rf-faqs.html

- **Does Saratoga regulate Wireless Telecommunication Antennas and Towers?**
  Yes, the City of Saratoga has a Wireless Telecommunications Ordinance that was last updated and adopted on September 5, 2012
  https://www.municode.com/library/ca/saratoga/codes/code_of_ordinances?nodeId=CH15ZORE_ART15-44WITEFA

- **Does the City's Wireless Telecommunication Ordinance regulate wireless emissions?**
  No, the City's Wireless Telecommunication Ordinance regulates wireless facilities based on aesthetics and visual impact because Federal regulations prohibit local government regulation based on environmental effects of radio frequency emissions.

- **What does the City's Wireless Telecommunication Ordinance require?**
  The City's Ordinance requires a Design Review Permit approval from the City provided that the following findings can be made by the City's Planning Commission when it reviews an application for proposed antennas, a tower, or a facility:

  (a) That the Wireless Telecommunications Facility is or can be co-located with another Wireless Telecommunications Facility located on a structure or an existing utility pole/tower in the public right-of-way unless the applicant has demonstrated that such location is not technically or operationally feasible.

  (b) That the Wireless Telecommunications Facility and related structures incorporate architectural treatments and screening to substantially include:

  (1)Appropriate and innovative stealth design solutions;

  (2)Techniques to blend with the surrounding environment and predominant background;

  (3)Colors and materials that are non-reflective;

  (4)Exterior textures to match the existing support structure or building; and

  (5)Reasonably compatible height with the existing surrounding environment.

  (c)That landscaping and fencing provide visual screening of the Wireless Communication Facility's ground-mounted equipment, related structures, and that fencing material is compatible with the image and aesthetics of the surrounding area.

- **Can't the City just ban wireless facilities?**
  No, Federal Law prohibit this type of blanket prohibition.

- **Why doesn't the City just prohibit them in residential areas or within a proscribed number of feet from a residential use?**
  Residential uses comprise about 90% of the land uses in the City of Saratoga so a ban of wireless facilities on properties or near residential uses would likely act like an effective Citywide ban that would be prohibited under federal law.

- **What can I do to change the Federal Laws regarding this?**
  You can share your opinions by contacting your elected Federal representatives noted below:

  • Congresswoman Anna G. Eshoo – 18th Congressional District
  Phone: (408) 245-2339 http://eshoo.house.gov/contact/
  • Senator Barbara Boxer
  Phone: (510) 286-8537 https://www.boxer.senate.gov/contact/shareyourviews.html
  • Senator Diane Feinstein
  Phone: (415) 393-0707 https://www.feinstein.senate.gov/public/index.cfm/e-mail-me