

Presentation to Ashland City Council
By Alan D. Rathsam, Ashland resident
December 3, 2019

Mayor Stromberg and members of the City Council, my name is Alan Rathsam, and I'm a resident of Ashland.

There is growing awareness, worldwide, about serious adverse effects of radio frequency radiation. This affects the environment, human and animal health, trees and plants, insects and bees, and more, all of which are documented in peer-reviewed scientific journal reports deemed acceptable evidence in the courts. The local placement of cell towers and antennas also raises valid legal issues: loss of city aesthetics, loss of real estate values, lost business revenue, and the personal and professional liability of government officials when employees and the public experience health and other losses from radiation exposure. Lloyds of London will not insure the wireless industry for health effects.

With the imminent permit application from AT&T for a 105-foot pine-tree cell tower on Walker Street, informed Ashland parents and residents appeal to the City to act now in the best interests of everyone by taking three actions as other cities have done:

1. Declare a moratorium on wireless facilities permits for 4G and 5G facilities until state officials make health determinations or until new ordinances have been adopted. Telecom regulations are based on 3G technology.
2. Update the existing ordinance for cell towers and antennas to maximize local regulatory authority within state and federal laws.
3. Because they use significantly different technology than cell towers, establish a separate small-cell facility (5G) ordinance to maximize local regulatory authority, also within state and federal laws.

Here are some notes on the legal overreach of the FCC in dozens of law suits by politicians, civil society groups, and cities.

1. The Telecommunications Act of 1996 sustained the purposes of the Communications Act of 1934, which created the FCC to execute and enforce provisions that include, "promoting safety of life and property through the use of wire and radio communication."

2. The Telecom Acts of 1934 and 1996 do not allow local municipal authorities to deny wireless facility permits for reasons of "environmental effects." When a Federal judge ruled that environmental effects includes health effects from RF radiation exposure, he or she was making law inconsistent with congressional intent. By definition in Blacks Legal Dictionary, environmental effects do not include health effects.

3. State and local governments can cite the tenth amendment to the constitution in claiming authority for public health:

*AMENDMENT X: Powers retained by the states and the people
The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.*

State and local governments can prove their lawful authority to protect public health since the Telecom industry and the FCC do not practice constitutional authority to protect public health.

4. The Telecom Acts regulate three factors associated with wireless facilities: placement, construction, and modification. Congress did not deny local authority to regulate operational requirements, such as radiation exposure levels. The FCC does not monitor wireless power exposure levels. Cities may require unannounced measurements by a qualified third party as a condition for annual permit renewals.