

## Cell Tower Emissions (or RF Radiation) Part II

Article By:

John W. Pestle

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### **What municipalities can do in zoning matters about RF emissions is four things:**

First, at the start of zoning hearings, state that due to Federal preemption, it can't consider testimony on RF emissions. Second, if people start to talk about it, politely ask them stop. Third, if they persist, tell them that if they continue, it may well lead to the cell tower being approved, which is the opposite of what they want! And fourth, require tests to show compliance with the FCC emissions safety rules.

Approval may occur because RF testimony gives the provider a clear basis to go to court, arguing that the municipality considered RF emissions when it shouldn't have. The courts carefully scrutinize cases with RF testimony, and often grant zoning approval! In a recent case with a lot of neighborhood opposition and testimony on RF emissions, the court called the neighbors' tactics "incendiary", the municipalities legal arguments "absurd", ordered the municipality to immediately grant all permits needed for the cell tower, and threatened contempt proceedings if that didn't happen.

The bottom line is that the law is the law even though it may be uncomfortable and difficult for municipalities and residents to comply with in a particular case.

As to leases, the Federal restrictions do not apply, so a municipality or private party generally can refuse to grant a lease due to RF emission concerns, concerns about interference with the landowner's radios, or the like.

[Part one of this post can be found here.](#)

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