

**SB 66: Detailed Outline of the Streamlining Wireless Facilities and Antennas Act
LC 36 3820ERS – 2018 Session of the Georgia General Assembly**

Section 1

36-66C-1: Title

36-66C-2: Definitions

- 157-182: Defines and limits the size of small wireless facilities (up to 6 cubic feet antenna and 28 cubic feet radio) and includes AirGig (surface wave technology) in the definition of small wireless facilities.
- 137-141: Defines the types of vertical structures (poles) to which small wireless facilities may be attached.
- 73-74: Makes clear this statute does not give the right to attach to EMC, Georgia Power or Electric City poles. (These are governed by private agreements or federal rules).
- 78- 90: Defines Class I, II and III authorities
 - Class I- 100,000 parcels +
 - Class II- 10,000 parcels – 100,000 parcels
 - Class III- less than 10,000 parcels

36-66C-3: Applicant & Authority Meetings to discuss anticipated build plans

- 201-207: Applicants must meet with Class I Authorities at least 30 days before submitting applications to inform the authority when applicant expects to begin deploying small wireless facilities and the anticipated number they expect to deploy
- 208-215: For Class II Authorities within an MSA who request a meeting with an applicant, the same meeting provisions will apply.
- 216-220: All documents shared related to the meetings provided for within this code section are presume confidential, proprietary and trade secrets.

Section 2:

36-66C-4: Wireless Providers right to collocate, install small wireless facilities and poles under this statute

- 222-224: Providers have a right to collocate and install small wireless facilities and install or replace poles in the ROW under this chapter regardless of whether an authority adopts a local ordinance or local resolution.
- 224-226: Authorities are not prohibited from adopting local ordinances, resolutions or documents as long as they comply with this statute.

36-66C-5: Application, Right of Way Access and Attachment Fees; Right of Way Management and Restoration

- 241-242: Application fee to collocate—up to \$100 per small wireless facility.
- 243-244: Application fee for replacement pole with small wireless facility—up to \$250 per pole.
- 245-247: Application fee for a new pole with small wireless facility—up to \$1,000 per pole.

- 250-251: Annual Right of Way access rate for small wireless facility collocated on either an existing or replacement pole, up to \$100 per year per small wireless facility.
- 252-253: Annual Right of Way access rate for a new pole with a small wireless facility, up to \$200 per year per small wireless facility and pole.
- 254-256: Annual attachment rate for a small wireless facility to an authority pole, up to \$40 per year per small wireless facility.
- 257: Applicants shall pay a fee for any make-ready work (See 36-66C-7).
- 259-262: Applicants shall pay any generally applicable fees for any permit required under generally applicable law, provided that the applicant shall not be required to obtain or pay for a building permit as the permit provided under this chapter serves as a building permit.
- 263-264: The rates and fees described above for application, ROW access and attachment shall increase by 2.5 percent annually beginning in January 2021.
- 265-280: The FCC order on small cell deployment states that fair and reasonable compensation for rates and fees must be cost-based. If this portion of the order is overturned, and not subject to further appeal or review, and it is determined that rates can also be market-based, then beginning on July 1 of the calendar year following the date of final adjudication of that decision, the application, ROW access and attachment fees in this bill shall double.
 - 282-288: On July 1 of the following year, the monetary caps under this bill will be removed and applicants shall pay any applicable fees or rates that are fair and reasonable compensation to the authority.
- 289-291: Applicants are not subject to any rates and fees other than those expressly provided for in this chapter, or those otherwise agreed to between an authority and a provider.
- 292-296: If a small wireless facility is removed from the ROW, after 30 days written prior notice, provider may cease paying any applicable fees or rates.
- 296-303: In the event of removal, the ROW must be returned to prior condition within 90 days of removal. If the ROW isn't restored to prior condition, authority may do the work and charge the provider the cost for repair, plus a penalty of up to \$500.
 - 303-308: An applicant can be suspended from submitting additional applications until the restoration cost and penalty fee have been paid.

36-66C-6: Small Wireless Facility application requirements and general ROW access provisions

- 343-373: Details the required information on a small wireless facility application to be provided to an authority.
 - 370-373: A third party applicant must designate the wireless provider that they are applying on behalf of.
- 374-391: Permits are not required for routine inspection or testing, or for modifications/replacement of equipment if the components are substantially similar and consistent.
- 392-400: Permits are not required for installation of micro wireless facilities (cable's strand mounted Wi-Fi).
- 405-408: Authority cannot grant exclusive access to the ROW and the authority must be competitively neutral.

- 413-421: A provider shall not install a new pole or replace a decorative pole without first attempting to collocate on an existing pole: the inability to collocate must be based on the assessment of an engineer and provided in writing.

36-66C-7: Administrative review of applications to collocate small wireless facilities and to deploy poles that meet the height restrictions and other requirements. Process for road moves/widenings and ROW management.

- 435-460: Within 20 days of application receipt, authority must notify applicant of the following:
 - 436-439: Commencement and completion dates of any widening, repair, construction or ROW relocation that is expected to begin within next 24 months.
 - 440-443: Any aspect of the application that they expect would be grounds for denial, based on initial review.
 - 444-447: Determine whether the application is complete or incomplete and must identify any incomplete information in writing.
 - 447-460: An applicant has 20 days to respond to the authority with any incomplete information in the submitted application. The authority has 10 days to tell the applicant if the application is now complete. If the application is still considered incomplete, the application will be considered denied. If the authority doesn't respond in this 10 day period, the application is deemed complete.
- 461-464: For a collocation application, the authority must approve or deny an application within 30 days of it being determined complete.
- 464-467: For a replacement pole or new pole application, the authority must approve or deny an application within 70 days of the application being determined complete.
- 474-479: If an authority doesn't act within the review period, the applicant may notify the authority that the review period has expired up and the authority has an additional 20 days after receipt of notice. If the authority still doesn't act within that 20-day period the application is deemed approved.
- 491-493: Poles installed in historic districts or areas zoned residential shall not exceed 50 feet.
- 494-500: Otherwise, poles installed in the right of way shall not exceed the greater of 50 feet or 10 feet greater than the tallest existing pole in the same right of way (as of 1/1/19) within 500 feet.
- 502-503: A collocated small wireless facility on an existing pole shall not exceed more than 10 feet above the existing pole.
- 506-516: Undergrounding: Provider cannot install new poles in an area where an authority has required all existing facilities other than light poles to be placed underground or where there is a zoning or development ordinance or regulation in place to that effect.
 - 517-518: Providers can collocate on existing light poles or replace light poles to allow for small wireless facility collocation.
 - 519-521: Providers can seek a waiver from undergrounding requirements.
 - 522-528: If an authority adopts a new undergrounding requirement where small wireless facilities are already present, must allow any previously placed small wireless facilities to remain in place.
- 529-557: An authority shall approve a small wireless facility application unless:
 - 532: Interferes with traffic control equipment

- 533: Interferes with sight lines or clear zones
- 534-536: Fails to comply with ADA or similar laws regarding pedestrian access
- 537-542: The application requests that ground mounted equipment be located more than 7.5 feet in radial circumference from the base of the pole to which the small wireless facility would be attached.
- 543: Fails to comply with applicable codes
- 544-545: Fails to comply with height requirements
- 546-552: Interferes with road widening, repair, construction or relocation of a road by the authority or DOT (or a public works construction project) that has been advertised for bid and scheduled for completion within 6 months of application filing.
- 553: Fails to comply with historic districts requirements (741-753)
- 553: Fails to comply with requirements for new pole placement in residentially zoned areas (755-761)
- 553: Fails to comply with decorative pole aesthetic requirements (763-780)
- 554-555: Fails to comply with laws governing pedestrian or vehicle traffic and safety requirements
- 556-557: Fails to comply with other general applicable laws governing ROW occupancy that are not inconsistent with this statute.
- 562-566: The small wireless facility must be installed or collocated within 6 months of a permit being issued.
 - A 6-month extension may be granted to the provider upon written request to the authority for delays resulting from circumstances beyond the provider's control.
- 570-574: A small wireless facility permit is valid for 10 years and must be renewed as long as the applicant remains in compliance with application criteria.
- 575-582: If the authority is conducting a road widening or repair project, the provider will move the installed small wireless facilities and/or poles at no cost to the authority.
 - 582-585: If another entity is conducting the reconstruction or relocation then the other entity shall bear the cost of relocation.
 - 587-594: A provider must move within a reasonable period time (but no shorter than 45 days) as long as the same time period is applied to other utilities in the ROW.
 - 601-634: Authorities and providers will work together on reconditioning work or replacement work with authorities giving providers a minimum of 30 days' notice (the authority should make a good faith effort to provide 120 days' notice).
 - 654-660: If a provider fails to relocate a pole or fails to provide a good faith estimate of the time needed to move a pole within the required time frames above then the authority has the right—after providing notice and waiting 10 days—to cut power to or move any pole located within the ROW as deemed necessary to commence work on the public project.
- 635-653: When a wireless provider collocates on an authority pole, the authority will provide a good faith estimate for any make-ready work necessary to support collocation within 60 days after receipt of a completed application.
 - 644-647: The authority or the provider can complete the make-ready work, whichever the authority prefers. If the authority does the make-ready work, it must complete work within 90 days of receipt of payment from provider.

- 650-653: If an authority pole is replaced in order to collocate a small wireless facility on the pole, the authority shall take ownership of the replacement pole unless otherwise agreed to.
- 661-663: If a provider decides to abandon a small wireless facility or pole instead of relocating it during a road move/repair project, provider must notify the authority at least 30 days prior to abandoning a small wireless facility or pole.
 - 666-670: If the provider fails to remove the abandoned small wireless facility or pole within 90 days the authority may do so and recover the actual and reasonable expenses for removal from the provider, plus a penalty of up to \$500.
 - 670-676: The authority may suspend a provider's ability to receive new permits until the removal costs and penalty fee have been paid.
- 680-684: A small wireless facility or pole that is not utilized for a continuous 12-month period will be considered abandoned and the owner must remove such within 90 days after written receipt from the authority.
 - 687-694: The owner may contest that the facility or pole has not been abandoned, if they do not do so and do not remove the facility or pole within 90 days, the authority may remove the facility or pole.
- 695-701: When there is imminent risk to public safety, the authority will notify the provider that they have 24 hours to address the situation. If not addressed, the authority may take necessary steps to do so and charge the provider for the documented cost.
- 702-707: The wireless provider is required to repair any damage to the ROW they create.
 - 707-712: If the provider fails to return the ROW to its reasonable condition prior to the damage within 90 days of notification by the authority, the authority may restore the ROW and charge the provider for the documented cost, plus a penalty not to exceed \$500.
 - 712-717: The authority may also suspend a provider's ability to receive new permits until payment is received.

36-66C-8: Applications for uses not specifically mentioned in this statute shall follow compliance requirements under applicable law. (Lines 724-730)

36-66C-9: Providers operating in the ROW shall follow safety requirements and avoid unnecessarily interfering with traffic or with rights of property owners. (Lines 732-739)

36-66C-10: Historic District Requirements

- Historic District: an area designated under national or state law or any area designated by law prior to the effective date of the bill (See 36-66C-2 Lines 113-121)
- 741-743: Applicants placing small wireless facilities or poles in a historic district must comply with any aesthetic standards developed by an authority.
 - 745-747: The aesthetic standards must be made publicly available at least 30 days prior to the application submission.
 - 747-751: Applicants will comply with aesthetic requirements as long as the requirements do not interfere with the provision of service.

36-66C-11: For new pole applications in areas zoned for residential use, the authority may propose an alternate location for the new pole—up to 100 feet of the location requested. The provider must use the alternate location unless it imposes technical limits or significant additional cost. (Lines 755-761)

36-66C-12: Decorative Pole Requirements

- 763-766: Providers may place small wireless facilities on decorative poles, or replace a decorative pole to collocate a small cell.
- 767-774: Providers must comply with any aesthetic standards developed by an authority regarding decorative poles.
 - 769-770: The aesthetic standards must be made publicly available at least 30 days prior to the application submission.
 - 770-774: Applicants will comply with aesthetic requirements as long as the requirements do not interfere with the provision of service.
 - 775-776: If a replacement decorative pole is placed, absent an agreement to the contrary, the authority shall take ownership of the new decorative pole.

36-66C-13: Consolidated Applications and Number of applications allowed per carrier

- 782-784: A consolidated permit application must be limited to small wireless facilities placed within an area of no more than 2 miles in diameter.
- 784-786: If one small wireless facility within a consolidated application is denied, it will not delay the processing of other facilities within the application.
- 789-814: Number of applications per Class I authority:
 - A consolidated application may have up to 10 new poles. A consolidated collocation application may have up to 20 collocations.
 - 25 new pole applications per shot clock per carrier (including consolidated applications)
 - This will be increased by 5 each year from 2020 through 2024, when up to 50 new poles will be allowed per time period
 - 70 collocated small wireless facility applications per shot clock per carrier (including consolidated applications).
 - This will be increased by 10 each year from 2020 through 2024, when up to 120 collocated small wireless facilities will be allowed per time period.
 - If a provider submits more applications than the allotted amount, these will be tolled and not subject to the shot clocks in the bill until the previously submitted applications have been adjudicated.
- 815-832: Number of applications per Class II authority:
 - A consolidated application may have up to 5 new poles. A consolidated collocation application may have up to 15 collocations.
 - 15 new pole applications per shot clock per carrier (including consolidated applications)
 - 45 collocated small wireless facility applications per shot clock per carrier (including consolidated applications).
 - If a provider submits more applications than the allotted amount, these will be tolled and not subject to the shot clocks in the bill until the previously submitted applications have been adjudicated.
- 833-851: Number of applications per Class III authority:

- A consolidated application may have up to 2 new poles. A consolidated collocation application may have up to 6 collocations.
- 8 new pole applications per shot clock per carrier (including consolidated applications)
- 24 collocated small wireless facility applications per shot clock per carrier (including consolidated applications).
- If a provider submits more applications than the allotted amount, these will be tolled and not subject to the shot clocks in the bill until the previously submitted applications have been adjudicated.

36-66C-14: If multiple applications are received for the same location, the authority shall treat conflicting requests in a nondiscriminatory manner. (Lines 861-864)

36-66C-15: Providers are not required to indemnify the authority for the providers' activity within the ROW, unless a court of competent jurisdiction finds that the providers' negligence resulted in the harm. (Lines 866-881)

36-66C-16: Authorities may not require providers to perform in-kind services, such as contributions to the authority, in exchange for an application approval. (Lines 883-890)

36-66C-17: Prior Agreements

- 892-900: For agreements entered into prior to October 1, 2019, this statute will not apply until the agreement expires or is terminated.

36-66C-18: This statute does not authorize an authority to require small wireless facility deployment or to regulate wireless services. (Lines 902-904)

36-66C-19: In the event of a conflict with Chapter 66B, this statute shall govern collocation and placement of small wireless facilities within the ROW. (Lines 906-909)

36-66C-20: Wireline backhaul and statute limitations

- 911-914: Wireline backhaul installation, maintenance and replacement are not addressed under this statute and are subject to the requirements of 46-5-1.
- 918-924: Except as provided for within this chapter or expressly authorized under state or federal law, an authority will not adopt regulations or taxes/fees regarding the placement of communications facilities in the ROW by a communications service provider.
- 925-926: This statute does not apply to an authority providing free public Wi-Fi.

36-66C-21: Georgia Code regarding blasting or excavating near utilities is still applicable and required to be followed. (Line 928)

Section 3: The statute will take effect on October 1, 2019. (Lines 933-934)