

Senate Bill 192

By: Senators Hill of the 32nd and Murphy of the 27th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 36 of the Official Code of Georgia Annotated, relating to local government,
2 so as to provide a short title; to provide legislative findings; to provide for definitions; to
3 provide for planning for the construction of wireless facilities and wireless support structures;
4 to provide for the procedure and manner of permitting of such structures; to provide for the
5 collocating of wireless communication antennas on existing structures where possible; to
6 provide for certain limitations with regard to such structures; to provide for related matters;
7 to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
11 by adding a new chapter to read as follows:

12 "CHAPTER 66B

13 36-66B-1.

14 This chapter shall be known and may be cited as the 'Wireless Communications Tower
15 Siting Act.'

16 36-66B-2.

17 The General Assembly finds that the enactment of this chapter is necessary for the purpose
18 of:

19 (1) Ensuring the safe and efficient integration of facilities necessary for the provision of
20 broadband and other advanced wireless communications services throughout this state;
21 and

22 (2) Ensuring the ready availability of reliable wireless service to the public and
23 government agencies and first responders, with the intention of furthering public safety
24 and general welfare.

25 It is not the intent of this chapter to limit or preempt the scope of a zoning authority's
26 review of applications for the siting of wireless facilities or wireless support structures.

27 36-66B-3.

28 As used in this chapter, the term:

29 (1) 'Antenna' means communications equipment that transmits and receives
30 electromagnetic radio signals used in the provision of all types of wireless
31 communications services.

32 (2) 'Application' means a formal request submitted to the local authority to construct or
33 modify a wireless support structure or a wireless facility.

34 (3) 'Authority' means a municipality, township, county, or regional planning commission
35 or any municipal or county legislative body that has adopted planning and zoning
36 regulations for all or the majority of land uses within its jurisdiction.

37 (4) 'Building permit' means an official administrative authorization issued by the local
38 authority prior to beginning construction of any new or existing support structure. The
39 issuance of a building permit is not a mechanism for the approval or denial of a zoning
40 or land use application.

41 (5) 'Collocation' means the placement or installation of wireless facilities on existing
42 structures, including towers, buildings, utility poles, and water tanks, in a manner that
43 negates the need to construct a new freestanding support structure, such as a tower.

44 (6) 'Equipment enclosure' means an enclosed structure, cabinet, or shelter used to contain
45 radio or other equipment necessary for the transmission or reception of wireless
46 communication signals.

47 (7) 'Existing tower' means a freestanding support structure constructed prior to the
48 effective date of this chapter that is used to provide wireless services.

49 (8) 'Utility pole' means a structure owned or operated by a public utility, municipality,
50 electric membership corporation, or rural electric cooperative that is designed specifically
51 for and used to carry lines, cables, or wires for telephony, cable television, or electricity
52 or to provide lighting.

53 (9) 'Wireless facility' means the set of equipment and network components, exclusive of
54 the underlying support structure or tower, including, but not limited to, antennas,
55 transmitters, receivers, base stations, power supplies cabling, and associated equipment
56 necessary to provide wireless services to a discrete geographic area.

57 (10) 'Wireless support structure' means, other than a utility pole, a freestanding structure,
58 such as a monopole or tower, designed to support wireless facilities.

59 36-66B-4.

60 (a) An authority may plan for and regulate the siting of wireless facilities and wireless
61 support structures in accordance with locally adopted planning or zoning regulations and
62 in conformity with this title.

63 (b) Any person that is engaged in the business of providing wireless telecommunications
64 services, or the wireless telecommunications infrastructure required therefor, and that
65 proposes to construct a wireless support structure within the jurisdiction of any planning
66 authority that has adopted planning and zoning regulations in accordance with this title
67 shall:

68 (1) Submit the necessary copies and attachments of the completed application to the
69 appropriate planning authority to construct a wireless support structure; and

70 (2) Comply with any local ordinances concerning land use and the appropriate permitting
71 processes, subject to the limitations imposed by this chapter;

72 (c) All records, such as documents, electronic data, and the like, in the possession or
73 custody of authority personnel shall be subject to Article 4 of Chapter 18 of Title 50.
74 Disclosure of such records shall be consistent with applicable state laws;

75 (d) After the submission of a completed application to construct a wireless support
76 structure, the authority shall, within 75 days commencing from the date that the application
77 is deemed complete by the authority or within a date certain specified in a written
78 agreement between the authority and the applicant:

79 (1) Review the completed application in light of its agreement with the comprehensive
80 plan and locally adopted zoning regulations;

81 (2) Make its final decision to approve or disapprove the application; and

82 (3) Advise the applicant in writing of its final decision.

83 (e) A party aggrieved by the final action of an authority denying an application under the
84 provisions of this chapter may bring an action for review in any court of competent
85 jurisdiction.

86 36-66B-5.

87 (a) In deploying or expanding commercial and public safety wireless networks, the
88 collocation of new antennas and equipment on existing support structures, including
89 buildings, utility poles, water towers, or existing conforming or nonconforming
90 communication towers, shall be preferred over the construction of new towers or support
91 structures. Further preference shall be given to neutral third-party infrastructure providers.

92 (b) Irrespective of subsection (a) of this Code section, an application for collocation on an
93 existing structure other than a utility pole may be subject to the issuance of a building
94 permit and any cost based fee associated with such building permit.

95 (c) The authority may deny an application to construct a new wireless support structure
96 based on an applicant's unwillingness to evaluate the reasonable feasibility of collocating
97 new antennas and equipment on an existing structure or structures within the applicant's
98 search ring.

99 (d) The authority shall not deny an application to construct a new wireless
100 communications support structure under subsection (c) of this Code section if evidence is
101 provided that collocation on an existing structure is technically infeasible.

102 (e) After an applicant submits a completed application, the authority shall, within 45 days
103 commencing from the date that an application for collocation of new antennas and
104 equipment on existing support structures is deemed complete by the authority or within a
105 date certain specified in a written agreement between the authority and the applicant:

106 (1) Review the completed application in light of its agreement with the comprehensive
107 plan and locally adopted zoning regulations;

108 (2) Make its final decision to approve or disapprove the application; and

109 (3) Advise the applicant in writing of its final decision.

110 36-66B-6.

111 An authority shall not:

112 (1) Impose environmental testing, sampling, or monitoring requirements or other
113 compliance measures for radio frequency emissions on wireless communications
114 facilities that are categorically excluded under the Federal Communications
115 Commission's rules for radio frequency emissions pursuant to 47 CFR 1.1307(b)(1);

116 (2) Institute a moratorium on the construction of new wireless support structures lasting
117 over 90 days in duration or institute any such moratorium within six months of the
118 conclusion of any previous moratorium on the construction of wireless support structures;

119 (3) Charge an application fee, consulting fee, or other fee associated with the submission,
120 review, processing, and approval of a building permit that is not required for other types
121 of commercial development within the authority's jurisdiction. Fees imposed by a local
122 authority or by a third-party entity providing review or technical consultation to the local
123 authority shall not exceed what is usual and customary. In no case should total charges
124 and fees exceed \$5,000.00 for a collocation or the placement and construction of a new
125 wireless facility or support structures;

- 126 (4) Permit third-party consultants to charge wireless telecommunications service
127 providers for any travel expenses incurred in the consultant's review of wireless
128 telecommunications permits;
- 129 (5) Establish or enforce regulations or procedures for radio frequency signal strength or
130 the adequacy of service quality in the consideration of any application for the
131 construction, modification, maintenance, or operation of a wireless facility or support
132 structure;
- 133 (6) Impose surety requirements, including bonds, escrow deposits, or any other type of
134 financial surety, to ensure that abandoned or unused facilities can be removed unless the
135 jurisdiction imposes similar requirements on other building permits for other types of
136 commercial development or land uses. If surety requirements are imposed, they shall be
137 competitively neutral, nondiscriminatory, reasonable in amount, and commensurate with
138 the historical record for local facilities and structures that fall into disuse;
- 139 (7) Prohibit the placement of emergency power systems that comply with federal and
140 state environmental requirements;
- 141 (8) Condition the approval of a new support structure or collocation on the agreement
142 of the structure owner to provide space on the structure for local governmental services
143 at less than the market rate;
- 144 (9) Limit the duration of any building permit for a wireless facility or support structure
145 when evaluating an application for a wireless facility or collocation; or
- 146 (10) Require an applicant to construct a distributed antenna system in lieu of constructing
147 a new wireless support structure or collocating on an existing structure, such as a utility
148 pole, existing tower, or building."

149 **SECTION 2.**

150 All laws and parts of laws in conflict with this Act are repealed.