



# City of Annapolis

Planning Commission  
Department of Planning & Zoning  
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November 18, 2020

**To: Annapolis City Council**  
**From: Planning Commission**  
**Re: Findings for Ordinance O-29-20 (ZTA2020-005): Small Cell System**

## SUMMARY

Wireless technology continues to evolve. The next step in this evolution is the installation of “small cell systems” or “small wireless facilities” and associated equipment to enable 5G connectivity, which is faster than the existing 3G and 4G speeds. The adjective “small” in this term refers to the size of the coverage area of the weak 5G signal.

In an effort to speed up deployment of “next-generation networks,” the Federal Communications Commission (FCC) initially tried to limit the ability of local jurisdictions to regulate small cell systems, including exempting them from historic preservation review. This was overturned in August of 2019; however, a fee cap was upheld. The FCC also requires action from local jurisdictions within a reasonable amount of time on an application and does not allow local jurisdictions to “effectively prohibit the provision of personal wireless services.”

Companies that install small cell systems, such as AT&T, Verizon, T-Mobile, and Sprint, typically look to place these facilities in the public right-of-way where there are often already poles that can be used, or modified for use. Because the small cell facility coverage area is limited, companies look to locate these systems as close as 200 feet from each other

## RECOMMENDATIONS

The Planning Commission held a series of continued public hearings on this issue. At a meeting on November 5, 2020, the Commission voted 5-0 to recommend APPROVAL of legislation regulating the installation, operation and modification of small cell systems. In addition to revisions discussed below, the Planning Commission recommends that the fee and fine amounts are tied to inflation rates, so that they adjust automatically every year.

The below suggests a substantial amendment from the originally proposed legislation. This iteration makes clear the Council approves of the installation of small cell systems and authorizes the Department of Planning & Zoning to prepare standards, regulations and guidelines – that is, the details – controlling the installation, operation and modification of such systems. The amended legislation is consistent with the City’s trend to simplify the Code, to remove the

Council from having to decide detailed regulations, and to set policies which are then manifested by standards, regulations and guidelines established by the various departments. It should be noted the legislation states matters which the Department's guidelines must include but leaves it open that other matters may be included. The Council may wish to include other matters.

The Planning Commission is comfortable with the rule-making process established in the Code. That is, the Council sets the policy, the Commission will review the draft guidelines and regulations and any future changes to those guidelines and regulations will be subject to public notice, public hearing, and approval by the Commission.

A suggested re-write follows. The amended portions are in **Bold**. For the sake of readability, the deleted portions are not ~~included~~ as they usually are in proposed legislation.

Adopted this 19<sup>th</sup> day of November, 2020



Ben Sale, Chair

1 **..Title**  
2 **Small Cell Systems** – For the purpose of establishing requirements for small cell systems;  
3 adding small cell systems as a use subject to standards in all zoning districts; creating certain  
4 definitions; and generally relating to small cell systems.

5 **..Body**

6 **CITY COUNCIL OF THE**  
7 **City of Annapolis**

8  
9 **Ordinance 29-20**

10  
11 **Introduced by: Mayor Buckley and Alderwoman Tierney**  
12 **Co-sponsored by:**

13  
14 **Referred to**  
15 **Planning Commission**  
16 **Environmental Matters Committee**  
17 **Transportation Committee**  
18 **180 day Rule: \_\_\_\_\_**

19  
20 **AN ORDINANCE** concerning

21  
22 **Small Cell Systems**

23  
24 **FOR** the purpose of establishing requirements for small cell systems; adding small cell systems  
25 as a use subject to standards in all zoning districts; creating certain definitions; and  
26 generally relating to small cell systems.

27  
28 **BY** repealing and re-enacting with amendments the following portions of the Code of the  
29 City of Annapolis, 2020 Edition.  
30 21.48.010  
31 21.48.020  
32 21.48.030  
33 21.48.040  
34 21.56.020  
35 21.72.010

36  
37 **BY** adding the following portion to the Code of the City of Annapolis, 2020 Edition.  
38 14.40.010  
39 14.40 020  
40 21.64.565

41  
42  
43 **SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY**  
44 **COUNCIL** that the Code of the City of Annapolis shall be amended to read as follows:

45  
46 **Title 14 - Streets, Sidewalks, ~~and~~ Public Places, AND SMALL CELL SYSTEMS**

1 **CHAPTER 14.40 – SMALL CELL SYSTEMS**

2  
3 AS USED IN THIS CHAPTER, "SMALL CELL SYSTEM" HAS THE MEANING SET  
4 FORTH IN SECTION 21.72.010 OF THIS CODE.

5  
6 **SECTION 14.40.010 – SMALL CELL SYSTEMS IN PUBLIC RIGHT-OF-WAY**

7  
8 **A. SUBJECT TO REGULATION. SMALL CELL SYSTEMS LOCATED IN THE**  
9 **CITY OF ANNAPOLIS SHALL BE SUBJECT TO THE STANDARDS AND**  
10 **REQUIREMENTS OF THE ZONING CODE AND MUST BE IN ACCORDANCE**  
11 **WITH THE ANNAPOLIS SMALL CELL SYSTEM GUIDELINES AND**  
12 **REGULATIONS AS PROMULGATED BY THE DEPARTMENT OF PLANNING**  
13 **AND ZONING.**

14 **B. AGREEMENT REQUIRED.** IN ADDITION TO THE REQUIREMENTS OF THIS  
15 CHAPTER AND TITLE 21, THE OWNER OF A SMALL CELL SYSTEM, AS DEFINED  
16 IN SECTION 21.72.010 OF THIS CODE, LOCATING IN CITY RIGHTS-OF-WAY OR  
17 ATTACHING TO CITY ASSETS SHALL ENTER INTO A LEASE OR LICENSE  
18 AGREEMENT WITH THE CITY IN A FORM PROVIDED BY THE CITY, THE TERMS  
19 OF WHICH SHALL INCLUDE:

- 20 1. REQUIREMENTS TO REMOVE A SMALL CELL SYSTEM AT THE  
21 OWNER'S EXPENSE IF THE SYSTEM IS NO LONGER NEEDED;
- 22 2. PROVISIONS RELATING TO THE CITY'S RIGHTS AND OWNER'S  
23 OBLIGATIONS;
- 24 3. PROVISIONS CONCERNING ABANDONMENT OF A SMALL CELL  
25 SYSTEM;
- 26 4. REQUIREMENTS FOR INSURANCE RELATED TO THE SMALL CELL  
27 SYSTEM;
- 28 5. INDEMNIFICATION OF THE CITY; AND
- 29 6. BONDING REQUIREMENTS, INCLUDING BONDING AGAINST THE  
30 FAILURE TO REMOVE ANY ABANDONED OR IMPROPERLY PLACED  
31 SMALL CELL SYSTEM AND FAILURE OF THE OWNER OF THE SMALL  
32 CELL SYSTEM TO PAY ANY OUTSTANDING AMOUNTS DUE TO THE CITY.

33 **C. PERMIT REQUIRED.** AN APPLICANT SHALL SUBMIT A PERMIT  
34 APPLICATION TO THE DEPARTMENT OF PLANNING AND ZONING AND THERE  
35 SHALL BE A PERMIT APPLICATION FEE AS ESTABLISHED BY RESOLUTION OF  
36 THE CITY COUNCIL.

37  
38 **SECTION 14.40.020 – SMALL CELL SYSTEMS ON PRIVATE PROPERTY**

39  
40 **A. SMALL CELL SYSTEMS LOCATED ON PRIVATE PROPERTY SHALL BE**  
41 **SUBJECT TO THE STANDARDS AND REQUIREMENTS OF THE ZONING CODE**  
42 **AND MUST BE IN ACCORDANCE WITH THE ANNAPOLIS SMALL CELL SYSTEM**  
43 **GUIDELINES.**

44  
45 **B. THE DEPARTMENT OF PLANNING AND ZONING IS HEREBY AUTHORIZED TO**  
46 **PROMULGATE REGULATIONS AND GUIDELINES TO EFFECTUATE THE**

1 REQUIREMENTS OF THIS SECTION. THE PROMULGATED REGULATIONS AND  
 2 GUIDELINES SHALL HAVE THE FORCE AND EFFECT OF LAW  
 3

4 **Title 21 - Planning and Zoning**

5 **Chapter 21.48 - USE TABLES**

6 **Section 21.48.010 - Table of Uses—Residential Zoning Districts.**

7 P = Permitted Use; S = Special Exception Use; -Std = Use Subject to Standards (Chapter 21.64);

8 A = Accessory Use; Blank = Not Permitted

9 A use, including a special exception use, that is not normally permissible as a permitted use or  
 10 use subject to standards in a zoning district may be permitted in that district as a planned  
 11 development use pursuant to Section 21.24.020.

12 Important. The notes at the end of the table are as much a part of the law as the table itself.

13  
 14  
 15 **REVISOR’S NOTE:** In this Section Small Cell System P-Std is  
 16 added. No other changes are made.  
 17

Uses	District R1A	District R1B	District R1	District R2	District R2-NC	District R3	District R3-NC	District R3-NC2	District R3-R	District R4	District R4-R	District C1
SMALL CELL SYSTEM	P-STD	P-STD	P-STD	P-STD	P-STD	P-STD	P-STD	P-STD	P-STD	P-STD	P-STD	P-STD
Telecommunications facilities	A-Std	A-Std	A-Std	A-Std	A-Std	A-Std	A-Std	A-Std	A-Std	A-Std	A-Std	A-Std

18 1 Duplex units existing on August 10, 1970, may be altered or enlarged provided that the alteration or enlargements  
 19 otherwise meet the provisions of the R2 zoning district, except that the shared lot line between each half of the  
 20 duplex unit must meet the provisions of the R3, General Residence District, and subject to minor site design plan  
 21 review.

22 2 Attached units existing on August 10, 1970, may be altered or enlarged provided that the alteration or  
 23 enlargement otherwise meets the provisions of the C1A zoning district except that the shared lot line between  
 24 attached units will have no setback requirement, and subject to minor site design plan approval and review by the  
 25 Historic Preservation Commission under Section 21.56 of this Code.

26  
 27 **Section 21.48.020 - Table of Uses—Commercial and Industrial Zoning Districts.**

28  
 29 P = Permitted Use; S = Special Exception Use; -Std = Use Subject to Standards (Chapter 21.64);

30 A = Accessory Use; Blank = Not Permitted  
 31

32 A use, including a special exception use, that is not normally permissible as a permitted use or  
 33 use subject to standards in a zoning district may be permitted in that district as a planned  
 34 development use pursuant to Section 21.24.020.

35 Important. The notes at the end of the table are as much a part of the law as the table itself.  
 36  
 37

**REVISOR'S NOTE:** In this Section Small Cell System P-Std is added. No other changes are made.

Uses	District B1	District B2	District B3	District B3-CD	District BCE	District BR	District C2	District C2A	District PM2	District I1
SMALL CELL SYSTEM	P-STD	P-STD	P-STD	P-STD	P-STD	P-STD	P-STD	P-STD	P-STD	P-STD
Storage other than accessory to permitted uses			S	S						
Supermarkets	P-Std	S-Std	P-Std	S-Std	P-Std	S-Std	P-Std	S-Std	P-Std	P-Std <sub>1</sub>
Telecommunications facilities	A-Std	A-Std	A-Std	A-Std	A-Std	A-Std	A-Std	A-Std	A-Std	A-Std
Telephone transmission equipment buildings		P	P		P				P	P

Notes:

Uses in the PM2 district are subject to the following provisions as indicated in the table:

1. This use is permitted as a principal use only in districts that do not adjoin (along non-street frontage) property zoned R1, R1A, R1B or R2.
2. This use is permitted as an incidental use in a structure that contains business, professional or governmental offices provided that gross floor area of all incidental uses does not exceed the amount of space devoted to the first floor of a multistory structure; except, that in no case shall it exceed thirty-three percent of the total gross floor area. This use is considered a neighborhood convenience use and is subject to standards given in Section 21.64.420.
3. If the principal use with which the drive-thru facility is associated is a special exception use, then the drive-thru facility requires special exception approval.
4. ATMs are permitted as walkups subject to all other applicable regulations. In the C2 and C2A districts, drive-through facilities are not permitted.

**Section 21.48.030 - Table of Uses—Office and Mixed Use Zoning Districts.**

P = Permitted Use; S = Special Exception Use; -Std = Use Subject to Standards (Chapter 21.64); A = Accessory Use; Blank = Not Permitted

A use, including a special exception use, that is not normally permissible as a permitted use or use subject to standards in a zoning district may be permitted in that district as a planned development use pursuant to Section 21.24.020

**Important.** The notes at the end of the table are as much a part of the law as the table itself.

**REVISOR'S NOTE:** In this Section Small Cell System P-Std is added. No other changes are made.

Uses	District P	District MX	District PM	District C2P
SMALL CELL SYSTEM	P-STD	P-STD	P-STD	P-STD
Specialty convenience retail store		P	P-Std	
Supermarkets		P-Std		
Telecommunications facilities	A-Std	A-Std	A-Std	A-Std
Telephone transmission equipment buildings		P		

Footnotes:

<sup>1</sup> If the principal use with which the drive-thru facility is associated is a special exception use, then the drive-thru facility requires special exception approval.

<sup>2</sup> The following apply only to the uses specified: in the MX-1 area only, in planned developments with a minimum lot size of five acres, "accessory structures" such as clock towers attached to office and/or retail structures and "theaters, indoor" shall not exceed one hundred feet in height. See the bulk regulations table in Section 21.50.260.

Table Notes:

The following regulations apply to all uses in the MX District:

1. Buildings in excess of forty-six feet, but less than fifty-five feet in height are subject to the following:

a. Either twenty-five percent of the gross floor area shall be designed for retail uses, or residential uses, or a combination of retail and residential uses, alternatively, the entire ground level front façade shall be designed for retail uses, exclusive of: (i) not more than one driveway, which shall not be greater than thirty-three feet wide, required for access to parking; (ii) space required for a lobby and space required for access to upper floor uses. Retail use along the front façade shall have a minimum height of twelve feet and a minimum depth of twenty-five feet;

b. If surface parking is located on the zoning lot, it shall be located at the rear of the zoning lot and new structures shall be located at the front of the zoning lot. If surface parking is located adjacent to single-family residential use, dense plantings shall be installed and maintained on the zoning lot to provide an effective screen; and

c. Any adverse impacts on critical lane levels of service at adjoining intersections shall be mitigated by the applicant.

2. Buildings in excess of forty-six feet, but less than sixty-five feet in height require special exception approval except as provided in note No. 1 above.

3. Uses and combinations of uses located on zoning lots of forty thousand square feet or more require special exception approval, unless such uses are approved as part of a planned development.

**Section 21.48.040 - Table of Uses—Waterfront Maritime Zoning Districts.**

P = Permitted Use; S = Special Exception Use; -Std = Use Subject to Standards (Chapter 21.64); A = Accessory Use; Blank = Not Permitted

**Important.** The notes at the end of the table are as much a part of the law as the table itself.

**REVISOR’S NOTE:** In this Section Small Cell System P-Std is added. No other changes are made.

	District WMC	District WMM <sup>3</sup>	District WMI <sup>3</sup>	District WME
B. Other uses:				
Accessory uses	A	A		

Antenna towers			P-Std, S-Std	
Antennas and amateur radio stations	A-Std	A-Std	A-Std	A-Std
Delicatessen			A-Std	A-Std
Food service marts			A-Std	A-Std
Governmental uses:				
Parks and recreation facilities	P		P	P
Parking structures as accessory to permitted maritime uses on a separate zoning lot		S-Std		
Professional offices		S-Std		
Restaurant, standard	S-Std	S-Std		S-Std
Retail sales of non maritime-related goods	S-Std	S-Std		
SMALL CELL SYSTEM	P-STD	P-STD	P-STD	P-STD
Telecommunications facilities	A-Std	A-Std	A-Std	A-Std
Temporary uses	P-Std	P-Std	P-Std	P-Std
Transient boater services, such as laundry, pool, recreation facilities and sales of convenience items			A-Std	

- 1
- 2 1 This use is permitted only on lots without waterfront frontage as of August 24, 1987.
- 3 2 This use is permitted in buildings located within one hundred feet of the shoreline, provided that the use does not
- 4 exceed twenty-five percent of the gross floor area of the lot.
- 5 3 In the WMM and WMI districts non water-dependent buildings, structures, or parking are permitted within the
- 6 one hundred-foot maritime use setback only if they meet certain bulk requirements. See Division III Chapter 21.46.
- 7

**Chapter 21.56 - Historic District**  
**Section 21.56.020 - Definitions.**

**REVISOR’S NOTE:** In this Section Small Cell System is added to the definition of “Structure”. No other changes are made.

"Structure" shall mean a combination of material to form a construction that is stable including, but not limited to, buildings, stadiums, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks and towers, trestles, bridges, piers, paving, bulkheads, wharves, sheds, coal bins, shelters, fences, SMALL CELL SYSTEMS, and display signs visible or intended to be visible from a public way. The term "structure" shall be construed as if followed by the words, "or part thereof."

**Chapter 21.64 - Standards for Uses Subject to Standards**  
**SECTION 21.64.565 – SMALL CELL SYSTEMS**



1 SMALL CELL SYSTEMS ARE SUBJECT TO THE STANDARDS, RULES AND  
2 GUIDELINES AS PROMULGATED BY THE DEPARTMENT OF PLANNING AND  
3 ZONING. THE STANDARDS, RULES AND GUIDELINES SHALL INCLUDE BUT ARE  
4 NOT LIMITED TO THE FOLLOWING SUBJECTS:

- 5 A. NOTICE OF INSTALLATION TO ABUTTING PROPERTY OWNERS
- 6 B. APPROVAL REQUIRED BEFORE INSTALLATION OR MODIFICATION
- 7 C. PLANS REQUIRED FOR PERMIT APPLICATION.
- 8 D. CONSOLIDATED APPLICATIONS AND CO-LOCATIONS.
- 9 E. DEADLINES AND REQUIREMENTS FOR OPERABILITY AND  
10 ABANDONMENT..
- 11 F. CERTIFICATION OF WIND LOAD.
- 12 G. CERTIFICATIONS OF COMPLIANCE WITH FEDERAL STANDARDS.
- 13 H. COPIES OF COMMUNICATIONS WITH FEDERAL AGENCIES.
- 14 I. VIOLATIONS OF THIS SECTION OR FAILURE TO COMPLY WITH THE  
15 REQUIREMENTS OF THIS SECTION OR ANY CONDITIONS ATTACHED TO A  
16 PERMIT OR CERTIFICATE OF USE SHALL CONSTITUTE A MUNICIPAL  
17 INFRACTION AND IS SUBJECT TO A FINE AS ESTABLISHED BY RESOLUTION OF  
18 THE CITY COUNCIL. NOTHING HEREIN CONTAINED SHALL PREVENT THE  
19 CITY OF ANNAPOLIS FROM TAKING SUCH OTHER LAWFUL ACTION AS IS  
20 NECESSARY TO PREVENT OR REMEDY ANY VIOLATION.  
21

22  
23 **Chapter 21.72 - Terms and Definitions**

24 **Section 21.72.010 - Terms.**

25  
26 **REVISOR'S NOTE:** In this Section "Small Cell System" is  
27 added. No other changes are made.  
28

29 "SMALL CELL SYSTEM." SMALL CELL SYSTEM MEANS ANY SHORT RANGE  
30 EQUIPMENT INSTALLED FOR THE PURPOSE OF SUPPLEMENTING OR EXTENDING  
31 WIRELESS COMMUNICATIONS COVERAGE IN A LOCALIZED AREA. "SMALL CELL  
32 SYSTEM" INCLUDES:

- 33 1. ANY POLE, STRAND, OR OTHER STRUCTURE USED TO SUPPORT A SYSTEM  
34 OR TO WHICH A SYSTEM IS ATTACHED; AND
- 35 2. ANY RADIO TRANSCEIVER, ANTENNA, COAXIAL OR FIBER-OPTIC CABLE,  
36 REGULAR OR BACK-UP POWER SUPPLY, AND COMPARABLE EQUIPMENT,  
37 REGARDLESS OF TECHNOLOGICAL CONFIGURATION; AND ANY  
38 ANCILLARY OR ACCESSORY STRUCTURE OR EQUIPMENT TO HOUSE ANY  
39 PART OF THE SYSTEM.

40  
41  
42 **SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE**  
43 **ANNAPOLIS CITY COUNCIL** that this ordinance shall take effect from the date of its  
44 passage.  
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**Explanation:**

UPPERCASE indicates matter added to existing law.

~~Strikethrough~~ indicates matter stricken from existing law.

Underlining indicates amendments.