



Legislation Text

File #: O-29-20, Version: 1

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

**CITY COUNCIL OF THE
City of Annapolis**

Ordinance 29-20

Introduced by: Mayor Buckley

**Co-sponsored by: Alderwoman Tierney, Alderman Schandelmeier
Alderman Gay, Alderwoman Pindell Charles, Alderman Paone,
Alderwoman Finlayson**

**Referred to
Planning Commission
Economic Matters Committee
Environmental Matters Committee
Transportation Committee
180 day Rule: _____**

AN ORDINANCE concerning

Small Cell Systems

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

BY repealing and re-enacting with amendments the following portions of the Code of the City of Annapolis, 2020 Edition.
21.48.010
21.48.020
21.48.030
21.48.040
21.56.020
21.72.010

BY adding the following portion to the Code of the City of Annapolis, 2020 Edition.
14.40.010
14.40.020

21.64.565

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

Title 14 - Streets, Sidewalks, and Public Places, AND SMALL CELL SYSTEMS
CHAPTER 14.40 - SMALL CELL SYSTEMS

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

SECTION 14.40.010 - SMALL CELL SYSTEMS IN PUBLIC RIGHT-OF-WAY

A. SUBJECT TO REGULATION, SMALL CELL SYSTEMS LOCATED IN THE CITY OF ANNAPOLIS SHALL BE SUBJECT TO THE STANDARDS AND REQUIREMENTS OF THE ZONING CODE AND MUST BE IN ACCORDANCE WITH THE ANNAPOLIS SMALL CELL SYSTEM GUIDELINES AND REGULATIONS AS PROMULGATED BY THE DEPARTMENT OF PLANNING AND ZONING.

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

1. REQUIREMENTS TO REMOVE A SMALL CELL SYSTEM AT THE OWNER'S EXPENSE IF THE SYSTEM IS NO LONGER NEEDED;
2. PROVISIONS RELATING TO THE CITY'S RIGHTS AND OWNER'S OBLIGATIONS;
3. PROVISIONS CONCERNING ABANDONMENT OF A SMALL CELL SYSTEM;
4. REQUIREMENTS FOR INSURANCE RELATED TO THE SMALL CELL SYSTEM;
5. INDEMNIFICATION OF THE CITY; AND
6. BONDING REQUIREMENTS, INCLUDING BONDING AGAINST THE FAILURE TO REMOVE ANY ABANDONED OR IMPROPERLY PLACED SMALL CELL SYSTEM AND FAILURE OF THE OWNER OF THE SMALL CELL SYSTEM TO PAY ANY OUTSTANDING AMOUNTS DUE TO THE CITY.

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

SECTION 14.40.020 - SMALL CELL SYSTEMS ON PRIVATE PROPERTY

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

B. THE DEPARTMENT OF PLANNING AND ZONING IS HEREBY AUTHORIZED TO PROMULGATE REGULATIONS AND GUIDELINES TO EFFECTUATE THE REQUIREMENTS OF THIS SECTION. THE PROMULGATED REGULATIONS AND GUIDELINES SHALL HAVE THE

FORCE AND EFFECT OF LAW

Title 21 - Planning and Zoning

Chapter 21.48 - USE TABLES

Section 21.48.010 - Table of Uses-Residential 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 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	District C1A
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	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	A-Std

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

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

Section 21.48.020 - Table of Uses-Commercial and Industrial 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 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 ¹
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:

¹ 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.

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

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

SMALL CELL SYSTEMS ARE SUBJECT TO THE FOLLOWING STANDARDS AND MUST BE IN ACCORDANCE WITH THE ANNAPOLIS SMALL CELL SYSTEM GUIDELINES.

- A. THE OWNER OF A SYSTEM SHALL GIVE NOTICE OF INSTALLATION TO ABUTTING PROPERTY OWNERS IN ACCORDANCE WITH SECTION 21.10.020.B.
- B. THE OWNER OF A SYSTEM SHALL OBTAIN REQUIRED APPROVALS, INCLUDING FRANCHISES AND PERMITS, BEFORE:
 - 1. THE INITIAL INSTALLATION OR CO-LOCATION OF A SYSTEM;
 - 2. THE INSTALLATION OF A POLE; OR
 - 3. THE MODIFICATION OF A SYSTEM OR A POLE.
- C. AS PART OF THE APPLICATION PROCESS, THE OWNER OF A SYSTEM SHALL PROVIDE:
 - 1. DETAILED PLANS DESCRIBING THE INSTALLATION, CO-LOCATION, MODIFICATION, OR ATTACHMENT, INCLUDING ANY CERTIFICATIONS THAT MAY BE REQUIRED;
 - 2. A PRECONSTRUCTION SURVEY;
 - 3. A PROPOSED SCHEDULE FOR COMPLETION, CERTIFIED BY A LICENSED PROFESSIONAL ENGINEER; AND
 - 4. ANY OTHER INFORMATION REQUIRED BY THE CITY THAT WILL ALLOW THE CITY TO EVALUATE THE SYSTEM, INCLUDING THE SAFETY OF THE INSTALLATION, CO-LOCATION, MODIFICATION, OR ATTACHMENT.
- D. THE OWNER OF A SYSTEM MAY FILE A CONSOLIDATED APPLICATION FOR WIRELESS PROVIDER FACILITIES TO BE CO-LOCATED WITHIN THE CITY PURSUANT TO GUIDELINES ESTABLISHED BY THE CITY.

- E. A SYSTEM SHALL BE FULLY OPERATIONAL WITHIN 180 DAYS AFTER THE DATE OF ISSUANCE OF THE FINAL PERMIT, EXCEPT WHEN CIRCUMSTANCES OUTSIDE THE CONTROL OF THE OWNER PREVENT THE OWNER FROM MEETING THE DEADLINE, IN WHICH INSTANCE THE CITY MAY GRANT AN EXTENSION OF TIME. IF A SYSTEM IS NOT FULLY OPERATIONAL WITHIN 180 DAYS AFTER THE DATE OF ISSUANCE OF THE FINAL PERMIT AND THE CITY DETERMINES THAT THE CIRCUMSTANCES DO NOT WARRANT AN EXTENSION OF TIME, THE CITY MAY CANCEL APPROVAL OF THE SYSTEM AND REQUIRE ITS REMOVAL AT THE OWNER'S SOLE EXPENSE.
- F. PRIOR TO ISSUANCE OF A PERMIT, THE OWNER OF A SYSTEM SHALL PROVIDE A CERTIFICATION FROM A REGISTERED ENGINEER THAT THE SYSTEM, INCLUDING ANY POLE, WILL MEET THE APPLICABLE DESIGN STANDARDS OF THIS CODE FOR WIND LOADS.
- G. WITHIN 30 DAYS AFTER THE DATE OF ISSUANCE OF THE FINAL PERMIT, AND BY SEPTEMBER 1 OF EACH YEAR THEREAFTER, THE PERMIT HOLDER SHALL SUBMIT A CERTIFICATION FROM AN ENGINEER THAT THE RADIO FREQUENCY RADIATION FROM THE FACILITY MEETS THE APPLICABLE FEDERAL COMMUNICATIONS COMMISSION STANDARDS AND GUIDELINES FOR THOSE EMISSIONS AND SHALL INCLUDE ALL DATA IN SUPPORT OF THE CERTIFICATION. IF THE OWNER OF THE SYSTEM FAILS TO PROVIDE ANY CERTIFICATION REQUIRED IN THIS SUBSECTION, THE CITY MAY REVOKE THE CERTIFICATE OF USE AND ORDER THE SYSTEM TO BE DISABLED BY THE OWNER UNTIL THE OWNER PROVIDES THE REQUIRED CERTIFICATION. THE SYSTEM MAY NOT BE RE-ENABLED OR THE CERTIFICATE OF USE REISSUED, UNTIL THE OWNER SUBMITS A CERTIFICATION FROM AN ENGINEER VERIFYING THAT THE ENGINEER HAS INSPECTED THE SYSTEM AND THE RADIO FREQUENCY RADIATION FROM THE FACILITY MEETS THE APPLICABLE FEDERAL COMMUNICATIONS COMMISSION STANDARDS AND GUIDELINES FOR THOSE EMISSIONS.
- H. THE OWNER OF A SYSTEM SHALL SUBMIT COPIES OF ALL NOTIFICATIONS FROM OR TO THE FEDERAL COMMUNICATIONS COMMISSION AND REPORTING TO THE FEDERAL COMMUNICATIONS COMMISSION FOR ANY SYSTEM
- I. A SYSTEM THAT CEASES OPERATION FOR A PERIOD OF 12 CONSECUTIVE MONTHS IS CONSIDERED ABANDONED AND MUST BE REMOVED WITHIN 90 DAYS OF ABANDONMENT AT THE OWNER'S EXPENSE.
- J. VIOLATIONS OF THIS SECTION OR FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION OR ANY CONDITIONS ATTACHED TO A PERMIT OR CERTIFICATE OF USE SHALL CONSTITUTE A MUNICIPAL INFRACTION AND IS SUBJECT TO A FINE AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL. NOTHING HEREIN CONTAINED SHALL PREVENT THE CITY OF ANNAPOLIS FROM TAKING SUCH OTHER LAWFUL ACTION AS IS NECESSARY TO PREVENT OR REMEDY ANY VIOLATION.

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

- A. NOTICE OF INSTALLATION TO ABUTTING PROPERTY OWNERS.
- B. APPROVAL REQUIRED BEFORE INSTALLATION OR MODIFICATION.
- C. PLANS REQUIRED FOR PERMIT APPLICATION.
- D. CONSOLIDATED APPLICATIONS AND CO-LOCATIONS.
- E. DEADLINES AND REQUIREMENTS FOR OPERABILITY AND ABANDONMENT.
- F. CERTIFICATION OF WIND LOAD.

- G. CERTIFICATION OF COMPLIANCE WITH FEDERAL STANDARDS.
- H. COPIES OF COMMUNICATIONS WITH FEDERAL AGENCIES.
- I. VIOLATIONS OF THIS SECTION OR FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION OR ANY CONDITIONS ATTACHED TO A PERMIT OR CERTIFICATE OF USE SHALL CONSTITUTE A MUNICIPAL INFRACTION AND IS SUBJECT TO A FINE AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL. NOTHING HEREIN CONTAINED SHALL PREVENT THE CITY OF ANNAPOLIS FROM TAKING SUCH OTHER LAWFUL ACTION AS IS NECESSARY TO PREVENT OR REMEDY ANY VIOLATION.

Chapter 21.72 - Terms and Definitions
Section 21.72.010 - Terms.

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

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

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

REVISOR'S NOTE: In this Section "Micro Wireless Facility" and "Small Cell System" are added.
No other changes are made.

"MICRO WIRELESS FACILITY." MICRO WIRELESS FACILITY MEANS:

1. ANY EQUIPMENT OTHERWISE WITHIN THE DEFINITION OF "SMALL WIRELESS SYSTEM" WHOSE RADIO TRANSCEIVER AND ASSOCIATED HOUSING EQUIPMENT HAS DIMENSIONS NO LARGER THAN 24 INCHES IN LENGTH, 15 INCHES IN WIDTH, AND 12 INCHES IN HEIGHT AND AN EXTERIOR ANTENNA, IF ANY, NO LONGER THAN 11 INCHES; AND
2. WHERE SUCH EQUIPMENT IS SUSPENDED ON STRAND STRUNG BETWEEN EXISTING UTILITY POLES IN COMPLIANCE WITH APPLICABLE CODES BY A COMMUNICATIONS SERVICE PROVIDER AUTHORIZED TO OCCUPY THE RIGHTS-OF-WAY.

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

1. ANY POLE, STRAND, OR OTHER STRUCTURE USED TO SUPPORT A SYSTEM OR TO WHICH A SYSTEM IS ATTACHED; AND
2. ANY RADIO TRANSCEIVER, ANTENNA, COAXIAL OR FIBER-OPTIC CABLE, REGULAR OR

BACK-UP POWER SUPPLY, AND COMPARABLE EQUIPMENT, REGARDLESS OF TECHNOLOGICAL CONFIGURATION; AND ANY ANCILLARY OR ACCESSORY STRUCTURE OR EQUIPMENT TO HOUSE ANY PART OF THE SYSTEM.

“SMALL CELL SYSTEM” DOES NOT INCLUDE A MICRO WIRELESS FACILITY.

SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that this ordinance shall take effect from the date of its passage.

Explanation:

UPPERCASE indicates matter added to existing law.

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

Underlining indicates amendments.