A BILL ENTITLED

AN ORDINANCE concerning: Public Works – County Rights-of-way – Zoning – Small Cell Systems

FOR the purpose of defining a “small cell system” for County right-of-way permits; establishing additional requirements for small cell systems locating in County rights-of-way; modifying when permits for work in County rights-of-way are not needed; modifying the scope of permits for maintenance work in County rights-of-way; amending the zoning definition of “commercial telecommunication facility” to exclude small cell systems; adding a zoning definition of “small cell system”; requiring certificates of use for small cell systems; establishing fees for permits for small cell systems in County rights-of-way; adding small cell systems as a conditional use in certain zoning districts; establishing the conditional use requirements for a small cell system; and generally relating to public works and zoning.

BY renumbering: §§ 13-3-101(5) to be 13-3-101(6); 18-1-101(121) through (154) to be 18-1-101(122) through (155); 18-10-146 through 18-10-157 to be 18-10-147 through 18-10-158; and 18-13-206(36) through (45) to be 18-13-206(37) through (46) Anne Arundel County Code (2005, as amended)

BY adding: §§ 13-3-101(5); 13-3-106; 13-3-304(c); 18-1-101(121); 18-10-146; and 18-13-206(36) Anne Arundel County Code (2005, as amended)

EXPLANATION: CAPITALS indicate new matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Captions and taglines in bold in this bill are catchwords and are not law.
Asterisks *** indicate existing Code provisions in a list or chart that remain unchanged.
By repealing and reenacting, with amendments: §§ 13-3-201(b); 13-3-205(b)(2)(i) and (iii); 18-1-101(30); 18-2-202(b); 18-4-106; 18-5-102; 18-6-103; 18-7-107; and 18-8-301(b)
Anne Arundel County Code (2005, as amended)

SECTION 1. Be it enacted by the County Council of Anne Arundel County, Maryland, That §§ 13-3-101(5), 18-1-101(121) through (154), 18-10-146 through 18-10-157, and 18-13-206(36) through (45), respectively, of the Anne Arundel County Code (2005, as amended) are hereby renumbered to be §§ 13-3-101(6), 18-1-101(122) through (155), 18-10-147 through 18-10-158, and 18-13-206(37) through (46), respectively.

SECTION 2. And be it further enacted, That Section(s) of the Anne Arundel County Code (2005, as amended) read as follows:

ARTICLE 13. PUBLIC WORKS

TITLE 3. PERMITS FOR USE OF COUNTY RIGHTS-OF-WAY


In this title, the following words have the meanings indicated.

***

(5) "SMALL CELL SYSTEM" HAS THE MEANING SET FORTH IN § 18-1-101 OF THIS CODE.

***

13-3-106. Small cell systems.

In addition to the other requirements of this title, any small cell system, as defined in § 18-1-101 of this code, locating in county rights-of-way or attaching to county assets shall enter into a lease or license agreement with the county in a form provided by the county, the terms of which will include:

(1) Compliance with all requirements of this title;

(2) Compliance with all requirements of § 18-10-146 of this code;

(3) Requirements to remove a small cell system at the owner’s expense if the system is no longer needed;

(4) Provisions relating to the county’s rights and owner’s obligations if a small cell system is abandoned;

(5) The fees for the use of the county rights-of-way and attaching to county assets;

(6) Requirements for insurance related to the small cell system and indemnification of the county; and
(7) 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 COUNTY.

13-3-201. Permit.

(b) When not required. No permit is required for a work activity that makes no
material change to the footprint of a facility or to the AIRSPACE, surface, or subsurface of
a right-of-way if the activity does not disrupt or impede traffic in the traveled portion of a
right-of-way.

13-3-205. Maintenance permits.

(b) Scope of permit. A maintenance permit covers:

(2) those non-emergency activities, excluding excavations in or under the paved
rights-of-way, that are specified in the permit, including:

(i) an activity that makes no material change to the footprint of the facility or to
the AIRSPACE, surface, or subsurface of a right-of-way but disturbs or impedes traffic on a
local road;

***

(iii) replacing overhead poles IN KIND;

***

13-3-304. Additional fees.

(C) Small cell systems.

(1) IN ADDITION TO THOSE AMOUNTS PROVIDED UNDER §§ 13-3-302, 13-3-303, AND
13-3-304(A), AN APPLICANT FOR A PERMIT TO LOCATE OR MAINTAIN A SMALL CELL
SYSTEM IN THE COUNTY RIGHT-OF-WAY SHALL PAY AN APPLICATION FEE AS FOLLOWS:

(I) FOR INSTALLATION OF A STRUCTURE AND ATTACHMENT OF A SMALL CELL
SYSTEM WHERE NO STRUCTURE CURRENTLY EXISTS, $4,000;

(II) FOR REPLACEMENT OF AN EXISTING STRUCTURE AND ATTACHMENT OF A
SMALL CELL SYSTEM ON THE REPLACEMENT STRUCTURE, $2,100;

(III) FOR PLACEMENT OF A SMALL CELL SYSTEM ON AN EXISTING STRUCTURE
OR MODIFICATION OF AN EXISTING SMALL CELL SYSTEM THAT CHANGES THE SIZE OR
CONFIGURATION OF THE STRUCTURE OR THE SMALL CELL SYSTEM, $2,000; AND

(IV) FOR MODIFICATION OF AN EXISTING SMALL CELL SYSTEM ON AN EXISTING
STRUCTURE THAT DOES NOT CHANGE THE SIZE OR CONFIGURATION OF THE STRUCTURE
OR THE SMALL CELL SYSTEM, $1,475.
THE FEES SET FORTH IN PARAGRAPH (1) SHALL INCREASE EACH JULY FIRST BASED ON THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS ("CPI-U") FOR THE PREVIOUS JANUARY.

ARTICLE 18. ZONING

TITLE 1. DEFINITIONS

18-1-101. Definitions

Unless defined in this article, the Natural Resources Article of the State Code, or COMAR, words defined elsewhere in this Code apply in this article. The following words have the meanings indicated:

***

(30) “Commercial telecommunication facility” means a structure, such as a tower, antenna, monopole, panel, microwave dish, or in-building wireless communication enhancement system, including accessory structures, used for the wireless electromagnetic transmission of information, but the term does not include a satellite earth station, a structure used for amateur or recreational purposes such as a ham radio or citizens band radio, A SMALL CELL SYSTEM, or a facility owned by a public utility that is used to control the utility’s distribution systems.

***

(121) “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:

(I) ANY POLE, STRAND, OR OTHER STRUCTURE USED TO SUPPORT A SYSTEM OR TO WHICH A SYSTEM IS ATTACHED;

(II) ANY RADIO TRANSCEIVER, ANTENNA, COAXIAL OR FIBER-OPTIC CABLE, REGULAR OR BACK-UP POWER SUPPLY, AND COMPARABLE EQUIPMENT, REGARDLESS OF TECHNOLOGICAL CONFIGURATION; AND

(III) ANY ANCILLARY OR ACCESSORY STRUCTURE OR EQUIPMENT TO HOUSE ANY PART OF THE SYSTEM.

***

TITLE 2. GENERAL PROVISIONS


(b) Acquisition of certificate required. A zoning certificate of use is required for all uses except single-family dwellings and accessory dwelling units. A person may not initiate or change a use that will exist for a period exceeding 60 days without obtaining a zoning certificate of use. For a commercial telecommunication facility OR A SMALL CELL SYSTEM, “person” includes the owner and each user of the facility OR SYSTEM and “alter” includes
any change in configuration, transmit frequency range, or maximum power level from that shown on the application for the zoning certificate of use.

**TITLE 4. RESIDENTIAL DISTRICTS**

18-4-106. Permitted, conditional, and special exception uses.

The permitted, conditional, and special exception uses allowed in each of the residential districts are listed in the chart in this section using the following key: P = permitted use; C = conditional use; SE = special exception use. A blank means that the use is not allowed in the district. Except as provided otherwise in this article, uses and structures customarily accessory to the listed uses also are allowed, except that guest houses as accessory structures are prohibited and outside storage as an accessory use is limited to the lesser of 10% of the allowed lot coverage or 500 square feet.

<table>
<thead>
<tr>
<th>Permitted, Conditional, and Special Exception Uses</th>
<th>RA</th>
<th>RLD</th>
<th>R1</th>
<th>R2</th>
<th>R5</th>
<th>R10</th>
<th>R15</th>
<th>R22</th>
</tr>
</thead>
<tbody>
<tr>
<td>***</td>
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<td></td>
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<tr>
<td>Schools, public charter and private academic, with 125 or more onsite parking spaces</td>
<td>SE</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>SMALL CELL SYSTEM</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
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</tbody>
</table>

**TITLE 5. COMMERCIAL DISTRICTS**

18-5-102. Permitted, conditional, special exception, and business complex auxiliary uses.

The permitted, conditional, and special exception uses allowed in each of the commercial districts, and uses auxiliary to a business complex, are listed in the chart in this section using the following key: P = permitted use; C = conditional use; SE = special exception use; and A = auxiliary to a business complex use. A blank means that the use is not allowed in the district. Except as provided otherwise in this article, uses and structures customarily accessory to permitted, conditional, and special exception uses also are allowed.

<table>
<thead>
<tr>
<th>Permitted, Conditional, Special Exception, and Business Complex Auxiliary Uses</th>
<th>C1</th>
<th>C2</th>
<th>C3</th>
<th>C4</th>
</tr>
</thead>
<tbody>
<tr>
<td>***</td>
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<tr>
<td>Sign shops, including painting and fabrication</td>
<td></td>
<td></td>
<td></td>
<td>P</td>
</tr>
<tr>
<td>SMALL CELL SYSTEM</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
</tr>
</tbody>
</table>
TITLE 6. INDUSTRIAL DISTRICTS

18-6-103. Permitted, conditional, and special exception uses.

The permitted, conditional, and special exception uses allowed in each of the industrial districts are listed in the chart in this section using the following key: P = permitted use; C = conditional use; SE = special exception use; and A = auxiliary use to a business complex use. A blank means that the use is not allowed in the district. Except as provided otherwise in this article, uses and structures customarily accessory to permitted, conditional, and special exception uses also are allowed, except that outside storage as an accessory use in W1 is limited to 15% of the allowed lot coverage.

<table>
<thead>
<tr>
<th>Permitted, Conditional, Special Exception, and Business Complex Auxiliary Uses</th>
<th>W1</th>
<th>W2</th>
<th>W3</th>
</tr>
</thead>
<tbody>
<tr>
<td>***</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Sign shops, including painting and fabrication</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>SMALL CELL SYSTEM</td>
<td>C</td>
<td>C</td>
<td>C</td>
</tr>
</tbody>
</table>

TITLE 7. MARITIME DISTRICTS

18-7-107. Permitted, conditional, and special exception uses.

The permitted, conditional, and special exception uses allowed in each of the Maritime group districts are listed in the chart in this section using the following key: P = permitted use; C = conditional use; SE = special exception use. A blank means that the use is not allowed in the district. Except as provided otherwise in this article, uses and structures customarily accessory to the listed uses also are allowed.

<table>
<thead>
<tr>
<th>Permitted, Conditional, and Special Exception Uses</th>
<th>MA 1</th>
<th>MA 2</th>
<th>MA 3</th>
<th>MB</th>
<th>MC</th>
</tr>
</thead>
<tbody>
<tr>
<td>***</td>
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<tr>
<td>Sale of watercraft, marine engines, and watercraft trailers</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SMALL CELL SYSTEM</td>
<td>C</td>
<td>C</td>
<td>C</td>
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</tbody>
</table>

TITLE 8. MIXED USE DISTRICTS

18-8-301. Permitted uses; conditional uses.

(b) Categories in chart. The chart in this section divides the permitted and conditional uses allowed under the optional method of development into the categories of residential, retail and service, office, and industrial, and the uses are subject to the percentage limitations on those categories described in § 18-8-302.
Permitted and conditional uses allowed in W1 Districts in accordance with the requirements of subsection (c)
(8) "WIRELESS PROVIDER'S FACILITY" MEANS ALL APPURTECNANCES OR TANGIBLE THINGS RELATED TO A SMALL CELL SYSTEM OWNED, LEASED, OPERATED, OR LICENSED BY A UTILITY OR WIRELESS PROVIDER THAT ARE OR ARE PROPOSED TO BE LOCATED IN A COUNTY RIGHT-OF-WAY.

(B) A SMALL CELL SYSTEM ON PRIVATE PROPERTY SHALL COMPLY WITH ALL OF THE FOLLOWING REQUIREMENTS.

(1) THE DEVELOPER OF A SYSTEM SHALL:

   (I) GIVE NOTICE, BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, NOT MORE THAN 60 DAYS BEFORE FILING AN APPLICATION FOR A BUILDING PERMIT, TO ALL OWNERS OF PROPERTY LOCATED WITH A LOT LINE WITHIN 250 FEET OF THE PROPOSED SYSTEM, AS LISTED ON THE TAX ROLLS OF THE COUNTY, INCLUDING THE STATE, THE COUNTY, AND THE BOARD OF EDUCATION; AND

   (II) FILE WITH THE APPLICATION FOR A BUILDING PERMIT A LIST OF THE NAMES AND ADDRESSES OF ALL PROPERTY OWNERS WHO WERE NOTIFIED; A COPY OF THE NOTICE THAT WAS SENT; COPIES OF ALL RETURN RECEIPTS; COPIES OF THE ENVELOPES OF ANY NOTICES THAT WERE RETURNED AS UNDELIVERED; AND AN AFFIDAVIT THAT NOTICE WAS GIVEN AS REQUIRED.

(2) (I) THE DEVELOPER OF A SYSTEM SHALL OBTAIN REQUIRED APPROVALS, INCLUDING FRANCHISES AND PERMITS, BEFORE:

   1. THE INITIAL INSTALLATION OR COLLOCATION OF A SYSTEM;

   2. THE INSTALLATION OF A POLE; OR

   3. THE MODIFICATION OF A SYSTEM OR A POLE.

(II) AS PART OF THE APPLICATION PROCESS, THE DEVELOPER OF A SYSTEM SHALL PROVIDE:

   1. DETAILED PLANS DESCRIBING THE INSTALLATION, COLLOCATION, MODIFICATION, OR ATTACHMENT, INCLUDING ANY CERTIFICATIONS THAT MAY BE REQUIRED;

   2. A PRECONSTRUCTION SURVEY;

   3. A DESCRIPTION OF ANY NECESSARY MAKE-READY WORK BEING PERFORMED BY THE DEVELOPER;

   4. A PROPOSED SCHEDULE FOR COMPLETION, CERTIFIED BY A LICENSED PROFESSIONAL ENGINEER; AND

   5. ANY OTHER INFORMATION REQUIRED BY THE COUNTY THAT WILL ALLOW THE COUNTY TO PROPERLY EVALUATE:

      A. THE SAFETY OF THE INSTALLATION, COLLOCATION, MODIFICATION, OR ATTACHMENT; AND

      B. THE COMPATIBILITY OF THE INSTALLATION IN THE NEIGHBORHOOD IN WHICH THE INSTALLATION IS TO BE LOCATED, AS SET FORTH IN THE AESTHETIC STANDARDS PROMULGATED BY THE COUNTY, WHICH WILL INCLUDE SCREENING, SPACING, HEIGHT, AND DESIGN OF SYSTEM AND POLES, AND UNDERGROUND INSTALLATION OF WIRING.
(III) DEVELOPER OF A SYSTEM MAY FILE A CONSOLIDATED APPLICATION FOR WIRELESS PROVIDER'S FACILITIES TO BE COLLOCATED WITHIN THE COUNTY PURSUANT TO GUIDELINES ESTABLISHED BY THE COUNTY.


(3) THE DEVELOPER OF A SYSTEM SHALL PROVIDE A CERTIFICATION FROM A REGISTERED ENGINEER THAT THE SYSTEM, INCLUDING ANY POLE, WILL MEET THE APPLICABLE DESIGN STANDARDS OF ARTICLE 15 OF THIS CODE FOR WIND LOADS.

(4) THE DEVELOPER OF A SYSTEM AND EACH APPLICANT FOR A ZONING CERTIFICATE OF USE SHALL SUBMIT A CERTIFICATION FROM A CONSULTANT ACCEPTABLE TO THE INFORMATION TECHNOLOGY OFFICER THAT THE SYSTEM OR THE USE OF THE FACILITY WILL NOT DEGRADE OR INTERFERE WITH THE COUNTY'S PUBLIC SAFETY COMMUNICATION SYSTEMS.


(6) THE OWNER OR USER 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.

(7) A SYSTEM, INCLUDING ANY POLE AND ACCESSORY STRUCTURES, SHALL BE OF A COLOR AND DESIGN THAT IS COMPATIBLE WITH THE NEIGHBORHOOD IN WHICH THE SYSTEM IS INSTALLED. A SYSTEM TO BE CONSTRUCTED WITHIN SIGHT OF A PROPERTY LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES SHALL MITIGATE ANY ADVERSE VISUAL IMPACT OF THE SYSTEM IN THE MANNER DETERMINED BY THE OFFICE OF PLANNING AND ZONING. ADVERTISING ON A SYSTEM IS PROHIBITED.

(8) A SYSTEM MAY BE LOCATED ON THE ROOFTOP OF AN EXISTING NONRESIDENTIAL STRUCTURE OR OF MULTIFAMILY DWELLINGS WITH MORE THAN 10 UNITS, BUT THE SYSTEM MAY NOT EXTEND ABOVE THE EXISTING ROOF HEIGHT BY MORE THAN 15 FEET.

(9) A SYSTEM ATTACHED TO A TRANSMISSION LINE POLE OR TOWER MAY NOT LATERALLY PROJECT MORE THAN 15 FEET BEYOND THE CROSS ARMS OR OTHER SUPPORT EXTENSIONS AFFIXED TO THE POLE OR TOWER AND MAY NOT PROJECT ABOVE THE TOP OF THE POLE OR TOWER BY MORE THAN 15 FEET IF THE POLE OR TOWER WILL SUPPORT ONE PROVIDER OR 25 FEET IF THE POLE OR TOWER WILL SUPPORT MORE THAN ONE
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1 PROVIDER. THE POLE OR TOWER, INCLUDING ALL PROJECTIONS, MAY NOT EXCEED 199 FEET IN HEIGHT. ALL ACCESSORY STRUCTURES SHALL BE UNDERNEATH THE TRANSMISSION LINE WITHIN THE DRIP LINE OF THE OUTERMOST LINES OR BE LOCATED FROM THE EDGE OF THE TRANSMISSION LINE RIGHT-OF-WAY BY A DISTANCE EQUAL TO AT LEAST THE MINIMUM SETBACK REQUIRED FOR ACCESSORY STRUCTURES IN THE ZONING DISTRICT IN WHICH THE FACILITY IS LOCATED.

7 (10) A SYSTEM THAT CEASES OPERATION FOR A PERIOD OF 12 CONSECUTIVE MONTHS SHALL BE CONSIDERED AS TERMINATED AND SHALL BE REMOVED WITHIN 90 DAYS OF TERMINATION AT THE SYSTEM OWNER'S EXPENSE.

TITLE 13. CRITICAL AREA OVERLAY

18-13-206. RCA uses.

The following uses are the only uses allowed in the RCA and, to be allowed, the use must be allowed in and meet all requirements of the underlying zoning district and, for a residential use, the density allowed is one dwelling unit per 20 acres:

***

(36) SMALL CELL SYSTEMS;

***

SECTION 3. And be it further enacted, That this Ordinance shall take effect 45 days from the date it becomes law.

READ AND PASSED this 4th day of November, 2019

By Order:

[Signature]
JoAnne Gray
Administrative Officer

PRESENTED to the County Executive for his approval this 5th day of November, 2019

[Signature]
JoAnne Gray
Administrative Officer

APPROVED AND ENACTED this 12th day of November, 2019

[Signature]
Stewart Pittman
County Executive

EFFECTIVE DATE: DEC 27 2019
I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF BILL NO. 7, THE ORIGINAL OF WHICH IS RETAINED IN THE FILES OF THE COUNTY COUNCIL.

[Signature]

JoAnne Gray
Administrative Officer