



City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139,
www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Mayor Dan Gelber

DATE: December 12, 2018

SUBJECT: Referral to the Planning Board of Telecommunications Ordinance.

TITLE: **AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CITY CODE, CHAPTER 104, ENTITLED, "TELECOMMUNICATIONS," ARTICLE I, ENTITLED "COMMUNICATIONS RIGHTS OF WAY," BY AMENDING CHAPTER 104, TO BE CONSISTENT WITH STATE LAW, SECTION 337.401, FLORIDA STATUTES RELATING TO THE USE OF RIGHTS-OF-WAY FOR UTILITIES SUBJECT TO REGULATION; PERMITS; AND FEES; PROVIDING FOR REGULATIONS RELATING TO SMALL CELL COMMUNICATIONS CONSISTENT WITH STATE LAW; REQUIRING DESIGN AND APPROPRIATENESS REVIEW AND APPROVAL BY PLANNING STAFF; REMOVING REVIEW BY THE DESIGN REVIEW BOARD BY MODIFYING SECTION 118-71, ENTITLED, "POWERS AND DUTIES," AND SECTION 118-252, ENTITLED, "APPLICABILITY AND EXEMPTIONS"; AND CONTINUING HISTORIC PRESERVATION BOARD REVIEW UNDER THE CERTIFICATE OF APPROPRIATENESS CRITERIA FOUND AT SECTION 118-102, ENTITLED, "POWERS AND DUTIES," SECTION 118-251, ENTITLED "DESIGN REVIEW CRITERIA," AND SECTION 118-564, ENTITLED, "DECISIONS ON CERTIFICATES OF APPROPRIATENESS"; WHICH HISTORIC DISTRICT REVIEW IS CONSISTENT WITH STATE LAW; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY AND AN EFFECTIVE DATE.**

RECOMMENDATION

On February 11, 2015, the Mayor and City Commission adopted ordinance No. 2015-3924, which updated the City Code Chapter 104, relating to "Telecommunications" in order to be consistent with updates in federal and state law.

Effective July 1, 2017, the state of Florida enacted new updates to its telecommunications laws, particularly as it relates to Section 337.401, Florida Statutes, entitled "Use of right-of-way for utilities subject to regulation; permit; fees." Additionally, effective July 1, 2018, the State Legislature also updated Section 202.24, Florida Statutes, entitled "Limitations on local taxes and fees imposed on dealers of communications."

On February 14, 2018, based upon the foregoing amendments, the Mayor referred to the Land Use and Development Committee an ordinance relating to telecommunications that would update the City Code and Land Development Regulations to be consistent with updates and preemptions created by the State Legislature.

On October 31, 2018, the Land Use and Development Committee recommended that the Mayor and City Commission refer the draft ordinance to the Planning Board.

Recommendation: Accept the recommendation of the Land Use Committee and refer the draft ordinance to the Planning Board.

Legislative Tracking

Office of the City Attorney

Sponsor

Mayor Dan Gelber