

C4 B REFERRAL TO THE LAND USE AND SUSTAINABILITY COMMITTEE TO DISCUSS CHANGES IN STATE LAW PERTAINING TO TELECOMMUNICATIONS FACILITIES IN THE RIGHT-OF-WAY AND CONSIDER CORRESPONDING AMENDMENTS TO CHAPTER 104 OF THE CITY CODE, ENTITLED "TELECOMMUNICATIONS," AND RELATED PROVISIONS IN THE LAND DEVELOPMENT REGULATIONS.

Applicable Area:



COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: City Attorney Ricardo J. Dopico

DATE: October 30, 2024

TITLE: REFERRAL TO THE LAND USE AND SUSTAINABILITY COMMITTEE TO DISCUSS CHANGES IN STATE LAW PERTAINING TO TELECOMMUNICATIONS FACILITIES IN THE RIGHT-OF-WAY AND CONSIDER CORRESPONDING AMENDMENTS TO CHAPTER 104 OF THE CITY CODE, ENTITLED "TELECOMMUNICATIONS," AND RELATED PROVISIONS IN THE LAND DEVELOPMENT REGULATIONS.

RECOMMENDATION

BACKGROUND/HISTORY

The purpose of this referral to the Land Use and Sustainability Committee ("LUSC") is to review and discuss changes in State law pertaining to telecommunications facilities in the right-of-way, and consider adopting corresponding amendments to the City Code and, where applicable, the Land Development Regulations.

The City's regulations on telecommunications facilities in the right-of-way are primarily set forth in Chapter 104 of the City Code (known as the "Telecommunications Ordinance"). The last major update to the Telecommunications Ordinance was adopted by the City Commission on February 11, 2015, pursuant to Ordinance No. 2015-3924.

In 2017, the Advanced Wireless Infrastructure Deployment Act (the "Act") took effect, establishing a process for wireless providers to place "small wireless facilities" in municipal and county rights of way. The Legislature amended the Act substantially in 2019 to further facilitate the expansion of wireless networks in Florida. The Act establishes minimum requirements for the installation and maintenance of small wireless facilities, and preempts local governments in a number of respects (e.g., registration, permit review, shot clocks to process applications, limits on fees, design requirements, collocation on existing poles, public notice, and judicial review).

Notwithstanding the numerous preemptions, the Act allows the City to require wireless providers to comply with "objective design standards," subject to the dimensions and spacing requirements in the Act. Additionally, the Act recognizes local governments' authority to "enforce historic preservation zoning regulations consistent with the preservation of local zoning authority . . ." if such regulations were in effect on April 1, 2017.

Because of the technical nature of these requirements and the need for policy direction on certain issues, this legislation would be appropriately reviewed, and any Code amendments developed, before the LUSC.

ANALYSIS

FISCAL IMPACT STATEMENT

N/A

Does this Ordinance require a Business Impact Estimate? No
(FOR ORDINANCES ONLY)

If applicable, the Business Impact Estimate (BIE) was published on:
See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

FINANCIAL INFORMATION

CONCLUSION

Applicable Area

Citywide

**Is this a "Residents Right to Know" item,
pursuant to City Code Section 2-17?**

No

**Is this item related to a G.O. Bond
Project?**

No

**Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481,
includes a principal engaged in lobbying?**

If so, specify the name of lobbyist(s) and principal(s):

Department

City Attorney

Sponsor(s)

Co-sponsor(s)

Condensed Title

Ref: LUSC - Telecommunications Ordinance. CA