



1 WHEREAS, the Cable Board has long served as an advisory body on the state of  
2 electronic technology;<sup>4</sup> and

3 WHEREAS, the "convergence of technology" means that the same corporations are  
4 providing in customer "bundles" essential electronic services such as telephone, cable  
5 television and data transmission; and

6 WHEREAS, customers cannot always separate their issues, concerns and  
7 complaints into separate categories, one each for telephone, cable television and data  
8 transmission services; and yet each of these services is essential; and

9 WHEREAS, the Cable Board is uniquely qualified to provide a forum for community  
10 education on issues related to the provision of cable and cable-affected services,  
11 including issues such as the open internet and net neutrality.

12 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF  
13 ALBUQUERQUE:

14 SECTION 1. Section 13-5-2-1 is amended as follows:

15 "§ 13-5-2-1 ALBUQUERQUE CABLE, INTERNET AND PEG ADVISORY BOARD.

16 (A) *Board Established.* There hereby is established the Albuquerque Cable, Internet and  
17 PEG Advisory Board which shall consist of five members to be appointed by the Mayor  
18 with the advice and consent of the City Council. The term "PEG" means public,  
19 education and government access cable television. The provisions of §§ 2-6-1-1 et seq.  
20 apply.

21 (1) Board members shall be persons of diverse backgrounds; they should have  
22 experience in mass media, communications, information technology, consumer  
23 advocacy, business, or government service, especially on or as staff to government  
24 boards and commissions.

25 (2) No current employee or board member of any television or telecommunications  
26 provider shall be a member of the Board; the term "television or telecommunications  
27 provider" shall be broadly construed.

28 (3) All members must sign a Conflict of Interest statement prior to appointment.

29 (B) *Legal Authority.* The Cable Television Consumer Protection and Competition Act of  
30 1992 requires the local regulator to provide community participation in rate and quality

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<sup>4</sup> Current Cable Franchise and Hearing Board Ordinance, Section 13-5-2-1(C)(4).

1 of service matters in conformity with federal laws and regulations. This Board will fulfill  
2 that duty, as well as serve, pursuant to Article X, Section 6 of the New Mexico  
3 constitution, as an advisory body to the city government, a home rule municipality, on  
4 municipal policies on cable and cable-affected services.

5 (C) *Duties of the Board.* The Board shall act as the city's advisory body on cable  
6 television (or wireless cable) services, specifically including those matters subject to the  
7 city's regulation or review within the local franchise area as allowed by federal, state  
8 and local laws, and on services that are affected by or affect the sale and delivery of  
9 cable services. The Board will represent consumers and allow for local cable television  
10 providers' input on rates, service quality and equipment issues to the extent authorized  
11 by law. More particularly, the Board's duties include but are not limited to the following:

12 (1) Advise the Mayor and Council on matters which might constitute grounds for  
13 revocation of authorized right-of-way usage or franchise authority or constitute FCC  
14 violations that may require appropriate sanctions of a cable television franchisee or  
15 permittee in accordance with the terms of Ch. 13, Art. 5, Parts 1 and 3 and/or the Cable  
16 Television Consumer Protection and Competition Act of 1992;

17 (2) Attempt to resolve complaints and disagreements between the holder of a cable  
18 television franchise or permit and its customers that cannot be resolved by customer  
19 complaints made directly to the company; complaint and review procedures shall be  
20 consistent with the Customer Service Standards ("Customer Bill of Rights") attached to  
21 the Comcast Franchise Ordinance as Exhibit B;

22 (3) Review operations and procedures to ensure the proper and fair distribution of  
23 resources (personnel, equipment, and financing) among each of the PEG channels and  
24 make recommendations to the Mayor and Council for the best use of the PEG channels  
25 based on those reviews and other information that the Board may have;

26 (4) Receive public comment and other input regarding the City's allocation of air time  
27 and other resources related to the use of PEG channels and provide the Mayor and  
28 Council recommendations based on that input and other information that the Board may  
29 have;

30 (5) Receive and decide the merits of complaints and appeals from PEG community  
31 producers and/or interested members of the public regarding disciplinary actions by the

1 city's PEG administration and/or denials of access to or other alleged misallocations of  
2 PEG resources. The Cable Board shall hear and consider these complaints and  
3 appeals according to the following procedures:

4 (a) Any aggrieved party shall file its complaint or appeal with the Cable Board within  
5 ten (10) days of the date upon which the aggrieved action took place; and

6 (b) The Cable Board shall conduct a public hearing on the complaint or appeal at its  
7 next regularly scheduled meeting; and

8 (c) The Cable Board shall render its written decision including the grounds for that  
9 decision within twenty (20) days of the conclusion of the public hearing; in rendering its  
10 decision the Cable Board shall post that decision on its webpage and mail the decision  
11 to the appealing party; and

12 (d) The Cable Board shall render final decisions on only those PEG complaints or  
13 appeals solely affecting a single program, a program series of less than six months,  
14 and/or the use of City-owned PEG equipment. The Cable Board shall provide  
15 recommendations for the Mayor's final disposition of all other PEG complaints or  
16 appeals, including appeals of disciplinary actions.

17 (6) Provide a forum for public participation in the event the City decides to pursue the  
18 franchise renewal process outlined under the Cable Television Consumer Protection  
19 and Competition Act of 1992;

20 (7) Review the cable provider's performance under applicable adopted laws, rules and  
21 regulations and recommend that the City administration undertake discretionary  
22 performance evaluations, financial audits, ascertainments of programming and  
23 customer satisfaction, and technical engineering audits as provided in the Comcast  
24 Franchise Ordinance and as needed;

25 (8) Review and make recommendations on the level of service in the franchise area,  
26 including channel capacity of the system and how that meets the community needs;

27 (9) Recommend to the Mayor and City Council regulations and procedures regarding  
28 rates, quality of service, and equipment issues consistent with Ch. 13, Art. 5, Parts 1  
29 and 3; any information will be provided in accordance with applicable federal law and, if  
30 necessary, pursuant to appropriate confidentiality agreements;

1 (10) Act as hearing examiner for all public hearings required pursuant to the Cable  
2 Television Consumer Protection and Competition Act of 1992 on rate, service quality,  
3 equipment and other appropriate issues as authorized by law;

4 (11) Provide technology updates to the Mayor and City Council upon request; and

5 (12) Provide a forum for educating the public and sharing information on services that  
6 are affected by or affect the sale and delivery of cable services, such as information on  
7 the quality, cost and availability of internet services.

8 (D) *Public Availability of Documents.* To better accomplish the purposes of the Board,  
9 the Mayor may arrange for the televising of Cable Board public hearings and forums  
10 and make available at city libraries those public documents related to such public  
11 hearings and forums.”


12 SECTION 2. *Severability Clause.* If any section, paragraph, sentence, clause,  
13 word or phrase of this ordinance is for any reason held to be invalid or unenforceable by  
14 any court of competition jurisdiction, such decision shall not affect the validity of the  
15 remaining provisions of this ordinance.

16 SECTION 3. *Compilation.* Section 1 of this ordinance shall amend, be  
17 incorporated in and made part of the Revised Ordinances of Albuquerque, New Mexico,  
18 1994.

19 SECTION 4. *Effective Date.* This ordinance shall take effect five days after  
20 publication by title and general summary.

1 PASSED AND ADOPTED THIS 3<sup>rd</sup> DAY OF May, 2021  
2 BY A VOTE OF: 9 FOR 0 AGAINST.

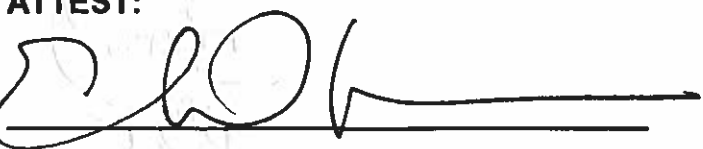
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Cynthia D. Borrego, President  
City Council

APPROVED THIS 13 DAY OF May, 2021

Bill No. O-21-55

  
Timothy M. Keller, Mayor  
City of Albuquerque

ATTEST:  
  
Ethan Watson, City Clerk

[Bracketed/Underscored Material] - New  
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