

**CITY of ALBUQUERQUE
TWENTY FOURTH COUNCIL**

COUNCIL BILL NO. O-21-55 ENACTMENT NO. O-2021-011

SPONSORED BY: Cynthia D. Borrego, by request

ORDINANCE

**AMENDING SECTION 13-5-2-1 ROA 1994, THE ALBUQUERQUE CABLE
FRANCHISE AND HEARING BOARD: TO RENAME IT THE ALBUQUERQUE
CABLE, INTERNET AND PEG ADVISORY BOARD; TO ENLARGE ITS
MEMBERSHIP; TO AUGMENT ITS DUTIES TO REFLECT CHANGES IN THE
COMCAST FRANCHISE RENEWAL ORDINANCE AND TECHNOLOGIES; AND TO
PROVIDE A PEG APPEAL PROCESS.**

WHEREAS, the Albuquerque City Council enacted Ordinance 2019-009, codified at Sections 13-5-3-1 to 13-5-3-15, granting a cable franchise renewal to Comcast of New Mexico, LLC (“Comcast Franchise Ordinance”); and

WHEREAS the Comcast Franchise Ordinance incorporates by reference the Customer Service Standards (“Customer Bill of Rights”) which shall govern Comcast’s customer relations;¹ and

WHEREAS, the Customer Bill of Rights establishes a Complaint Procedure that includes the presentation of customer complaints regarding services, billing and other customer issues to the Cable Board;² and

WHEREAS, the Cable Board has long served as an advisory body on the best use of public, education and government access (PEG) channels;³ and

WHEREAS, the Cable Board is uniquely qualified to review public input regarding the best use of PEG resources and provide a PEG appeal process; and

¹ See Section 6 and Exhibit B, Customer Service Standards (“Customer Bill of Rights) of the Comcast Franchise Ordinance, effective June 2019.

² Customer Bill of Rights, Section IV.

³ Current Cable Franchise and Hearing Board Ordinance, Section 13-5-2-1(C)(3).

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

⁴ 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 3rd DAY OF May, 2021
2 BY A VOTE OF: 9 FOR 0 AGAINST.

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Cynthia D. Borrego, President
City Council

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APPROVED THIS 13 DAY OF May, 2021

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Bill No. O-21-55


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Timothy M. Keller, Mayor
City of Albuquerque

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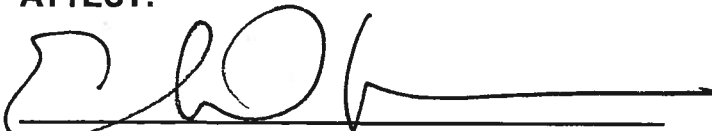
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ATTEST:

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Ethan Watson, City Clerk

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