



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 8, 2022

TO: President Heather Graham and Members of City Council

VIA: Marisa Stoller, City Clerk

FROM: Mayor Nicholas A. Gradisar
Lori Pinz, Director of Information Technology
Robert P. Jagger, Deputy City Attorney

SUBJECT: AN ORDINANCE SUBMITTING TO THE ELIGIBLE ELECTORS OF THE CITY OF PUEBLO, COLORADO AT THE SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2022, THE QUESTION OF RE-ESTABLISHING THE CITY'S AUTHORITY TO PROVIDE, OR TO FACILITATE OR PARTNER OR COORDINATE WITH SERVICE PROVIDERS FOR THE PROVISION OF, "ADVANCED (HIGH-SPEED INTERNET) SERVICE," "CABLE TELEVISION SERVICE," AND "TELECOMMUNICATION SERVICE," EITHER DIRECTLY, INDIRECTLY, OR BY CONTRACT, TO RESIDENTIAL, COMMERCIAL, NONPROFIT, GOVERNMENT OR OTHER SUBSCRIBERS AND TO ACQUIRE, OPERATE AND MAINTAIN ANY FACILITY FOR THE PURPOSE OF PROVIDING SUCH SERVICES, RESTORING LOCAL AUTHORITY AND FLEXIBILITY THAT WAS REMOVED BY TITLE 29, ARTICLE 27, PART 1 OF THE COLORADO REVISED STATUTES, WITHOUT INCREASING TAXES

SUMMARY:

Colorado statutes require an affirmative vote of the people before municipalities can provide or partner with the private sector to provide broadband services, vital for both commercial and residential consumers, within their jurisdictions. According to the Colorado Municipal League, over 100 Colorado municipalities have thus far approved such broadband ballot issues.

PREVIOUS COUNCIL ACTION:

Not Applicable to this Ordinance.

BACKGROUND:

One of the biggest impediments to local governments enhancing broadband infrastructure is a 2005 Colorado state law commonly referred to as "SB 152" (Senate Bill 05-152, codified at sections 29-27-101-304, C.R.S.). SB 152 took away local power and requires that an election be held before a city or county government may "engage or offer to engage in providing" various telecommunication services.

Through a successful SB 152 election, local governments can assist in providing broadband opportunities, including enhanced broadband infrastructure to attract service providers. A

successful vote can also pave the way for public-private partnerships among local governments, economic development agencies, and the telecommunication industry.

Since the passage of SB 05-152, the voters in numerous Colorado cities and counties have overwhelmingly approved such measures and restored local authority and flexibility. Examples of such cities include but are not limited to: Denver, Englewood, Lakewood, Canon City, Florence, Fountain, Aurora, Colorado Springs, Arvada, Golden, Durango, Ft. Collins, Boulder, Centennial and Longmont

A successful vote would provide the City with the flexibility to identify partnerships with the private sector to expand or improve broadband access within the City.

FINANCIAL IMPLICATIONS:

Not Applicable to this Ordinance.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable to this Ordinance.

STAKEHOLDER PROCESS:

The City and members of the public are the primary stakeholders affected by this Ordinance. On June 21, 2022, City Council held a work session with respect to holding a SB 152 election.

ALTERNATIVES:

If the Ordinance is not approved, the voters will not have an opportunity to vote on an SB 152 election.

RECOMMENDATION:

This Ordinance be adopted in order to refer the ballot measure to a vote of the people.

Attachments:

Proposed Ordinance

ORDINANCE NO. _____

AN ORDINANCE SUBMITTING TO THE ELIGIBLE ELECTORS OF THE CITY OF PUEBLO, COLORADO AT THE SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2022, THE QUESTION OF RE-ESTABLISHING THE CITY'S AUTHORITY TO PROVIDE, OR TO FACILITATE OR PARTNER OR COORDINATE WITH SERVICE PROVIDERS FOR THE PROVISION OF, "ADVANCED (HIGH-SPEED INTERNET) SERVICE," "CABLE TELEVISION SERVICE," AND "TELECOMMUNICATION SERVICE," EITHER DIRECTLY, INDIRECTLY, OR BY CONTRACT, TO RESIDENTIAL, COMMERCIAL, NONPROFIT, GOVERNMENT OR OTHER SUBSCRIBERS AND TO ACQUIRE, OPERATE AND MAINTAIN ANY FACILITY FOR THE PURPOSE OF PROVIDING SUCH SERVICES, RESTORING LOCAL AUTHORITY AND FLEXIBILITY THAT WAS REMOVED BY TITLE 29, ARTICLE 27, PART 1 OF THE COLORADO REVISED STATUTES, WITHOUT INCREASING TAXES

WHEREAS, the City Council of the City of Pueblo, Colorado, a home rule city and Colorado municipal corporation (the "City") has determined that it is in the best interests of the residents of, and visitors to, the City to consider how the City can improve high-speed internet services, cable television services, and telecommunication services; and

WHEREAS, to foster job creation, stronger economic development infrastructure and competition, the City Council desires to ask the voters to restore to the City the local authority to provide high-speed internet services, cable television services, either directly or indirectly, or by contract, to residential, commercial, nonprofit, government or other subscribers and to acquire, operate and maintain any facility for the purpose of providing such services, restoring local authority and flexibility that was taken away by §§29-27-101 to 304, "Competition in Utility and Entertainment Services," of the Colorado Revised Statutes, without limiting the City's home rule authority; and

WHEREAS, in 2005, the passage of SB 05-152 resulted in changes to state law which limited the authority of local governments to provide high-speed internet, cable television, and telecommunication services; and

WHEREAS, under SB 05-152, a local government can only provide such services after voter approval; and

WHEREAS, since the passage of SB 05-152, the voters in numerous Colorado cities and counties have overwhelmingly approved such measures and restored local authority and flexibility. Examples of such cities include but are not limited to: Denver, Englewood, Lakewood, Canon City, Florence, Fountain, Aurora, Colorado Springs, Arvada, Golden, Durango, Ft. Collins, Boulder, Centennial and Longmont; and

WHEREAS, the City Council does hereby determine that the question of re-establishing the City's authority to provide high-speed internet, cable television, and telecommunication services should be submitted to the City's eligible electors to vote thereon at the Special Municipal Election to be held on Tuesday, November 8, 2022; NOW, THEREFORE;

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The question of re-establishing the City's local authority to provide high-speed internet, cable television, and telecommunication services shall be submitted to a vote of the eligible electors of the City at the City's Special Municipal Election to be held on Tuesday, November 8, 2022. The ballot question (submission clause and title) therefore shall be as follows:

QUESTION NO. 2B (EXPAND LOCAL BROADBAND SERVICES)

WITHOUT INCREASING TAXES, SHALL THE CITY OF PUEBLO HAVE THE AUTHORITY TO PROVIDE, OR TO FACILITATE OR PARTNER OR COORDINATE WITH SERVICE PROVIDERS FOR THE PROVISION OF, "ADVANCED (HIGH-SPEED INTERNET) SERVICE," "CABLE TELEVISION SERVICE," AND "TELECOMMUNICATION SERVICE," EITHER DIRECTLY, INDIRECTLY, OR BY CONTRACT, TO RESIDENTIAL, COMMERCIAL, NONPROFIT, GOVERNMENT OR OTHER SUBSCRIBERS AND TO ACQUIRE, OPERATE AND MAINTAIN ANY FACILITY FOR THE PURPOSE OF PROVIDING SUCH SERVICES, RESTORING LOCAL AUTHORITY AND FLEXIBILITY THAT WAS REMOVED BY TITLE 29, ARTICLE 27, PART 1 OF THE COLORADO REVISED STATUTES?

YES _____
NO _____

SECTION 2.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Ordinance to implement the policies and procedures described herein.

SECTION 3.

If any section, paragraph, clause or provision of this Ordinance shall for any reason be held invalid or unenforceable, such invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect the remaining provisions of this Ordinance.

SECTION 4.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

- ☐ Approved on _____.
- ☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk