CITY OF ENGLEWOOD

NOTICE OF APPROVAL
OF A BILL FOR AN ORDINANCE

On the 1st day of June 2020, the City Council of the City of Englewood, Colorado, approved on first reading the following Council Bill:

BY AUTHORITY
COUNCIL BILL NO. 22
INTRODUCED BY
COUNCIL MEMBER WINK

A BILL FOR AN ORDINANCE SUBMITTING TO A VOTE OF THE REGISTERED ELECTORS OF THE CITY OF ENGLEWOOD AT THE NOVEMBER 3, 2020 GENERAL ELECTION A BALLOT ISSUE TO AUTHORIZE, BUT NOT OBLIGATE, THE CITY OF ENGLEWOOD, WITHOUT INCREASING TAXES, TO PROVIDE HIGH-SPEED INTERNET SERVICES (ADVANCED SERVICES), TELECOMMUNICATION SERVICES, AND/OR CABLE TELEVISION SERVICES AS DEFINED BY ARTICLE 27 OF TITLE 29 OF THE COLORADO REVISED STATUTES

Copies of the aforesaid council bill are available for public inspection in the office of the City Clerk, City of Englewood, Civic Center, 1000 Englewood Parkway, Englewood, Colorado 80110 or it can be found at http://www.Englewoodco.gov, Government, Legal/Public Notices.

Published: June 3, 2020 Official Website of the City of Englewood, Colorado
AN ORDINANCE SUBMITTING TO A VOTE OF THE REGISTERED ELECTORS OF THE CITY OF ENGLEWOOD AT THE NOVEMBER 3, 2020 GENERAL ELECTION A BALLOT ISSUE TO AUTHORIZE, BUT NOT OBLIGATE, THE CITY OF ENGLEWOOD, WITHOUT INCREASING TAXES, TO PROVIDE HIGH-SPEED INTERNET SERVICES (ADVANCED SERVICES), TELECOMMUNICATION SERVICES, AND/OR CABLE TELEVISION SERVICES AS DEFINED BY ARTICLE 27 OF TITLE 29 OF THE COLORADO REVISED STATUTES.

WHEREAS, this bill for an ordinance would submit to the registered voters of the City of Englewood a ballot question regarding authorizing, but not obligating, the City of Englewood to provide high-speed internet services (advanced services), telecommunication services, and/or cable television services as defined by Article 27 of Title 29 of the Colorado Revised Statutes, including but not limited to, any new and improved high bandwidth services based on future technologies, to residents, businesses, schools, libraries, nonprofit entities, and other users of such services, either directly, or indirectly with or without public and/or private sector partners, without limiting its home rule authority; and

WHEREAS, C.R.S. 29-27-101 provides that cable television service, telecommunications service, and high-speed internet access (a.k.a. advanced service) are a matter of statewide concern;

WHEREAS, C.R.S. 29-27-201 allows local governments to submit to its voters a ballot measure exempting such local government from the limits of Title 29, Article 27, and

WHEREAS, C.R.S. 29-27-201 requires that the ballot measure shall pose the question as a single subject and shall include a description of the nature of the proposed service, the role that the local government will have in provision of the service, and the intended subscribers of such service.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ENGLEWOOD, COLORADO, THAT:

Section 1. The following ballot issue shall be submitted to the registered electors of the City of Englewood at the general election on November 3, 2020:

SHALL THE CITY OF ENGLEWOOD, WITHOUT INCREASING TAXES, BE AUTHORIZED BUT NOT OBLIGATED TO PROVIDE HIGH-SPEED INTERNET SERVICES (ADVANCED SERVICES), TELECOMMUNICATION SERVICES,
AND/OR CABLE TELEVISION SERVICES AS DEFINED BY ARTICLE 27 OF TITLE 29 OF THE COLORADO REVISED STATUTES, INCLUDING BUT NOT LIMITED TO, ANY NEW AND IMPROVED HIGH BANDWIDTH SERVICES BASED ON FUTURE TECHNOLOGIES, TO RESIDENTS, BUSINESSES, SCHOOLS, LIBRARIES, NONPROFIT ENTITIES, AND OTHER USERS OF SUCH SERVICES WITHIN THE BOUNDARIES OF THE CITY, EITHER DIRECTLY OR INDIRECTLY, WITH OR WITHOUT PUBLIC AND/OR PRIVATE SECTOR PARTNERS, WITHOUT LIMITING ITS HOME RULE AUTHORITY?

YES __    NO __

Section 2. For purposes of C.R.S. § 1-11-203.5, this Ordinance shall serve to set the title and content of the ballot issue set forth herein and the ballot title for such question shall be the text of the question itself.

Section 3. If any section, paragraph, clause, or other portion of this Ordinance is for any reason held to be invalid or unenforceable, the invalidity or unenforceability shall not affect any of the remaining portions of this Ordinance.

Introduced, read in full, and passed on first reading on the 1st day of June, 2020.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 4th day of June, 2020.

____________________________________
Linda Olson, Mayor

ATTEST:

____________________________________
Stephanie Carlile, City Clerk

I, Stephanie Carlile, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the Bill for Ordinance introduced, read in full, and passed on first reading on the 1st day of June, 2020.

____________________________________
Stephanie Carlile, City Clerk
SENATE BILL 05-152

BY SENATOR(S) Veiga, and Mitchell;
also REPRESENTATIVE(S) Jahn, Crane, Harvey, Kerr, and Sullivan.

CONCERNING LOCAL GOVERNMENT COMPETITION IN THE PROVISION OF
SPECIFIED COMMUNICATIONS SERVICES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Title 29, Colorado Revised Statutes, is amended BY
THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 27
Competition in Utility and Entertainment Services

PART 1
COMPETITION IN UTILITY
AND ENTERTAINMENT SERVICES

29-27-101. Legislative declaration. (1) The general assembly
hereby finds and declares that it is the policy of this state to
ensure that cable television service, telecommunications service,
and high speed internet access, otherwise known as advanced
service, are each provided within a consistent, comprehensive, and

Capital letters indicate new material added to existing statutes; dashes through words indicate
deletions from existing statutes and such material not part of act.
(2) **The General Assembly further finds and declares that:**

(a) **There is a need for statewide uniformity in the regulation of all public and private entities that provide cable television service, telecommunications service, and advanced service.**

(b) **Municipal ordinances, rules, and other regulations governing the provision of cable television service, telecommunications service, and advanced service by a local government impact persons living outside the municipality.**

(c) **Regulating the provision of cable television service, telecommunications service, and advanced service by a local government is a matter of statewide concern.**

### 29-27-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "**Advanced Service**" means high-speed internet access capability in excess of two hundred fifty-six kilobits per second both upstream and downstream.

(2) "**Cable Television Service**" means the one-way transmission to subscribers of video programming or other programming service, as well as subscriber interaction, if any, that is required for the selection or use of the video programming or other programming service.

(3) "**Local Government**" means any city, county, city and county, special district, or other political subdivision of this state.

(4) "**Private Provider**" means a private entity that provides cable television service, telecommunications service, or advanced service.

(5) "**Subscriber**" means a person that lawfully receives
CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE. A PERSON THAT UTILIZES CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE PROVIDED BY A LOCAL GOVERNMENT FOR LOCAL GOVERNMENTAL OR INTERGOVERNMENTAL PURPOSES AND IS USED BY PERSONS ACCESSING GOVERNMENT SERVICES IS NOT A SUBSCRIBER FOR PURPOSES OF THIS ARTICLE.

(6) "TELECOMMUNICATIONS SERVICE" HAS THE SAME MEANING AS SET FORTH IN SECTION 40-15-102 (29), C.R.S.

29-27-103. Limitations on providing cable television, telecommunications, and advanced services. (1) EXCEPT AS PROVIDED IN THIS ARTICLE, A LOCAL GOVERNMENT SHALL NOT:

(a) PROVIDE TO ONE OR MORE SUBSCRIBERS CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE; OR

(b) PURCHASE, LEASE, CONSTRUCT, MAINTAIN, OR OPERATE ANY FACILITY FOR THE PURPOSE OF PROVIDING CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE TO ONE OR MORE SUBSCRIBERS.

(2) FOR PURPOSES OF THIS ARTICLE, A LOCAL GOVERNMENT PROVIDES CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE IF THE LOCAL GOVERNMENT PROVIDES THE CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE TO ONE OR MORE SUBSCRIBERS:

(a) DIRECTLY;

(b) INDIRECTLY BY MEANS THAT INCLUDE BUT ARE NOT LIMITED TO THE FOLLOWING:

(I) THROUGH AN AUTHORITY OR INSTRUMENTALITY ACTING ON BEHALF OF THE LOCAL GOVERNMENT OR FOR THE BENEFIT OF THE LOCAL GOVERNMENT BY ITSELF;

(II) THROUGH A PARTNERSHIP OR JOINT VENTURE;

(III) THROUGH A SALE AND LEASEBACK ARRANGEMENT;

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(c) By contract, including a contract whereby the local government leases, sells capacity in, or grants other similar rights to a private provider to use local governmental facilities designed or constructed to provide cable television service, telecommunications service, or advanced service for internal local government purposes in connection with a private provider's offering of cable television service, telecommunications service, or advanced service; or

(d) Through sale or purchase of resale or wholesale cable television service, telecommunications service, or advanced service for the purpose of providing cable television service, telecommunications service, or advanced service to one or more subscribers.

(3) Nothing in this article shall be construed to limit the authority of a local government to lease to a private provider physical space in or on its property for the placement of equipment or facilities the private provider uses to provide cable television, telecommunications, or advanced services.

PART 2
CONDITIONS FOR PROVIDING SERVICES

29-27-201. Vote - referendum. (1) Before a local government may engage or offer to engage in providing cable television service, telecommunications service, or advanced service, an election shall be called on whether or not the local government shall provide the proposed cable television service, telecommunications service, or advanced service.

(2) The ballot at an election conducted pursuant to this section shall pose the question as a single subject and shall include a description of the nature of the proposed service, the role that the local government will have in provision of the service, and the intended subscribers of such service. The ballot proposition shall not take effect until submitted to the electors and approved by the majority of those voting on the ballot.

29-27-202. Exemption for unserved areas. (1) A local government shall be exempt from the requirements of this part 2
AND MAY ENGAGE OR OFFER TO ENGAGE IN PROVIDING CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCE SERVICE IF:

(a) No private provider of cable television service, telecommunications service, or advanced service provides the service anywhere within the boundaries of the local government;

(b) The governing body of the local government has submitted a written request to provide the service to any incumbent provider of cable television service, telecommunications service, or advanced service within the boundaries of the local government; and

(c) The incumbent provider has not agreed within sixty days of the receipt of a request submitted pursuant to paragraph (b) of this subsection (1) to provide the service or, if the provider has agreed, it has not commenced providing the service within fourteen months of the receipt of the request.

PART 3
COMPLIANCE WITH LOCAL, STATE, AND FEDERAL REGULATIONS

29-27-301. General operating limitations. (1) A local government that provides cable television service, telecommunications service, or advanced service under this article shall comply with all state and federal laws, rules, and regulations governing provision of such service by a private provider; except that nothing herein shall be construed to affect the jurisdiction of the public utilities commission with respect to municipal utilities.

(2) (a) A local government shall not make or grant any undue or unreasonable preference or advantage to itself or to any private provider of cable television services, telecommunications services, or advanced services.

(b) A local government shall apply without discrimination as to itself and to any private provider the local government’s ordinances, rules, and policies, including those relating to:
(I) **OBLIGATION TO SERVE;**

(II) **ACCESS TO PUBLIC RIGHTS-OF-WAY;**

(III) **PERMITTING;**

(IV) **PERFORMANCE BONDING WHERE AN ENTITY OTHER THAN THE LOCAL GOVERNMENT IS PERFORMING THE WORK;**

(V) **REPORTING; AND**

(VI) **QUALITY OF SERVICE.**

**29-27-302. Scope of article.** (1) **NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO AUTHORIZE ANY LOCAL GOVERNMENT TO:**

   (a) **PROVIDE, DIRECTLY OR INDIRECTLY, CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE; OR**

   (b) **PURCHASE, LEASE, CONSTRUCT, MAINTAIN, OR OPERATE A FACILITY FOR THE PURPOSE OF PROVIDING, DIRECTLY OR INDIRECTLY, CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE.**

   (2) **NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO APPLY TO A LOCAL GOVERNMENT PURCHASING, LEASING, CONSTRUCTING, MAINTAINING, OR OPERATING FACILITIES THAT ARE DESIGNED TO PROVIDE CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE THAT THE LOCAL GOVERNMENT USES FOR INTERNAL OR INTERGOVERNMENTAL PURPOSES.**

   (3) **NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO APPLY TO THE SALE OR LEASE BY A LOCAL GOVERNMENT TO PRIVATE PROVIDERS OF EXCESS CAPACITY, PROVIDED:**

   (a) **SUCH EXCESS CAPACITY IS INSUBSTANTIAL IN RELATION TO THE CAPACITY UTILIZED BY THE LOCAL GOVERNMENT FOR ITS OWN PURPOSES; AND**

   (b) **THE OPPORTUNITY TO PURCHASE AND THE OPPORTUNITY TO USE SUCH EXCESS CAPACITY IS MADE AVAILABLE TO ANY PRIVATE PROVIDER IN**

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A NONDISCRIMINATORY, NONEXCLUSIVE, AND COMPETITIVELY NEUTRAL MANNER.

(4) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO LIMIT EITHER THE AUTHORITY OF THE STATEWIDE INTERNET PORTAL AUTHORITY CREATED IN SECTION 24-37.7-102, C.R.S., TO CARRY OUT ITS MISSION OR TO INTEGRATE THE ELECTRONIC INFORMATION DELIVERY SYSTEMS OF LOCAL GOVERNMENTS INTO THE STATEWIDE INTERNET PORTAL AS DEFINED IN ARTICLE 37.7 OF TITLE 24, C.R.S.

29-27-303. Enforcement and appeal. (1) BEFORE AN INDIVIDUAL SUBSCRIBER OR A PRIVATE PROVIDER THAT COMPETES WITH A LOCAL GOVERNMENT IN THE GEOGRAPHIC BOUNDARIES OF THE LOCAL GOVERNMENT MAY FILE AN ACTION IN DISTRICT COURT FOR VIOLATION OF THIS ARTICLE, THAT PERSON SHALL FILE A WRITTEN COMPLAINT WITH THE LOCAL GOVERNMENT. THE FAILURE BY THE LOCAL GOVERNMENT TO ISSUE A FINAL DECISION REGARDING THE COMPLAINT WITHIN FORTY-FIVE DAYS SHALL BE TREATED AS AN ADVERSE DECISION FOR PURPOSES OF APPEAL.

(2) AN APPEAL OF AN ADVERSE DECISION FROM THE LOCAL GOVERNMENT MAY BE TAKEN TO THE DISTRICT COURT FOR A DE NOVO PROCEEDING.

29-27-304. Applicability. THIS ARTICLE SHALL APPLY TO CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, AND ADVANCED SERVICE AND TO THE PURCHASE, LEASE, CONSTRUCTION, MAINTENANCE, OR OPERATION OF ANY FACILITY FOR THE PURPOSE OF PROVIDING SUCH SERVICE, FOR WHICH A LOCAL GOVERNMENT HAS NOT ENTERED INTO AN AGREEMENT OR OTHERWISE TAKEN ANY SUBSTANTIAL ACTION PRIOR TO MARCH 1, 2005, TO PROVIDE SUCH SERVICE OR PURCHASE, LEASE, CONSTRUCT, MAINTAIN, OR OPERATE SUCH FACILITIES.

SECTION 2. Safety clause. The general assembly hereby finds,
determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

____________________________  ____________________________
Joan Fitz-Gerald Andrew Romanoff
PRESIDENT OF SPEAKER OF THE HOUSE
THE SENATE OF REPRESENTATIVES
THE SENATE

____________________________  ____________________________
Karen Goldman Marilyn Eddins
SECRETARY OF CHIEF CLERK OF THE HOUSE
THE SENATE OF REPRESENTATIVES

APPROVED______________________________________________

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Bill Owens
GOVERNOR OF THE STATE OF COLORADO