

**ORDINANCE NO. 2022-013**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CITRUS HEIGHTS  
AMENDING SECTIONS 90-88 AND 90-93 OF CHAPTER 90  
“TELECOMMUNICATIONS” OF THE CITRUS HEIGHTS MUNICIPAL CODE  
RELATING TO THE SACRAMENTO METROPOLITAN CABLE TELEVISION  
COMMISSION**

The City Council of the City of Citrus Heights does ordain as follows:

**SECTION 1.** Chapter 90 “Telecommunications” of the City of Citrus Heights Municipal Code are hereby amended to read as set forth below:

**Sec. 90-88. Board of Directors.**

The powers and authority of the Sacramento Metropolitan Cable Television Commission shall be vested in a board of directors which shall consist of a minimum of the following members.

a. Five members of the board of directors shall be members of the governing body of the county.

b. One member of the board of directors shall be a member of the governing body of one of the cities within the County of Sacramento that is a member of the commission and whose population is less than 80,000 people. The member shall be appointed by and serve at the pleasure of the governing bodies of the appointing cities. All member cities whose populations are each less than 80,000 shall be represented by this member of the board of directors.

c. So long as a city with a population less than 80,000 is a member of the commission, three members of the board of directors shall be members of, appointed by and serve at the pleasure of the governing body of the City of Sacramento.

In the event that no city with a population less than 80,000 people is a member of the commission, four members of the board of directors shall be members of, appointed by and serve at the pleasure of the governing body of the City of Sacramento.

d. One member of the board of directors for each city, other than the City of Sacramento, that is a member of the commission and whose population is equal to or greater than 80,000 people. Each member of the board of directors who represents such a member city shall be a member of the governing board of that city and shall be appointed by, and serve at the pleasure of, the governing board of that city.

e. Each member of the board of directors shall be authorized to appoint a personal representative to attend meetings of the board in the absence of the member, and, during such meetings, vote and exercise all other powers of the member. Such an appointment shall be effective when the member files with the clerk of the board of directors a written notice executed by the member which identifies by name and residential address the personal representative who has been appointed. Personal representatives shall serve at the pleasure of the members who appoint them and such appointments may be revoked by the filing of written notice of revocation with the clerk of the board of directors signed by the member and reciting revocation of the appointment of a designated representative. In the event of removal from the board of directors

of a member who serves at the pleasure of a governing body, such removal shall automatically effect removal of any personal representative which that member has appointed.

f. For purposes of this section, a city's population shall be as estimated by the California Department of Finance as of January 1 of each year for the preceding year. Modifications to board membership based on population changes shall be made on July 1, or as soon thereafter is feasible, following the January 1 estimates provided by the Department of Finance.

**SECTION 2.** Chapter 90 "Telecommunications" of the City of Citrus Heights Municipal Code are hereby amended to read as set forth below:

**Sec. 90-93. Amended and Restated Agreement of Formation.**

The Sacramento Metropolitan Cable Television Commission was previously created by the county and cities. Enactment of this article and amendments thereto constitutes approval by the governing bodies of the county and cities of the terms of the amended and restated agreement of formation.

AMENDED AND RESTATED AGREEMENT OF FORMATION  
SACRAMENTO METROPOLITAN CABLE TELEVISION COMMISSION

THIS AMENDED AND RESTATED AGREEMENT is made and entered into pursuant to the provisions of Government Code § 6500 et seq. of the State of California by and between the County of Sacramento, herein referred to as "County"; and the City of Sacramento and cities of Citrus Heights, Elk Grove, Folsom, Galt, and Rancho Cordova, herein referred to as "Cities"; who do hereby mutually agree as follows:

1. Establishment. There is hereby created an organization known and denominated as the Sacramento Metropolitan Cable Television Commission, which shall be a public entity, separate and apart from the County and Cities. The Sacramento Metropolitan Cable Television Commission (hereinafter referred to as "Commission") shall be governed by the terms of this Agreement, the terms of an ordinance enacted by each agency which enters into this Agreement which is entitled "Cable Television Ordinance", and is hereinafter referred to as the "Ordinance", and by such rules as are duly passed and adopted by the Board of Directors of the Commission.

2. Board of Directors. The Commission shall be governed by and the powers of the Commission vested in a Board of Directors. The number of members of the Board of Directors, composition thereof, and tenure of Directors shall be prescribed by Sub-Chapter 2 of the Ordinance.

a. Meetings of the Board of Directors and or such advisory or other committees as the Board may appoint, shall be governed by the provisions of the Ralph M. Brown Act (Government Code § 54950 et seq.). The Board of Directors shall establish a time and place for its regular meetings, which shall be held not less frequently than once per year.

b. A majority of the members of the Board of Directors shall constitute a quorum for the purpose of transacting business.

c. No action taken by the Board of Directors shall be effective except by duly adopted motion receiving the votes of a majority of the Directors of the Board.

d. The Board of Directors shall annually elect its Chairperson and Vice-Chairperson.

e. The Clerk of the Board of Supervisors of the County or other person retained by the Board shall serve as Clerk to the Board of Directors, shall be responsible for recordation of the official actions by the Board, and shall be the official custodian of all records of the Board of Directors.

The County may determine reasonable charges to be made against the Commission for the services of the Clerk and the Commission shall pay such charges.

3. Powers. The Board of Directors of the Commission shall be vested with the following powers:

a. To employ or retain in the name of the Commission an Executive Director and such other personnel as the Board of Directors deems appropriate. The Executive Director shall be appointed by and serve at the pleasure of the Board of Directors.

b. To make and enter into contracts in the name of the Commission as authorized by or in order to carry out the objects or purposes of this Agreement or the Ordinance, including, but not limited to, contracts with the County providing for provision by County personnel of services for the Commission and reimbursement of the County by the Commission of the costs thereof.

c. To acquire in the name of the Commission[,] take title to, hold and dispose of real and personal property.

d. To incur in the name of the Commission debts, liabilities and obligations, which shall not constitute debts, obligations or liabilities of any of the member agencies.

e. To accept in the name of the Commission grants, gifts and donations in the public interest to carry out the purposes and functions of the Commission;

f. To establish and provide for the payment of reasonable compensation to its members or their personal representatives for performance of the duties of office; and

g. To exercise such other powers as are expressly conferred by the provisions of this Agreement or the Ordinance.

The Board of Directors shall also be authorized to sue in the name of the Commission. The Commission shall be subject to suit in its name.

4. Limitations. Pursuant to the provisions of Government Code § 6509, the powers of the Commission are subject to the restrictions upon the manner of exercising such powers of one of the designated member agencies. For such purposes, the City of Sacramento is hereby designated.

5. Budget. Prior to July 1st of each fiscal year, the Board of Directors shall adopt a preliminary budget. Prior to September 1st of each fiscal year, said Board shall adopt a final budget.

6. Payments. Not later than the first day of August of each year during the term of this Agreement, the Commission shall distribute to the County and Cities who are members of the Commission the difference between: (i) the revenue required to finance the costs of operations incurred in accordance with the Commission's Budget (including a reserve for contingencies) for the fiscal year ending on the prior June 30; and (ii) the revenues from franchise fees actually received by the Commission for the same fiscal year. Revenues from

sources other than franchise fees shall be utilized and distributed as required by the source of the funds.

The franchise fees shall be paid to the County and Cities who are members of the Commission in the same proportion as the ratios which the population of the unincorporated area of the County and incorporated area of the Cities bear to the total population of Sacramento County, excluding the City of Isleton, as disclosed by the most recent Federal Decennial Census and as updated by the California Department of Finance January 1<sup>st</sup> of each calendar year.

7. Treasurer. The Treasurer of the County shall be the depository of funds of the Commission, and said Treasurer shall be the ex officio Treasurer of the Commission.

The Treasurer shall receive and have custody of and disburse Commission funds on the warrant of the Auditor and shall make disbursements authorized by this Agreement. The Treasurer shall invest Commission funds in accordance with the general law. All interest collected on Commission funds shall be accounted for and posted to the account of said funds.

The County may determine reasonable charges to be made against the Commission for the Services of the Treasurer, and the Commission shall pay such charges.

8. Auditing. The Auditor of the County shall be the ex officio Auditor of the Commission, and shall draw warrants against the funds of the Commission when the demands are approved by the Executive Director or his designee. At the close of each fiscal year, as provided in Government Code § 6505, the Directors may contract with a public accountant or certified public accountant to make an audit of the accounts and report of the Commission.

The Auditor shall establish and maintain such funds and accounts as are deemed necessary to account for and report on receipts and disbursements. The Commission shall keep such additional records and accounts which are deemed necessary to account for and report on sources of funds, expenditures, grants and programs as may be required by good accounting practices. The books and records of the Commission shall be open to inspection at all reasonable times by representatives of the member agencies.

The County may determine reasonable charges to be made against the Commission for the services of the Auditor, and the Commission shall pay such charges.

9. Term. Except as hereinafter provided, this Agreement shall terminate and the Commission shall be deemed dissolved on upon a two-thirds vote of the member agencies.

Notwithstanding the foregoing, a member agency may withdraw from the Commission with at least one year's prior written notice. Upon withdrawal, the member agency shall be liable for its proportional share of the Commission liabilities, including any retirement benefits obligations, in the same proportion as distributions to member agencies have most recently been made pursuant to the provisions of Paragraph 6, above. Such member agency shall not receive or have any right to any share of Commission assets.

10. Disposition of Assets. Upon dissolution of the Commission, its remaining assets, after satisfying all liabilities, including any retirement benefits obligations, shall be distributed to member agencies in the same proportion as distributions to member agencies have most recently been made pursuant to the provisions of Paragraph 6, above unless the member agencies agree to a different distribution. Any real property owned by the Commission shall, in advance of dissolution, be conveyed by the Board of Directors to member agencies as tenants in common with proportional interests equal to the proportion of distributions most recently made pursuant to the provisions of said Paragraph 6 unless the member agencies agree to a different distribution.

11. Debts. Except to the extent provided by law, the debts, liabilities and obligations of the Commission shall not constitute any debts, liabilities or obligations either jointly or severally of the County or any city.

12. Amendment. This Agreement may be amended by written contract approved by and executed in behalf of the Governing Bodies of each member agency. No Franchisee or other person or entity shall be deemed to either expressly or impliedly be a party to this Agreement, a third party beneficiary thereof, or to have any interest which precludes amendment of the terms of this Agreement in any manner in which the Governing Bodies of the member agencies, in their discretion, may mutually agree.

IN WITNESS HEREOF, the parties hereto have approved and executed this Agreement as follows.

**SECTION 3. Severability.** If any section, subdivision, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 4. Effective Date and Notice.** This ordinance shall take effect thirty (30) days after its adoption, provided it is published in full or in summary within fifteen (15) days of its adoption, in a newspaper of general circulation published and circulated in the City of Citrus Heights.

**PASSED AND ADOPTED** by the City Council of the City of Citrus Heights this 8<sup>th</sup> day of December 2022 by the following vote:

<b>AYES:</b>	<b>Council Members:</b>	<b>Karpinski-Costa, Middleton, Taff, Daniels, Schaefer</b>
<b>NOES:</b>	<b>Council Members:</b>	<b>None</b>
<b>ABSENT:</b>	<b>Council Members:</b>	<b>None</b>
<b>ABSTAIN:</b>	<b>Council Members:</b>	<b>None</b>

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**Tim Schaefer, Mayor**

**ATTEST:**

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**Amy Van, City Clerk**