

VILLAGE OF BOSTON HEIGHTS	Codified?	First Reading _____	Waiver 3-Reading Rule _____
ORDINANCE NO: <u> 2016-3-4 </u>	Yes _____	Second Reading <u> X </u>	Yes _____
INTRODUCED BY <u> D. POLYAK </u>	No _____	Third Reading _____	No _____

AN ORDINANCE RETROACTIVELY ESTABLISHING A VIDEO SERVICE PROVIDER FEE TO BE PAID BY ANY VIDEO SERVICE PROVIDER OFFERING VIDEO SERVICE IN THE VILLAGE; AUTHORIZING THE MAYOR TO GIVE NOTICE TO THE VIDEO SERVICE PROVIDER OF THE VIDEO SERVICE PROVIDER FEE, AND DECLARING AN EMERGENCY

WHEREAS, the Ohio General Assembly enacted Sections 1332.21 through 1332.34 of the Ohio Revised Code to provide a statewide “uniform regulatory framework” for the provision of cable television and/or other video service (the “Video Law”); and,

WHEREAS, under the Video Law a video service provider that is providing service to subscribers in the Village pursuant to a state-issued video service authorization must pay the Village a video service provider fee (“VSP Fee”) based on a percentage of the provider’s gross revenues received from providing video service in the Village; and,

WHEREAS, the Video Law requires that the percentage of gross revenues of which VSP Fees are paid must be the same as the percentage of gross revenues that a cable operator pays pursuant to a franchise agreement that is in effect in the Village (the “VSP Fee Percentage”) or, if there is no effective franchise agreement under which franchise fees are payable for a given calendar quarter, the VSP Fee percentage shall be zero percent (0%) of gross revenues unless the Village determines by Ordinance that the VSP Fee will be a percentage of gross revenues not to exceed five percent (5%) of gross revenues; and,

WHEREAS, the Video Law provides that advertising revenues will not be included in the gross revenues base upon which the VSP Fee Percentage is applied unless the Village specifically enacts an Ordinance uniformly applicable to all video service providers requiring that advertising revenues also be included in the gross revenues base; and,

WHEREAS, in order to provide timely notice to a video service provider of the VSP Fee Percentage and of the inclusion of advertising revenues in the VSP Fee gross revenues base, it is necessary for this Council (i) to establish the VSP Fee Percentage; (ii) to include advertising revenues in the VSP Fee gross revenues base, and (iii) to authorize the Mayor to provide the appropriate notice of the VSP Fee Percentage and the inclusion of advertising revenues in gross revenues to a video service provider.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Boston Heights, Summit County, Ohio, as follows:

Section 1: That this Council of the Village of Boston Heights hereby establishes a VSP Fee that is calculated by applying a VSP Fee Percentage of five percent (5%) to the video service provider’s gross revenues as defined in Section 1332.32(B) of the Video Law. For purpose of calculating the VSP Fee, the provider’s gross revenues shall include advertising revenues in accordance with Section 1332.23(B)(2)(g) of the Video Law. The VSP Fee

Percentage and Video Law gross revenues definition, as modified in this Ordinance, shall apply equally to all video service providers and cable television operators providing video service in the Village.

Section 2: That the VSP Fee shall be paid by each video service provider service in the Village on a quarterly basis but not sooner than forty-five (45) days nor later than sixty (60) days after the end of each calendar quarter. R.C. 1332.32(A).

Section 3: That the Mayor is authorized and directed to provide any video service provider with notice of the VSP Fee Percentage and gross revenues definition as determined by this Council above, which notices shall be given by certified mail, upon receipt of notice from such video service provider that it will begin providing video service in the Village pursuant to state-issued video service authorization.

Section 4: This Ordinance is effective, retroactively, as of March 1, 2009.

Section 5: If any particular portion of this Ordinance is declared to be invalid by a court of competent jurisdiction, such declaration of invalidity shall be limited to that particular portion declared invalid. The declaration of invalidity shall not affect or impair the remainder of this Ordinance, and to this end, the provisions are severable.

Section 6: That the recitals set forth above are hereby incorporated into this Ordinance.

Section 7: That this Council hereby finds and determines that all formal actions relative to the adoption of this Ordinance were taken in an open meeting of this Council and that all deliberations of this Council which resulted in formal action were taken in meetings open to the public, in full compliance with the applicable legal requirements including Section 121.22 of the Ohio Revised Code.

Section 8: That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the Village's residents, for the timely consideration and correction of the Village's ordinances as to the collection of these fees, and provided this Ordinance receives the affirmative vote of the members elected or appointed to Council, it shall take effect and be enforced immediately upon its passage and approval by the Mayor.

PASSED:



BILL GONCY, MAYOR

ATTEST:


BETTY KLINGENBERG, FISCAL OFFICER

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Ordinance **2016-3-4** was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio at a meeting of Council on this **12th day of April, 2016.**