

ORDINANCE NO. 2008 – 004

AN ORDINANCE IMPOSING A FIVE PERCENT (5%) MUNICIPAL VIDEO SERVICE PROVIDER (VSP) FEE BASED ON THE GROSS REVENUES OF VIDEO SERVICE PROVIDERS OPERATING WITHIN THE VILLAGE OF WAYNESVILLE PURSUANT TO STATE VIDEO SERVICE AUTHORIZATION; AUTHORIZING THE VILLAGE MANAGER TO TAKE NECESSARY ACTIONS TO IMPLEMENT THE SAME; AND DECLARING AN EMERGENCY.

WHEREAS, the State Legislature has passed and the Governor recently has signed into law Amended Substitute Senate Bill No. 117 to become effective on or about September 23, 2007, and providing a framework by which wire line video service providers can obtain State-issued authorization to provide video services within Ohio; and

WHEREAS, the Village of Waynesville, like other Charter municipalities, established and operating under *Home Rule* provisions of the law, does not necessarily concede the constitutionality or legal validity of the new State law; and

WHEREAS, the Village of Waynesville anticipates that in the near future various companies will commence operations within the Village and will seek to offer their video services to Village residents and businesses; and

WHEREAS, pursuant to Ohio Revised Code Section 1332.32 of Amended Substitute Senate Bill No. 117, the Village is desirous of approving the imposition of a video service provider fee of five percent (5%) of gross revenue of each video service provider operating within the Village of Waynesville; and

WHEREAS, such fee will be applicable to providers of video services as authorized by the State of Ohio pursuant to the new law; and such is not intended to nor shall it have the effect of in any way modifying or superseding any relevant Village legislation as it may apply to existing cable television franchises previously granted within the City, and which Chapters shall remain in full force and effect as to existing franchises.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF WAYNESVILLE, MORE THAN TWO-THIRDS OF ALL ELECTED MEMBERS THERETO CONCURRING, THAT:

Section 1. That the Village hereby imposes a five percent (5%) municipal video service provider fee on the gross revenues, including advertising revenue, as defined in O.R.C. Section 1332.32 of Amended Substitute Senate Bill No. 117, of only those video service providers operating within the Village of Waynesville pursuant to state video service

1st reading - 01/22/2008

2nd reading - emergency

01/22/08

authorization, and to be effective upon the effective date of Amended Substitute Senate Bill No. 117.

Section 2. That the Village Manager and other appropriate officials of the Village are authorized to undertake whatever actions are necessary to implement the provisions of this legislation.

Section 3. That any funds received by the Finance Director as a result of the fee established by this legislation shall be deposited into the General Fund.

Section 4. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this legislation were adopted in an open meeting of this Council; and that all deliberations of this Council, and any of its committees, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 5. That this legislation is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare of the City, and for the further reason that it is necessary for the Village to immediately establish a maximum video service provider fee for providers of video service within the Village's corporate limits pursuant to the new State law, and to conserve public funds. Therefore, provided this legislation receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Council; otherwise from and after the earliest period allowed by law.

Section 6: This Ordinance was adopted in open public session pursuant to Section 121.22 of the Ohio Revised Code and Section 3.07(B) of the Charter of the Village of Waynesville.

Adopted this 22nd day of January 2008.

Attest
Staci Morris, Clerk of Council

Earl J. Isaacs, Mayor

Prepared by Michael E. Foley, Law Director