

VILLAGE OF BOSTON HEIGHTS
45 E. Boston Mills Road
Hudson, OH 44236

REGULAR COUNCIL MEETING
OF
June 8, 2011 -8:00 PM

AGENDA
ROLL CALL
PLEDGE OF ALLEGIANCE
APPROVAL OF AGENDA
MINUTES PRESENTED FOR CHANGE OR CORRECTION OR ADOPTION
CORRESPONDENCE
AUDIENCE PARTICIPATION

ORDINANCE L-2011	AN ORDINANCE AMENDING THE PERMANENT ANNUAL APPROPRIATIONS ORDINANCE (ORDINANCE 7 -2011) FOR THE VILLAGE OF BOSTON HEIGHTS FOR THE YEAR 2011 AND DECLARING AN EMERGENCY
ORDINANCE M- 2011	AN ORDINANCE AMENDING THE BUSINESS REGULATION CODE OF THE CODIFIED ORDINANCES OF THE VILLAGE OF BOSTON HEIGHTS TO REPLACE CHAPTER 711 ENTITLED "ENTERTAINMENT DEVICE ARCADES"
ORDINANCE N-2011	AN ORDINANCE AMENDING ORDINANCE 10 - 2011 AND THE EFFECTIVE DATE OF THE ABOLISHMENT OF THE VILLAGE CLERK-TREASURER'S POSITION AND DECLARING AN EMERGENCY
ORDINANCE O-2011	AN ORDINANCE CREATING THE POSITION OF VILLAGE FISCAL OFFICER UNDER CHAPTER 133 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF BOSTON HEIGHTS AND SETTING THE WAGES FOR THE VILLAGE FISCAL OFFICER POSITION AND TAX ADMINISTRATOR AND DECLARING AN EMERGENCY
RESOLUTION P-2011	A RESOLUTION DECLARING IT NECESSARY TO RENEW AN EXISTING 2.75 MILL TAX LEVY AND REQUESTING THE SUMMIT COUNTY FISCAL OFFICER TO CERTIFY THE TOTAL CURRENT TAX VALUATION OF THE VILLAGE AND THE DOLLAR AMOUNT OF REVENUE THAT WOULD BE GENERATED BY THAT REPLACEMENT LEVY, AND DECLARING AN EMERGENCY

RESOLUTION Q - 2011

A RESOLUTION DECLARING IT
NECESSARY TO RENEW THE TAX LEVY AT
THE TAX RATE OF .75 AND REQUESTING
THE SUMMIT COUNTY FISCAL OFFICER TO
CERTIFY THE TOTAL CURRENT TAX
VALUATION OF THE VILLAGE AND THE
DOLLAR AMOUNT OF REVENUE THAT
WOULD BE GENERATED BY THIS RENEWAL
LEVY, AND DECLARING AN EMERGENCY

MOTIONS:

- APPROVAL OF THE APRIL 2011 FINANCIAL STATEMENT

COMMITTEE REPORTS
OLD BUSINESS
NEW BUSINESS
ADJOURN

CAROL ZEMAN. CLERK-TREASURER

AN ORDINANCE AMENDING THE PERMANENT ANNUAL APPROPRIATIONS ORDINANCE (ORDINANCE 7 - 2011) FOR THE VILLAGE OF BOSTON HEIGHTS FOR THE YEAR 2011 AND DECLARING AN EMERGENCY

BE IT ORDAINED by the Council of the Village of Boston Heights, Summit County, State of Ohio:

SECTION 1: The Permanent Annual Appropriations for the Village of Boston Heights (Ordinance 7 - 2011) for the year 2011 are hereby amended to reflect the changes as set forth on Exhibit "A" attached hereto and incorporated herein by reference.

SECTION 2: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 3: That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and the daily operations of the municipal departments and shall take effect and be in force from and after its passage.

PASSED:

BILL GONCY, Mayor

ATTEST:

CAROL ZEMAN, Clerk-Treasurer

I, CAROL ZEMAN, Clerk of the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Ordinance -2010 was duly passed by the Council of Boston Heights, County of Summit, State of Ohio at a meeting on the 8 day of June, 2011.

Carol Zeman, Clerk of the Village of Boston Heights

AN ORDINANCE AMENDING THE BUSINESS REGULATION CODE OF THE CODIFIED ORDINANCES OF THE VILLAGE OF BOSTON HEIGHTS TO REPLACE CHAPTER 711 ENTITLED "ENTERTAINMENT DEVICE ARCADES"

WHEREAS, The Planning Commission of the Village of Boston Heights has reviewed and recommended the replacement of Chapter 711 of the Village's Business Regulation Code as per Exhibit A (copy attached); and

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

Section 1: That the existing Chapter 711 of the Codified Ordinances of the Village of Boston Heights is hereby repealed in its entirety and replaced with the Planning Commission recommended replacement as per the attached Exhibit A.

Section 2: 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 Council and that all deliberations of this Council and of any of its committees or subcommittees that resulted in those formal actions were in meetings open to the public in full compliance with the applicable legal requirements including Section 121.22 of the Ohio Revised Code.

Section 3: That this Ordinance was duly adopted and shall take effect thirty (30) days after its adoption by Council and approval by the Mayor, otherwise at the earliest period allowed by law.

PASSED

BILL GONCY, MAYOR

ATTEST:

CAROL ZEMAN, Clerk-Treasurer

I, CAROL ZEMAN, Clerk of the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Ordinance - 2011 was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio at a meeting of Council on the 8th day of June, 2011

CHAPTER 711
Entertainment Device Arcades

711.01 Applicability.

711.02 Definitions.

711.03 License application; requirements.

711.04 License fees; transfer and display; disposition of fees.

711.05 License revocation; hearing procedure.

711.06 Location.

711.07 Hours of Operation

711.08 Miscellaneous operating requirements.

711.09 Administrative Agent

711.98 Severability.

711.99 Penalties.

SECTION 711.01 APPLICABILITY.

This Chapter shall apply to the operation of entertainment devices that are lawfully operated pursuant to the Ohio Revised Code and does not legalize or license any operation of a device that is unlawful to operate pursuant to the Ohio Revised Code. This Chapter shall apply to all entertainment device arcades that operate or propose to operate in the Village of Boston Heights.

SECTION 711.02 DEFINITIONS.

For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- (a) "Entertainment device arcade" means any business, establishment, room or place where four or more entertainment devices are kept for use by the public or by persons other than the owner of the devices, where persons give anything of value to access the use of the entertainment devices or the premises, and the person may be given anything of value by the operator, whether the giving occurs on or off the premise or at the same time or a later time.
- (b) "Entertainment device" means any mechanical, electronic, video or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a person, for the purpose of playing a game, viewing a video display, hearing an audio transmission or reading entries or outcomes from any other kind of device. "Entertainment device" does not include any vending machine, juke box, audio book, video player or any device that gives anything of value where the only value given, directly or indirectly, is a video or audio transmission or the playing of a game.

- (c) "Anything of value" means cash, cash equivalents, tangible objects, credits to play, sweepstakes entry points and any other tangibles or intangibles, no matter how slight. Anything of value includes playing a game, viewing a video display, hearing an audio transmission, and reading entries or outcomes from any other kind of device. A person who gives anything of value for a product or service, whether tangible or intangible, in any way, directly or indirectly, in association with being given access to the use of an entertainment device, is deemed to have given value for the access to the entertainment device.
- (d) "Operator" means any person or organization that owns, controls, operates, promotes or maintains or knowingly engages in conduct that facilitates the operation of an entertainment device arcade or the entertainment devices in an entertainment device arcade.
- (e) "Law enforcement agency" means the Village of Boston Heights Police Department or other law enforcement agency with appropriate jurisdiction.
- (f) "Administrative Agent" means the agent or department responsible for the administration of the regulations delineated within this Chapter under the terms of Section 711.09.

SECTION 711.03 LICENSE APPLICATION; REQUIREMENTS.

- (a) No person, partnership, corporation, or other entity shall operate or conduct an entertainment device arcade without first obtaining an annual license to operate therefore from the Administrative Agent. The license to operate shall first be obtained prior to the initial operation of the entertainment device arcade and annually thereafter, with the subsequent annual application and associated fee due prior to the 1st day of January of each calendar year.
- (b) Every person, partnership, corporation, organization or other entity desiring to operate or conduct an entertainment device arcade shall make an application in writing to the Administrative Agent. Such application shall include a non-refundable application fee of \$500.00 payable to the Clerk-Treasurer of the Village of Boston Heights, which shall be credited against the annual license fee imposed by section 711.04 (a), if the application is approved, and which application shall set forth:
 - (1) The name and federal tax identification number under which the business is to be conducted.
 - (2) The location where the business is conducted, with a description of the premises, including a scaled diagram.
 - (3) The name, address, and government issued photo identification of any manager, supervisor, and all other employees.
 - (4) The name, address, and government issued photo identification of the owner or owners of the entertainment devices.

- (5) The name, address, government issued photo identification and principal occupation of every person with an interest in the business. If the business is conducted by:
 - A. A sole proprietorship, the name, address, government issued photo identification and principal occupation of that individual.
 - B. A firm, limited liability company or partnership, the names, addresses, government issued photo identification and principal occupations of each member of the firm or partnership.
 - C. A corporation, the names, addresses, government issued photo identifications and principal occupations of all officers and shareholders and the statutory agent.
- (6) If a corporation or limited liability company, a certificate of good standing from the Ohio Secretary of State.
- (7) The name, description, model number and serial number of each entertainment device on the premises and any other device on the premises that is necessary to the operation of the entertainment device.
- (8)
 - A. A list of each separate prize that may be given out and each separate dollar amount that may be given; and
 - B. The odds of winning any offered prize or dollar amount awarded for the participation in any game, activity, program, scheme or play, use or participation in any way in an entertainment device or participating in any other activity or promotion in the entertainment device arcade, whether or not the determination of the giving of the thing of value or the delivery of the thing of value occurs totally within the confines of the premises or requires some event, occurrence or happening at another location.
- (9) The name and address of any and all persons, businesses or organizations that provide games, computer software, equipment, or services or operate devices linked to the licensee's entertainment devices or to devices necessary to operate the entertainment devices, whether any such provisions are sold, leased or licensed.
- (10) A certificate or report, provided by an Authorized Independent Testing Laboratory, identifying the components of the entertainment devices and related systems, identifying the operational characteristics of the entertainment device and systems and verifying that each entertainment device identified in 711.03(b)(7), above, and the software therein, is either a skill-based amusement machine, as defined in Section 2915.01 of the Ohio Revised Code, or is part of a sweepstakes game format. If the certificate or report verifies that the entertainment device and the software therein is part of a sweepstakes game format, the certificate or report shall verify the following information.

- A. The sweepstakes game is governed by official rules, which are clearly posted and available to customers.
- B. Sweepstakes entries are provided to customers upon purchase of a good or service, for which consideration is paid, and no consideration is paid for the sweepstakes entry itself. Additionally, the sweepstakes game provides for a method of free entry upon request, and the chance of winning the sweepstakes game does not vary between free entries and entries received as a result of purchase.
- C. The total number of entries, the number of winning and losing entries and the number and nature of prizes of the sweepstakes game are finite, predetermined and established prior to the start of the sweepstakes. Additionally, all winning and losing entries are predetermined prior to the start of the sweepstakes game and the entries cannot be changed or modified once the sweepstakes game begins.
- D. The sweepstakes game contains no element of skill and the customer has no ability to alter or affect the outcome or results of the sweepstakes game.

The Administrative Agent shall publish, within sixty (60) days after the enactment of this ordinance a list of Authorized Independent Testing Laboratories, and shall keep said list updated and current at all times. Only certificates or reports from the entities listed by the Administrative Agent as Authorized Independent Testing Laboratories shall satisfy the requirements of this Section. Said certificate or report shall be provided to the Administrative Agent for each entertainment device prior to an operator placing the device into service.

The certificate or report for an Authorized Independent Testing Laboratory required herein shall be updated annually for each entertainment device and the updated certificate or report shall be provided at the time of each annual application, and shall contain the information required in this subsection.

Any update to an entertainment device, or the software therein, during the course of the year shall be reviewed and inspected by an Authorized Independent Testing Laboratory, and a certificate or report from the Authorized Independent Testing Laboratory shall be filed with the Administrative Agent prior to the operator placing the device in service, and shall contain the information required in this subsection.

No entertainment device shall be lawfully operated unless it is certified to meet the requirements of this subsection.

- (c) Duty to keep information current. The person, partnership, corporation, or other entity operating or conducting the business shall have a continuing duty to inform the Administrative Agent as to changes in the information required in this section. No person, partnership, corporation, or other entity shall operate or conduct an entertainment device arcade at any time unless the information on file with the Administrative Agent is current and accurately reports the licensing information at the time of operation.

- (d) Rejection or approval of application. The Administrative Agent shall reject or preliminarily approve an application within ten (10) business days of receipt. If rejected, the Administrative Agent shall notify the applicant in writing, with reasons for rejection. If the application is preliminarily approved, the Administrative Agent shall notify the applicant in writing of said preliminary approval. Upon notification of preliminary approval, applicant shall pay to the Clerk-Treasurer of the Village the semi-annual license fee due in conjunction with the initial or annual application for each entertainment device that will be located on the premises during the following semi-annual period. Upon notification of receipt of said semi-annual license fee, the Administrative Agent shall grant final approval of the application and shall issue a license to operate. No person shall operate an entertainment device arcade, until such final approval is granted and said license to operate is issued, unless otherwise permitted herein.

For all applications the required certificate or report shall be included in the initial or annual application, and at any other time as required by this Chapter, and no entertainment device arcade shall operate without the final approval and license to operate being issued by the Administrative Agent.

- (e) Prohibition as a result of conviction: fire inspection. The Administrative Agent shall not issue a license to any person, partnership, corporation, or other entity if any of the persons with an interest in the business or if any of the employees of the business have been convicted of a violation of a federal or state statute or of any local ordinance pertaining to gambling or other crime of moral turpitude within five years preceding the application. Also, as a prerequisite to the issuance of such license, an inspection shall be made of the premises by the Village of Boston Heights Fire Department to seek and obtain the approval of said department.

- (f) Right of entry for inspection. The entertainment device arcade shall be open to inspection and viewing of operations by the Administrative Agent, fire department personnel, and health department personnel at all times that the arcade is open for business. Law enforcement agency officers may accompany officials from the Administrative Agent, fire department and health department on any official business or inspection to the extent authorized by this Chapter of these Codified Ordinances. No operator shall fail to immediately permit entry to any such officials.

- (g) Suspension or revocation of license. Failure to register or pay a license fee for an entertainment device shall be grounds for suspension or revocation of the license for the entertainment device arcade and said device shall be seized and forfeited to the Village of Boston Heights.

SECTION 711.04 LICENSE FEES; TRANSFER AND DISPLAY; DISPOSITION OF FEES.

- (a) License fees. The non-refundable annual license fee, payable to the Clerk-Treasurer of the Village at the time of initial or annual application to the Administrative Agent, shall be \$1,000.00 for each entertainment device arcade location for each calendar year or any part thereof. Additionally, a semi-annual non-refundable license fee of \$200.00 shall be paid to the Clerk-Treasurer of the Village for each entertainment device that will be located on the premises during the following semi-annual period. The semi-annual license fee for each entertainment device shall be paid upon preliminary approval of the initial or annual application and no later than June 1st of each calendar year, or, if the entertainment device is brought to the premises following the payment of the semi-annual license fee, prior to such time as the entertainment device is brought to or operating on the premises. For purposes of determining licensing fees, each device that is operable by one person, or having an independently viewable video or similar display screen, is a separate entertainment device. The Clerk-Treasurer shall notify the Administrative Agent upon the receipt of such fees.
- (b) Non-transferability: display. Licenses issued under this article shall not be transferable to any other person, partnership, corporation, or other entity and the business may be conducted only at the location for which the license is issued. The license must be so placed as to be made conspicuously visible and shall list each entertainment device with serial number.
- (c) Disposition of license fees. License fees received by the Village of Boston Heights shall be deposited into the General Fund of the Village.

SECTION 711.05 LICENSE REVOCATION; HEARING PROCEDURE.

- (a) Creation of commission. An Entertainment Device Arcade License Review Commission is hereby created to hear complaints concerning entertainment device arcade licenses. The Commission shall consist of the Mayor or his designee, the President pro tempore of the Village Council or his designee and the Clerk-Treasurer of the Village or his designee.
- (b) Revocation or suspension of license. A license may be suspended or revoked at any time by the Commission on satisfactory proof that violation of the laws of the State of Ohio, the Codified Ordinances of the Village of Boston Heights or this Chapter occurs at an entertainment device arcade. In addition to any license suspension, the Commission may assess the licensee a penalty fee of not less than

\$500.00 or more than \$1,000.00 for any violation of this Chapter. Each day a continuing violation exists shall constitute a separate violation for purpose of assessing penalty fees. Suspensions, revocations and assessments of penalty fees by the Commission are in addition to and separate from any criminal liability and does not preclude criminal prosecution for any violation of this Chapter or other Village Ordinances or other applicable laws. Penalty fees shall be disposed of in the same manner as license fees as set forth in Section 711.04(c).

- (c) Submission of complaint: regular inspection. Any resident of the Village of Boston Heights may submit a written notice of complaint to the Administrative Agent concerning any entertainment device arcade located within the Village. The notice of complaint will include the name of the resident, the address of the location, the Administrative Agent's device identification number, if applicable, and the specific reasons why the complainant is complaining. The Administrative Agent and/or the law enforcement agency responsible for policing the Village shall regularly inspect the premises, the operation, the entertainment devices and the licensee's records and may issue a notice of complaint to the licensee for any violations.
- (d) Interview of complainant. The Administrative Agent shall interview the complainant and inquire as to the specific reasons for the complaint. The Administrative Agent may dismiss the complaint if it is determined that:
 - (1) The specific reasons listed in the complaint are not proper grounds for suspension or revocation of the license; or
 - (2) There are not substantial credible facts to support the complaint.
- (e) No appeal from dismissal of complaint. No appeal shall lie from the decision of the Administrative Agent to dismiss a complaint.
- (f) Fact-finding conference. If the complaint is not dismissed by the Administrative Agent, it will then notify the licensee and the owner of the devices on the premises, as listed on the license application, that a complaint has been filed and will set a date for a fact-finding conference on the matter. Extensions will be granted and necessary investigations will be conducted at the discretion of the Administrative Agent and it may request the assistance of the law enforcement agency to assist in the investigation. The Administrative Agent and any assisting law enforcement agency officer shall have access to the entertainment device arcade and the records of the licensee during all times that the entertainment devices are available for play.
- (g) Resolution of complaint. At the time of the conference, the complainant, the licensee, and the owner of the devices will meet and attempt to amicably resolve the situation. If the complainant, licensee, and the owner can reach an amicable solution, the Administrative Agent will issue a written notice directing the licensee to comply with the agreed resolution of the complaint.

- (h) Referral to the Commission. If the parties cannot agree upon an amicable solution to the problem, the Administrative Agent will transmit the complaint, together with its recommendation thereon, to the Entertainment Device Arcade License Review Commission. The Administrative Agent recommendation may be for dismissal of the complaint, suspension of the license and assessment penalty fees, or revocation of the license.

- (i) Hearing. The Commission may accept, reject, or modify the recommendation of the Administrative Agent. The complainant, the licensee and the owner of the devices, as listed on the license application, shall be notified in advance by certified mail of the day on which the Commission is to consider the complaint; and they may, if they so choose, be present during consideration of the complaint. Consideration of the complaint before the Commission shall be a public hearing which shall be held within 30 days after said notice is given. The licensee shall have the right to be represented by counsel, and have the right to examine and cross-examine witnesses. The Commission shall enter its decision the day of hearing. In the event of a decision and ruling adverse to the licensee, the licensee shall have the right to appeal such decision and ruling to a court of competent jurisdiction under authority of and pursuant to the provisions of Chapter 2506 of the Ohio Revised Code.

- (j) Other enforcement actions. The complaint process set forth in this section is separate and distinct from any law enforcement action taken to enforce the laws of the State of Ohio or the Codified Ordinances of the Village of Boston Heights and this Chapter, and is not a condition precedent or otherwise an impediment to enforcement of said laws by criminal prosecution.

SECTION 711.06 LOCATION.

- (a) Limitation on location. No license shall be granted to an entertainment device arcade that operates any entertainment device within 500 feet from the boundaries of a parcel of real estate having situated on it a residential dwelling, hotel, motel, tourist house, school, hospital, nursing home, public administrative or any public safety building, public library, public playground, or any establishment that has been issued a liquor permit by the State of Ohio.

- (b) Exception: change in ownership. This section shall not apply to any entertainment device arcade locations in existence at the time of the passage of this ordinance, and shall not apply to any duly licensed entertainment device arcade locations in existence at the time a school, public library, public playground, or any establishment that has been issued a liquor permit by the State of Ohio moves within 500 feet of said entertainment device arcade. However, any change in ownership of the entertainment device arcade or change in location will remove said entertainment device arcade from this exception. "Change in ownership" in the case of a partnership or corporation for the purpose of this section means more than 50 percent change in partners or shareholders from the

partners or shareholders owning the partnership or corporation as of the date the school, public library, or public playground moves within five hundred feet of said entertainment device arcade.

SECTION 711.07 HOURS OF OPERATION.

Entertainment device arcades shall operate only between the hours set forth below:

Fridays and Saturdays	10:00am to 2:00am of the following day
Sundays	1:00pm to 12:00am Monday morning
All Other Days	10:00am to 12:00am of the following day

No operator shall permit any person to operate any entertainment device during any time other than specified herein.

SECTION 711.08 MISCELLANEOUS OPERATING REQUIREMENTS.

- (a) Supervision of entertainment devices. Any entertainment device arcade shall have an adult who is 21 years of age or over on the premises and supervising at all times the entertainment devices during all hours of operation.
- (b) Square-footage. The interior of the entertainment device arcade shall provide a minimum area of 50 square feet per entertainment device in each room in which entertainment devices are located.
- (c) No alcoholic beverages. No operator shall permit the sale, possession or consumption of alcoholic beverages on the premises of an entertainment device arcade.
- (d) Public peace. No operator shall fail to maintain order and quiet on the premises so as not to violate the public peace.
- (e) No minors. No persons under the age of eighteen years shall be permitted on the premises of any entertainment device arcade.
- (f) Photo identification. The operator shall require a photo identification of every person to whom anything of value is given in connection with the entertainment device arcade and, if the dollar value of the thing given to a person is \$600.00 or more, the operator shall make and maintain a copy of the person's photo identification and shall record the person's name and home address and a description of the thing given, a stated dollar value of the thing given, the date and time of the giving and, if an entertainment device is involved in the circumstances of the giving, the serial number or other identifying description of the device. By the second Tuesday of each month the operator shall cause to be delivered to the Administrative Agent a copy of the record of things given to persons together with the above required information given during the preceding month. If the records pertaining to photo identification contain social security numbers or drivers license numbers, the operator and the Administrative Agent shall not

disclose those numbers to anyone except as required by the laws of the State of Ohio and the United States government.

- (g) Posting. The operator shall post in a conspicuous place on the premises in the room where the entertainment devices are located in no less than twenty point type:
 - (1) Each separate prize that may be given and each separate dollar amount that might be given.
 - (2) The odds as stated in the filing with the Administrative Agent, as required in Section 711.03(b)(10).
 - (3) A complete statement of the rules and conditions pertaining to the giving of any prizes or anything of value to any person, whether or not the determination the giving of the thing of value or the delivery of the thing of value occurs totally within the confines of the premises or requires some event, occurrence or happening at another location, and the method of free entry for any sweepstakes game.
 - (4) That no person under the age of 18 shall be permitted on these premises. This notice shall be posted in no less than 72 point type.

- (h) Device Identification. On each entertainment device, a sticker, if issued by the Administrative Agent, shall be placed on each device indicating that it has been registered by the operator with the Administrative Agent, and bearing a unique identification number for that device.

- (i) Records. The operator shall keep a complete set of all records of the operations taking place at the premises at all times, including all federal, state and local tax records, all records of payments and receipts, all records of expenses and revenues of the operation, all banking records, all contracts, leases and agreements affecting the premises, equipment and operation, all personnel records and all other records pertaining to the business, which shall be available for inspection and copying by any entity provided a right of entry under subsection 711.03(f). Records more than 10 years old are exempt from this requirement.

- (j) Correct information. No applicant shall make a false or incorrect statement in an application for an entertainment device arcade license and no operator shall fail to update the information supplied to the Administrative Agent to reflect existing operations as required in Section 711.03(b).

- (k) Reporting of Internet Time. Any entertainment device arcade that engages in the sale of internet time or computer usage time or telephone service time in exchange for anything of value shall provide to the Administrative Agent, no later than the 2nd Tuesday of each month a report detailing the daily amount of time sold in the preceding calendar month.

- (l) Strict liability for violations. It is the intent of this Chapter that operators are strictly liable for any violations of this Chapter.

SECTION 711.09 ADMINISTRATIVE AGENT

The Mayor of the Village of Boston Heights, with the consent of Council, shall contract with a qualified independent agent which shall act as the Administrative Agent for the purposes of this Chapter.

SECTION 711.98 SEVERABILITY.

In the event any provision of Sections 711.01-711.99 shall be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of this Chapter as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

SECTION 711.99 PENALTIES.

- (a) Minor misdemeanor. Whoever violates or fails to comply with any of the provisions of this Chapter, for which no penalty is otherwise provided, is guilty of a minor misdemeanor and shall be fined not more than \$150.00 for each offense, said fine shall not be reduced or suspended. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.
- (b) Failure to obtain or operating without a license. Whoever violates or fails to comply with the requirement to obtain a license for an entertainment device arcade or an entertainment device as provided in this Chapter is guilty of a misdemeanor of the fourth degree and shall be fined not more than \$250.00, or imprisoned not more than 30 days or both, for each offense, provided said fine shall not be reduced or suspended. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

AN ORDINANCE AMENDING ORDINANCE 10-2011 AND
THE EFFECTIVE DATE OF THE ABOLISHMENT OF THE
VILLAGE CLERK-TREASURER'S POSITION AND DECLARING
AN EMERGENCY.

WHEREAS; The Council of the Village of Boston Heights has duly passed Ordinance 10-2011 abolishing the position of elected Clerk-Treasurer in the Village of Boston Heights, and

WHEREAS; Upon said passage of Ordinance 10 - 2011 the position of Fiscal Officer shall be created and inserted into Chapter 133 of the Codified Ordinances of the Village of Boston Heights:

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

Section 1: That Paragraph 1 of ORDINANCE 10-2011 shall be amended by striking the words "April 1, 2012" and replacing them with "at 12:00 a.m. on January 1, 2012."

Section 2: That Paragraph 3 of ORDINANCE 10-2011 shall be amended by inserting at the beginning of that paragraph the words "Effective 11:59 p.m. December 31, 2011,"

Section 3: That this Council hereby finds and determines that all formal actions relative to the adoption of this Resolution 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 4: This Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety and for the further reason that this Resolution is required to be immediately effective to provide for the proper notification to the Summit County Board of Election as provided in Ohio Revised Code 733.262; wherefore, this Resolution shall take effect and be in full force immediately upon its passage, provided it receives the affirmative vote of not less than five members of Council; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED:

BILL GONCY, Mayor

ORDINANCE N- 2011

JUNE 8, 2011

ATTEST:

CAROL ZEMAN, Clerk-Treasurer

I, CAROL ZEMAN, Clerk of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Ordinance -2011 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 8th day of June, 2011.

ORDINANCE O-2011

CREATING THE POSITION OF VILLAGE FISCAL OFFICER UNDER CHAPTER 133 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF BOSTON HEIGHTS AND SETTING THE WAGES FOR THE VILLAGE FISCAL OFFICER POSITION AND TAX ADMINISTRATOR AND DECLARING AN EMERGENCY.

WHEREAS; The Council of the Village of Boston Heights has duly passed Ordinance 10-2011 abolishing the position of elected Clerk-Treasurer in the Village of Boston Heights, and

WHEREAS; Upon said passage of Ordinance 10 - 2011 the position of Fiscal Officer shall be created and inserted into Chapter 133 of the Codified Ordinances of the Village of Boston Heights:

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

Section 1: That effective January 1, 2012, the position of Village Fiscal Officer under Ohio Revised Code Section 733.262 is created and the office of the Clerk-Treasurer is abolished.

Section 2: Nothing in this ordinance except as otherwise specifically provided shall affect or impair the rights or privileges of the Clerk-Treasurer in office. The current holder of that office shall continue in such position until the Village Fiscal Officer's appointment and approval as called for under Section 3. (O.R.C. 3.01).

Section 3: That effective April 1, 2012, the position of Village Fiscal Officer shall be filled by appointment of the Mayor, with the approval of Council by a majority vote. For every year thereafter, the Village Fiscal Officer shall be appointed in January of each for a term of one year to commence at 12:00 a.m. on the Thursday following the second Wednesday of January each running and running until 11:59 p.m. on the second Wednesday of January the following year. The appointment of the Village Fiscal Officer shall be made by the Mayor and confirmed by the Village Council on or before the Thursday following the second Wednesday of January. If for any reason the Mayor fails to appoint a Village Fiscal Officer and/or the Village Council fails to confirm the Mayor's appointee, the individual holding the office and/or its equivalent shall holdover in that position until the Mayor appoints and the Village Council confirms a qualified individual. The removal of the Village Fiscal Officer may be by the Mayor and a majority vote of Council, or by a three-fourths vote of Council in favor of removal with or without the consent of the Mayor. Either form of removal may be with or without cause. (O.R.C. 3.01 and 733.262(D)).

Section 4: That the Village Fiscal Officer need not be an elector of the Village nor reside in the Village at any time during his or her employment with the Village.

Section 5: That the duties of the Village Fiscal Officer shall be the duties provided by the Ohio Revised Code for the Village Clerk and Treasurer and any other duties consistent with the nature of the office that are provided for by municipal ordinance.

Section 6: That the Village Fiscal Officer shall have the duties of the Tax Administrator in connection with the Village Income Tax.

Section 7: That the Village Fiscal Officer shall be considered a full time employee and be under all the benefits and restrictions of the General Provisions of the Village of Boston Heights Codified Ordinance.

Section 8: That the Village Fiscal Officer shall work the regular hours that the Village Hall is presently open from 8:00 am to 4:00 pm.

Section 9: Effective upon the appointment and approval of a qualified candidate and that individual's assumption of office, the first year beginning salary for the Village Fiscal Officer shall be \$39,035.53.

Section 10: All ordinances or parts of ordinance in conflict herewith are hereby repealed to the extent of the conflict.

Section 11: That within one week of passage of this Ordinance, the Clerk of this Council is authorized and directed to deliver and file with the Summit County Board of Elections a certified copy of this Ordinance.

Section 12: 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 13: That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and to allow for the continued operations of the Village departments.

PASSED:

BILL GONCY, MAYOR

ATTEST:

CAROL ZEMAN, Clerk-Treasurer

I, CAROL ZEMAN, Clerk of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Ordinance -2011 was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio , at a meeting of Council on the 8th day of June, 2011.

A RESOLUTION DECLARING IT NECESSARY TO RENEW AN EXISTING 2.75 MILL TAX LEVY AND REQUESTING THE SUMMIT COUNTY FISCAL OFFICER TO CERTIFY THE TOTAL CURRENT TAX VALUATION OF THE VILLAGE AND THE DOLLAR AMOUNT OF REVENUE THAT WOULD BE GENERATED BY THAT REPLACEMENT LEVY, AND DECLARING AN EMERGENCY.

WHEREAS, this Council finds that the amount of taxes which may be raised within the ten-mill limitation by levies on the current tax duplicate will be insufficient to provide an adequate amount for the necessary requirements of the Village and that it is necessary to levy a tax in excess of that limitation for the purpose of general construction, reconstruction, resurfacing and repair of streets, roads and bridges in the Village of Boston Heights; and

WHEREAS, in accordance with Division B of Section 5705.03 of the Revised Code, as amended by Am. Sub., S.B. No. 201, effective December 21, 1998, in order to submit the question of a replacement tax levy pursuant to Section 5705.192 of the Revised Code, this Council must request that the Summit County Fiscal Officer certify (i) the total current tax valuation of the Village, and (ii) the dollar amount of revenue that would be generated by the levy; and

WHEREAS, in accordance with Division B of Section 5705.03 of the Revised Code, upon receipt of a certified copy of a resolution of this Council declaring the necessity of the tax, stating its purpose, stating whether it is an additional levy, a renewal of a replacement of an existing tax, noting the Section of the Ohio Revised Code pursuant to which its submission to the electors is authorized, and requesting the County Fiscal Officer certification, the County Fiscal Officer is to certify the total current tax valuation of the Village and the dollar amount of revenue that would be generated by the proposed levy;

NOW, THEREFORE, BE IT RESOLVED by Council of the Village of Boston Heights, County of Summit and State of Ohio, two-thirds of the members elected thereto concurring that:

Section 1: This Council declares that it is necessary to renew for a period of five (5) years, the levy of an existing 2.75 mill ad valorem property tax outside of the ten-mill limitation for the purpose of general construction, reconstruction, resurfacing and repair of streets, roads and bridges in the Village of Boston Heights (Section 5705.19(G) of the Ohio Revised Code), and that it intends to submit the question of the renewal of the levy to the electors at an election on November 8, 2011 as authorized by Section 5705.192 of the Ohio Revised Code.

Section 2: This Council requests the Summit County Fiscal Officer to certify to it both (i) the total current tax valuation of the Village, and (ii) the dollar amount of revenue that would be generated by the 2.75 mill levy specified in Section 1.

Section 3: That Clerk of this Council is authorized and directed to deliver promptly to the Summit County Fiscal Officer a certified copy of this Resolution and the form of County Fiscal Officer's Certificate in connection therewith that is currently on file with the Clerk of Council.

Section 4: That this Council hereby finds and determines that all formal actions relative to the adoption of this Resolution 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 5: This Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety and for the further reason that this Resolution is required to be immediately effective to provide for the submission of the question of the renewal of the 2.75 mill levy to the electors at an election on November 8, 2011 to enable the Village to continue to receive those revenues without interruption; wherefore, this Resolution shall take effect and be in full force immediately upon its passage, provided it receives the affirmative vote of not less than five members of Council; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED:

BILL GONCY, Mayor

ATTEST:

CAROL ZEMAN, Clerk-Treasurer

I, CAROL ZEMAN, Clerk of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Resolution -2011 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 8th day of June, 2011

A RESOLUTION DECLARING IT NECESSARY TO RENEW THE TAX LEVY AT THE TAX RATE OF .75 AND REQUESTING THE SUMMIT COUNTY FISCAL OFFICER TO CERTIFY THE TOTAL CURRENT TAX VALUATION OF THE VILLAGE AND THE DOLLAR AMOUNT OF REVENUE THAT WOULD BE GENERATED BY THIS RENEWAL LEVY, AND DECLARING AN EMERGENCY

WHEREAS, this Council finds that the amount of taxes which may be raised within the ten-mill limitation by levies on the current tax duplicate will be insufficient to provide an adequate amount for the necessary requirements of the Village and that it is necessary to levy a tax in excess of that limitation for the purposes of payment of permanent, part-time or volunteer firefighters or firefighting companies to operate the fire department, including the payment of the firefighter employers' contribution required under section 742.34 of the Ohio Revised Code, or the provision of ambulance, paramedic, or others emergency medical services operated by a fire department or firefighting company in the Village of Boston Heights under section 5705.19(l) of the Ohio Revised Code; and

WHEREAS, in accordance with section 5705.03(B) of the Ohio Revised Code, in order to submit the question of a renewal tax levy pursuant to section 5705.25 of the Ohio Revised Code, this Council must request that the Summit County Fiscal Officer certify (i) the total current tax valuation of the Village, and (ii) the dollar amount of revenue that would be generated by the levy; and

WHEREAS, in accordance with section 5705.03(B) of the Ohio Revised Code, upon receipt of a certified copy of a resolution of this Council declaring the necessity of the tax, stating its purpose, stating whether it is an additional levy, a renewal or a replacement of an existing tax, noting the section of the Ohio Revised Code pursuant to which its submission to the electors is authorized, and requesting the County Fiscal Officer to certify the total current tax valuation of the Village, and the dollar amount of revenue that would be generated by the proposed levy.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Village of Boston Heights, County of Summit and State of Ohio, two-thirds of the members elected therefore concurring that:

Section 1: This Council declares that it is necessary to have a renewal tax levied, for a period of three (3) years, of .75 mill ad valorem property tax outside of the ten mill limitation for the purpose of providing for the payment of permanent, part-time or volunteer firefighters or firefighting companies to operate the fire department, including the payment of the firefighter employers' contribution required under section 742.34 of the Revised Code, or the provision of ambulance, paramedic, or others emergency medical services operated by a fire department or firefighting company therefore under section 5705.19(l) of the Ohio Revised Code, and that it intends to submit the question of the renewed tax of that levy to the electors at an election on November 8, 2011 as authorized by section 5705.25 of the Ohio Revised Code.

SECTION 2: This Council requests the Summit County Fiscal Officer to certify to it both (i) the total current tax valuation of the Village; and (ii) the dollar amount of revenue that would be generated by the .75 mill renewal levy specified in Section 1.

SECTION 3: The Clerk of this Council is authorized and directed to deliver promptly to the Summit County Fiscal Officer a certified copy of this Resolution and the form of the County Fiscal Officer's Certificate in connection therewith that is currently on file with the Clerk of Council.

SECTION 4: That this Council hereby finds and determines that all formal actions relative to the adoption of this Resolution 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 5: This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and to comply with the requirements of the Ohio Revised Code regarding the levy of taxes outside the 10 mill limitations and shall take effect and be in force from and after its passage.

PASSED:

BILL GONCY, MAYOR

ATTEST:

CAROL ZEMAN, Clerk-Treasurer

I, CAROL ZEMAN, Clerk of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Resolution -2011 was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio at a meeting of Council on June 8, 2011.