

ORDINANCE 01-08

ESTABLISHING A VIDEO SERVICE PROVIDER FEE TO BE PAID BY ANY VIDEO SERVICE PROVIDER OFFEREING VIDEO SERVICE IN THE VILLAGE AND 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, effective September 24,2007 to provide a statewide “uniform regularatory framework” for the provision of cable television and/or other video service (the ‘video law’), and

WHEREAS, The Village of Rockford has a cable television franchise agreement with Time Warner Cable, (“Franchisee”), which expires by its own terms on or about January 4, 2015 and pursuant to which Franchisee is paying franchise fees in the amount of three percent (3%) of the gross revenue it receives from cable subscriber in the Village as defined in the Franchise Agreement: and

WHEREAS, under the Video Law a video service provider that is providing video 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, not to exceed five (5%) of such gross revenues: and

WHEREAS, the Video Law requires that the percentage of gross revenue on 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 further requires the Village to provide a video service provider with written notice of the VSP Fee Percentage within ten (10) days of receiving notice from the video service provider, pursuant to R.C. 1332.27 (A), that it will begin offering service in the Village; and

WHEREAS, in order to provide timely notice to a video service provider of the VSP Fee Percentage, it is necessary for Council: (i) to establish the VSP Fee Percentage; and (ii), to authorize the Mayor to provide the appropriate notice of the VSP Fee Percentage to a video service provider within ten (10) days of the Village receiving notice that a video service provider will begin providing service in the Village.

NOW THEREFORE, BE IT ORDAINED by the Council of the Village of Rockford, Ohio:

Section 1: That this Council of the Village of Rockford hereby establishes a VSP Fee that is calculated by applying a VSP Percentage of Five percent (5%) to the video service provider's gross revenues as defined in Section 1332.32 (B) of the Video Law. All video service providers and cable television operators providing video service in the Village shall apply the VS Fee percentage against gross revenue as defined in the Video Law.

Section 2: That the VSP Fee shall be paid by each video service provider providing service in the Village on a yearly basis within forty-five (45) days after the end of each calendar Year. 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 as determined by this Council above, which notice 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 a state-issued video service authorization.

Section 4: That this Council finds and determines that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of any committees that resulted in those formal actions were in meetings open to the public in compliance with law.

Section 5: That this ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety, and welfare, and for the further reason that it is immediately necessary to establish video service provider fees, wherefore this ordinance shall be in full force and take effect immediately upon its passage and approval by the Mayor.

Passed: February 19, 2008

Ron Searight – President of Council

Approved by – Amy Joseph – Mayor

Attest – Lisa Kuhn – Fiscal Officer.