

**VILLAGE OF BOSTON HEIGHTS
COUNCIL MEETING
NOVEMBER 15, 2012
AGENDA**

CALL TO ORDER [by Mayor Bill Goncy]

ROLL CALL

Antal_X__ Baxter_X (late)__ D. Blakeney_X__ G. Blakeney_X__ Fenn_X__ Polyak_X__

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA [amended to include Executive Session]

PROCLAMATION: KATHI COLE (11/16/2012)

[note: Mayor Goncy read out a proclamation of thanks to departing Clerk Kathi Cole]

CORRESPONDENCE

AUDIENCE PARTICIPATION

ORDINANCES

**ORDINANCE GG - 2012
(Second Reading)**

HELD FOR 3rd READING

**ORDINANCE AMENDING CHAPTER 901 OF THE CODIFIED
ORDINANCES, AMENDING CODIFIED ORDINANCES 903.01, 903.03,
903.04, AND 905.04 AND DECLARING AN EMERGENCY.**

ORDINANCE HH - 2012

(removed from final agenda)

**ORDINANCE II - 2012
(First Reading)**

ADOPTED: ORD 29-2012

**AN ORDINANCE AUTHORIZING THE MAYOR AND THE CHIEF OF
POLICE OF THE VILLAGE OF BOSTON HEIGHTS TO ENTER INTO AN
RENEWAL AGREEMENT WITH THE SUMMIT COUNTY SHERIFF'S
OFFICE AND THE SUMMIT COUNTY OVI TASK FORCE FOR 2012-2013
MEMBER TO REDUCE THE NUMBER OF ALCOHOL AND
DRUG-RELATED CRASHES AND RETROACTIVE TO OCTOBER 1, 2012
AND DECLARING AN EMERGENCY.**

**ORDINANCE JJ - 2012
(First Reading)**

**HELD FOR 2nd READING
& PUBLIC HEARING
27 NOV 2012 6:30PM**

**AN ORDINANCE AMENDING THE CODIFIED
ORDINANCE CHAPTER 1177 "TREES AND TIMBER
CUTTING REGULATIONS AND RESTRICTIONS"
AND DECLARING AN EMERGENCY.**

RESOLUTIONS

**RESOLUTION JJ - 2012
(First Reading)**

ADOPTED: RES 47-2012

**A RESOLUTION ACCEPTING THE RESIGNATION OF
KATHLEEN COLE, OFFICE CLERK, CLERK OF
COURTS, EFFECTIVE NOVEMBER 16 19, 2012 AND
~~DECLARING AN EMERGENCY.~~**

**ORDINANCE KK- 2012
(First Reading)**

ADOPTED: RES 48-2012

**~~ORDINANCE A RESOLUTION TO APPOINT KATHRYN ENOVITCH AS
OFFICE CLERK, CLERK OF COURTS FOR BOSTON
HEIGHTS EFFECTIVE NOVEMBER 19, 2012, AND
DECLARING AN EMERGENCY.~~**

**A RESOLUTION TO APPOINT KATHRYN ENOVITCH AS OFFICE CLERK
- CLERK OF COURTS FOR BOSTON HEIGHTS AT LEVEL TWO (2) FOR A
FULL TIME POSITION, EFFECTIVE NOVEMBER 5, 2012, AND
DECLARING AN EMERGENCY.**

**RESOLUTION II - 2012
(First Reading)**

ADOPTED: RES 49-2012

**A RESOLUTION CONFIRMING THE LEVEL CHANGE
WITHIN THE POLICE DEPARTMENT WAGE
STRUCTURE FOR LIEUTENANT HEATWALL AND
DECLARING AN EMERGENCY.**

**ORDINANCE LL - 2012
(First Reading)**

ADOPTED: RES 50-2012

**A RESOLUTION ACCEPTING THE LETTER OF
RETIREMENT OF JOE VARGA, CHIEF OF POLICE,
EFFECTIVE NOVEMBER 25, 2012, ~~AND DECLARING~~
~~AN EMERGENCY.~~**

**RESOLUTION MM - 2012
(First Reading)**

ADOPTED: RES 51-2012

**A RESOLUTION APPOINTING LIEUTENANT RAY
HEATWALL AS THE ACTING CHIEF OF POLICE,
EFFECTIVE NOVEMBER 26, 2012 ~~AND DECLARING~~
~~AN EMERGENCY.~~**

MOTION ANNUAL SANTA DELIVERY, DECEMBER 9, 2012
[note: Council adopted a motion to to support the annual Santa Delivery program]

COMMITTEE REPORTS

OLD BUSINESS

APPROVAL OF OCTOBER COUNCIL MEETING MINUTES
APPROVAL OF SEPTEMBER COUNCIL MEETING MINUTES

APPROVAL OP SEPTEMBER - FINANCIAL REPORTS
APPROVAL OF BANK RECONCILIATIONS: AUGUST, JULY

NEW BUSINESS

ANNOUNCEMENTS

FINANCE MEETING: TUESDAY, NOVEMBER 27, 2012 7:00 PM

PUBLIC HEARING, NOVEMBER 27, 2012, 6:30 PM - SEE ATTACHED

COUNCIL MEETING: WEDNESDAY, DECEMBER 12, 2012 - 7:00 PM

BOSTON HEIGHTS OFFICE TO BE CLOSED THURSDAY, NOVEMBER 22, AND
FRIDAY, NOVEMBER 23, 2012, FOR THE THANKSGIVING HOLIDAY

TRANSFER OF LIQUOR LICENSE - BP STATION

MARSHAL PITCHFORD - APPOINTMENT TO GOVERNOR KASICH'S JUDICIAL
REVIEW COMMITTEE

[note: Council adopted a motion to move to closed Executive Session "to discuss employment matters"]

ADJOURN

NOTICE

The complete text of each such Ordinance or Resolution may be obtained or viewed at the Boston Heights Village Hall, 45 East Boston Mills Road in the Office of the Fiscal Officer during office hours.

**ORDINANCE GG - 2012
November 15, 2012
(Second Reading)**

**ORDINANCE AMENDING CHAPTER 901 OF
THE CODIFIED ORDINANCES, AMENDING CODIFIED ORDINANCES 903.01,
903.03, 903.04, AND 905.04 AND DECLARING AN EMERGENCY.**

WHEREAS, residents of the Village of Boston Heights routinely request to perform construction work in the Village's Public Street Right of Way; and,

WHEREAS, residents of the Village of Boston Heights routinely wish to construct infrastructure within the Village's Public Street Right of Way and the Village must take on long-term operation, maintenance, and repair costs of that infrastructure, it is important and necessary that proposed construction meet the Standards of the Village, prior to formal acceptance of the infrastructure by the Village.

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

Section 1: That Chapter 901 of the Codified Ordinances be hereby amended and state as follows:

**901.01 CONDITIONS PRECEDENT TO DEDICATING OR
IMPROVING STREETS; FIRE HYDRANT REGULATIONS.**

No department of this Village shall accept, lay out, open, improve, grade, pave, curb or light any street or other way, unless such street has been accepted or dedicated or otherwise received the legal status of a public street or way prior to April 14, 1973, or unless such street or way corresponds in located and extent with a street or way shown on a recorded plat which has been legally accepted by Council, and the construction of the street or way conforms in every aspect with the design standards and requirements for streets and roads as set forth in the General Rules and Regulations for Plats and Subdivisions in the unincorporated areas of Summit County, Ohio, as adopted by the County of Summit and as amended through September 1, 1990. The types and standards of all fire hydrants to be installed in connection with proposed dedicated or improved streets must be in compliance with the rules and regulations established by the Fire Chief of the Village of Boston Heights regarding the installation of fire hydrants.

901.011 STANDARDS AND PERMIT FOR WORK IN THE PUBLIC RIGHT OF WAY.

(a) The Village Engineer and/or Street Commissioner shall develop Standard Drawings and Specifications that must be followed for all construction, reconstruction, alterations, and/or pipe and/or culvert work performed within the Village's Right of Way. Subjects that must be addressed in those Standard Drawings and Specifications include, but are not limited to:

- (1) Standard driveway apron construction including but not limited to concrete, asphalt and/or gravel;
- (2) Standard ditch enclosure detail;
- (3) Standard drive pipe replacement/construction detail;
- (4) Standard yard drain, catch basin, manhole, and headwall details; and,
- (5) Standard notes and specifications regarding safety, traffic, and materials.

901.02 PERMIT; FEE.

No person other than a duly authorized officer or employee of the Village shall make an excavation in any street, alley, sidewalk or public ground, including the Village's Right of Way or begin to construct, reconstruct, repair, alter or grade any sidewalk, curb, curb cut, driveway ditch, swale, pipe, or street on the public streets or within the Village's Right of Way without first obtaining a permit in writing from the Street Commissioner as provided in this Chapter.

901.03 APPLICATION FOR PERMIT.

(a) An applicant for a permit to do any of the work specified in Section 901.02 shall file with the Street Commissioner an application showing the following:

- (1) Name and address of the owner or agent in charge of the property abutting the proposed work area;
- (2) Name and address of the party doing the work;
- (3) Location of the work area;
- (4) Attached plans showing details of the proposed alteration;
- (5) Estimated cost of the alteration;
- (6) Such other information as the Street Commissioner finds necessary.

(b) As a part of the permit application set forth in this Section, an owner shall also prepare and submit plans/sketches of the proposed work with the following basic plan information:

- (1) Street location, ditch location, pipe locations, drive location, side property lines, front property line, right of way line, etc.; and,
- (2) Street elevations, pipe elevations, and ditch elevations along the work area and a minimum of 25 feet beyond the work area; and,
- (3) Sufficient information shall be provided to verify that the proposed work Will not have a detrimental effect on neighboring properties.

(c) At the time of application, an applicant shall submit a deposit to be determined by the Village's deposit and fee schedule established under Codified Ordinance 1101.06, which shall be deposited into the Professional Review Account.

901.04 PRE-CONSTRUCTION CONTRACTOR'S BOND, AND, INSURANCE.

(a) If any of the work specified in Section 901.02 is to be accomplished by a contractor or person other than the landowner, a performance bond in the minimum amount of ten thousand dollars (\$10,000) shall accompany an application for a permit.

(b) The Street Commissioner shall have the authority to require a bond in excess of the ten thousand dollars (\$10,000) minimum as set forth above if he or she, in his or her judgment, determines that such increased amount is necessary to protect and save harmless the Village from all claims for damages or injury to other persons by reason of the alteration work or to insure that any damage done to Village streets or property can be repaired.

(c) Prior to construction, a permit applicant shall also submit the following to the Street Commissioner:

- (1) Copy of current Workers' Compensation Certificate; and,

- (2) Copy of current liability insurance certificate.

901.05 PERMIT ISSUANCE.

The Street Commissioner shall issue a written permit to do work specified in Section 901.02 when he or she finds:

- (a) That the plans for the proposed operation have been approved by the Village Engineer, to whom they shall be forwarded by the Street Commissioner with a reasonable time after receipt thereof;
- (b) That the work shall be done according to the standard specifications of the Village for public work of like character;
- (c) That the operation will not unreasonably interfere with vehicular and pedestrian traffic, the demand and necessity for parking spaces, and the means of egress to and from the property affected and adjacent properties;
- (d) That all of the requirements for submission of a permit application have been met; and,
- (e) That the health, welfare and safety of the public will not be unreasonably impaired.

901.06 SUPERVISION, NOTICE AND INSPECTION OF WORK.

- (a) All operations for which a permit is granted hereunder shall be supervised by the Street Commissioner.
- (b) An applicant, permit holder, and/or owner shall notify the Street Commissioner of the intended start date for commencement of work at least forty-eight (48) hours in advance of that date.
- (c) An applicant, permit holder and/or landowner shall perform all work in accordance with the approved permit. Any variations to the proposed work must be approved by the Village, prior to making revisions. Work completed without prior approval is subject to rejection, permit holder or landowner's removal, and correction by the Village at the permit holder or landowner's expense.

(d) The Village will perform a post-construction inspection of the work to verify conformance with the approved;

(e) After the post-construction inspection, a punch list shall be prepared by the Village itemizing areas of work which require remediation, repair, or reconstruction, prior to final approval and acceptance by the Village. Upon proper completion of the punch list has been confirmed by the Street Commissioner, the Village may formally accept improvements for public ownership and maintenance. The Village shall release the contractor's bond for the project within reasonable time, under the circumstances, after the Village accepts the improvements.

901.07 REMOVAL, DEPOSITING OF MATERIAL.

In removing pavement or other material from streets, alleys, sidewalks, public grounds, or the Village's Right of Way, for any purpose whatever, the material dug up must be deposited in such manner as to guard against inconvenience to the public by obstructing streets, alleys or sidewalks.

901.09 BARRICADES AND WARNING LIGHTS.

No person, firm or corporation engaged in or employing others in excavating, opening any hole or obstructing a portion or all of any street, alley, sidewalk or other public way shall fail to do the following so that the condition will not reasonably prove dangerous to life or limb and to prevent injury to persons or animals:

- (a) Have such excavation, opening or obstruction adequately protected by suitable barricades at all times; or,
- (b) Install and maintain at all times during the night such warning devices or lights so as to provide adequate warning of such excavation, opening or obstruction.

901.10 PERMIT ISSUANCE.

No person, firm or corporation engaged in or employing others in excavating, construction, altering any street, alley, sidewalk, construction site, or other public or private way, shall work beyond the hours of 7:00 a.m. through 6:00 p.m.. during Eastern Standard

Time or 6:00 am. through 8:00 PM. during Eastern Daylight Savings Time.

901.11 FIRE HYDRANT DEPOSIT.

Prior to granting of permission to use a fire hydrant within the municipal corporation limits of the Village of Boston Heights, the applicant seeking such permission shall pay a deposit of one thousand dollars (\$1,000) to the Fiscal Officer for the purpose of insuring that the applicant does not damage nor misuse the fire hydrant. The Fiscal Officer shall refund said deposit to the applicant upon receipt of notice from the Fire Chief or his designee that the applicant did not damage or misuse the fire hydrant. Should the applicant damage or misuse the fire hydrant, the Fiscal Officer shall withhold such sums of applicant's deposit as is directed by the Fire Chief or his designee to repair the damage to the fire hydrant or to replace the same as a result of the damage.

901.12 LIEN UPON LOT OR LANDS SECURED.

All costs and/or fees required to be paid under this Chapter and Codified Ordinances by the permit applicant and any other person are hereby made a lien upon the lot or lands secured. If the costs are not paid within sixty (60) days after being certified to the Fiscal Officer by the Street Commissioner, such costs and/or fees shall be certified to the County of Summit Fiscal Officer, Auditor's Office, who shall place it upon the tax duplicate of the County with interest and penalties allowed by law, and such costs and/or fees shall be collected as other taxes and assessments are collected.

901.99 PENALTY.

Any person, or corporation violating any provision of this Chapter shall be fined not more than one hundred fifty dollars (\$150.00). Each day during or on which a violation occurs or continues shall constitute a separate offense.

Section 2: That Codified Ordinance 903.01(a) be hereby amended and state as follows:

- (a) No person shall construct or alter any new or existing driveway entrance leading from a dedicated and accepted street or highway to private property, or lay, install or renew any damage

pipe thereunder without first obtaining a permit from the Street Commissioner.

Section 3: That Codified Ordinance 903.01(b) be hereby amended and state as follows:

Upon application for permit as required in this Section, the Street Commissioner shall inspect the applicant's proposed construction or alteration in the driveway entrance, inform the applicant of the requirements of this chapter, and only if appropriate, issue a permit for the work the Street Commissioner shall thereafter undertake and/or supervise such construction or alteration to insure compliance with the provisions of this chapter.

Section 4: That Codified Ordinance 903.03 be hereby amended and state as follows:

Should the Street Commissioner require, in any driveway installation that a catch basin is required in order to control sediment or water flow or for maintenance purposes, no driveway, construction or alteration shall be made without the installation of the required catch basin or basins.

Section 5: That Codified Ordinance 903.04 be hereby amended and state as follows:

903.04 SUPERVISION OF WORK.

The Village shall, under the direction and supervision of the Street Commissioner, monitor all driveway or ditch alterations or constructions under this Chapter. Should the Street Commissioner determine that any work is being completed outside of the terms of the proposed plans and/or the issued permit, the Street Commissioner may issue a stop order which will have a legal effect of temporarily withdrawing the permit. The permit may be reinstated upon the applicant's correction and an effort to bring the work back within the terms of the proposed plan and previously approved permit.

Section 6: That Codified Ordinance 903.05 be hereby amended and state as follows:

Whoever constructs or alters any driveway entrance without complying with the provisions of this Chapter or requirements of the Street Commissioner shall be charged with any and all costs including labor and equipment incurred by the Village in removing, replacing, or altering the project in order to bring it up to minimum requirements of this Chapter and of the Street Commissioner.

Section 7: That Codified Ordinance 905.04 be hereby amended and state as follows:

905.04 CONSTRUCTION REGULATIONS.

No person shall construct any private road to existing roads or streets within the Village, except in compliance with Codified Ordinance Chapters 901 and 903 and the following regulations:

- (a) Whenever a private road is constructed to connect to any existing road within the Village, there shall be provide as a part of such construction suitable drainage facilities by means of corrugated pipe or equal facility to the satisfaction of the Engineer;
- (b) The drainage pipe shall be of a minimum size of twelve inches in diameter, shall be installed in the existing road ditch at approximately the center line thereof and along the center line under and across the entire width of the private road shall extend a distance of at least two feet beyond each side of the pavement;
- (c) The flow line of such drainage facility shall correspond to the existing flow line of the ditch and the grade thereof shall be such as determined by the Engineer;
- (d) The Village Engineer and/or Street Commissioner is further authorized to require the installation of drainage facility pipe in excess of twelve inches in diameter or to permit the installation of such pipe of less than twelve inches in diameter when, in his judgment, the additional capacity is necessary or such lesser capacity is adequate to provide suitable drainage;
- (e) The driveway shall be constructed of suitable materials to support an AASHTO HS20-44 load;
- (f) The materials for the driveway shall conform to ODOT applicable CMS Standards;
- (g) The pavement of the private road shall be a minimum of eighteen feet wide with two feet berms I common areas and ten feet wide with one foot berms in other areas;
- (h) The grade of the driveway shall not exceed ten percent (10%) and be not less than 0.5 percent;
- (i) The minimum centerline radius shall be one hundred feet; and,

(j) Construction drawings for the private road shall be prepared by a Registered Engineer in the State of Ohio and be reviewed and approved by the Municipal Engineer.

Section 8: 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 9: That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety and to institute without delay fair and equitable pay plans for the employees who serve the Mayor's office and the Clerk of Courts office and shall take effect and be in force from and after its passage.

PASSED:

BILL GONCY, Mayor

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Ordinance____- 2012 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 ___day of November, 2012.

BETTY KLINGENBERG, Fiscal Officer

**ORDINANCE II - 2012
November 15, 2012
(First Reading)**

AN ORDINANCE AUTHORIZING THE MAYOR AND THE CHIEF OF POLICE OF THE VILLAGE OF BOSTON HEIGHTS TO ENTER INTO AN RENEWAL AGREEMENT WITH THE SUMMIT COUNTY SHERIFF'S OFFICE AND THE SUMMIT COUNTY OVI TASK FORCE FOR 2012-2013 MEMBER TO REDUCE THE NUMBER OF ALCOHOL AND DRUG-RELATED CRASHES AND RETROACTIVE TO OCTOBER 1, 2012 AND DECLARING AN EMERGENCY.

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

Section 1: That the Mayor and the chief of Police of the Village of Boston Heights is hereby authorized to enter into an agreement with the Summit County OVI Task Force for a period beginning October 1, 2012 through September 30, ~~2012~~ 2013 to reduce the number of alcohol and drug-related crashes, said agreement is attached hereto as Exhibit A, 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: This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety, and welfare of the Village of Boston Heights

PASSED:

BILL GONCY, Mayor

ATTEST:

BETTY KLINGENBERG, Fiscal Officer

I, BETTY KLINGENBERG, Fiscal Officer, of the Village of Boston Heights, Summit County, State of Ohio, do hereby certify that the foregoing Ordinance ____ - 2012 was duly passed by the Council of Boston Heights, County of Summit, State of Ohio, at a meeting of Council on the ____ day of November, 2012.

**ORDINANCE JJ - 2012
November 15, 2012
(First Reading)**

AN ORDINANCE AMENDING CODIFIED ORDINANCE CHAPTER 1177

WHEREAS, it is in the general interest of the residents of the Village of Boston Heights that the Codified Ordinance Chapter 1177 "Trees and Timber Cutting Regulations and Restrictions" be amended; and

WHEREAS, the Planning Commission of the Village of Boston Heights has approved the amendments herein; and,

WHEREAS, the Village of Boston Heights has conducted a public hearing with due notice on the amendments herein.

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

Section 1: That Codified Ordinance Chapter 1177 be hereby amended and state in its entirety as set forth in Exhibit "A" hereto;

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 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 121.12 of the Ohio Revised Code.

PASSED:

BILL GONCY, MAYOR

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Ordinance ___ - 2012 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 ___ day of November, 2012.

BETTY KLINGENBERG, FISCAL OFFICER

CHAPTER 1177
Trees and Timber Cutting Regulations and Restrictions

| | |
|--|--|
| 1177.01 Prohibition of tree or timber removal without permit, exceptions. | 1177.05 Permits. |
| 1177.02 Use exemptions. | 1177.06 Conditions to issuing permit. |
| 1177.03 Definitions. | 1177.07 Buffer zone. |
| 1177.04 Penalties. | |

CROSS REFERENCES

Trimming trees - see GEN. OFF. 521.12

Destruction - see GEN. OFF. 541.06

1177.01 PROHIBITION OF TREE OR TIMBER REMOVAL WITHOUT PERMIT, EXEMPTIONS.

- (a) No person shall timber log, commercial cut, clear cut or excessively prune any tree that is presently attached to the ground on any public or private property without obtaining a permit from the Zoning Inspector for the removal or excessive pruning of trees.
- (b) A property owner who owns ten acres or less in a residentially zoned district shall be exempt from the provisions of these regulations.
- (c) A property owner who owns more than ten acres in a residentially zoned district, upon which the timbering, logging, commercial cutting, clear cutting, or pruning will be conducted over a single contiguous area of one acre or less, per calendar year, or upon which twenty (20) or fewer trees shall be removed during one calendar year, shall be exempt from the provisions of these regulations.

1177.02 USE EXEMPTIONS.

The activities listed below shall be exempt from this chapter:

- (a) Emergency activities necessary to remedy an immediate threat to public health, safety, or welfare.
- (b) Routine maintenance or removal of trees necessary to maintain the health of cultivated plants, to contain noxious weeds, or to remedy a potential fire or health hazard or threat to public safety.
- (c) Removal of dead trees.
- (d) Removal of trees in easements and rights-of-way for the purposes of maintaining public streets and utilities.
- (e) Clearing, cutting, or removal of trees in connection with a valid and current Site Clearing and Grading Permit or valid and current change of Grade Permit issued by the Village of Boston Heights.

1177.03 DEFINITIONS.

For the purposes of this chapter, the following definitions shall apply:

- (a) "Tree" means a self-supporting woody plant characterized by one main trunk or, for certain species, multiple trunks, with a potential at maturity for a trunk diameter of two (2) inches and potential minimum height of ten (10) feet.
- (b) "Diameter/Diameter-breast-height" (d.b.h.) means the diameter of any tree trunk, measured at 4-1/2 feet above average grade. For species of trees whose normal growth habit is characterized by multiple stems (e.g. hazelnut, vine maple) diameter shall mean the average diameter of all stems of the tree, measured at a point six inches from the point where the stems digress from the main trunk. In no case shall a branch more than six inches above average grade be considered a stem. For the purposes of enforcement, if a tree has been removed and only the stump remains, the size of the tree shall be the diameter of the top of the stump.
- (c) "Removal" means removal of a tree(s), through either direct or indirect actions including, but not limited to, clearing, cutting, causing irreversible damage to roots or trunks; poisoning; destroying the structural integrity; and/or filling, excavation, grading, or trenching in the dripline area of a tree which has the potential to cause irreversible damage to the tree, or relocation of an existing tree to a new planting location.
- (d) "Excessive pruning" means pruning more than six years of branch growth, unless necessary to restore the vigor of the tree or to protect life and property.
- (e) "Timbering, Logging or Commercial Cutting" means the cutting of trees bearing a trunk diameter of not less than nine inches measured at a distance of fourteen inches above ground level.
- (f) "Clearcutting" means the removal of trees and other vegetation from a site in preparation of the development of same.

1177.04 PENALTIES.

Any person who violates this chapter shall be fined up to \$3,000 per tree for removal of or excessive pruning of any tree in violation of this ordinance.

1177.05 PERMITS.

General Permit Applications/Permit Conditions. The application for such permit shall be in writing and shall set forth and be accompanied by the following:

- (a) A nonrefundable fee in the form of a certified check in the amount of \$250.00.
- (b) A site plan detailing the topography of affected areas to the satisfaction of the Zoning Inspector.
- (c) A cash or surety bond in the form as approved by the Solicitor in favor of the Village, in the amount of \$25,000.00 and post a road bond in conformance with Section 339.02 of the Codified Ordinances of Boston Heights.

1177.06 CONDITIONS TO ISSUING PERMIT.

The conditions under which permits under section 1177.05 shall be issued under this chapter are as follows:

- (a) The owner shall submit the Plan to the Summit Soil and Water Conservation District and submit an approved plan to the Zoning Inspector.
- (b) The Zoning Inspector shall not issue a permit in any case where such timbering of trees would result in undue erosion or undue stream siltation or where contiguous or adjacent properties would be adversely affected.
- (c) The Zoning Inspector shall not issue a permit unless and until adequate assurance is furnished by the permittee that in the event a permit is granted and such timbering is done all of the cordwood, branches, brush, rubble and refuse resulting therefrom shall be removed from the premises or cut up, chipped, or mulched and placed on the forest floor in such a way that no fire hazard shall result therefrom.
- (d) The Zoning Inspector shall, if a permit is granted, specify the hours of operation that timbering may be conducted, designate the streets for ingress and egress and provide for such other controls so as to insure a clean and safe timbering operation.
- (e) The Zoning Inspector shall attach any additional conditions to the permit, if granted, which are reasonable to protect the general health, peace, safety and welfare of the citizens of the Village of Boston Heights.

1177.07 BUFFER ZONE.

All permits issued under section 1177.05 shall require the permittee to:

- (a) Delineate the boundary of the area upon which the permitted activity is to occur in a manner approved by the Zoning Inspector.
- (b) Provide a buffer area of 100 feet from the property line or adjacent right-of-way within which no timbering, logging, commercial cutting or clear cutting shall take place.

**RESOLUTION JJ - 2012
November 15, 2012
(First Reading)**

A RESOLUTION ACCEPTING THE RESIGNATION OF KATHLEEN COLE, OFFICE CLERK - LERK OF COURTS, EFFECTIVE NOVEMBER 16, 2012

WHEREAS, the Mayor has received a letter of resignation from Kathleen Cole, as the Office Clerk-Clerk of Courts, effective November 16, 2012;

WHEREAS, the Mayor has spoken to Kathleen, and was informed that she will be taking a position for another municipality where she will be setting up the Mayor's Court system;

WHEREAS, the Mayor is requesting that the Council of Boston Heights accept this resignation;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Village of Boston Heights, County of Summit and State of Ohio:

Section 1: That Kathleen Cole has been employed by the Village of Boston Heights in the Clerk's Office since 2005, and Office Clerk-Clerk of Courts since 2010;

Section 2: In the years that Kathleen has been the Clerk of Courts, she has organized and ~~modernized~~ modernized the Mayor's Court office, as well as working along side several Magistrates and Prosecutors during her tenure;

Section 3 : The Village Council and the Mayor extend their best wishes to Kathleen in her new venture and assure her that she will be missed by many in the Village of Boston Heights.

Section 4 ~~3~~: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution 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.

PASSED:

BILL GONCY, MAYOR

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Resolution ____ - 2012 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 ____ day of November, 2012.

BETTY KLINGENBERG, FISCAL OFFICER

**RESOLUTION KK - 2012
November 15, 2012
(First Reading)**

**A RESOLUTION TO APPOINT KATHRYN ENOVITCH AS OFFICE CLERK -
CLERK OF COURTS FOR BOSTON HEIGHTS AT LEVEL TWO (2) FOR A FULL
TIME POSITION, EFFECTIVE NOVEMBER 5, 2012, AND DECLARING AN
EMERGENCY.**

WHEREAS, the Village of Boston Heights is in need of a replacement for the position of the full time Office Clerk-Clerk of Courts, and

WHEREAS, the Mayor has recommended the appointment of Kathryn Enovitch as the full time replacement in the role of Office Clerk-Clerk of Courts.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Village of Boston Heights, County of Summit and the State of Ohio;

Section 1: That the Mayor's recommendation to appoint Kathryn Enovitch as a Level Two (2) Office Clerk-Clerk of Courts for the Village of Boston Heights is, hereby, accepted, effective November 5, 2012, and shall continue through December 31, 2012.

Section 2: That the Mayor may increase her hourly rate from Level Two (2) to Level Three (3) effective November 19, 2012, through the remainder of the year.

Section 3: That this Council hereby finds and determined 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 hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and for the continuing emergency operations of the Mayor's Court within the Village of Boston Heights.

PASSED:

BILL GONCY, Mayor

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Resolution ____ - 2012 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 ___ day of November, 2012.

BETTY KLINGENBERG, FISCAL OFFICER
VILLAGE OF BOSTON HEIGHTS, OHIO

**RESOLUTION II - 2012
November 15, 2012
(First Reading)**

**A RESOLUTION CONFIRMING THE LEVEL CHANGE WITHIN THE POLICE
DEPARTMENT WAGE STRUCTURE FOR LIEUTENANT HEATWALL AND
DECLARING AN EMERGENCY.**

WHEREAS, the Police Chief and the Mayor have approved upgrading Lieutenant Heatwall to Level 2 - per the Compensation Ordinance.

WHEREAS, under Section 5 (A)(1) entitled Police Department, Full Time Police Officers rates of the present compensation Ordinance 24 - 2012; and,

WHEREAS, the present compensation Ordinance 24 - 2012 indicates the consent of Council is required after the approval of the Police Chief and Mayor;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Village of Boston Heights, County of Summit and State of Ohio:

Section 1: That the Police Chief and the Mayor have approved Raymond Heatwall having successfully met his probationary period, to move to Level 2 under the classification of Lieutenant as indicated in the Compensation Ordinance 24 - 2012 of the Village of Boston Heights and have presented this Resolution to the Council of the Village of Boston Heights for their consent.

Section 2: Upon the consent of Council this level change shall begin with the pay period beginning Monday, November 12, 2012.

Section 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution 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 4: This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and for the continuing forward progress of the Village Police department.

PASSED:

BILL GONCY, MAYOR

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Resolution ____ - 2012 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 ____ day of November, 2012.

BETTY KLINGENBERG, FISCAL OFFICER

DATE:

**RESOLUTION LL - 2012
November 15, 2012
(First Reading)**

**A RESOLUTION ACCEPTING THE LETTER OF
RETIREMENT OF JOE VARGA, CHIEF OF POLICE,
EFFECTIVE NOVEMBER 25, 2012, ~~AND DECLARING
AN EMERGENCY.~~**

WHEREAS, the Mayor has received a letter of retirement from Joe Varga, Chief of Police, for the Village of Boston Heights, effective November 25, 2012;

WHEREAS, the Mayor has accepted the letter of retirement for the purpose of retirement;

WHEREAS, the Mayor is grateful for the years of commitment and service to the Village of Boston Heights, having led the police department through good times and bad times;

WHEREAS, the Mayor further describes Joe Varga as a professional dedicated officer;

WHEREAS, The Mayor is requesting that the Council for the Village of Boston Heights accept this retirement request;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Village of Boston Heights, County of Summit and State of Ohio:

Section 1: Joe Varga has been employed by the Village of Boston Heights since January 25, 1983;

Section 2: In those years, Joe Varga has been a loyal and dedicated police officer, as the Chief of Police for many years, he has strengthen the police department by organization, receiving grants to help defray the department costs, introducing modern techniques beneficial to the Police Department, and gaining the respect of the surrounding Police Departments;

Section 3: The Village Council and the Mayor extend their best wishes to ~~Kathleen Joe~~ in ~~her~~ his new venture and assure ~~her~~ him that ~~she~~ he will be missed by many in the Village of Boston Heights.

Section 4 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution 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.

PASSED:

BILL GONCY, MAYOR

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Resolution ____ - 2012 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 ____ day of November, 2012.

BETTY KLINGENBERG, FISCAL OFFICER

DATE:

**RESOLUTION MM - 2012
November 15, 2012
(First Reading)**

**A RESOLUTION APPOINTING LIEUTENANT RAY HEATWALL AS THE ACTING
CHIEF OF POLICE, EFFECTIVE NOVEMBER 26, 2012
~~AND DECLARING AN EMERGENCY.~~**

WHEREAS, the Village of Boston Heights is in need of a replacement for the position of Chief of Police, and

WHEREAS, for the health and safety of the residents of the Village of Boston Heights, the Mayor is recommending the appointment of Lieutenant Ray Heatwall as the acting Chief of Police, effective November 26, 2012,

WHEREAS, The Mayor is requesting that the Council for the Village of Boston Heights accept this recommendation;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Village of Boston Heights, County of Summit and State of Ohio:

Section 1: Ray Heatwall, after over 20 years of loyal service for the Village of Boston Heights, will accept the position of Acting Police Chief

Section 2 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution 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.

PASSED:

BILL GONCY, MAYOR

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Resolution ____ - 2012 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 ___ day of November, 2012.

BETTY KLINGENBERG, FISCAL OFFICER

DATE: