

## NOTICE

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This version may, occasionally, differ from the official version and should only be relied upon for general information purposes. Any errors or omissions should be reported to the Clerk of Council. In no event shall the City of Kettering be held liable for damages of any nature, direct or indirect, arising from the use of this service or reliance on this unofficial document.

**CHAPTER 747  
COMPETITIVE VIDEO SERVICE AUTHORIZATIONS**

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**SECTION 747.01. DEFINITIONS.**

As used in this chapter:

- (a) “Incumbent Cable Provider” means any person who on the effective date of this Section is the holder of a cable franchise agreement with the City as granted pursuant to requirements of 47 U.S.C 541.
- (b) “Miami Valley Communications Council or MVCC” means the Miami Valley Communications Council which currently represents its eight member cities of Centerville, Germantown, Kettering, Miamisburg, Moraine, Oakwood, Springboro, and West Carrollton. MVCC is governed by a policy making body consisting of delegates representing the eight member cities. MVCC additionally maintains agreements with eighteen other Miami Valley political subdivisions who participate as affiliate members. MVCC is managed by an appointed Executive Director and his/her staff.
- (c) “PEG” means the Activities or actions performed for the benefit of public, educational and government video programming by the City or MVCC.
- (d) “Video Service” means the service defined in R.C. Section 1332.21(J).
- (e) “Video Service” Authorization or VSA” means the authorization granted to a video service provider in accordance with the requirements of R.C. Sections 1332.21 to 1332.34 et seq.
- (f) “Video Service Provider Fee or VSP Fee” means the fee paid by a VSP in accordance with the requirements of R.C Section 1332.32.

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- (g) "Video Service Provider or VSP" means a person, firm, or corporation granted a video service authorization under R.C. Sections 1332.21 to 1332.34 et seq.

### **SECTION 747.02. VSP FEE.**

In accordance with the requirements of R.C. Section 1332.32, all VSPs providing video service in the City pursuant to a VSA obtained from the Director of the Ohio Department of Commerce shall pay a VSP Fee in the amount of five percent (5%) of gross revenues received from providing Video Service in the City, which gross revenue base shall include advertising revenues. The VSP Fee shall be paid quarterly, not later than sixty (60) days after the end of each calendar quarter.

### **SECTION 747.03. VSP FEE NOTICE PROVISION.**

Upon receipt of notice from a VSP that it will begin providing Video Service in the City pursuant to a state-issued video service authorization, the City Manager or his/her designee is authorized and directed to provide such VSP with notice of the VSP Fee as determined by this Council in §747.02 which notice shall be delivered in a manner that provides for proof of timely delivery.

### **SECTION 747.04. MVCC MANAGEMENT AUTHORIZATION.**

The City authorizes the Miami Valley Communications Council ("MVCC") to manage and direct the City's cable franchise management, public, educational, and government access programming and franchise fee collection activities and further directs MVCC to manage and direct the City's VSA public, educational, and government access programming and VSP Fee collection activities as may be necessary under R.C. Sections 1332.21 through 1332.34 et seq., all until such time as the City may terminate or revoke such grant of authority.

### **SECTION 747.05. MVCC REGULATORY AUTHORIZATION.**

The MVCC shall coordinate regulatory efforts for the City and provide expertise on other matters regarding cable franchises, cable service providers, VSAs, VSPs, and other electronic media. Additional responsibilities shall include the creation and promotion of the community media center and PEG access channels, the establishment and review of programming policies, resolution of policy disputes and questions of equal treatment for access users, and fiscal controls. If matters of contract interpretation arise concerning community programming, the MVCC shall be consulted.

### **SECTION 747.06. VSP ACCESS PROVISION.**

Upon receipt of notice from a VSP that it will begin providing Video Service in the City pursuant to a VSA, the City Manager or his/her designee is authorized and directed to provide such VSP with notice that the VSP shall be required to provide the same number of

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PEG channels in the City under the same service tier conditions and subject to the same channel reclamation conditions as may be proscribed by R.C. Section 1332.30(A)(1)(a-b) for the Incumbent Cable Provider with the most recent obligation in the City, which notice shall be delivered in a manner that provides for proof of timely delivery and shall state the appropriate number of PEG channels and service tiers required to be provided by the VSP within the City within one-hundred and twenty (120) days after delivery of such notice.

**SECTION 747.07. ACCESS PROGRAMMING REQUIREMENT.**

In accordance with the requirements of R.C. Section 1332.30(A)(1)(a) when more than three (3) PEG access channels are provided to the City by an Incumbent Cable Provider or VSP, such additional channel shall be programmed by the City with at least forty (40) hours of non-character generated content per week with at least sixty per-cent (60%) of the programming being non-repeat and locally produced. For the purposes of this Section "non-repeat and locally produced" shall mean, the first three (3) playbacks of programming produced or provided by any local resident, the MVCC or its affiliates, or any local public or private agency that provides services to residents of the greater Dayton metro area, or any transmission of a meeting or proceeding of any local, state, or federal governmental entity.

**SECTION 747.08. FEE PAYMENT REQUIREMENTS.**

Any VSP Fee payments required to be paid to the City by a VSP shall be made quarterly and be remitted directly to the MVCC via a negotiable instrument made payable to the City of Kettering, Miami Valley Communications Council, 1195 Alex Bell Road, Centerville, Ohio 45459, not later than sixty (60) days after the end of a calendar quarter.

**SECTION 747.09. PEG ORIGINATION POINT.**

The PEG programming origination point of the City for the delivery of VSP access services shall be located at the MVCC office location – 1195 Alex Bell Road, Centerville, Ohio 45459.

**SECTION 747.10. NOTICE REQUIREMENT.**

Any notice to the City that is required of a VSP in accordance with of R.C. Sections 1332.21 through 1332.34 shall be provided in written form to both the City Manager and the Executive Director of the MVCC either by certified mail, express mail or upon personal delivery, all evidenced by a return receipt.

**SECTION 747.11. APPLICATION TO INCUMBENT CABLE PROVIDERS.**

Nothing in this Section shall apply to incumbent cable providers until they are granted a Video Service Authorization in accordance with R.C. 1332.21-1331.34 et seq.

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### SECTION 747.99. PENALTY.

Whoever violates any of the provisions of this chapter is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty (60) days, or both. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

Legislative History: Ord. 4085-07; passed 11/20/07.