

VILLAGE OF BOSTON HEIGHTS	Codified?	First Reading <u>  X  </u>	Waiver 3-Reading Rule <u>          </u>
ORDINANCE NO: 2018-10-10	Yes <u>      </u>	Second Reading <u>          </u>	Yes <u>  X  </u>
INTRODUCED BY <u>  D. POLYAK  </u>	No <u>      </u>	Third Reading <u>          </u>	No <u>          </u>

**AN ORDINANCE IMPOSING A MORATORIUM ON THE ISSUANCE OR PROCESSING OF ANY LICENSE, BUILDING PERMIT, CERTIFICATE OF OCCUPANCY, CONDITIONAL USE OR OTHER AUTHORIZATION THAT WOULD ENABLE OR CONSTITUTE THE OPERATION OF A HOOKAH BAR, LOUNGE OR CAFE WITHIN THE VILLAGE OF BOSTON HEIGHTS FOR A PERIOD OF SIX MONTHS IN ORDER TO ENABLE THE VILLAGE TO STUDY AND REVIEW THE INDUSTRY AND DECLARING AN EMERGENCY**

**WHEREAS**, the Ohio General Assembly has enacted R.C. 3794.03, a general ban on public smoking known as the “Smoke-Free Workplace Act” (hereinafter “Act”); and,

**WHEREAS**, Hookah bars, lounges, and/or cafes are able to gain an exemption from the ban by qualifying as “retail tobacco stores”; and,

**WHEREAS**, R.C. 3794.03(E) delineates that any establishment meeting the Act's definition of a “retail tobacco store” is able to obtain an exemption under the Act if certain conditions are met; and,

**WHEREAS**, in R.C. 3794.01(H), the Act defines a “retail tobacco store” as:

a retail establishment that derives more than eighty percent of its gross revenue from the sale of cigars, cigarettes, pipes, or other smoking devices for burning tobacco and related smoking accessories and in which the sale of other products is merely incidental. “Retail tobacco store” does not include a tobacco department or section of a larger commercial establishment or of any establishment with a liquor permit or of any restaurant; and,

**WHEREAS**, the administration, Planning Commission, and Council of the Village of Boston Heights require additional time to undertake a review of the applicable law and formulate a local response to the allowance of hookah bars, lounges and/or cafes, with respect to zoning, licensing, and other local regulation of such businesses; and,

**WHEREAS**, a six month moratorium on the issuance of any authorization that would enable the operation of a hookah bar or lounge will provide the Village with the time needed to conduct necessary research and planning and determine whether to limit or prohibit such businesses within the Village and determine the appropriate locations, if any, for any such activity in the Village; and,

**WHEREAS**, this moratorium will advance the public health, safety, welfare, comfort and peace of the citizens of the Village and provide for the efficient and effective functioning of Village government, planning and regulation.

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

**Section 1:** That pursuant to the Village's authority under the Ohio Constitution, the Ohio Revised Code, a moratorium be, and is hereby imposed, on the issuance or processing of any license, building permit, certificate of occupancy, conditional use or other authorization that would enable the operation of any facility, establishment or location with patron seating or that is classified or seeks classification as an assembly use as defined in the Ohio Building Code whose business operation includes the smoking of tobacco or any organic or synthetic material, including but not limited to plants, herbs or tobacco, through one or more hookah pipes (also commonly referred to as a hookah, waterpipe, shisha or narghile), including but not limited to establishments known variously as hookah bars, hookah lounges, or hookah cafes that are exempt from the Smoke Free Workplace Act under RC 3794.03 within the municipal limits of the Village of Boston Heights.

**Section 2:** That the moratorium referred to in Section 1 of this Ordinance, shall be in effect starting October 10, 2018 and continuing for a period of six months following said effective date of this Ordinance, unless otherwise expressly extended or revoked by this Council.

**Section 3:** That the Mayor, Zoning Inspector, Fiscal Officer, Solicitor, Village Planning Commission, and other such Village officials, boards and commissions, as appropriate, be and are hereby authorized to take all such actions necessary to implement the moratorium imposed by this ordinance and which are incidental to carrying out the purposes of this Ordinance.

**Section 4:** That the factual findings and statements set forth in the recitals above are hereby adopted and incorporated herein.

**Section 5:** 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 6:** That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare for the reason that the moratorium imposed by this Ordinance will provide the Village administration, Planning Commission and Council the time needed to study and review the operation of a hookah bars, lounges and cafes and recommended and implement appropriate changes to the Codified Ordinances of the Village, and amend or enact other reasonable regulations; and provided this Ordinance receives the affirmative vote of two-thirds of the members of Council, it shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force at the earliest time allowed by law.

PASSED:

  
\_\_\_\_\_  
BILL GONCY, MAYOR

ATTEST:

  
\_\_\_\_\_  
BETTY KLINGENBERG, FISCAL OFFICER

I, Betty Klingenberg, Fiscal Officer and Clerk of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Ordinance **2018-10-10** 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 **9<sup>th</sup> day of October, 2018.**