

**XENIA CITY COUNCIL
REGULAR MEETING AGENDA
AUGUST 11, 2022
AMENDED 08/08/2022**

LOCATION:

City Administration Building
City Council Chambers
107 E. Main Street
Xenia, OH 45385

NOTE: Regular and Special Meetings are open to the public. Executive Sessions are closed to the public. Only Regular Sessions are live streamed on the City’s government channel (via Spectrum/Channel 5) and YouTube channel (eXplore Xenia). There is an opportunity for Audience Comments during Regular Sessions only and during Public Hearings. Please see note under Audience Comments below.

REGULAR SESSION

- **INVOCATION** (or moment of silence)
- (1) **PLEDGE OF ALLEGIANCE** President Wesley Smith
- (2) **CALL TO ORDER** 6:00 p.m.
- (3) **ROLL CALL AND EXCUSAL OF ABSENCES** Vice President Will Urschel, Councilman Thomas Scrivens, Councilwoman Rebekah Dean, Councilman Cody Brannum, Councilman Levi Dean, Mayor Sarah Mays, and President Wesley Smith
- (4) **APPROVAL OF MINUTES** July 28, 2022
- (5) **SPECIAL PRESENTATION(S)** None.
- (6) **AUDIENCE COMMENTS** The public may also submit comments and/or questions for Council consideration by emailing the City Clerk at mjohnson@ci.xenia.oh.us by 3 p.m. on 08/11/2022.
- (7) **OLD BUSINESS**
 - A. ORDINANCE 2022-26 (Public Hearing) AMENDING SECTION 1062.10, TITLED “HUNTING AND FISHING,” OF THE XENIA CITY CODE, *introduced by Councilman Scrivens on 07/28/2022*
- (8) **NEW BUSINESS**
 - A. ORDINANCE 2022-27 (Emergency) AMENDING ORDINANCE 2022-17 TO PROVIDE APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES FOR THE CITY OF XENIA, OHIO, FOR THE FISCAL YEAR ENDING DECEMBER 31, 2022, AND DECLARING AN EMERGENCY (*Finance Director*)
 - B. ORDINANCE 2022-28 (Introduction) RENUMBERING AND AMENDING CHAPTERS 234, 238 AND 240, AMENDING CHAPTER 242, AND ENACTING CHAPTER 243 OF THE ADMINISTRATIVE CODE, AS CONTAINED IN PART TWO: CITY GOVERNMENT, TITLE SIX – ADMINISTRATIVE CODE OF THE XENIA CITY CODE (*Law Director*)
 - C. ORDINANCE 2022-29 (Introduction) AMENDING SECTIONS 298.01(f) AND 298.01(g) OF THE CITY’S FEE SCHEDULE, AND SECTIONS 1220.01(b), 1220.01(c), 1224.01(b)(10), 1224.01(e)(9)B, 1224.01(e)(9)F, 1224.01(e)(19), 1226.02(c), 1236.06(k), 1236.09(e), AND 1242.04 OF THE LAND DEVELOPMENT CODE (*City Manager*)

**XENIA CITY COUNCIL
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**D. ORDINANCE 2022-30
(Emergency)**

ESTABLISHING A SIX-MONTH MORATORIUM ON THE ESTABLISHMENT OR COMMENCEMENT OF INPATIENT AND/OR OUTPATIENT ADDICTION TREATMENT FACILITIES WITHIN THE CITY OF XENIA, AND DECLARING AN EMERGENCY (*City Manager*)

**E. ORDINANCE 2022-31
(Introduction)**

ESTABLISHING A SIX-MONTH MORATORIUM ON THE ESTABLISHMENT OR COMMENCEMENT OF INPATIENT AND/OR OUTPATIENT ADDICTION TREATMENT FACILITIES WITHIN THE CITY OF XENIA (*City Manager*)

- (9) APPOINTED OFFICIALS' REPORTS**
- (10) COUNCIL COMMENTS & REPORTS**
- (11) ADJOURNMENT**

Published upon approval of the Council President by:

Michelle D. Johnson, City Clerk

**XENIA CITY COUNCIL
REGULAR MEETING
JULY 28, 2022
6:00 P.M.**

Rev. William Schwochow, First Evangelical Lutheran Church, provided the Invocation.

(1) **PLEDGE OF ALLEGIANCE:** All present stood and recited the Pledge of Allegiance led by Councilwoman Rebekah Dean.

(2) **CALL TO ORDER:** President Smith called the Regular Meeting to order at 6:04 p.m.

(3) **ROLL CALL:** Councilman Thomas Scrivens, Councilwoman Rebekah Dean, Councilman Cody Brannum, Councilman Levi Dean, Mayor Sarah Mays, and President Wesley Smith were present. Vice President Will Urschel was absent. President Smith said Vice President Urschel notified him of his absence from this meeting several weeks ago.

Motion by President Smith, seconded by Mayor Mays, to excuse Vice President Urschel from the meeting. He entertained comments or questions. None were presented. The Roll on this was the following:

Ayes: Scrivens, R. Dean, Brannum, L. Dean, Mays, Smith

Nays: None motion carried.

(4) **APPROVAL OF MINUTES:** Motion by Councilwoman Dean, seconded by Councilman Brannum, to approve the July 14, 2022, minutes of the Regular Meeting as written. President Smith entertained comments or questions. None were presented. The Roll on this was the following:

Ayes: Scrivens, R. Dean, Brannum, L. Dean, Smith

Abstain: Mays

Nays: None motion carried.

(5) **SPECIAL PRESENTATION(S):** President Smith welcomed Xenia Municipal Court Judge David McNamee to the meeting and asked for his comments. Judge McNamee thanked Council for the opportunity to speak with them. He was from Xenia and had a great deal of pride for this community. It was an honor to be appointed to the bench and hoped to serve for the long foreseeable future. During his short time with Xenia, he had learned that this was a top notch operation, and he was very impressed. He planned to take Xenia Municipal Court into a different direction with regard to issues before the Court. He observed Municipal Court Judge Campbell in Fairfield, Ohio, who started a mental health docket as well as an OVI docket and has had great success. He would like to do the same for XMC in an effort to reduce recidivism and provide opportunities to educate defendants. He said the Probation Division was outstanding, and there were resources available to defendants. He recognized that homelessness was a problem in this community, but they cannot cure homelessness unless they cured the things that led to homelessness, including mental health and addiction. The Supreme Court had authorized specialized dockets for mental health and OVI, and if the defendants qualified, they could receive help with transportation, coordination of benefits, housing, etc. He was not naïve and knew that they would not achieve 100% success, but he felt the specialized dockets would lead to better

results including a better and stronger community. He was not asking for anything at this time, as he would apply for grants first. He then entertained any questions they may have.

Mayor Mays thanked Judge McNamee for attending the meeting and speaking with Council and for being a great partner; she was thrilled with his efforts so far and his plans for the future. President Smith agreed; he noted that in the past, the Xenia Municipal Court mostly interacted with the Law Department, and Ms. Fisher would convey any concerns. He appreciated the job he was doing and his effort to “hit the ground running.” He said homelessness was the top complaint that he received, and typically, mental health and homelessness go together 99% of the time. Councilman Scrivens welcomed Judge McNamee to XMC; it was good to have him on board.

(6) AUDIENCE COMMENTS: President Smith explained the procedures for Audience Comments and invited those who wished to speak to come forward. Nobody came forward to speak.

(7) OLD BUSINESS:

A. President Smith presented **ORDINANCE 2022-21 AMENDING TITLE EIGHT, TITLED “BOARDS, COMMISSIONS, AND COMMITTEES,” OF PART TWO – CITY GOVERNMENT OF THE XENIA CITY CODE**, introduced by Councilman Scrivens on July 14, 2022.

President Smith called for a motion to adopt Ordinance 2022-21.

Motion by Councilman Scrivens, seconded by Mayor Mays, to adopt Ordinance 2022-21 as presented.

President Smith opened the public hearing at 6:13 p.m. and asked those in favor of amending Title Eight of the Xenia City Code to come forward to speak. Hearing none, he asked those who were against amending Title Eight of the Xenia City Code to come forward to speak. Hearing none, he closed the public hearing at 6:14 p.m. and entertained Council comments or questions.

Councilman Scrivens thanked Mayor Mays, chair of the Legislative Review & Government Affairs Committee, and Law Director Donnette Fisher. He believed the proposed language was good, and he was all for it. He noted the language would establish the CRA Housing Council per State Law. President Smith added that the Board for Recreation, Arts, and Cultural Activities would be renamed the Xenia Recreation and Events Commission (X-REC).

Hearing nothing further, President Smith asked for the Roll Call.

The Roll on this was the following:

Ayes: Scrivens, R. Dean, Brannum, L. Dean, Mays, Smith

Nays: None motion carried.

B. President Smith presented **ORDINANCE 2022-22 LEVYING ASSESSMENTS FOR THE IMPROVEMENT OF CITY STREETS AND PUBLIC WAYS BY THE LIGHTING THEREOF WITHIN STREET LIGHTING DISTRICT #1 (STERLING GREEN**

CROSSING SUBDIVISION) FOR THE YEARS 2023-2027, introduced by Vice President Urschel on July 14, 2022.

President Smith called for a motion to adopt Ordinance 2022-22.

Motion by Councilman Brannum, seconded by Councilwoman Dean, to adopt Ordinance 2022-22 as presented.

President Smith opened the public hearing at 6:16 p.m. and asked those in favor of levying assessments for Street Lighting District #1 to come forward to speak. Hearing none, he asked those who were against levying assessments for Street Lighting District #1 to come forward to speak. Hearing none, he closed the public hearing at 6:16 p.m. and entertained Council comments or questions. Councilman Scrivens noted the owners of each lot would pay \$31.14 per year. Hearing nothing further, President Smith asked for the Roll Call.

The Roll on this was the following:

Ayes: Scrivens, R. Dean, Brannum, L. Dean, Mays, Smith

Nays: None motion carried.

C. President Smith presented **ORDINANCE 2022-23 LEVYING ASSESSMENTS FOR THE IMPROVEMENT OF CITY STREETS AND PUBLIC WAYS BY THE LIGHTING THEREOF WITHIN STREET LIGHTING DISTRICT #2 (GREENE WAY SUBDIVISION, SECTION 2, NKA SECTION 3 REPLAT) FOR THE YEARS 2023-2027**, introduced by Councilman Dean on July 14, 2022.

President Smith called for a motion to adopt Ordinance 2022-23.

Motion by Councilman Dean, seconded by Mayor Mays, to adopt Ordinance 2022-23 as presented.

President Smith opened the public hearing at 6:18 p.m. and asked those in favor of levying assessments for Street Lighting District #2 to come forward to speak. Hearing none, he asked those who were against levying assessments for Street Lighting District #2 to come forward to speak. Hearing none, he closed the public hearing at 6:18 p.m. and entertained Council comments or questions. Councilman Scrivens said the owners of each lot would pay \$62.69 per year. Hearing nothing further, President Smith asked for the Roll Call.

The Roll on this was the following:

Ayes: Scrivens, R. Dean, Brannum, L. Dean, Mays, Smith

Nays: None motion carried.

D. President Smith presented **ORDINANCE 2022-24 PROVIDING FOR THE SPECIAL ELECTION ON AMENDMENTS TO ARTICLES VI, VII, AND XVI OF THE CHARTER OF THE CITY OF XENIA, OHIO, SAID ELECTION TO BE HELD ON THE SAME DATE AND TIMES AS THE NOVEMBER 8, 2022, GENERAL ELECTION**, introduced by Councilman Scrivens on July 14, 2022.

President Smith called for a motion to adopt Ordinance 2022-24.

Motion by Councilman Scrivens, seconded by Mayor Mays, to adopt Ordinance 2022-24 as presented.

President Smith opened the public hearing at 6:19 p.m. and asked those in favor of placing proposed Charter amendments to Articles VI, VII, and XVI on the November 8th ballot to come forward to speak. Hearing none, he asked those who were against placing proposed Charter amendments to Articles VI, VII, and XVI on the November 8th ballot to come forward to speak. Hearing none, he closed the public hearing at 6:20 p.m. He acknowledged Charter Review Commission member Nancy McPeak in the audience. He then entertained Council comments or questions. Hearing none, he asked Law Director Donnette Fisher if she wished to make any comments. Ms. Fisher said this Ordinance 2022-24 and the following Ordinance 2022-25 were the last of the proposed amendments to the Xenia City Charter. Hearing nothing further, President Smith asked for the Roll Call.

The Roll on this was the following:

Ayes: Scrivens, R. Dean, Brannum, L. Dean, Mays, Smith
Nays: None motion carried.

E. President Smith presented ORDINANCE 2022-25 PROVIDING FOR THE SPECIAL ELECTION ON AMENDMENTS TO ARTICLES I, II AND III OF THE CHARTER OF THE CITY OF XENIA, OHIO, SAID ELECTION TO BE HELD ON THE SAME DATE AND TIMES AS THE NOVEMBER 8, 2022, GENERAL ELECTION, introduced by Councilman Dean on July 14, 2022.

President Smith called for a motion to adopt Ordinance 2022-25.

Motion by Councilman Dean, seconded by Councilman Scrivens, to adopt Ordinance 2022-25 as presented.

President Smith opened the public hearing at 6:21 p.m. and asked those in favor of or those against placing proposed Charter amendments to Articles I, II, and III on the November 8th ballot to come forward to speak. Hearing none, he closed the public hearing at 6:21 p.m. and entertained Council comments or questions. Hearing none, he asked for the Roll Call.

The Roll on this was the following:

Ayes: Scrivens, R. Dean, Brannum, L. Dean, Mays, Smith
Nays: None motion carried.

(8) NEW BUSINESS:

A. ORDINANCE 2022-26 AMENDING SECTION 1062.10, TITLED “HUNTING AND FISHING,” OF THE XENIA CITY CODE. Ms. Fisher said per recent discussions with the Xenia Police Division, they are experiencing issues with individuals fishing with nets in Shawnee Park. While the City encouraged fishing with rod and reel, fishing with nets after the

pond was stocked was not permissible and while so posted in the Park, the relevant section of the Xenia City Code did not specifically address the use of nets. Therefore, it was staff's recommendation that Council amend Section 1062.10 to specifically prohibit the use of fish nets in the City's parks. They eventually wanted to do a comprehensive update to the Chapter, but they felt that this needed to be addressed ASAP. The updated language also gave the City Manager the ability to prohibit fishing for any reason, i.e., a drought situation, a toxic algae bloom, etc. Mr. Merriman said netting had been an ongoing issue, and Police Division personnel had observed people netting the smaller fish more frequently this year, which they believed people were using as bait.

President Smith entertained comments or questions.

Councilman Scrivens said as an avid fisherman, he never used a net. He felt this was a good piece of legislation. President Smith asked if people were permitted to eat the fish that they catch. Mr. Merriman said fishing in City parks was "catch and release," and the fish were not intended for consumption.

Hearing nothing further, President Smith called for an introduction of Ordinance 2022-26 as presented.

Councilman Scrivens introduced ORDINANCE 2022-26 AMENDING SECTION 1062.10, TITLED "HUNTING AND FISHING," OF THE XENIA CITY CODE.

B. RESOLUTION 2022-QQ AUTHORIZING THE EXECUTION OF A USE AGREEMENT WITH BIRD RIDES, INC., FOR THE RENTAL AND USE OF LOW-SPEED MICROMOBILITY DEVICES IN THE CITY OF XENIA. Mr. Merriman said Bird Rides, Inc., "(Bird)" provided low-speed micromobility devices (electric scooters) for short-term rental in cities throughout the world, and they wished to partner with the City of Xenia, via a Use Agreement, to allow them to operate on Xenia's roadways and bike paths. The company entered into a similar agreement with the City of Springfield in 2021. Bird was attracted to Xenia due to its bike paths, which were an ideal operating environment for e-scooters, and its general interest in expansion. The Use Agreement would allow Bird to deploy a fleet of e-scooters throughout Xenia and assign a fleet manager to maintain them. The scooters' locations and usage would be tracked online. Users would access a scooter via a smartphone app that locates the nearest scooter and scans a QR code to activate it. As the user rides the scooter, usage would be billed to the user's online account. When a journey was complete, the user would leave the scooter at the destination, allowing other users to similarly access it. The Use Agreement obligated Bird to comply with operational standards to ensure safety and minimize negative impacts, including the following:

- User age restriction (18 years or older);
- Compliance with Xenia Codified Ordinances Chapter 444;
- Provision of contact information to report scooter issues or relocation requests;
- Ability for the City to restrict hours of operation;
- Safety education regarding riding and parking; and
- Willingness to share data.

President Smith entertained comments or questions. Councilman Scrivens said he had seen these scooters in operation in various cities, and he was very impressed. He hoped the scooters went

over well in Xenia. President Smith asked if only scooters would be available at this time. Mr. Merriman said yes. If they are successful, he anticipated other companies that offered different devices would be interested in coming to Xenia. Councilman Brannum asked the term of this agreement. Ms. Fisher said the agreement was through December 31, 2022, with renewable one-year terms. Councilman Scrivens asked if the City would earn any revenue. Mr. Merriman said no; there was no cost nor revenue with this agreement; however, there may be an underlying benefit of having the scooters in terms of more visitors to Xenia, more people spending money at local shops and restaurants, etc.

Hearing nothing further, President Smith called for a motion to pass Resolution 2022-QQ as presented.

Motion by Mayor Mays, seconded by Councilman Dean, to pass Resolution 2022-QQ as presented. The Roll on this was the following:

Ayes: Scrivens, R. Dean, Brannum, L. Dean, Mays, Smith
Nays: None motion carried.

C. RESOLUTION 2022-RR AUTHORIZING THE EXECUTION OF AN INFRASTRUCTURE DEVELOPMENT AGREEMENT WITH ATHLETES IN ACTION FOR THE CITY OF XENIA/ATHLETES IN ACTION WATER MAIN EXTENSION PROJECT. Mr. Merriman said the Greene County Board of Commissioners, through their American Rescue Plan Act (ARPA) funds, had made available a \$1 million grant to the City of Xenia specifically for the extension of a water line to serve the John Wooden Family Fieldhouse on the campus of Athletes in Action, as well as provide for improved service to the Greene Regional Business Park (GRBP). The project was anticipated to have a positive economic impact on the City, as the Fieldhouse would bring thousands of new visitors to the City, and improved water service may help to attract new businesses to the GRBP. Under the agreement, AIA would procure engineering services and would be reimbursed under the grant. The City would be responsible for bidding and contract administration. As the water line to be installed was both within and outside of AIA property boundaries, the grant would be apportioned according to actual linear feet of water line installed.

President Smith entertained comments or questions. Hearing none, he called for a motion to pass Resolution 2022-RR as presented.

Motion by Councilwoman Dean, seconded by Mayor Mays, to pass Resolution 2022-RR as presented. The Roll on this was the following:

Ayes: Scrivens, R. Dean, Brannum, L. Dean, Mays, Smith
Nays: None motion carried.

D. RESOLUTION 2022-SS AUTHORIZING THE EXECUTION OF A MEMORANDUM OF UNDERSTANDING WITH COMMUNITY STE(A)M ACADEMY – XENIA FOR A GREENE COUNTY COMMUNITY INVESTMENT GRANT. Mr. Merriman said the Greene County Board of Commissioners, through the Greene County Development Department, established a grant program known as the Community Investment Grant. This grant

program was designed to provide financial assistance to jurisdictions for the development of sites and infrastructure designed to attract and sustain businesses. City staff requested applications from the community and received five applications. After review, staff identified the Community STE(A)M Academy building, located at 135 E. Church Street, as the most ready and viable project. This redevelopment project would activate the former Xenia YMCA building that had been vacant since the new REACH Center opened in 2019. Current plans called for the building to become the initial location for a tuition-free community school focusing on science, technology, engineering, arts, and math. On March 10, 2022, City Council authorized staff to submit a grant to the Greene County Development Department for a Community Investment Grant on behalf of Community STE(A)M Academy, and on May 26, 2022, the Greene County Board of County Commissioners approved the \$100,000 grant to the City for the project. The MOU outlined the terms and conditions necessary for the Community STE(A)M Academy to receive those grant funds from the City.

President Smith entertained comments or questions. Councilman Scrivens said the STEAM Academy was supposed to open this year and asked what happened. Mr. Merriman agreed they were supposed to open this fall; however, they were forced to delay opening for one academic school year due to supply issues including computer equipment. He understood that they would open next school year (2023/2024) and was anticipating expanding the number of grades they would be offering next year. Mayor Mays said she was in regular communication with Mr. Ervin, and he was very determined to open and was very frustrated with the delays. She confirmed the project would be moving forward. President Smith thought the initial request for the grant was in the amount of \$200,000, but it was reduced by half. Mr. Merriman said Greene County had the ability to apply discretion, and he did not know their rationale. However, he appreciated any amount offered. Councilman Scrivens said other entities made application also, but this project was deemed the best. Mr. Merriman agreed, noting this project was ready for implementation; whereas, the other projects were more conceptual in nature. Further, some requests were for smaller amounts and could be accommodated with other funding resources.

Hearing nothing further, President Smith called for a motion to pass Resolution 2022-SS as presented.

Motion by Councilman Brannum, seconded by Councilwoman Dean, to pass Resolution 2022-SS as presented. The Roll on this was the following:

Ayes: Scrivens, R. Dean, Brannum, L. Dean, Mays, Smith
Nays: None motion carried.

E. RESOLUTION 2022-TT ESTABLISHING A SPECIAL REVENUE FUND FOR THE PURPOSE OF RECEIVING ONEOHIO SETTLEMENT FUNDS TO BE USED ONLY FOR THE APPROVED PURPOSES SET FORTH IN THE ONEOHIO MOU. Finance Director Ryan Duke said the City was in receipt of the first payment in the amount of \$10,964.88 from the OneOhio Opioid Settlement dollars. Per Auditor of State (AOS) Bulletin 2022-003, a special fund should be created to account for OneOhio Fund; therefore, staff recommended that a special fund be created to track both receipt of OneOhio settlement funds and the expenditures of OneOhio Opioid Settlement dollars. The City would receive annual settlement

payments over the next eighteen years, and he and Mr. Merriman believe there are acceptable uses for these funds to decrease the supply of available opioids in this community.

President Smith entertained comments or questions. Councilman Scrivens asked if the City would receive payments for the next 18 years. Mr. Duke said yes, the City would receive payments over the next 18 years for an anticipated total of approximately \$197,000. President Smith asked if the payment amount was a fixed number. Mr. Duke said he was not certain; the amount received was less than the amount stated on the documentation received from the State of Ohio. He was uncertain what recalculation occurred that resulted in a lower annual payment. Councilman Scrivens asked who would be administering the funds. Mr. Merriman said the Public Safety Director would administer the funds once they are appropriated. They have not thoroughly vetted all the options, but they are looking to implement a K-9 program. Ms. Fisher said under the terms of the OneOhio MOU, they can only use the funds to prevent drug abuse in this community. Councilman Scrivens thanked Ms. Fisher for handling all the paperwork so the City could receive these funds. Hearing nothing further, President Smith called for a motion to pass Resolution 2022-TT as presented.

Motion by Mayor Mays, seconded by Councilwoman Dean, to pass Resolution 2022-TT as presented. The Roll on this was the following:

Ayes: Scrivens, R. Dean, Brannum, L. Dean, Mays, Smith
Nays: None motion carried.

F. Procedural Motion Approving the Schedule of Bills in the amount of \$966,624.41.

Mr. Duke noted the Schedule of Bills included a large payment (\$406,923.15) for the Bellbrook Avenue paving project and a large payment (\$140,459.82) for the E. Second Street Concrete Work project. He noted the Bellbrook Avenue project was funded in part by \$300,000 in grant funds, and the E. Second Street project was funded by Community Development Block Grant funding. He then respectfully requested the payment of bills in the amount of \$966,624.41.

President Smith entertained questions or comments. Hearing none, he called for a motion.

Motion by Councilwoman Dean, seconded by Mayor Mays, to approve the schedule of bills in the amount of \$966,624.41. No comments followed. The Roll on this was the following:

Ayes: Scrivens, R. Dean, Brannum, L. Dean, Mays, Smith
Nays: None motion carried.

(9) APPOINTED OFFICIALS REPORTS

President Smith asked Ms. Fisher for her comments. Ms. Fisher said the second batch of Charter amendments would appear on the August 2nd ballot. She encouraged everyone to get out and vote, and if they had any questions on the ballot issue, they could call City staff. She reported that the Legislative Review & Government Affairs Committee had a good meeting today. They have started their review of Title 6: Administrative Code with the intent to present it to City Council in manageable chunks. The effective date for all updates would be January 1, 2023. The Public Safety Chapter would be presented first, followed by either the City Manager's or Finance Department's

Chapter. President Smith thanked the LR&GA Committee members, who had been in meetings since 4 p.m. today.

President Smith asked Mr. Duke for his comments. Mr. Duke had nothing further to share.

President Smith asked Mr. Merriman for his comments. Mr. Merriman had nothing further to share.

(10) COUNCIL COMMENTS & REPORTS:

Councilwoman Dean had nothing further to share.

Councilman Scrivens expressed his deepest condolences to the family, friends, and colleagues of Clark County Deputy Matthew Yates. He said police officers were their friends and neighbors who made oaths to serve and protect, and they have to support them 100% of the time. He acknowledged the death of Curtis Williams; he extended his sympathies. He would be attending his services the next day.

Councilman Brannum said the Board of Zoning Appeals did not meet in July due to lack of agenda items. His thoughts and prayers were with the Clark County Sheriff's Office; he thanked the members of the Xenia Police Division who responded to that call.

Councilman Dean had nothing further to share.

Mayor Mays echoed her colleagues' condolences and sympathy for Deputy Yates and thanks for Xenia Police Division's response to the incident. She also expressed her condolences to the family of Mark and Karen Cummings, who were recently in a horrible accident. They were involved with Xenia Nazarene Church (Karen worked there for 30+ years), the FISH Food Pantry, Bridges of Hope, the Clothing Closet, etc.; they really had a heart for this community. Services were scheduled for tomorrow and Saturday. She congratulated Xenia Police Captain Steve Lane on his retirement; he served this community well during his 29 years of service. On August 14th, there would be a community-wide worship service at Shawnee Park at 10:30 a.m. to include music. Over 15 churches would be participating, and an outside Pastor would be providing the service.

President Smith said the Planning and Zoning Commission was set to meet on August 4th. He also extended his sympathies to the Yates family.

(11) WORK SESSION: President Smith said Council would take a short recess before beginning the Work Session, which would not be televised. Council recessed from 6:55 to 7:05 p.m. Vice President Urschel joined the Work Session via Zoom. Mr. Merriman covered the following topics during the Work Session:

A. Updates on Various Projects: Mr. Merriman provided brief updates on the following projects:

- Bids for trash and recycling collection services are due tomorrow as Rumpke's contract was due to expire on December 31, 2022. They anticipated receiving bids from both Rumpke and Waste Management.
- Lexington Park improvements are underway with removal of a portion of the parking lot and installed curbing, and fencing will be installed next month. He believed the projects would be well under what

Council authorized for the improvements. Therefore, he would like to repurpose about \$20,000 of the funds to purchase Christmas decorations and lights for the downtown area. Vice President Urschel said the improvements done at Lexington Park were geared toward reducing the bad behavior at the park, but not necessarily to enhance usage of the park. Unfortunately, they were not awarded the Lowe's grant, and he would still like to get the basketball courts resurfaced. Mr. Merriman said it was up to Council. He agreed the basketball courts were in bad shape, and staff would endorse that improvement. He would get updated numbers to resurface the courts, replace the backboards, etc. Vice President Urschel asked if the parking lot would be striped. Mr. Merriman said yes. Vice President Urschel asked if a gate would be installed in addition to the fencing. Mr. Merriman said yes; the gate has been ordered; however, he was uncertain when it would be installed.

- He has begun to engage staff on the upcoming update to the comprehensive plan, known as NeXtPlan. They will develop a timeline of events, which would be a significant project that would commence this fall. Council would be invited to participate in the process. They intend to look at land use and development, utility and infrastructure issues, public safety, parks/recreation/arts/culture, etc. The project would include a lot of community input and would likely extend into 2023. Vice President Urschel asked if the Economic Development Committee and its stakeholders would be part of that process. Mr. Merriman said yes.
- The former Fulmer building will be demolished, and the Fire Division personnel have been able to do some training in the building. Greene County had a total of about eight properties (commercial and residential) throughout the County to demolish, and they will bid it as one contract. Greene County received grant funding from the State of Ohio, and the County would provide that service to local jurisdictions. Development Director Steve Brodsky said there may be a need for some expenditure of funds. Mayor Mays asked if there was a possibility for grant funds to demolish the remaining space whenever the existing tenants are relocated. Mr. Merriman said it was unlikely, but he would ask that question.
- He explained a problem with regard to the Brownfield Revitalization Grant for the Collier property; specifically, the property owner entered into an agreement with two other individuals. Therefore, they are now in jeopardy of losing the \$624,000 in grant funding. Staff was working diligently to get this project back on track. Discussion followed regarding probable actions and outcomes if they lose the grant funding. President Smith asked staff to make this a top priority.
- While concrete work was already underway, the remaining E. Second Street neighborhood revitalization project was being pushed back to spring 2023 because staff cannot get the materials for the water and sewer line improvements. The good news was the roadway would remain intact through the winter months. Once they are ready to get the improvements started, they would engage the community and let them know about the planned improvements.
- The FBI Joint Training Facility project was pushed back to their 2024 fiscal budget. He had a meeting scheduled on August 11th with the FBI's Midwest Regional Office leadership to discuss sharing costs with regard to earthworks.
- The Land Development Code did not comprehensively address solar projects, especially larger solar facilities, and there are two major solar projects planned for this area. They needed to address screening, location, etc. One of the projects would be located on the east side of town and partially in Xenia Township. The other project was recently presented to him for consideration, which would be built on top of the City's closed landfill. No digging would be involved as the panels would be installed with weighted ballasts. The proposal included a 30-year lease and would provide an opportunity to turn a City liability into some revenue as well as the ability to utilize the solar array electricity for the Public Service Center. Brief discussion ensued regarding the need to possibly use West Side Park as part of the project because they cannot use the portion of the landfill that was located in the flood plain.

B. Dispatch Contracting and PSISN Support Needs: A meeting was set to look at an alternative fee structure based on calls for service. He noted Greene County Administrator

Brandon Huddleson supported the “everyone pays their share” philosophy; however, it was suggested that they consider a phased approach because it may be a substantive increase—or brand new expense because some were currently not paying anything—for some jurisdictions. That said, they had been getting “something for nothing” for a very long time. The PSISN master agreement was set to expire in May 2023, but they may want to roll everything into one contract. He noted it would take a while to negotiate with the PSISN Board and each governing body to figure out how to merge everything together.

C. Outline of Reorganization Planning and Timeline: As Ms. Fisher stated during the Council meeting, the LR&GA Committee has begun their review of Title Six: Administrative Code; said changes would have an effective date of January 1, 2023. This timeline would give them ample time to establish workflows, financials, etc., as well as begin the process of evaluating Building Inspection Services. He suggested they solicit RFPs and explore this option. After a brief discussion, Council endorsed this option. Mr. Merriman said if a viable option was presented, they would need to give a 60-day notice to Greene County, and they would need to hire a full-time employee to oversee the contract and manage the workflow. They would also need to determine the transition process with regard to pending and current projects.

D. Update on Plans and Funding Needs for Various General Capital Projects: Mr. Merriman said he was waiting on revised estimates for several street projects as well as the Xenia Towne Square project. He noted there was about \$700,000 in unfunded liability for grant projects that are already in the queue due to the increase in materials, inflation, etc.

- Detroit Street from Church Street to the north corporation limit was originally estimated at \$1 million; the revised estimate was \$1.25 million. An additional \$430,000 was needed for the resurfacing of US 42 from the 35 interchange up to Industrial. An additional \$37,000 was needed for the Market Street project. The City was responsible for project cost overruns; therefore, they would have to use ARPA dollars or other regular resources from Funds 221, 228, 229, etc.
- Change orders are being sought for vehicles that were already authorized for purchase.
- There were not a lot of streets queued for cracksealing and/or microsurfacing this year because they cannot find contractors to do it. Vice President Urschel asked if they could check with Xenia Township and/or Greene County to piggyback one of their contracts. Mr. Merriman said he would check into that.
- They need to come back to Council to discuss the longer-term funding of streets in conjunction with the ERU methodology for stormwater management.
- He sought a direction with regard to the Justice Center Security Annex project based on the Supreme Court’s security assessment completed under Judge Lewis. The initial project was estimated at \$300,000, which he was certain would cost more now. The Court agreed to utilize the Court Capital Fund for half of the project, and he suggested using ARPA dollars for the other half. However, they would need to figure out the ongoing, never-ending cost of manning the annex. President Smith shared an alternate approach of investing in a security vestibule that would not require the presence of an employee unless the scanner determined the presence of a firearm or weapon.¹ Mr. Merriman said he would check into that option, but they would need to consider ingress/egress for the building, maintenance costs, staff that would still be needed to monitor the annex, etc.

¹ Entrance control by using a reinforced vestibule, sally port, man trap or other type of double entry door system, provides an additional level of security for access control to your important buildings.

E. Discussion on Public Safety Staffing and Facility Projects: Mr. Merriman said the Police Division believed they needed to explore the option of adding a K-9 to the police force using the OneOhio funds. Further, they expected the DARE officer to submit her resignation very soon to pursue another career opportunity; therefore, they would need to properly train another officer for that role. He reported on a recent meeting with Fire Division administration and Finance Department staff to look at Fire Division overtime expenses and evaluate causality. Staff turnover and Covid directly resulted in at least half of the overtime costs. The remaining costs were consistent with typical overtime numbers. For 2022, overtime was higher during the first quarter of the year, but they are now at full staffing, and overtime numbers were down during the second quarter. Salt bids have been received between \$70 and \$80 per ton, which was more than double the cost per ton just four years ago. Finally, they discussed the Fire Station 32 project. Mr. Merriman noted the dire conditions at existing Station 32, the fact that they cannot house female firefighters at that station, and the station's location in the City. The original estimate was \$4.5 million; now, the estimate was \$8 million. He would like to get the project down to about \$5 to \$5.5 million, which may include not finishing out the entire structure but would allow room for them to grow. Council agreed that Mr. Merriman should proceed with looking at financing options and starting the process of seeking professional services.

Motion by Mayor Mays, seconded by President Smith, to go into Executive Session at 8:53 p.m. to discuss the Purchase or Sale of Property per ORC §121.22(G). No discussion followed. The Roll on this was the following:

Ayes: Scrivens, R. Dean, Brannum, L. Dean, Mays, Smith²
Nays: None motion carried.

The Council convened in Executive Session with the same members present. At 9:35 p.m., they reconvened in Regular Session.

(12) ADJOURNMENT: Motion by Councilwoman Dean, seconded by Mayor Mays, to adjourn the Regular Meeting at 9:36 p.m. No discussion followed. The Roll on this was the following:

Ayes: Scrivens, R. Dean, Brannum, L. Dean, Mays, Smith²
Nays: None motion carried.

Michelle D. Johnson
City Clerk

Wesley E. Smith, President
Xenia City Council

² Vice President Urschel did not vote because he was participating in the meeting via Zoom.



**XENIA CITY COUNCIL
LEGISLATIVE COVER MEMO**

Introduction: July 28, 2022
Public Hearing & Vote: August 11, 2022
Effective Date: September 10, 2022

Agenda Item: **ORDINANCE 2022 – 26**
AMENDING SECTION 1062.10, TITLED “HUNTING AND FISHING,” OF
THE XENIA CITY CODE
Introduced by Councilman Scrivens on July 28, 2022

**Submitted &
Presented By:** Donnette Fisher, Law Director

Scope/Description: Per recent discussions with the Xenia Police Division, we are experiencing issues with individuals fishing with nets in Shawnee Park. While we encourage fishing with rod and reel, fishing with nets after the pond is stocked is not permissible and while so posted in the Park, the relevant section of the Xenia City Code does not specifically address the use of nets. Therefore, it is our recommendation that Council amend Section 1062.10 to specifically prohibit the use of fish nets in the City’s parks.

**Cover Memo
Attachments:** None

Budgetary Impact: None

**Vote Required for
Passage:** The affirmative vote of a majority of Council members present at the meeting.

Recommendation: It is the recommendation of City staff that Council adopt Ordinance 2022-26 to amend Section 1062.10 of the Xenia City Code to specifically prohibit fishing with nets in the City’s parks.

**CITY OF XENIA, OHIO
ORDINANCE 2022 – 26**

**AMENDING SECTION 1062.10, TITLED “HUNTING AND FISHING,”
OF THE XENIA CITY CODE**

WHEREAS, Chapter 1062 of the Xenia City Code contains rules and regulations for the City’s various parks;

WHEREAS, Section 1062.10 permits fishing in park waters but does not specifically address the use of nets; and

WHEREAS, this Council finds it to be in the best interests of health, safety, and general welfare of the City of Xenia to specifically prohibit the use of nets in fishing in the City’s parks to assure that fishing in the City’s parks is an activity that can be enjoyed by all,

NOW, THEREFORE, THE CITY OF XENIA HEREBY ORDAINS, a majority of the members of Council present concurring, that:

Section 1. Section 1062.10, titled “Hunting and Fishing,” as contained in Part Ten – Streets, Utilities, and Public Services Code, Title Six: Other Public Service, Chapter 1062 Parks, of the Xenia City Code is hereby amended as shown in the attached Exhibit A.

Section 2. Existing Section 1062.10 is hereby repealed.

Section 3. It is found 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 that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including ORC 121.22.

Section 4. This Ordinance shall become effective on September 10, 2022.

Introduced: July 28, 2022
Adopted: August 11, 2022

Attest:

Wesley E. Smith
President, Xenia City Council

Michelle D. Johnson
City Clerk

1062.10 HUNTING AND FISHING.

(a) **Hunting.** No person within the confines of a City park shall hunt, pursue with dogs, trap, **harm**, or in any other way molest any ~~wild~~ bird or animal, **whether wild or domestic**, found within or adjacent to the park, or **tamper with** or molest any bird nest, or **tamper with** or take the eggs or fledglings of any bird, except by special permit **issued by the City Manager** in designated areas.

(b) **Frog Gigging.** No person within the confines of a City park shall engage in frog gigging.

(c) **Fishing.**

(1) Rod Fishing shall be permitted, ~~subject to the laws of the State of Ohio,~~ in park waters **only where posted**. ~~The Director of Parks and Recreation or his or her designated agent may close park waters to fishing and shall so post such closings.~~

(2) In all instances ~~all park waters,~~ the use of hooks left unattended, traps, spears, gigs, **nets, or firearms**, bows and arrows, **weapons, or anything other than rods for fishing is prohibited.**

(3) No person shall fish within any City park in violation of any posted regulations. The City Manager is hereby authorized to make regulations and post signs regarding fishing in the City's parks, and may close park waters to fishing when the City Manager, in his or her sole discretion, deems such closure, whether temporary or permanent, to be necessary.

(d) **Trapping.** No person shall set or place any trap along any City park property **that poses a risk or possibility of entrapping** ~~which will entrap~~ wildlife entering or leaving the park.

(Ord. 91-14. Adopted 03/14/91. **Ord. 2022-26. Adopted **/**/22)**



**XENIA CITY COUNCIL
LEGISLATIVE COVER MEMO**

Meeting Date: August 11, 2022
Emergency: YES
Effective Date: August 11, 2022

Agenda Item: **ORDINANCE 2022 – 27**
AMENDING ORDINANCE 2022-17 TO PROVIDE APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES FOR THE CITY OF XENIA, OHIO, FOR THE FISCAL YEAR ENDING DECEMBER 31, 2022, AND DECLARING AN EMERGENCY

Submitted and Presented By: Ryan Duke, Finance Director

Summary: This appropriation ordinance is being presented to adjust the 2022 appropriations for the following purposes:

Street Opening Permit Refunds:

When contractors must cut into a street to perform maintenance or replacement of infrastructure under the street, they must provide a deposit ensuring they will repair the street to an appropriate condition. The City budgets these deposits as revenues and the refunds as expenses because the deposit is often times refunded in a different year than when the deposit is receipted. This year, more street opening permits have been requested than is typical; therefore, it is necessary that we appropriate additional funds to accommodate refunds as the streets are repaired.

Cover Memo Attachments: None.

Budgetary Impact: 221-9003-59210 Increase \$10,000

Vote Required for Adoption: Per Section 5.04 of the City’s Charter, an affirmative vote of at least four (4) members of Council is required for adoption of emergency ordinances for appropriations.

Recommendation: Adopt Ordinance 2022-27, as an emergency, to make amendments to the appropriation of funds for 2022 for the reasons described above.

**CITY OF XENIA, OHIO
ORDINANCE 2022 – 27**

AMENDING ORDINANCE 2022-17 TO PROVIDE APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES FOR THE CITY OF XENIA, OHIO, FOR THE FISCAL YEAR ENDING DECEMBER 31, 2022, AND DECLARING AN EMERGENCY

WHEREAS, this Council finds it necessary, upon the recommendation of the City Manager and the Finance Director, to make certain amendments to the appropriations made by Ordinance 2022-17, passed by this Council on May 26, 2022, which provides appropriations for the fiscal year ending December 31, 2022; and

WHEREAS, Sections 5.04 and 9.05 of the City’s Charter provide for such emergency appropriations, when such appropriations are made pursuant to an emergency ordinance,

NOW, THEREFORE, THE CITY OF XENIA HEREBY ORDAINS, at least four (4) members of the City Council concurring, that:

Section 1. This Ordinance is an emergency measure necessary for the immediate preservation of the public health, safety and welfare of the City of Xenia, Ohio. The reason for such necessity arises from the need to amend the appropriations for current expenses and other expenditures, for the fiscal year ending December 31, 2022, to ensure the continued, usual, daily operation of the City government.

Section 2. To provide for current expenses and other expenditures of the City of Xenia, Ohio, for the fiscal year ending December 31, 2022, the following sums in Exhibit A are hereby appropriated, with the following sums to show the following amendments:

221 – State Gas and Vehicle License

Refunds

Increase by \$10,000.00

Section 3. Existing Ordinance 2022-17 is hereby repealed.

Section 4. The Finance Director is hereby authorized to make payments from any of the appropriations herein made, upon receiving proper claims, certificates and/or vouchers approved by the officials, department heads, or their respective designees, authorized by law, City Charter or this Ordinance to approve the same, or upon an ordinance or resolution of Council to make expenditures; provided, however, that no payments for salaries or wages shall be made except to persons employed in accordance with the ordinances of the City of Xenia and/or laws of the State of Ohio.

Section 5. In accordance with the City’s Charter, no warrant for payment of any claim shall be issued by the Finance Director until such claim has first been approved by the City Manager and funds therefore appropriated by Council. No warrant for payment of any contract for goods or services shall be issued by the Finance Director unless the contract has been executed by the City Manager and endorsed by the Law Director. No warrant for payment for legal services of outside counsel shall be issued by the Finance Director unless such special counsel has been employed by the Law Director, who is hereby authorized to employ special counsel to handle particular legal matters for the City within the limits of the appropriation for such services made by this Council.

Section 6. The Finance Director is hereby authorized, in accordance with the Charter and Ordinances of the City, to adjust appropriations within any Fund or Department, so long as the adjustments made do not exceed the total appropriations authorized within any Fund. In addition, the Finance Director is hereby authorized to establish additional accounts within any Fund as may from time to time be required to ensure proper accounting or by the State of Ohio.

Section 7. It is found 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 that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including ORC 121.22.

Section 8. This Ordinance shall take effect upon its adoption and shall not be automatically repealed, as provided in Section 5.04 of the City's Charter.

Adopted: August 11, 2022

Attest:

Wesley E. Smith
President, Xenia City Council

Michelle D. Johnson
City Clerk

CODE/FUND DEPARTMENT PURPOSE	AMOUNTS	DEPARTMENT TOTAL	FUND TOTAL	ENCUMBRANCE TYPE GRAND TOTAL
1. 101 - GENERAL FUND				
1001 - GEN GOVT/LEG AFF PERSONNEL	\$38,215.00			
OPERATING	\$263,502.22	\$301,717.22		
1002 - MUNICIPAL COURT PERSONNEL	\$1,106,062.00			
OPERATING	\$525,005.78	\$1,631,067.78		
1003 - LAW DIRECTOR PERSONNEL	\$191,618.00			
OPERATING	\$129,574.05	\$321,192.05		
1004 - CITY MANAGER PERSONNEL	\$164,698.00			
OPERATING	\$48,712.92	\$213,410.92		
1005 - HUMAN RESOURCES PERSONNEL	\$30,357.00			
OPERATING	\$31,879.41	\$62,236.41		
1006 - FINANCE OFFICE PERSONNEL	\$149,429.00			
OPERATING	\$117,758.41	\$267,187.41		
1007 - INCOME TAX PERSONNEL	\$8,610.00			
OPERATING	\$379,086.93	\$387,696.93		
1009 - MUNICIPAL BLDG & GENERAL SERVICES OPERATING	\$211,982.37	\$211,982.37		
1010 - MANAGEMENT INFORMATION SERVICES PERSONNEL SERVICES	\$169,512.00			
OPERATING	\$151.00	\$169,663.00		
1011 - CITY CLERK PERSONNEL	\$57,800.00			
OPERATING	\$45,193.27	\$102,993.27		
1013 - PUBLIC AFFAIRS AND CATV ADMIN PERSONNEL	\$0.00			
OPERATING	\$74,523.33	\$74,523.33		

CODE/FUND DEPARTMENT PURPOSE	AMOUNTS	DEPARTMENT TOTAL	FUND TOTAL	ENCUMBRANCE TYPE GRAND TOTAL
1018 - MUNICIPAL ADMINISTRATIVE BUILDING PERSONNEL OPERATING	\$19,688.00 \$105,964.66	\$125,652.66		
1020 - OTHER FACILITIES/PROPERTIES OPERATING	\$69,532.82	\$69,532.82		
1050 - CEMETERY OPERATING	\$48,600.00	\$48,600.00		
1227 - BLDG INSPECTION OPERATING	\$0.00	\$0.00		
1228 - STREET LTS OPERATING	\$287,986.77	\$287,986.77		
1229 - HOMELAND SECURITY/RISK MGT. OPERATING	\$43,443.77	\$43,443.77		
1442 - GEN PARK MAINT PERSONNEL OPERATING	\$162,762.00 \$187,599.35	\$350,361.35		
1550 - ECONOMIC DEVELOPMENT PERSONNEL OPERATING	\$100,537.00 \$56,322.07	\$156,859.07		
1551 - NEIGHBORHOOD SERVICES PERSONNEL OPERATING	\$72,217.00 \$53,525.18	\$125,742.18		
1552 - PLANNING PERSONNEL OPERATING	\$136,699.00 \$135,776.97	\$272,475.97		
1553 - PROPERTY MAINT. PERSONNEL OPERATING	\$52,788.00 \$140,602.97	\$193,390.97		
1555 - ENGINEERING PERSONNEL OPERATING	\$49,628.00 \$82,671.58	\$132,299.58		
1556 - CONSTRUCTION INSPECTION PERSONNEL OPERATING	\$34,207.00 \$11,474.93	\$45,681.93		
1557 - XENIA STATION OPERATING	\$47,850.24	\$47,850.24		
7001 - INTERFUND LOANS INTERFUND LOANS	\$1,429,300.00	\$1,429,300.00		
9001 - TRANSFERS	\$6,425,000.00	\$6,425,000.00		
TOTAL GENERAL FUND			\$13,497,848.00	
Less Encumbrances - 12/31/2021				(\$355,448.00)
2022 APPROPRIATION				<u>\$13,142,400.00</u>

CODE/FUND DEPARTMENT PURPOSE	AMOUNTS	DEPARTMENT TOTAL	FUND TOTAL	ENCUMBRANCE TYPE GRAND TOTAL
II. SPECIAL REVENUE FUNDS				
203 - RECREATION SPECIAL				
OPERATING	\$51,502.96			
TOTAL RECREATION SPECIAL			\$51,502.96	
Less Encumbrances - 12/31/2021				(\$2,902.96)
2022 APPROPRIATION				<u>\$48,600.00</u>
212 - INDIGENT DRIVER ALCOHOL TREATMENT				
OPERATING	\$120,000.00			
TOTAL INDIGENT DRIVER ALCOHOL TREATMENT			\$120,000.00	
Less Encumbrances - 12/31/2021				(\$50,000.00)
2022 APPROPRIATION				<u>\$70,000.00</u>
213 - LAW ENFORCEMENT AND EDUCATION				
OPERATING	\$4,300.00			
TOTAL LAW ENFORCEMENT AND EDUCATION			\$4,300.00	
Less Encumbrances - 12/31/2021				\$0.00
2022 APPROPRIATION				<u>\$4,300.00</u>
214 - PROBATION SERVICES FUND				
PERSONNEL	\$480,505.00			
OPERATING	\$120,083.71			
CAPITAL	\$0.00			
TOTAL PROBATION SERVICES FUND			\$600,588.71	
Less Encumbrances - 12/31/2021				(\$77,398.71)
2022 APPROPRIATION				<u>\$523,190.00</u>
221 - STATE GASOLINE LICENSE VEHICLE FUND				
PERSONNEL	\$1,007,466.00			
OPERATING	\$614,085.81			
CAPITAL	\$150,000.00			
REFUND	\$3,000		\$13,000.00	
TOTAL STATE GASOLINE LICENSE VEHICLE FUND			\$1,784,551.81	
Less Encumbrances - 12/31/2021				(\$97,833.81)
2022 APPROPRIATION				<u>\$1,686,718.00</u>
222 - STATE ROUTE REPAIR FUND				
PERSONNEL	\$38,179.00			
OPERATING	\$119,595.70			
TOTAL STATE ROUTE REPAIR FUND			\$157,774.70	
Less Encumbrances - 12/31/2021				(\$29,404.70)
2022 APPROPRIATION				<u>\$128,370.00</u>
228 - MUNICIPAL MOTOR VEHICLE LICENSE FEE FUND				
CAPITAL	\$196,147.97			
DEBT SERVICE	\$0.00			
TOTAL MUN MOTOR VEHICLE LICENSE FEE FUND			\$196,147.97	
Less Encumbrances - 12/31/2021				(\$1,147.97)
2022 APPROPRIATION				<u>\$195,000.00</u>
229 - COUNTY AUTO TAX FUND				
CAPITAL	\$133,000.00			
INTERFUND LOAN	\$0.00			
TOTAL COUNTY AUTO TAX FUND			\$133,000.00	
Less Encumbrances - 12/31/2021				\$0.00
2022 APPROPRIATION				<u>\$133,000.00</u>

CODE/FUND DEPARTMENT PURPOSE	AMOUNTS	DEPARTMENT TOTAL	FUND TOTAL	ENCUMBRANCE TYPE GRAND TOTAL
233 - SPECIAL MISCELLANEOUS IMPROVEMENT FUND				
PERSONNEL	\$23,419.00			
OPERATING	\$118,152.75			
CAPITAL	\$8,672.79			
TOTAL SPECIAL MISC IMPROVEMENT FUND			\$150,244.54	
Less Encumbrances - 12/31/2021				(\$90,952.54)
2022 APPROPRIATION				<u>\$59,292.00</u>
234 - TAX INCREMENT EQUIVALENT FUND				
OPERATING	\$0.00			
TOTAL TAX INCREMENT EQUIVALENT FUND			\$0.00	
Less Encumbrances - 12/31/2021				\$0.00
2022 APPROPRIATION				<u>\$0.00</u>
236 - TOWN SQUARE REDEVELOPMENT FUND				
OPERATING	\$448,983.76			
TRANSFERS	\$35,000.00			
TOTAL TOWN SQUARE REDEVELOPMENT FUND			\$483,983.76	
Less Encumbrances - 12/31/2021				(\$126,383.76)
2022 APPROPRIATION				<u>\$357,600.00</u>
250 - 911 FEE FUND				
PERSONNEL	\$116,145.00			
OPERATING	\$55,934.88			
CAPITAL	\$68,725.00			
DEBT SERVICE	\$51,104.00			
TOTAL 911 FEE FUND			\$291,908.88	
Less Encumbrances - 12/31/2021				(\$67,446.88)
2022 APPROPRIATION				<u>\$224,462.00</u>
251 - LAW ENFORCEMENT FUND				
OPERATING	\$60,252.53			
CAPITAL	\$13,291.27			
TOTAL LAW ENFORCEMENT FUND			\$73,543.80	
Less Encumbrances - 12/31/2021				(\$19,143.80)
2022 APPROPRIATION				<u>\$54,400.00</u>
252 - DRUG LAW ENFORCEMENT FUND				
OPERATING	\$18,000.00			
TOTAL DRUG LAW ENFORCEMENT FUND			\$18,000.00	
Less Encumbrances - 12/31/2021				\$0.00
2022 APPROPRIATION				<u>\$18,000.00</u>
253 - MUNIC.CT VICTIM FD.				
PERSONNEL	\$271,508.00			
OPERATING	\$33,262.31			
TOTAL MUNICIPAL COURT VICTIM FUND			\$304,770.31	
Less Encumbrances - 12/31/2021				(\$5,345.31)
2022 APPROPRIATION				<u>\$299,425.00</u>
270 - POLICE & FIRE FUND				
PERSONNEL	\$11,884,492.70			
OPERATING	\$2,884,795.74			
CAPITAL	\$10,000.00			
TOTAL POLICE & FIRE FUND			\$14,779,288.44	
Less Encumbrances - 12/31/2021				(\$367,811.74)
2022 APPROPRIATION				<u>\$14,411,476.70</u>
290 - LOCAL FISCAL RECOVERY FUND				
PERSONNEL	\$2,822,728.40			
OPERATING	\$0.00			
CAPITAL	\$0.00			
DEBT SERVICE	\$0.00			
TOTAL LOCAL FISCAL RECOVERY FUND			\$2,822,728.40	
Less Encumbrances - 12/31/2021				\$0.00
2022 APPROPRIATION				<u>\$2,822,728.40</u>
GRAND TOTAL SPECIAL REVENUE FUNDS			\$21,972,334.28	
Less Encumbrances - 12/31/2021				(\$935,772.18)
2022 APPROPRIATION				<u>\$21,036,562.10</u>

CODE/FUND DEPARTMENT PURPOSE	AMOUNTS	DEPARTMENT TOTAL	FUND TOTAL	ENCUMBRANCE TYPE GRAND TOTAL
III. CAPITAL PROJECTS FUNDS				
361 - GENERAL CAPITAL IMPROVEMENT FUND				
OPERATING	\$760,464.58			
CAPITAL	\$2,927,226.89			
DEBT SERVICE	\$344,200.00			
INTERFUND LOAN	\$332,304.00			
TOTAL GENERAL CAPITAL IMPROVEMENT FUND			\$4,364,195.47	
Less Encumbrances - 12/31/2021				(\$317,267.47)
2022 APPROPRIATION				<u>\$4,046,928.00</u>
362 - ISSUE 2 CAPITAL IMPROVEMENT FUND				
CAPITAL	\$671,293.00			
INTERFUND LOAN	\$458,319.00			
TOTAL ISSUE 2 CAPITAL IMPROVEMENT FUND			\$1,129,612.00	
Less Encumbrances - 12/31/2021				\$0.00
2022 APPROPRIATION				<u>\$1,129,612.00</u>
363 - MUN CT CAPITAL IMPROVEM				
PERSONNEL	\$42,398.00			
OPERATING	\$85,418.96			
CAPITAL	\$165,000.00			
TOTAL MUN COURT CAPITAL IMPROVEMENT FUND			\$292,816.96	
Less Encumbrances - 12/31/2021				(\$3,443.96)
2022 APPROPRIATION				<u>\$289,373.00</u>
364 - POLICE/FIRE CAPITAL FUND				
OPERATING	\$225,071.59			
CAPITAL	\$6,606,220.83			
DEBT SERVICE	\$155,558.00			
TOTAL POLICE/FIRE CAPITAL FUND			\$6,986,850.42	
Less Encumbrances - 12/31/2021				(\$603,234.42)
2022 APPROPRIATION				<u>\$6,383,616.00</u>
365 - BOND CONSTRUCTION FUND				
OPERATING	\$14,278.81			
CAPITAL	\$0.00			
TOTAL BOND CONSTRUCTION FUND			\$14,278.81	
TOTAL INDIGENT DRIVER ALCOHC				(\$1,579.06)
Less Encumbrances - 12/31/2021				\$12,699.75
2022 APPROPRIATION				<u>\$11,120.69</u>
GRAND TOTAL CAPITAL PROJECTS FUNDS			\$12,787,753.66	
Less Encumbrances - 12/31/2021				(\$925,524.91)
2022 APPROPRIATION				<u>\$11,862,228.75</u>
IV. DEBT SERVICE FUNDS				
471 - GENERAL OBLIGATION BOND PYMT. FD.				
OPERATING	\$0.00			
DEBT SERVICE	\$0.00			
TOTAL GEN. OB. BOND PAYMENT FUND			\$0.00	
Less Encumbrances - 12/31/2021				\$0.00
2022 APPROPRIATION				<u>\$0.00</u>
472 - 2015 GENERAL OBLIGATION BOND RETIREMENT FUND				
DEBT SERVICE	\$515,204.00			
TOTAL 2015 GENERAL OBLIGATION BOND RETIREMENT FUND			\$515,204.00	
Less Encumbrances - 12/31/2021				\$0.00
2022 APPROPRIATION				<u>\$515,204.00</u>
473 - 2021 GENERAL OBLIGATION BOND RETIREMENT FUND				
DEBT SERVICE	\$3,379,231.08			
TOTAL 2021 GENERAL OBLIGATION BOND RETIREMENT FUND			\$3,379,231.08	
Less Encumbrances - 12/31/2021				(\$29,231.08)
2022 APPROPRIATION				<u>\$3,350,000.00</u>
GRAND TOTAL DEBT SERVICE FUNDS			\$3,894,435.08	
Less Encumbrances - 12/31/2021				(\$29,231.08)
2022 APPROPRIATION				<u>\$3,865,204.00</u>

CODE/FUND DEPARTMENT PURPOSE	AMOUNTS	DEPARTMENT TOTAL	FUND TOTAL	ENCUMBRANCE TYPE GRAND TOTAL
V. ENTERPRISE FUNDS				
601 - COMMUNITY DEVELOPMENT BLOCK GRANT/REVOLVING LOAN FUND				
OPERATING	\$10,000.00			
CAPITAL	\$150,000.00			
TOTAL COM DEV BLOCK GRANT/REV LOAN FUND			\$160,000.00	
Less Encumbrances - 12/31/2021				\$0.00
2022 APPROPRIATION				<u>\$160,000.00</u>
602 - LOAN TRUST FUND				
OPERATING	\$300,149.00			
TOTAL LOAN TRUST FUND			\$300,149.00	
Less Encumbrances - 12/31/2021				(\$115,349.00)
2022 APPROPRIATION				<u>\$184,800.00</u>
603 - HOUSING REHABILITATION GRANT FUND				
PERSONNEL	\$5,725.00			
OPERATING	\$875,587.03			
CAPITAL	\$55,000.00			
TOTAL HOUSING REHABILITATION FUND			\$936,312.03	
Less Encumbrances - 12/31/2021				(\$435,575.03)
2022 APPROPRIATION				<u>\$500,737.00</u>
611 - WATER REVENUE FUND				
PERSONNEL	\$2,506,979.00			
OPERATING	\$1,198,187.07			
DEBT SERVICE	\$549,000.48			
TRANSFERS	\$830,474.00			
TOTAL WATER REVENUE FUND			\$5,084,640.55	
Less Encumbrances - 12/31/2021				(\$147,044.55)
2022 APPROPRIATION				<u>\$4,937,596.00</u>
612 - SEWER REVENUE FUND				
PERSONNEL	\$2,625,589.00			
OPERATING	\$1,330,287.56			
DEBT SERVICE	\$796,749.00			
TRANSFERS	\$826,816.00			
TOTAL SEWER REVENUE FUND			\$5,579,441.56	
Less Encumbrances - 12/31/2021				(\$218,402.56)
2022 APPROPRIATION				<u>\$5,361,039.00</u>
613 - SANITATION REVENUE FUND				
PERSONNEL	\$541,055.00			
OPERATING	\$2,319,686.82			
DEBT SERVICE	\$0.00			
TRANSFERS	\$1,025,605.00			
TOTAL SANITATION REVENUE FUND			\$3,886,346.82	
Less Encumbrances - 12/31/2021				(\$215,213.82)
2022 APPROPRIATION				<u>\$3,671,133.00</u>

CODE/FUND DEPARTMENT PURPOSE	AMOUNTS	DEPARTMENT TOTAL	FUND TOTAL	ENCUMBRANCE TYPE GRAND TOTAL
614 - STORM WATER FEES				
PERSONNEL	\$216,551.00			
OPERATING	\$149,334.50			
DEBT SERVICE	\$0.00			
TRANSFERS	\$220,000.00			
TOTAL STORM WATER FEES			\$585,885.50	
Less Encumbrances - 12/31/2021				(\$36,398.50)
2022 APPROPRIATION				<u>\$549,487.00</u>
615 - PARKING REVENUE FUND				
PERSONNEL	\$38,502.00			
OPERATING	\$98,968.20			
TOTAL PARKING REVENUE FUND			\$137,470.20	
Less Encumbrances - 12/31/2021				(\$60,086.20)
2022 APPROPRIATION				<u>\$77,384.00</u>
664 - WATER REPLACEMENT AND IMPROVEMENT FUND				
OPERATING	\$1,081,211.37			
CAPITAL	\$2,241,558.27			
TOTAL WTR REPL AND IMPROVEM			\$3,322,769.64	
Less Encumbrances - 12/31/2021				(\$802,208.64)
2022 APPROPRIATION				<u>\$2,520,561.00</u>
665 - SEWER PLANT AND TRUNK FUND				
OPERATING	\$2,592,672.23			
CAPITAL	\$3,187,594.18			
TOTAL SEWER PLANT AND TRUNK			\$5,780,266.41	
Less Encumbrances - 12/31/2021				(\$620,838.41)
2022 APPROPRIATION				<u>\$5,159,428.00</u>
666 - SANITATION CAPITAL IMPROVEMENT FUND				
OPERATING	\$208,190.34			
CAPITAL	\$485,000.00			
TOTAL SANITATION CAPITAL IMPROVMT FUND			\$693,190.34	
Less Encumbrances - 12/31/2021				(\$93,412.34)
2022 APPROPRIATION				<u>\$599,778.00</u>
667 - STORM WATER CAPITAL IMPROVEMENT FUND				
OPERATING	\$316,138.78			
CAPITAL	\$120,000.00			
TOTAL SANITATION CAPITAL IMPROVMT FUND			\$436,138.78	
Less Encumbrances - 12/31/2021				(\$42,866.78)
2022 APPROPRIATION				<u>\$393,272.00</u>
GRAND TOTAL ENTERPRISE FUNDS			\$26,902,610.83	
Less Encumbrances - 12/31/2021				(\$2,787,395.83)
2022 APPROPRIATION				<u>\$24,115,215.00</u>

CODE/FUND DEPARTMENT PURPOSE	AMOUNTS	DEPARTMENT TOTAL	FUND TOTAL	ENCUMBRANCE TYPE GRAND TOTAL
VI. INTERNAL SERVICE FUNDS				
708 - UTILITY BILLING FUND				
OPERATING	\$237,374.67			
TOTAL UTILITY BILLING FUND			\$237,374.67	
Less Encumbrances - 12/31/2021				(\$27,687.67)
2022 APPROPRIATION				<u>\$209,687.00</u>
709 - CITY GARAGE FUND				
PERSONNEL	\$207,721.00			
OPERATING	\$955,831.74			
CAPITAL	\$5,387.00			
TOTAL CITY GARAGE FUND			\$1,168,939.74	
Less Encumbrances - 12/31/2021				(\$145,086.74)
2022 APPROPRIATION				<u>\$1,023,853.00</u>
710 - INFORMATION TECHNOLOGY FUND				
OPERATING	\$1,579,827.55			
CAPITAL	\$1,085,867.73			
DEBT SERVICE	\$0.00			
TOTAL INFORMATION TECHNOLOGY FUND			\$2,665,695.28	
Less Encumbrances - 12/31/2021				(\$672,176.70)
2022 APPROPRIATION				<u>\$1,993,518.58</u>
711 - SELF INSURANCE FUND				
PERSONNEL	\$0.00			
OPERATING	\$4,478,089.00			
CAPITAL	\$0.00			
REFUNDS	\$0.00			
TOTAL SELF INSURANCE FUND			\$4,478,089.00	
Less Encumbrances - 12/31/2021				\$0.00
2022 APPROPRIATION				<u>\$4,478,089.00</u>
GRAND TOTAL INTERNAL SERVICE FUNDS			\$8,550,098.69	
Less Encumbrances - 12/31/2021				(\$844,951.11)
2022 APPROPRIATION				<u>\$7,705,147.58</u>
VII. TRUST FUNDS				
901 - INSURANCE DEPOSIT				
OPERATING	\$40,000.00			
REFUNDS	\$40,000.00			
TOTAL INSURANCE DEPOSIT FUND			\$80,000.00	
Less Encumbrances - 12/31/2021				\$0.00
2022 APPROPRIATION				<u>\$80,000.00</u>
902 - UNCLAIMED FUNDS				
OPERATING	\$0.00			
REFUNDS	\$40,000.00			
TOTAL INSURANCE DEPOSIT FUND			\$40,000.00	
Less Encumbrances - 12/31/2021				\$0.00
2022 APPROPRIATION				<u>\$40,000.00</u>
GRAND TOTAL TRUST FUNDS			\$120,000.00	
Less Encumbrances - 12/31/2021				\$0.00
2022 APPROPRIATION				<u>\$120,000.00</u>
GRAND TOTAL ALL FUNDS			\$87,725,080.54	
Less Encumbrances - 12/31/2021				(\$5,878,323.11)
2022 APPROPRIATION				<u>\$81,846,757.43</u>



Introduction: August 11, 2022
Public Hearing & Vote: August 25, 2022
Effective Date: January 1, 2023

Agenda Item: **ORDINANCE 2022 – 28**
RENUMBERING AND AMENDING CHAPTERS 234, 238 AND 240, AMENDING CHAPTER 242, AND ENACTING CHAPTER 243 OF THE ADMINISTRATIVE CODE, AS CONTAINED IN PART TWO: CITY GOVERNMENT, TITLE SIX – ADMINISTRATIVE CODE OF THE XENIA CITY CODE

Submitted By: Legislative Review & Government Affairs Committee
Presented By: Donnette Fisher, Law Director, and Brent Merriman, Public Safety Director

Scope/Description: As Council is aware, the City’s administration has been reviewing Title Six of Part Two of the Xenia City Code, which contains the City’s Administrative Code. The Administrative Code sets forth the City’s administrative organization, broken down by departments and divisions. The various chapters of the Administrative Code authorize the various City departments and divisions, authorizes the department and division heads for each, and outlines the functions, duties, and authorities for each department and division. The Administrative Code is in need of updating and streamlining, and as staff has told Council, it is the intent to present the rewrites to the Administrative Code in three parcels – Public Safety and Law Departments; City Manager’s Office and the departments under the City Manager; and the Finance Department.

All proposed amendments to the Administrative Code will first be reviewed with Council’s Legislative Review & Government Affairs Committee before formal presentation to Council. This Ordinance represents the start of this process, and the remaining proposed amendments will be presented to Council after the LR&GA Committee’s review in September and October. Staff and the LR&GA Committee are presenting to Council the proposed amendments to the Public Safety Department and Law Department first. These amendments include the following:

Department of Public Safety

- Renumber from Chapter 238 to Chapter 240; renumber 238.01 – 238.03 as 240.01 – 240.03; enact Sections 240.04 – 240.08 (Chapter 240 is currently the Police Division chapter).
- Add an Emergency Communications Division to the Department.
- Clarify that in accordance with current Charter language, the City Manager is the appointing authority for employees with the Public Safety Department and its three divisions.
- Add language clarifying that the Public Safety Director is responsible for the security of all City facilities and the safety of the public and employees at such facilities.
- Create the position of Assistant Public Safety Director (there is no intention of filling this position at this time).
- Add section authorizing Public Safety Director to create any federal or state-required emergency preparedness plans, subject to Council appropriating funds for the creation of such plans.

Police Division

- Renumber from Chapter 240 to Chapter 241 and enact 241.01 – 241.11.
- Clarify that in accordance with current Charter language, the City Manager is the appointing authority for employees within the Public Safety Department and its three divisions.
- Authorize the powers and duties of the Police Chief as the head of the Police Division; recognize the Charter-authorized position of Assistant Police Chief (known as Major).
- Outline the functions, powers, and duties of the Police Division (241.03).
- Outline the requirements for original appointment to the position of police officer outlined in the ORC (241.04).
- Authorize a Police Cadet Program (241.05).
- Keep and clarify the Reserve Police Officer position (241.06).
- Outline the offenses that may affect employment as a police officer, as set forth in the ORC (241.07).
- Formally authorize Special Duty agreements (241.08).
- Add language setting forth the process for the state-required Volunteer Peace Officers' Dependents Fund Board and program (241.09).
- Set forth a schedule of court fees (amounts set by statute) that the Xenia Municipal Court must collect if any officer of the Police Division acts as a bailiff for the Court (241.10).
- Add language recognizing that if a Citizens' Reward Program is established by Greene County, 25% of the proceeds from any property disposed of by Police Division shall be paid into that program.

Fire & EMS Division

- Change title of Division from Fire Division to Fire & EMS Division.
- Recognize the Charter-authorized position of Assistant Fire & EMS Chief (known as Deputy Fire & EMS Chief).
- Delete Section 242.10 Police and Fire Fund (all funds will be moved to the Finance Department chapters).

Emergency Communications Division

- Enact Chapter 243 creating the Emergency Communications Division.
- Create the position of Emergency Communications Administrator (to be filled by current Communications Director) and an Assistant Emergency Communications Director, known as Public Safety Technical Administrator (to be filled by current Communications Technical Director).
- Outline the functions, powers, and duties of the Emergency Communications Division.
- Recognize that the Emergency Communications Division may also be known as the Xenia-Greene Central Communications Center.

Law Department

- Renumber from Chapter 234 to Chapter 245.



XENIA CITY COUNCIL
LEGISLATIVE COVER MEMO

Staff and the LR&GA Committee are recommending an effective date for this Ordinance of January 1, 2023. We will be recommending the same effective date for the rewrites to the rest of the Administrative Code. This will allow all the rewrites and updates to go into effect at the same time and give the Administrative Steering Committee time to get job descriptions updated prior to the effective date. In addition, by having all the rewrites become effective at the same time, Council will only have to update the Charter-required Pay Plan and Organization Plan once.

Cover Memo

Attachments:

None

Budgetary Impact:

None. While this Ordinance does create the new position of Assistant Public Safety Director, it is not staff's intent to fill this position at this time.

Vote Required for Passage:

The affirmative vote of a majority of Council members present at the meeting.

Recommendation:

It is the recommendation of the Legislative Review & Government Affairs Committee and of City staff that Council adopt Ordinance 2022-28 to make needed updates and amendments to the City's Administrative Code regarding the Public Safety Department and its divisions (Police Division, Fire & EMS Division, and Emergency Communications Division) and to renumber the Law Department's chapter of the City's Administrative Code.

**CITY OF XENIA, OHIO
ORDINANCE 2022 – 28**

**RENUMBERING AND AMENDING CHAPTERS 234, 238 AND 240, AMENDING
CHAPTER 242, AND ENACTING CHAPTER 243 OF THE ADMINISTRATIVE CODE,
AS CONTAINED IN PART TWO: CITY GOVERNMENT, TITLE SIX – ADMINISTRATIVE
CODE OF THE XENIA CITY CODE**

WHEREAS, Section 7.01 of the City Charter states that Council may establish City departments and divisions and prescribe the function of any department or division so established;

WHEREAS, this Council has established various City departments and divisions in the City’s Administrative Code, as contained in Part Two: City Government, Title Six; and

WHEREAS, the Legislative Review & Government Affairs Committee of this Council has recommended to this Council certain amendments and updates to those provisions of the Administrative Code establishing the Public Safety Department and its divisions and establishing the Law Department,

NOW, THEREFORE, THE CITY OF XENIA HEREBY ORDAINS, a majority of the members of Council present concurring, that:

Section 1. Chapter 238, titled “Department of Public Safety” is hereby amended and renumbered as Chapter 240, and Sections 240.04 through 240.08 are hereby enacted, as shown in the attached Exhibit A.

Section 2. Chapter 240, titled “Police Division,” is hereby amended and renumbered as Chapter 241, and Sections 241.01 through 241.11 are hereby enacted, as shown in the attached Exhibit A.

Section 3. Chapter 242, titled “Fire & EMS Division,” is hereby amended as shown in the attached Exhibit A.

Section 4. Chapter 243, titled “Emergency Communications Division,” is hereby enacted, as shown in the attached Exhibit A.

Section 5. Chapter 234, titled “Department of Law,” is hereby amended and renumbered as Chapter 245, and Sections 245.01 through 245.05 are hereby enacted, as shown in the attached Exhibit A.

Section 6. Existing Chapters 234, 238, 240 and 242 are hereby repealed.

Section 7. It is found 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 that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including ORC 121.22.

Section 8. This Ordinance shall become effective on January 1, 2023.

Introduced: August 11, 2022

Adopted:

Attest:

Wesley E. Smith
President, Xenia City Council

Michelle D. Johnson
City Clerk

CHAPTER ~~240~~ 238
Department of Public Safety

240.01	Establishment	<u>240.05</u>	<u>Emergency Preparedness</u>
240.02	Public Safety Director; <u>Assistant</u>	<u>240.06</u>	Residency
240.03	Animal Control	<u>240.07</u>	Indigent Burials
<u>240.04</u>	Emergency Police Officers and Firefighters	<u>240.08</u>	Use of Division Emblems

240.01 ~~238.01~~ ESTABLISHMENT.

(a) Establishment. **In accordance with Section 7.01 of the City Charter**, a Department of Public Safety, **which may also be known as the Public Safety Department**, to be headed by a Director of Public Safety, **who may also be known as the Public Safety Director**, is hereby established. **The Department of Public Safety shall have such employees as may from time-to-time be determined by the City Council.**

(b) Divisions. The Department of Public Safety shall include the following Divisions:

- (1) The Police Division;
- (2) The Fire **& EMS** Division;
- (3) The Emergency Communications Division.**
(Ord. 2018-31. Adopted 10/25/18; **Ord. 2022-28. Adopted **/**/22**)

240.02 ~~238.02~~ PUBLIC SAFETY DIRECTOR; ASSISTANT.

(a) Appointment. The City Manager is hereby appointed as the Public Safety Director, acting ex-officio, **in accordance with Section 6.02 of the City Charter.**

(b) Powers and Duties. The Public Safety Director is hereby authorized to have the following powers and to perform the following duties:

- (1) The Public Safety Director shall have supervision and control of the **Public** Safety Department and its Divisions, except that the ~~Chiefs of the Divisions~~ **Heads** shall have the exclusive control of the stationing and transfer of all officers and employees of their respective Divisions, under such general rules and regulations as the Public Safety **Director** ~~Department~~ prescribes.
- (2) **The Public Safety Director shall be responsible for providing for, and insuring the security of, all City buildings and facilities and safety and security of the general public and employees at such buildings and facilities.**
~~The Public Safety Director shall have the authority to appoint the Police Chief and the Fire Chief and all other subordinate officers of the Police Division and the Fire Division.~~
- (3) ~~The Public Safety Director shall have the authority to assign grade ranks for police officers and firefighters, upon the recommendation of the Chief of the proper Division. Such ranking of police officers and firefighters shall be subject to review and recommendation by the Civil Service Commission, but the determination of the Public Safety Director shall be final.~~
- (4) The Public Safety Director, upon the review and recommendation of the City Engineer, shall make and issue rules and regulations concerning:
 - A. The number, type and location of traffic control devices and signs;
 - B. The regulation or prohibition of parking on public ways and/or public property, including the authority to establish permit parking and the fee for such permits;

- C. The creation or abolition of disability parking spaces on public ways and/or public property, in accordance with state law and, when requested by private individuals, upon the recommendation of the City’s Traffic Commission;
- D. The regulation of the right-of-way at intersections of streets, alleys, and highways;
- E. The regulation or prohibition of turns at intersections;
- F. The creation, abolition, and regulation of through routes and truck routes, pedestrian crosswalks and safety zones, bus loading and unloading zones, business loading zones, and traffic lanes and passing zones;
- G. The regulation of the direction of traffic on public ways and the creation and abolition of one-way public streets, roads, alleys, courts or drives; and
- H. The establishment of snow routes and regulation of parking on those designated routes. *(Statutory reference ORC 737.022)*

~~(4)~~(5) The Public Safety Director shall have the authority to establish guidelines, rules, and fees by administrative directive for the rental or use of any of the Divisions’ facilities by another governmental entity or corporation when such rental or use will not interfere with the daily, usual operations of the **respective** Division.

~~(5)~~(6) Any additional powers or duties relative to police, fire and EMS, **or emergency communication** services as may be necessary to carry out the duties placed upon the Public Safety Director pursuant to the City’s Charter, by City Council or by applicable state law.

(c) Assistant Public Safety Director. The City Manager may appoint an Assistant Public Safety Director, who shall be under the direct supervision and control of the Public Safety Director, and who shall perform such duties as assigned by the Public Safety Director.

(d) Unclassified Service. In accordance with Section 10.04 of the City Charter, the position of Public Safety Director **and Assistant Public Safety Director** shall be in the unclassified service. (Ord. 2018-31. Adopted 10/25/18; Ord. 2021-04. Adopted 02/11/21; **Ord. 2022-28. Adopted **/**/22)**

240.03 ~~238.03~~ ANIMAL CONTROL.

The Public Safety Director is hereby authorized to contract for the services of an animal control officer, who shall be under the supervision and control of the Director. (Ord. 2018-31. Adopted 10/25/18; **Ord. 2022-28. Adopted **/**/22)**

240.04 ~~238.04~~ EMERGENCY POLICE OFFICERS AND FIREFIGHTERS.

(a) **Emergency Police Officers and Firefighters.** In case of riot or other like emergency, the Public Safety Director may appoint additional police officers and officers for temporary service in the Police Division and/or additional firefighters, EMTs, paramedics, and officers for temporary service in the Fire **& EMS** Division, who need not be in the classified list of such Divisions. Such additional persons shall be employed only for the time during which the emergency exists.

(b) **Cooperation with Other Agencies.** In case of riot or other like emergency, the Public Safety Director may call upon other political subdivisions within Greene County or any adjacent county to furnish such law enforcement, fire protection and/or emergency medical services personnel, together with appropriate equipment and apparatus, as may be necessary to preserve the public peace and to protect persons and property. Such request shall be made in accordance with any mutual aid contract the City has entered into or, if no contract with the other political subdivision exists, then such request shall be made in accordance with state law. (Ord. 2018-31. Adopted 10/25/18; **Ord. 2022-28. Adopted **/**/22)**

240.05 EMERGENCY PREPAREDNESS ~~238.05 CIVIL SERVICE.~~

The Public Safety Director is hereby authorized to undertake any and all actions necessary for the preparation and/or maintenance of any required disaster plans, hazard mitigation plans, or other such plans that may be required by federal or state law, subject only to the appropriation authority of the City Council.

(Ord. 2022-28. Adopted **//22)**

~~The Department of Public Safety and its Divisions shall be maintained under the civil service system, as provided for by the Constitution of Ohio and the City Charter.
(Ord. 77-02. Adopted 01/27/77; Ord. 2018-31. Adopted 10/25/18)~~

240.06 ~~238.06~~ RESIDENCY.

(a) Adequate Response Times. To ensure adequate response times to emergencies or disasters, the full-time employees of the Police Division and the Fire **& EMS** Division of the Department of Public Safety shall, as a condition of employment, reside either within Greene County or a county adjoining Greene County. Persons may be appointed who certify, in writing, that they will satisfy all residency requirements within six (6) months after appointment. Appointees who fail to acquire or retain their residence within the required limits shall be dismissed from employment.

(b) Collective Bargaining Agreements. If an employee who is covered by this section is also covered by an applicable collective bargaining agreement, the terms of the collective bargaining agreement regarding residency requirements shall control. In no instance shall the collective bargaining agreement applicable to an employee covered by this section impose residency requirements on the employee that are more restrictive than those provided under division (a) of this section.

(c) Exceptions. If an unusual hardship or emergency is found to exist by the Public Safety Director, the Director may, in his or her discretion, permit an employee to live temporarily outside the residency limits prescribed by division (a) of this section for a period of no longer than six (6) months. Failure of the employee to resume his or her proper residency by the end of such six-month period shall result in termination of his or her employment.

(Ord. 00-34. Adopted 08/10/00; Ord. 2018-31. Adopted 10/25/18; **Ord. 2022-28. Adopted **/**/22**)

240.07 ~~238.07~~ INDIGENT BURIALS.

The Director of Public Safety is hereby designated as the proper officer of the City of Xenia to carry out those duties imposed on the City by ORC 9.15 and shall establish and maintain an indigent burial policy to carry out those duties, in accordance with ORC 9.15.

(Ord. 2018-31. Adopted 10/25/18; **Ord. 2022-28. Adopted **/**/22**)

240.08 ~~238.08~~ USE OF DIVISION EMBLEMS.

(a) Use. The design of the official emblems of the Divisions of the Department of Public Safety is the property of the City and shall only be used for official City business. Such emblems shall not be reproduced or used by employees for matters that are not related to official City business, nor shall they be used by any person not affiliated with the respective Division, except as otherwise authorized by the Director of Public Safety.

(b) Penalties. Whoever violates division (a) of this section is guilty of an unclassified misdemeanor and the offender shall be sentenced pursuant to ORC 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term nor sentenced to a community residential sanction pursuant to ORC 2929.26.

Notwithstanding ORC 2929.28(A)(2)(a), the offender may be fined up to one thousand dollars (\$1,000) and, notwithstanding ORC 2929.27(A)(3), the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred (500) hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under ORC 2705.02(A) and may be filed in the underlying case.
(Ord. 2020-19. Adopted 08/13/20; **Ord. 2022-28. Adopted **/**/22**)

CHAPTER ~~241~~ 240
Police Division

<u>241.01</u>	Establishment	<u>241.07</u>	<u>Offenses Affecting Employment</u>
<u>241.02</u>	<u>Police Chief; Assistants</u>	<u>241.08</u>	<u>Special Duty</u>
<u>241.03</u>	<u>Functions</u>	<u>241.09</u>	<u>Volunteer Peace Officers' Dependents</u>
<u>241.04</u>	<u>Requirements for Original</u>		<u>Fund</u>
	<u>Appointments</u>	<u>241.10</u>	<u>Court Fees</u>
<u>241.05</u>	<u>Police Cadet Program</u>	<u>241.11</u>	<u>Citizens' Reward Program</u>
<u>241.06</u>	Reserve Police Officers		

241.01 ~~240.01~~ ESTABLISHMENT; COMPOSITION.

In accordance with Section 7.01 of the City Charter, a Division of Police (or Police Division) is hereby created within the Department of Public Safety, which shall have a Police Chief and such ranks, officers, employees, and reserve officers as may from time-to-time be determined by the City Council. All personnel of the Police Division shall be appointed by the City Manager and shall be under the supervision and control of the Police Chief.

~~Within the Department of Public Safety there is hereby established a Division of Police, which shall be composed of a Police Chief and various sections, functional positions and components as depicted graphically in an organizational chart, which is to be reviewed at least annually and updated as needed. Such chart is to be provided promptly to the City Council whenever changed or updated, accompanied by a written description of the agency's organization, which should coincide with the chart. The commander of each section, functional position and component shall be directly responsible to the Chief of Police, who shall be responsible to the City Manager. The classification of those assigned to section commanders, functional positions and component supervisors shall be as recommended by the Chief of Police, approved by the City Manager and reviewed and approved by the City Council. The internal organizational structure of the Police Division shall be as recommended by the Chief of Police and approved by the City Manager.~~

~~(Ord. 96-61. Adopted 07/11/96; Ord. 2022-28. Adopted **/**/22)~~

241.02 POLICE CHIEF; ASSISTANTS. ~~240.02 RESERVE AND AUXILIARY POLICE UNITS.~~

(a) Appointment. In accordance with Section 7.01 of the City Charter, the Police Chief shall be appointed by the City Manager.

Reserve Police Unit.

- ~~(1) Within the Division of Police, there is hereby established a Reserve Police Unit pursuant to Ohio R.C. 737.051. The Director of Public Safety shall make all appointments of officers to, and removals of officers from, the unit, and he or she shall prescribe rules and regulations for the organization, training, administration and control of the unit and the members thereof. The members of the unit shall serve without compensation. Duly appointed and qualified officers of the unit shall be vested with the same authority as that with which the regular officers of the Police Division are vested, subject only to such restrictions and limitations as the Director shall prescribe.~~
- ~~(2) The City Manager is hereby authorized to enter into a contract with the Industrial Commission of Ohio, the Bureau of Workers' Compensation, to provide workers' compensation insurance for members of the Reserve Police Unit.~~

(b) **Powers and Duties.**

- (1) **The Police Chief shall perform such duties and have such obligations and responsibilities as are set forth in the Xenia City Code or the laws of the State of Ohio, and all other ordinances and resolutions passed by the Council or applicable statutes of this State.**
- (2) **The Police Chief shall direct the police work of the City and control the assignment, stationing, transferring, and training of all police personnel, subject to the approval of the Public Safety Director.**
- (3) **The Police Chief shall establish Division policies, rules and regulations for the working conditions, training courses, organization, and operation of the Police Division, subject to the approval of the Public Safety Director.**
- (4) **The Police Chief shall have charge and control of the City's police vehicles and equipment, and assure the same are kept in good condition and repair.**

~~*Auxiliary Police Unit.* Within the Division of Police, there is hereby established an Auxiliary Police Unit. The Director of Public Safety shall make all appointments of officers to, and removals of officers from, the unit, and he or she shall prescribe rules and regulations for the organization, training, administration and control of the unit and the members thereof. The members of the unit shall serve without compensation. The members of the unit are not commissioned as law enforcement officers and shall be assigned primarily to law enforcement related community service functions. They can be used during emergencies and large scale special events.~~

(c) Reports to Public Safety Director. The Police Chief shall be under the supervision and control of the Public Safety Director.

(d) Assistant Police Chiefs. The City Manager may appoint persons to the position of Assistant Police Chief, which position shall be known as Major, and the Major(s) shall be under the supervision and control of the Police Chief and shall perform such duties as are assigned by the Police Chief.

(e) Unclassified Service. In accordance with Section 10.02 of the City Charter, the position of Police Chief and Major shall be in the unclassified service.
(Ord. 2022-28. Adopted **//22)**

241.03 FUNCTIONS. ~~240.03 DISPOSITION OF SURPLUS PROPERTY~~

(a) Powers and Duties. The Police Division, under the supervision and direction of the Police Chief, shall perform the following functions:

- (1) **Preserve the peace, protect persons and property, and obey and enforce all ordinances of the City, all criminal laws of the state and the United States, all court orders issued and consent agreements approved pursuant to ORC 2929.26 and 3113.31, all protection orders issued pursuant to ORC 2903.213 or 2903.214, and protection orders issued by courts of another state, as defined in ORC 2919.27;**
- (2) **Be responsible for law enforcement and the maintenance of law in the City, including traffic and parking regulations, crime prevention and the investigation, identification and detention of suspects and offenders; and**
- (3) **The Chief or any officer may participate, as the director of an organized crime task force established under ORC 177.02 or as a member of the investigatory staff of such task force, in an investigation of organized criminal activity in any county or counties in this State under ORC 177.01 to 177.03.**
(Statutory Reference ORC 737.11)

~~The Division of Police is hereby authorized and directed to dispose of bicycles and other property acquired during each calendar year, which cannot be disposed of by return to its owner under § 608.16 of~~

~~the General Offenses Code, by either public sale or charitable donation, in the discretion of the Police Chief, deeming the property to be surplus as provided by law.~~

(b) Additional Powers and Duties. The Police Division may also perform any other functions consistent with law enforcement as may be necessary or as the Council, City ordinances or state law may designate.

~~The Division of Police is hereby authorized to issue public notice of the existence of such surplus property and advise that the same is available at no cost to needy citizens of the city or needy charities, on a first come, first serve basis, and is further authorized to transfer ownership of such property to the recipient thereof as permitted by law.~~

(Ord. 2022-28. Adopted **//22)**

~~(c) This section shall become a permanent policy of the city regarding the disposition of surplus property.~~

241.04 REQUIREMENTS FOR ORIGINAL APPOINTMENTS.

(a) Age Requirements. No person shall be eligible to receive an original appointment to the Police Division as a police officer, subject to the civil service laws of Ohio, unless the person has reached the age of twenty-one (21) years. No person is eligible to receive an original appointment when the person is fifty (50) years of age or older, and no person can be declared disqualified as over age prior to that time. This maximum age restriction shall not apply to lateral hires.

(b) Physical Examination Requirements. No person shall be eligible to receive an original appointment to the Police Division as a police officer unless the person has, not more than one hundred twenty (120) days prior to the date of such appointment, passed a physical examination given by a licensed physician, a physician's assistant, a clinical nurse-specialist, a certified nurse-practitioner or a certified nurse-midwife certifying that the applicant is free of cardiovascular and pulmonary diseases and showing that the applicant meets the physical requirements necessary to perform the duties of a police officer, as established by the City. The fee for such examination shall be paid by the City.

(c) Ohio Police and Fire Pension Fund. Prior to making any original appointment, the City shall file with the Ohio Police and Fire Pension Fund a copy of the report or findings of the licensed physician, physician assistant, clinical nurse-specialist, certified nurse-practitioner, or certified nurse-midwife required under division (b) of this section.
(Statutory reference: ORC 124.41)

(d) Required Certification.

(1) No person shall receive an original appointment as a full-time police officer with the Police Division unless the person previously has been awarded a certificate by the Executive Director of the Ohio Peace Officer Training Commission attesting to the person's satisfactory completion of an approved state, county or municipal peace officer basic training program, in accordance with ORC 109.77.

(2) No person may serve as a police officer of the City unless the person has received training in the handling of missing children and child abuse and neglect cases from an approved state, county, township or municipal police office basic training program or receives the training within the time prescribed by the rules adopted by the Ohio Attorney General pursuant to ORC 109.741.

- (3) The revocation or suspension of the certification required under division (d)(1) of this section shall result in immediate termination from the position of police officer.**
(Statutory reference: ORC 109.77)
(Ord. 2022-28. Adopted **//22)**

241.05 POLICE CADET PROGRAM.

The Police Division is hereby authorized to establish a Police Cadet Program and employ persons as police cadets at age eighteen (18) for the purposes of training persons to become police officers. Any person participating in such Police Cadet Program shall not be permitted to carry or use a firearm in the performance of the person's duties, except that the person may be taught the proper use of firearms as part of the person's training.

(Statutory reference: ORC 124.41)
(Ord. 2022-28. Adopted **//22)**

241.06 RESERVE POLICE OFFICERS.

(a) Creation. There is hereby created the unclassified position of reserve police officer within the Police Division. Reserve police officers shall be sworn and certified law enforcement officers who possess the same law enforcement or police powers as full-time police officers, but shall perform only such police duties as are assigned by the Chief of Police and shall act only when in the prescribed uniform. Reserve police officers shall not be eligible for membership in the Ohio Police and Fire Pension Fund or the Ohio Public Employees Retirement System nor eligible for benefits available to full-time employees of the Police Division.

(b) Appointment. Reserve police officers shall be appointed by the Public Safety Director and shall be under the supervision and control of the Police Chief.

(c) Term of Service. Reserve police officers shall serve at the pleasure of the Public Safety Director, or until a resignation submitted by such officer is accepted by the Public Safety Director.

(d) Qualifications.

- (1) To be qualified for appointment as a reserve police officer, the applicant must:**
- A. Be verified as eligible for employment by the Department of Homeland Security, U.S. Citizenship and Immigration Services and reside within a reasonable distance from the City, as determined by the Public Safety Director;**
 - B. Have attained the age of twenty-one (21) years;**
 - C. Have a valid Ohio driver's license and have a driving record that will allow the applicant to be covered under the City's insurance;**
 - D. Submit to and successfully complete any tests requested by the Police Division including, but not limited to, a physical examination, a personal background investigation, a polygraph or VSA, or a psychological profile.**
 - E. Be a person of high moral character; and**
 - F. Has previously been awarded a certificate by the Executive Director of the Ohio Peace Officer Training Commission attesting to the person's satisfactory completion of an approved state, county or municipal peace officer basic training program, or has previously completed satisfactorily or, within the time prescribed by the rules adopted by the Ohio Attorney General pursuant to ORC 109.74, satisfactorily completes a State, county or municipal peace officer basic training program for probationary or temporary officers, and is awarded a certificate by the Executive Director of the Ohio Peace Officers Training Commission attesting**

to the satisfactory completion of the program. If the person does not satisfactorily complete an approved basic training program within the time prescribed by the rules adopted by the Ohio Attorney General, that person shall immediately forfeit his or her position as a reserve police officer.

- (2) Every person who is appointed as a police officer with the Police Division for a probationary term, as a Reserve Officer or on any basis other than a full-time basis, shall forfeit the appointed position unless the person previously has completed satisfactorily or, within the time prescribed by the rules adopted by the Ohio Attorney General pursuant to ORC 109.74, satisfactorily completes a state, county municipal or Ohio Department of Natural Resources peace officer basic training program for temporary or probationary officers and is awarded a certificate by the Executive Director of the Ohio Peace Officer Training Commission attesting to the satisfactory completion of the program.
(ORC 109.77)

(e) Supervision. The Chief of Police shall have control of the assignment, training, stationing, and direction of the reserve police officers, who shall have all police powers, but shall perform only such police duties as are assigned by the Chief of Police and shall act only when in the prescribed uniform or portion of uniform. Reserve police officers shall obey the chain of command of the Division of Police and shall take orders from all regularly appointed officers thereof.

(f) Rules and Regulations. The Chief of Police, with the approval of the Director of Public Safety, shall prescribe rules and regulations governing the administration, conduct, hours of work and work rules for reserve police officers within the Police Division.

(g) Service and Compensation.

- (1) All services performed by reserve police officers, except those hired under State or Federal programs, shall be on a paid volunteer basis with the City. Reserve police officers will be utilized to supplement the Police Division's day-to-day operations.
- (2) Reserve police officers, except those hired under State and Federal programs, shall be paid at an hourly rate set by the Council in the annual Pay Plan.
- (3) Reserve police officers hired under State or Federal programs shall receive compensation in accordance with City, State and Federal regulations.

(h) Court Duty. Any reserve police officer who is required to appear in Court as a witness as a result of his or her work with the City as a reserve police officer shall be paid by the City at the rate established by Police Division policy, for the time he or she is absent from his or her other employment. Proof of lost wages shall be in the form of a wage statement from the reserve officer's employer. To be eligible for pay for court duty under this section, the reserve officer shall apply for subpoena or witness fees and all moneys received as compensation for court service shall be turned over in full to the City.

(i) Employment Status. The position of reserve police officer is an unclassified, at-will paid volunteer position.

(j) Nonliability. This section is hereby declared to be an exercise by the City of its police powers for the protection of the public peace, health, property, safety and general welfare, and neither the City, nor any agent or representative of the City, nor any reserve police officer appointed under the provisions of this section, nor any individual, firm, partnership or corporation, nor the receiver, trustee or any other agent thereof who, in good faith, executes any executive order, rule or regulation

promulgated pursuant to the provisions of this section shall be liable for injury or damage sustained to any person or property as the direct or proximate result of such action.
(Ord. 2022-28. Adopted **/**/22)

241.07 OFFENSES AFFECTING EMPLOYMENT.

(a) Appointments. The City Manager shall not appoint any person in the Police Division on a permanent basis, on a temporary basis, for a probationary term or on any other basis if that person's peace officer training certificate has been revoked because of a criminal conviction or plea of guilty to a felony.

(b) Continued Employment. The City Manager shall terminate the employment of any peace officer in the Police Division, including the Police Chief, if that officer's certificate is revoked pursuant to ORC 109.77.

(c) Suspension. The City Manager shall suspend any officer in the Police Division, including the Police Chief, whose certificate is suspended pursuant to ORC 109.77.

(d) Procedures. The suspension or the termination of employment under this section shall be in accordance with the procedures set forth in the City's Personnel Policy Manual and any applicable collective bargaining agreement.
(ORC 109.77)
(Ord. 2022-28. Adopted **/**/22)

241.08 SPECIAL DUTY.

(a) Special Duty Agreements. The City Manager is hereby authorized to enter into written agreements with public or private organizations or businesses for the assignment of police officers to special police duty with those organizations where, in the opinion of the Chief of Police, this duty serves the purpose of public safety, traffic control or the public welfare. The written agreements shall be approved by the Law Director, and shall contain, among others, the following provisions:

- (1) The police officer shall be specifically assigned to duty by and under the control of the Chief of Police, and shall at all times be considered as being on official police duty;
- (2) The police officer may or may not be in full uniform, depending upon the nature of the assignment;
- (3) The organization or business shall pay the City for the police officer(s) performing the special duty at a rate not lower than the police officer(s)' pay rates as established by the officer's applicable collective bargaining agreement;
- (4) The organization or business shall reimburse the City for any damages or loss to City property or equipment that is incurred as a result of the special duty;
- (5) The duties shall be restricted to the limits of the City, unless the special duty is requested by another police agency; and
- (6) The City will agree to furnish manpower only to the extent of its availability.
(Ord. 2022-28. Adopted **/**/22)

241.09 VOLUNTEER PEACE OFFICERS' DEPENDENTS FUND.

(a) Volunteer Peace Officers' Dependents Fund Board.

- (1) There is hereby established a Volunteer Peace Officers' Dependents Board, which shall consist of five (5) members, chosen as follows:
 - A. Two (2) members elected by the Council;

- B. Two (2) members elected by the volunteer police officers of the Police Division; and
- C. One (1) member elected by the Board members who were elected pursuant to divisions (a)(1)A. and (a)(1)B. of this section. This member shall be an elector of the City, but not a public employee, nor a member of the Council or a police officer of the Police Division.

- (2) Any vacancy occurring on the Board shall be filled at a special election called by the secretary of the Board.
(ORC 143.02)

(b) Election and Term of Board Members.

- (1) The term of each Volunteer Peace Officers' Dependents Fund Board member shall be one (1) year and shall begin the first (1st) day of January.
- (2) The election of two (2) members by the Council shall be held each year no earlier than the first (1st) day of November and no later than the second (2nd) Monday in December.
- (3) The election of two (2) members by the volunteer police officers of the Police Division shall be held on or before the second (2nd) Monday in December, and shall be conducted as follows:
 - A. The secretary of the Board shall give notice of the election by posting it in a conspicuous place at the Police Division. Between 9:00 a.m. and 9:00 p.m. on the day designated, each volunteer police officer of the Police Division shall send in writing the name of two (2) persons who are the officer's choices. The two (2) named persons must be volunteer police officers of the Police Division.
 - B. All votes cast at the election shall be counted and recorded by the Board, which shall announce the result. The two (2) members receiving the highest number of votes are elected. If any two (2) persons receive a tie vote, it shall be decided by lot or in any other way agreed upon by the persons for whom such tie vote was cast.
- (4) The election of one (1) member by the Board members shall be held on or before the thirty-first (31st) day of December.
(ORC 143.02)

(c) Organization; Rules.

- (1) The Volunteer Peace Officers' Dependents Fund Board shall meet on or after the first (1st) day of January and organize. A Chairperson and a Secretary shall be elected. The Secretary shall keep a complete record of the proceedings of the Board, which record shall be maintained as a permanent file.
- (2) The Secretary of the Board shall, no later than the first (1st) of February, submit to the Director of the State Commerce Department the names and addresses of the members of the Board, by whom they were elected, and the names of the chairperson and secretary. The secretary shall also forward a certificate prepared by the City Clerk indicating the current assessed property valuation of the City.
(ORC 143.03)
- (3) The Board may adopt rules necessary for the handling and processing of claims for benefits and shall perform such other duties as are necessary to carry out its duties under ORC Chapter 143.
(ORC 143.04)

(d) Compensation and Expenses; Legal Advisor.

- (1) The members of the Volunteer Peace Officers' Dependents Fund Board shall serve without compensation.
- (2) The City shall provide the Board with a meeting place, stationary, postage and supplies for the sufficient conduct of the Board's business.

(ORC 143.03)

- (3) The Greene County Prosecuting Attorney shall serve as the legal advisor for the Board.
(ORC 143.05)

(e) Payment to the Fund: The City shall pay to the State Treasurer, to the credit of the Volunteer Peace Officers' Dependent Fund, an initial premium in the amount required under ORC 143.06. Thereafter, the City shall pay all assessments certified to the City by the Ohio Director of Commerce in accordance with ORC 143.07.

(f) Benefits.

- (1) A volunteer police officer who, on or after December 22, 2015, is totally and permanently disabled as a result of discharging the duties of a volunteer police officer shall receive a benefit from the Volunteer Peace Officers' Dependents Fund of three hundred dollars (\$300) per month, except that no payment shall be made to a volunteer police officer who is receiving the officer's full salary during the time of the officer's disability.
- (2) Regardless of whether the volunteer police officer received a benefit under division (f)(1) of this section, death benefits shall be paid from the Fund to the surviving spouse and dependent children of a volunteer police officer who, on or after December 22, 2015, is killed in the line of duty.
- (3) Death benefits shall be paid as follows:
- A. To the surviving spouse of a volunteer police officer killed in the line of duty, an award of one thousand dollars (\$1,000), and in addition, a benefit of three hundred dollars (\$300) per month;
- B. To the parent, guardian or other persons on whom a child of a volunteer police officer killed in the line of duty is dependent for chief financial support, a benefit of one hundred twenty-five dollars (\$125) per month for each dependent child under age eighteen (18), or under age twenty-two (22) if attending an institution of learning or training pursuant to a program designed to complete in each school year the equivalent of at least two-thirds (2/3) of the full-time curriculum requirements of the institution.
(ORC 143.09)

(g) Claims. An individual eligible for benefits payable under this section shall file a claim for benefits with the City's Volunteer Peace Officers' Dependents Fund Board on a form provided by the Board. All of the following information shall be submitted with the claim:

- (1) In the case of a totally and permanently disabled volunteer police officer, the following:
- A. The name of the Xenia Police Division;
- B. The date of injury; and
- C. Satisfactory medical evidence that the officer is totally and permanently disabled.
- (2) In the case of a surviving spouse or a parent, guardian or other person in charge of a dependent child, the following:
- A. The full name of the deceased volunteer police officer;
- B. The name of the Xenia Police Division;
- C. The name and address of the surviving spouse, if applicable;
- D. The names, ages and addresses of any dependent children; and
- E. Any other evidence required by the Board.
- (3) All claimants shall certify that neither the claimant nor the person on whose behalf the claim is filed qualifies for other benefits from any of the following based on the officer's service as a volunteer police officer: the Ohio Public Employees Retirement System,

Ohio Police and Fire Pension Fund, State Highway Patrol Retirement System, Cincinnati Retirement System, or Ohio Public Safety Officers Death Benefit Fund.

- (4) Initial claims shall be filed with the City's Volunteer Peace Officers' Dependents Fund Board. Thereafter, on request of the claimant or the Board, claims may be transferred to a board near the claimant's current residence, if the boards concerned agree to the transfer.

(ORC 143.09)

(h) Procedure for Processing Claims.

- (1) The Volunteer Peace Officers' Dependents Fund Board shall meet within five (5) days after the receipt of a claim for benefits to determine the validity of the claim.
- (2) If the Board determines the claim is valid, it shall make a determination of the amount due and certify its determination to the Director of Commerce for payment. The certification shall show the name and address of the Board, the name and address of each beneficiary, the amount to be received by or on behalf of each beneficiary, and the name and address of the person to whom payments are to be made.
- (3) If the Board determines that a claimant is ineligible for benefits, the Board shall deny the claim and issue to the claimant a copy of its order.
- (4) The Board may make a continuing order for monthly payment to a claimant for a period not exceeding three (3) months from the date of determination. The determination may be modified after issuance to reflect any changes in the claimant's eligibility. If no changes occur at the end of the three-month period, the Director of Commerce may provide for payment if the Board certifies that the original certification is continued for an additional three-month period.

(ORC 143.10)

(i) Definitions. As used in this section:

- (1) "Killed in the line of duty" means either of the following:
- A. Death in the line of duty; or
- B. Death from injury sustained in the line of duty, including heart attack or other fatal injury or illness caused while in the line of duty.
- (2) "Totally and permanently disabled" means unable to engage in any substantial gainful employment for a period of not less than twelve (12) months by reason of a medically determinable physical impairment that is permanent or presumed to be permanent.
- (3) "Volunteer Peace Officer" or "Volunteer Police Officer" means any person who is employed as a police officer in a part-time, reserve or volunteer capacity by the Division of Police and is not either of the following:
- A. A member of the Ohio Public Employees Retirement System, Ohio Police and Fire Pension Fund, State Highway Patrol Retirement System or the Cincinnati Retirement System; or
- B. A retirant, as defined in ORC 145.01.

(ORC 143.01)

(Ord.2022-28. Adopted **/**/22)

241.10 COURT FEES.

(a) Fee Schedule. There is hereby established a schedule of fees to be taxed as costs in any civil, criminal or traffic action or proceeding in the Xenia Municipal Court for the performance by officers or other employees of the City's Division of Police. The applicable fees and any other extraordinary expenses, including overtime, shall be taxed as costs in the case. The Clerk of the Court shall pay

those fees and other expenses, when collected, to the City's Finance Director for payment into the City's General Fund.

(b) Fees. For the services specified in this section, the City's Police Division shall charge the following fees, which the Court or its Clerk shall tax in the bill of costs against the judgment debtor or those legally liable therefor for the judgment:

- (1) For the service and return of the following writs and orders:
 - A. Warrant to arrest, for each person named in the writ, twenty dollars (\$20).
 - B. Attachment for contempt, for each person named in the writ, six dollars (\$6).
 - C. Writ of possession or restitution, sixty dollars (\$60).
 - D. Subpoena, for each person named in the writ in either a civil or criminal case, ten dollars (\$10).
 - E. Summoning each juror, six dollars (\$6).
 - F. Copy of indictment, for each defendant, five dollars (\$5).
 - G. All summons, writs, orders or notices, for the first name, six dollars (\$6) and for each additional name, one dollar (\$1).
 - H. Writ of attachment for the purpose of garnishment, ten dollars (\$10).
 - I. Writ of attachment of property, except for the purpose of garnishment forty dollars (\$40).
 - J. Writ of replevin, forty dollars (\$40).
 - K. Writ of execution:
 - (i) When money is paid without levy or when no property is found, thirty dollars (\$30);
 - (ii) When levy is made on real property, for the first tract, twenty-five dollars (\$25) and for each additional tract, ten dollars (\$10);
 - (iii) When levy is made on goods and chattels, including inventory, fifty dollars (\$50).
- (2) In addition to the fee for service and return:
 - A. On each summons, writ, order or notice, a fee of two dollars (\$2) per mile for the first mile, and one dollar (\$1) per mile for each additional mile, going and returning, actual mileage to be charged on each additional name.
 - B. Taking bail bond, three dollars (\$3).
 - C. Taking a prisoner before a judge or court, per day, five dollars (\$5).
 - D. Poundage on all moneys actually made and paid to the Police Division on execution, decree or sale of real estate, one and one-half percent (1½%).
- (3) When any of the services described in division (b)(1) or (b)(2) of this section are rendered by an officer or employee of the Xenia Police Division, the applicable legal fees and any other extraordinary expenses, including overtime, provided for the service shall be taxed in the costs in the case.
(ORC 1901.26)
(Ord. 2022-28. Adopted **/**/22)

241.11 CITIZENS' REWARD PROGRAM.

If the City has received notice that a Citizens' Reward Program has been established by the Board of County Commissioners of Greene County under ORC 9.92, after the payment of expenses of any property disposed of pursuant to ORC 2981.11, the City shall pay twenty-five percent (25%) of any moneys acquired from the sale or auction of any property so disposed of to the Citizens' Reward Program.

(Statutory reference: ORC 2981.11)

(Ord. 2022-28. Adopted **/**/22)

CHAPTER 242
Fire **& EMS** Division

242.01	Establishment	242.06	<u>Fire & EMS Cadet Program</u>
242.02	<u>Fire Chief; Assistants</u>	242.07	<u>Offenses Affecting Employment</u>
242.03	Functions	242.08	Conversion of Sick and Vacation Leave
242.04	Requirements for Original Appointments	242.09	User Fees
		242.10	Police and Fire Fund

242.01 ESTABLISHMENT.

(a) Establishment. In accordance with Section 7.01 of the City's Charter, a **Division of Fire & EMS** (Fire **& EMS** Division) is hereby created within the Department of **Public Safety, which.** ~~The Fire Division shall have a Fire **& EMS** Chief and such ranks, officers, employees, and volunteers as may from time-to-time be determined by the Council. **All personnel of the Fire & EMS Division shall be appointed by the City Manager and shall be under the supervision and control of the Fire & EMS Chief.**~~

~~(b) Structure. The Fire Division shall be organized and include such sections, if any, as recommended by the Fire Chief and as approved by the Director of Public Safety.~~

~~(c) Personnel. All personnel of the Fire Division shall be appointed by the Director of Public Safety and shall be under the supervision and control of the Fire Chief.~~

(Ord.74-52. Adopted 06/27/74; Ord. 2019-19. Adopted 09/26/19; **Ord. 2022-28. Adopted **/**/22**)

242.02 FIRE CHIEF; **ASSISTANTS**.

(a) Appointment. **In accordance with Section 7.01 of the City Charter, the Fire & EMS Chief shall be appointed by the City Manager.** ~~The Chief of the Fire Division shall be appointed by the Public Safety Director, in accordance with Section 7.01 of the City's Charter.~~

(b) Powers and Duties.

- (1) The Fire **& EMS** Chief shall perform such duties and have such obligations and responsibilities as are set forth in the **Xenia City Code** ~~Codified Ordinances of the City~~ or the laws of the State of Ohio, and all other ordinances and resolutions adopted by the Council or applicable statutes of this State.
- (2) The Fire **& EMS** Chief shall direct the work of the Fire **& EMS** Division and control the assignment, stationing, transferring, and training of all Fire **& EMS** personnel, subject to the approval of the Public Safety Director.
- (3) The Fire **& EMS** Chief shall establish Division policies, rules and regulations for the working conditions, training courses, organization, and operation of the Fire **& EMS** Division, subject to the approval of the Public Safety Director.
- (4) The Fire **& EMS** Chief shall have charge and control of the City's fire and EMS apparatus and equipment, assuring the same are kept in good condition and repair.

(c) Reports to Safety Director. The Fire **& EMS** Chief shall be under the supervision and control of the Public Safety Director.

(d) Assistant Fire & EMS Chiefs. **The City Manager may appoint persons to the position of Assistant Fire & EMS Chief, which shall be known as Deputy Fire & EMS Chief, and the Deputy**

Fire & EMS Chief(s) shall report to the Fire & EMS Chief and shall perform such duties as are assigned by the Fire & EMS Chief.

(e) Unclassified Service. In accordance with Section **10.02** ~~40-04~~ of the City Charter, the position of Fire & EMS Chief **and Deputy Fire & EMS Chief** shall be in the unclassified service. (Ord. 2019-19. Adopted 09/26/19; **Ord. 2022-28. Adopted **/**/22**)

242.03 FUNCTIONS.

(a) Powers and Duties. The Fire & EMS Division, under the supervision and direction of the Fire & EMS Chief, shall perform the following functions:

- (1) *Fire Services:* The Fire & EMS Division shall be responsible for the protection of the lives and property of the people of the City in case of fire, shall investigate the causes of fires and existing fire hazards within the City, and shall endeavor to prevent fires by education and other such methods as may be possible.
- (2) *EMS Services:* The Fire & EMS Division shall be the primary provider of emergency medical services (EMS), ambulance services and rescue services in the City.
- (3) Fire Code: The Fire & EMS Division shall be responsible for the enforcement of the Ohio Fire Code, and any inspections required thereunder.**

(b) Additional Powers and Duties. The Fire & EMS Division may also perform any other functions consistent with fire protection, fire suppression and prevention, and the provision of emergency medical services as may be necessary or as the City Council, Public Safety Director, City ordinances or State law may designate.

(1964 Code 125.03; Ord. 2019.19. Adopted 09/26/19; **Ord. 2022-28. Adopted **/**/22**)

242.04 STATIONING; WORK PERIOD.

(a) Stationing. The Fire & EMS Chief shall have the exclusive control of the stationing and transferring of all Fire & EMS Division personnel, under such general rules and regulations as the Director of Public Safety prescribes.

(b) Work Period. The standard work period within the Fire & EMS Division shall be 212 hours per twenty-eight (28) days; provided, however, that the Fire & EMS Chief, Deputy & EMS Chief, Captains or Inspectors may work a forty (40) hour per week work period, as recommended by the Fire & EMS Chief and approved by the Public Safety Director.

(Ord. 74-78. Adopted 08/08/74; Ord. 10-20. Adopted 06/10/10; Ord. 2019-19. Adopted 09/26/19; **Ord. 2022-28. Adopted **/**/22**)

242.05 REQUIREMENTS FOR ORIGINAL APPOINTMENTS.

(a) Age Requirements. No person shall be eligible to receive an original appointment as a full-time, paid firefighter in the Fire & EMS Division, ~~subject to the civil service laws of Ohio,~~ unless the person has reached the age of eighteen (18) years. No person is eligible to receive an original appointment when the person is forty-one (41) years of age or older, and no person can be declared disqualified as over age prior to that time. **This maximum age restriction shall not apply to lateral hires.**

(b) Physical Examination Requirements. No person shall be eligible to receive an original appointment as a full-time, paid firefighter in the Fire & EMS Division, ~~subject to the civil service laws of Ohio,~~ unless the person has, not more than one hundred twenty (120) days prior to the date of such appointment, passed a physical examination given by a licensed physician, a physician's assistant, a clinical nurse-specialist, a

certified nurse-practitioner, or a certified nurse-midwife certifying that the applicant is free of cardiovascular and pulmonary diseases and showing that the applicant meets the physical requirements necessary to perform the duties of a firefighter, as established by the City. The fee for such examination shall be paid by the City.

(c) Ohio Police and Fire Pension Fund. Prior to making any original appointment, the City shall file with the Ohio Police and Fire Pension Fund a copy of the report or findings of the licensed physician, physician assistant, clinical nurse-specialist, certified nurse-practitioner, or certified nurse-midwife required under division (b) of this section.

(Statutory reference: ORC 124.42)

(d) Required Certifications. No person shall be appointed as a full-time, paid firefighter unless:

(1) The person has received a certificate issued under former ORC 3303.07 or ORC 4765.55 evidencing satisfactory completion of a firefighter training program; and

(Statutory Reference: ORC 737.08)

(2) The person holds a current, valid certificate issued under ORC 4765.30 to practice as an EMT or as an EMT-paramedic. Preference in hiring will be given to those persons who are certified as paramedics. Upon appointment, the person must maintain all State-required certifications for continued employment at the highest level of EMT certification obtained or held upon his or her appointment or during his or her employment.

(Ord. 2019-19. Adopted 09/26/19; **Ord. 2022-28. Adopted **/**/22**)

242.06 ~~242.09~~ FIRE **& EMS** CORPS/CADET PROGRAM.

The Fire **& EMS Division** Chief is hereby authorized, with the approval of the Public Safety Director, to establish a ~~Fire Corps~~ or Fire **& EMS** Cadet Program to employ persons as fire cadets at age eighteen (18) or above for the purpose of training them to become firefighters. Any such Fire **& EMS** Cadet Program shall be governed by the rules and regulations established therefor by the Fire **& EMS** Chief, with the approval of the Public Safety Director.

(Ord. 2019-19. Adopted 09/26/19; **Ord. 2022-28. Adopted **/**/22**)

242.07 OFFENSES AFFECTING EMPLOYMENT ~~242.06 CRIMINAL RECORDS CHECK.~~

(a) Request for Criminal Records Check.

(1) The Fire **& EMS** Chief may request a criminal records check with respect to any person who is under consideration for appointment or employment as a permanent, full-time employee of the Fire **& EMS** Division.

(2) If the Fire **& EMS** Chief intends to request a criminal records check for an applicant, the Chief shall inform each applicant, at the time of the person's initial application for appointment or employment, that the applicant is required to provide a set of impressions of the person's fingerprints and that the Fire **& EMS** Chief requires a criminal records check to be conducted and satisfactorily completed as a part of the employment or appointment application process.

(b) Required Forms.

(1) If the Fire **& EMS** Chief requests a criminal records check under division (a) of this section, the Chief shall provide to each person the required form and a standard impression sheet to obtain fingerprint impressions.

(2) Any person subject to a criminal records check who receives a copy of the form and a copy of the impression sheet pursuant to division (b)(1) of this section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form, or

provide all the information necessary to complete the form, and shall provide the impression sheet with the impressions of the person's fingerprints. If a person fails to provide the information necessary to complete the form, or fails to provide impressions of the person's fingerprints, the Public Safety Director shall not appoint or employ the person as a permanent full-time employee of the Fire **& EMS** Division.

(c) Restrictions on Appointment.

- (1) Except as otherwise provided in division (c)(2) of this section, the Public Safety Director shall not appoint or employ a person as a permanent, full-time employee of the Fire **& EMS** Division if the Fire **& EMS** Chief has requested a criminal records check pursuant to division (a) of this section and the criminal records check indicates that the person previously has been convicted of or pled guilty to any of the following:
 - A. A felony;
 - B. A violation of ORC 2909.03 (Arson); or
 - C. A violation of an existing or former law of this State, any other state or the United States that is substantially equivalent to any of the offenses described in division (c)(1)A. or (c)(1)B. of this section.
- (2) If the Fire **& EMS** Chief requests a criminal records check pursuant to division (a) of this section, the City Manager may appoint or employ a person as a permanent, full-time employee of the Fire **& EMS** Division conditionally until the criminal records check is completed and the Chief receives the results. If the results of the criminal records check indicate that, pursuant to division (c)(1) of this section, the person subject to the criminal records check is disqualified from appointment or employment, the person shall immediately be released from appointment or employment.

(Statutory reference: ORC 737.081)

(Ord. 2019-19. Adopted 09/26/19; **Ord. 2022-28. Adopted **/**/22**)

242.08 ~~242.07~~ CONVERSION OF SICK AND VACATION LEAVE.

(a) Conversion of Leave. Whenever an employee of the Fire **& EMS** Division, through reassignment or Departmental/Division transfer, converts from a 53-hour work week to a 40-hour work week, he or she shall have sick leave and vacation leave converted in the following manner:

- (1) *Sick leave:* Accrual accumulation rate is three (3) hours for one (1) hour for job changes between the Fire **& EMS** Division and another City Department or Division, not to exceed a maximum allowable accrual balance after conversion; and
- (2) *Vacation leave:* Accrual accumulation rate is twelve (12) hours for eight (8) hours for job changes between the Fire **& EMS** Division and another City Department or Division, not to exceed a maximum allowable accrual balance after conversion.

(b) Authority of Finance Director. The Finance Director, through pay adjustments, is hereby authorized and directed to implement this policy.

(Ord. 10-20. Adopted 06/10/10; Ord. 2019-19. Adopted 09/26/19; **Ord. 2022-28. Adopted **/**/22**)

242.09 ~~242.08~~ USER FEES.

(a) Establishment.

- (1) The Public Safety Director, in conjunction with the Fire **& EMS** Chief, shall establish and publish user fees for ambulance services, EMS services, and fire services provided by the Fire **& EMS** Division. The Public Safety Director shall periodically review and adjust such fees to reflect any rate changes, state/federal reimbursement schedule changes, or increases in cost.

- (2) All user fees for ambulance services shall be comparable to the usual, customary and reasonable (UCR) fee schedule as may be established from time-to-time by either a State or Federal agency, or by an insurance trade association as may be recognized or otherwise authorized by law to establish such UCR fee schedule.
- (3) All user fees for EMS services shall be comparable to the usual, customary and reasonable (UCR) fee schedule as may be established from time-to-time by either a State or Federal agency, or by an insurance trade association as may be recognized or otherwise authorized by law to establish such UCR fee schedule.
- (4) The rate of the user fee for fire services may include the costs of any services, personnel, supplies and equipment the Fire **& EMS** Division incurs in responding to the call for service.
- (5) User fees may also be established for hazmat situations, refusal of treatment and non-transports, false alarm calls, fire inspections or any other service provided by the **Fire & EMS** Division ~~of Fire~~ for which the Public Safety Director, in conjunction with the Fire **& EMS** Chief, finds reasonable and necessary.

(b) Billing. The Public Safety Director, in consultation with the Fire **& EMS** Chief and Finance Director, shall develop billing and collection procedures for the established user fees. The City may enter into an agreement with a billing and/or collection agency or third-party administrator to implement the billing and collection of the user fees. The user fees may be charged to and billed to:

- (1) The person being treated, attended to or rescued by Fire **& EMS** Division personnel or who otherwise requested or has need of EMS Services, or the person who may be responsible for such person being treated, attended or rescued or who requested or has need of EMS Services, or the insurance carrier of said persons;
- (2) The person, organization, facility, hospital or other entity who requests the provision of Ambulance Services for its patient;
- (3) The owner of the motor vehicle when spills or debris around the vehicle are cleaned up, fires are extinguished or the site of the accident around the vehicle is secured, or the insurance carrier of said owner; and/or
- (4) The owner of property requiring the control or extinguishment of fires and other emergency services as provided by Fire **& EMS** Division personnel, or the insurance carrier of said owner. When the user fee is billed to the insurance carrier, it shall be considered an add-on cost of the individual's, persons' or company's claim for damages of the vehicles, property and/or for injuries.

(c) Mutual Aid. When EMS Services are provided by the Fire **& EMS** Division to persons outside the City's limits pursuant to a mutual aid agreement, the City's established user fee may be charged to the person receiving such EMS Services in accordance with the City's billing procedures, unless otherwise provided in the mutual aid agreement. When EMS services are provided within the City's limits by another entity pursuant to a mutual aid agreement, the entity may charge the person receiving such services its established user fee in accordance with that entity's billing practices, unless otherwise provided in the mutual aid agreement.

(d) Authority of the Public Safety Director. The Public Safety Director shall have following authority in administering the user fees and billing and collection of the same under this section:

- (1) To make all final determinations in the event of a disagreement or disputed charge;
- (2) To waive the user fee or any portion thereof where he or she finds and determines that the person who received the services is indigent or otherwise unable to pay for such services and there is no other source for the payment thereof.

(e) Revenue. All amounts collected by or for the user fees established under the authority of this section shall be placed into the City's Police and Fire Fund for use **only** by the **Fire & EMS** Division ~~of~~

Fire for personnel costs and for the purchase of supplies, equipment, and vehicles or other necessary expenses.

(f) Definitions. As used in this section:

- (1) “Ambulance Services” include, but are not limited to, transports of patients from nursing homes, treatment facilities, or assisted living services to a hospital or other medical facility.
- (2) “EMS Services” means any of the services described in ORC 4765.35, 4765.37, 4764.38 and 4765.39 that are performed by the Division of Fire and includes such services performed before or during any transport of a patient, including transports between hospitals and transports to and from helicopters, or when such services are performed by the **Fire & EMS** Division of Fire when the patient then refuses transport.
- (3) “Fire Services” include, but are not limited to, extinguishment of fires, extrication of entrapped individuals, cleaning of spills and debris, structure fires and other services which may be needed at the scene of motor vehicle accidents, vehicle fires, structure fires or other emergency scenes.
(Ord. 02-21. Adopted 07/11/02; Ord. 2019-19. Adopted 09/26/19; **Ord. 2022-28. Adopted **/**?22)**

~~242.10 POLICE AND FIRE FUND.~~

~~(a) Receipt. Property tax moneys from the property tax levy of three tenths of one mill upon all the real and personal property listed for taxation in the City, as required under and for the purposes listed in ORC 742.34, shall be receipted into the City’s Police and Fire Fund.~~

~~(b) Use of Levy Proceeds. The annual revenues derived from the property tax levied under ORC 742.34 in the Police and Fire Fund shall be used in the following order:~~

- ~~(1) — First, to pay the current firefighter employers’ contribution to the Ohio Police & Fire Pension Fund, and any interest related thereto;~~
- ~~(2) — Second, to pay any accrued liability chargeable to the City during the current calendar year for its former police relief and pension fund or any interest related thereto; and~~
- ~~(3) — Third, to defray the current operating expenses of the City.
(ORC 742.34)
(Ord. 2019-19. Adopted 09/26/19)~~

CHAPTER 243
Emergency Communications Division

243.01 Establishment

243.03 Functions

243.02 Emergency Communications Administrator

243.04 Xenia-Greene Central Communications Center

243.01 ESTABLISHMENT.

(a) Establishment. In accordance with Section 7.01 of the City Charter, a Division of Emergency Communications (Emergency Communications Division) is hereby created within the Department of Public Safety, which shall have an Emergency Communications Administrator and such ranks, supervisors, and employees as may from time-to-time be determined by the Council. All personnel of the Emergency Communications Division shall be appointed by the City Manager and shall be under the supervision and control of the Emergency Communications Director. (Ord. 2022-28. Adopted **//22)**

243.02 EMERGENCY COMMUNICATIONS ADMINISTRATOR.

(a) Appointment. In accordance with Section 7.01 of the City Charter, the Emergency Communications Administrator shall be appointed by the City Manager.

(b) Powers and Duties.

- (1) The Emergency Communications Administrator shall perform such duties and have such obligations and responsibilities as are set forth in the Xenia City Code or the laws of the State of Ohio, and all other ordinances and resolutions adopted by the Council or applicable statutes of this State.**
- (2) The Emergency Communications Administrator shall direct the work of the Emergency Communications Division and control the assignment, stationing, transferring, and training of all Division personnel, subject to the approval of the Public Safety Director.**
- (3) The Emergency Communications Administrator shall establish Division policies, rules and regulations for the working conditions, training courses, organization, and operation of the Division, subject to the approval of the Public Safety Director.**
- (4) The Emergency Communications Administrator shall have charge and control of the City's emergency communications apparatus and equipment, assuring the same are kept in good condition and repair.**

(c) Reports to Safety Director. The Emergency Communications Administrator shall be under the supervision and control of the Public Safety Director.

(d) Assistant Administrator. The City Manager may appoint a person to the position of Assistant Emergency Communications Administrator, which position shall be known as the Public Safety Technical Administrator, and the Public Safety Technical Administrator shall report to the Emergency Communications Administrator and shall perform such duties as are assigned by Emergency Communications Administrator.

(e) Unclassified Service. In accordance with Section 10.02 of the City Charter, the position of Emergency Communications Administrator and Public Safety Technical Administrator shall be in the unclassified service. (Ord. 2022-28. Adopted **//22)**

243.03 FUNCTIONS.

(a) Powers and Duties. The Emergency Communications Division, under the supervision and direction of the Emergency Communications Administrator, shall perform the following functions:

- (1) The provision of dispatch services, as the same are defined in the Consolidated Dispatch Agreement between the City and Greene County.**
- (2) Administration of the use of the LEADS system through the Emergency Communications Division;**
- (3) Administration of the use of the NCIC system through the Emergency Communications Division;**
- (4) Maintaining and administering copies of warrants and no contact orders issued by the courts;**
- (5) Maintenance of the PSISN system;**
- (6) Maintenance of all required licenses and records as may be required by local, state, or federal law.**

(b) Additional Powers and Duties. The Emergency Communications Division may also perform any other functions consistent with dispatch services, 9-1-1 services, or radio communications with law enforcement as may be necessary or as the City Council, Public Safety Director, City ordinances or State law may designate.

(Ord. 2022-28. Adopted **//22)**

243.04 XENIA-GREENE CENTRAL COMMUNICATIONS CENTER.

The Emergency Communications Division may also be known as the Xenia-Greene Central Communications Center, as the same is defined and authorized pursuant to the Consolidated Dispatch Agreement between the City of Xenia and the Board of Commissioners of Greene County, and the Emergency Communications Division shall perform such duties and have such authorities as are granted pursuant to said Agreement.

(Ord. 2022-28. Adopted **//22)**

CHAPTER ~~234~~ 245
Department of Law

245.01	Establishment	245.04	Victim Advocate Division
245.02	Law Director	245.05	Assistants; Special Counsel
245.03	City Prosecution Division		

245.01 ~~234.01~~ ESTABLISHMENT.

(a) Establishment. **In accordance with Section 6.06 and Section 7.01 of the City Charter, a Department of Law, which may also be known as the Law Department, to be headed by the Law Director, or Director of Law, who may also be known as the Law Director, is hereby established in accordance with Section 6.06 and 7.01 of the City's Charter. The Department of Law shall have such employees as may from time-to-time be determined by the City Council.**

(b) Divisions. The Department of Law shall include the following Divisions:

- (1) The City Prosecution Division;
- (2) The Victim Advocate Division.

(Ord. 2018-27. Adopted 09/13/18; **Ord. 2022-28. Adopted **/**/22**)

245.02 ~~234.02~~ LAW DIRECTOR.

(a) Appointment. The Law Director shall be appointed by City Council and shall be under the direct supervision of the City Council.

(Charter 6.05 and 7.01)

(b) Powers and Duties.

- (1) The Law Director shall be the Head of the Department of Law. He or she shall have supervision of all legal affairs of the City and direct all activities of the Department of Law, including supervision of the City Prosecution Division, the Victim Advocate Division, all assistants and employees of the Department of Law and its Divisions, and special counsel.
- (2) The Law Director shall have those powers and duties assigned to him or her by Section 6.06 of the City's Charter and any additional duties or powers assigned by the Council.
- (3) The Law Director shall be an administrative officer of the City.
- (4) Unless a City Prosecutor has been provided for by the City Council, the Law Director shall also serve as City Prosecutor, in accordance with ORC Section 1901.34.

(c) Additional Powers and Duties. Council hereby assigns the following powers and duties to the Director of Law:

- (1) Prepare, review and approve all ordinances, resolutions, deeds, contracts and other legal documents.
- (2) Attend all meetings of the City Council, unless excused by the President of Council, and attend meetings of other City Boards and Commissions when requested by that body or by Council or as necessary.

(d) Unclassified Service. In accordance with Section 10.04 of the City's Charter, the position of Law Director shall be in the unclassified service.

(e) Acting Law Director.

- (1) During the temporary absence or disability of the Director of Law or if there is a vacancy in the office of the Director of Law for any reason lasting thirty (30) days or more, a majority of the City Council shall appoint an Acting Law Director for the period of the temporary absence, disability or vacancy.
- (2) In cases where the Law Director is vacant from his or her office for a period of less than thirty (30) days due to vacation, illness or other leave, the Law Director shall appoint an Acting Law Director to serve in his or her absence by administrative directive.
(Ord. 90-15. Adopted 04/12/90; Ord. 99-54. Adopted 10/28/99; Ord. 2018-27. Adopted 09/13/18; **Ord. 2022-28. Adopted **/**/22)**

245.03 ~~243.03~~ CITY PROSECUTION DIVISION.

(a) City Prosecution Division. A City Prosecution Division is hereby created within the Department of Law, which shall have such officers, assistants and other employees as may from time-to-time be determined by the Law Director, with the approval of the City Council. All employees shall be appointed by the Law Director and shall be under the supervision and control of the City Prosecutor, who shall be under the supervision and direction of the Director of Law.

(b) City Prosecutor:

- (1) *Appointment:* The City Prosecutor shall be the head of the City Prosecution Division and shall be under the supervision and control of the Law Director.
- (2) *Powers and Duties:* The City Prosecutor shall perform such duties and have such obligations and responsibilities as are set forth in this Section and all other ordinances and resolutions Adopted by the City Council or applicable statutes of this State relative to prosecution, and as assigned and directed by the Law Director.
- (2) *Unclassified Service:* In accordance with Section 10.04 of the City's Charter, the position of City Prosecutor shall be in the unclassified service.

(c) Functions. The City Prosecution Division, under the supervision and direction of the City Prosecutor, shall perform the following functions:

- (1) Represent the City and/or the State in the prosecution of all violations of codes, regulations, laws and ordinances that occur within the City's jurisdiction;
- (2) Represent the City and/or the State in administrative appeals under ORC Chapter 4510.;
- (3) Represent the City and/or the State in appeals from the Xenia Municipal Court, including the preparation of briefs and legal documents;
- (4) Advise the City's law enforcement officers; and
- (5) Prosecute criminal cases in the Xenia Municipal Court, which includes consultations with complaining witnesses and police officers, both prior to trial and prior to filing charges; holding of pre-trial conferences; presentation of prosecution witnesses and evidence at trials; preparation and filing of trial briefs and other necessary papers; and negotiations with attorneys for various defendants pertaining to changes and trial of the same.

(d) Additional Powers and Duties. The City Prosecution Division may also perform any other functions consistent with prosecution as may be necessary or as the Law Director, the City's ordinances, or State law may designate.

(Ord. 73-51. Adopted 11/08/73; Ord. 2018-27. Adopted 09/13/18; **Ord. 2022-28. Adopted **/**/22)**

245.04 ~~234.04~~ VICTIM ADVOCATE DIVISION.

(a) Victim Advocate Division. A Victim Advocate Division is hereby created within the Department of Law, which shall have such officers, assistants and other employees as may from time-to-time be determined by the Law Director, with the approval of the City Council. All employees shall be appointed by the Law Director and shall be under the supervision and control of the Law Director.

(b) Victim Advocate Supervisor.

- (1) *Appointment* - The Victim Advocate Supervisor shall be the head of Victim Advocate Division and shall be under the supervision and control of the Law Director.
- (2) *Powers and Duties* - The Victim Advocate Supervisor shall perform such duties and have such obligations and responsibilities as are set forth in this Section and all other ordinances and resolutions Adopted by the City Council or applicable statutes of this State relative to victim advocate services, and as assigned and directed by the Law Director.
- (3) *Unclassified Service* - In accordance with Section 10.04 of the City's Charter, the position of Victim Advocate Program Supervisor shall be in the unclassified service.

(c) Functions. The Victim Advocate Division, under the supervision and direction of the Victim Advocate Supervisor, shall perform the following functions:

- (1) Provide support and court advocacy for victims of misdemeanor crimes that are prosecuted through the Xenia Municipal Court;
- (2) Assist victims with their legal rights and protections, provide victims information on the criminal justice process, assist victims with finding shelter, transportation and other needs;
- (3) Act as a liaison between victims of crime, their families, and the City Prosecution Division;
- (4) Make service referrals, such as counseling and public services; and
- (5) Notify victims of court hearings and other court-related appearances.

(d) Additional Powers and Duties. The Victim Advocate Division may also perform any other functions consistent with victim advocate services as may be necessary or as the Law Director, the City's ordinances, or State law may designate.

(Ord. 73-51. Adopted 11/08/73; Ord. 2018-27. Adopted 09/13/18; **Ord. 2022-28. Adopted **/**/22**)

245.05 ~~234.05~~ ASSISTANTS; SPECIAL COUNSEL.

(a) Assistants. In accordance with Section 6.06 of the City's Charter, the Law Director may appoint or employ assistants or employees to assist the Law Director when such positions have been authorized by Council. All such assistants and employees shall be responsible to the Law Director, and when authorized by him or her, may exercise all or any part of the powers, duties, and functions granted to the Law Director under the City's Charter, this Chapter or relevant State statute.

(b) Special Counsel. As provided in Section 6.06 of the City's Charter, with the consent of Council, the Law Director may employ special counsel to handle particular legal matters for the City, and such special counsel may perform those powers, duties and functions as authorized by and in the manner, subject to the direction of the Law Director.

(Ord. 2018-27. Adopted 09/13/18; **Ord. 2022-28. Adopted **/**/22**)

Introduction: August 11, 2022
Public Hearing & Vote: August 25, 2022
Effective Date: September 24, 2022

Agenda Item: **ORDINANCE 2022 – 29**
AMENDING SECTIONS 298.01(f) AND 298.01(g) OF THE CITY’S FEE SCHEDULE, AND SECTIONS 1220.01(b), 1220.01(c), 1224.01(b)(10), 1224.01(e)(9)B., 1224.01(e)(9)F., 1224.01(e)(19), 1226.02(c), 1236.06(k), 1236.09(e), AND 1242.04 OF THE LAND DEVELOPMENT CODE

Submitted By: Brian Forschner, City Planner
Presented By: Brent Merriman, City Manager

Summary: A Land Development Code (LDC) is a static document, yet the development world and the Xenia community are always changing. Additionally, with a code that attempts to regulate over 12,000 parcels of land, there are invariably unintended consequences. The code cannot anticipate every property owner’s wishes. The variance process through the Board of Zoning Appeals (BZA) is available to partially address this. However, when an excessive number of variances requests occur from the same section of code, it may be a sign that the code needs to be updated. Additionally, the permit review and code enforcement processes provide feedback from the community on which sections of the code can be better written to meet community needs.

With this in mind, staff periodically recommends to Planning and Zoning Commission (PZC) a series of updates to the LDC. The currently recommended amendments, summarized below, were discussed generally and informally at the June PZC meeting, then initiated by PZC on July 7. PZC held its required public hearing and voted to endorse the amendments on August 4, with the condition that the reinspection fee for Land Development Code violations be no higher than \$150.

Section 1220.01(b) and 1220.01(c): Charter Updates

The above two sections establish regulations for the PZC and BZA. The Charter update recently approved by voters included several changes to and consolidations of rules for Boards and Commissions. The changes to this section remove language that conflicts with or unnecessarily duplicates the Charter. The recent Charter amendments did not change the composition or roles of the PZC or BZA, but many of these requirements are now specified in the Charter and do not need to be duplicated in the LDC. The most significant change involves quorums for decision making. It is no longer necessary for three members to vote the same way in order to take action; instead, only a majority of those present and eligible to vote is required. Conflicting language in the LDC will be removed.

1224.01(b)(10): Accessory Building Setback

The amendment will remove existing unnecessary language that requires accessory buildings less than 10’ from the principal building to be protected with a fire resistant material and follow the same yard requirements as the principal building. Staff does not see clear need for the fire resistance requirement and neither does the Residential Code of Ohio. This requirement is unclear (fire

resistance is not defined) and does not provide protection to adjacent property owners. The setback requirement seems to undermine the intent to reduce impact on neighboring properties, because it may force some property owners to place their accessory building closer to their neighbors.

1224.01(e)(9)B Fences in ROW

This amendment provides an exemption that allows fences in the right-of-way if they are part of an outdoor seating area authorized by the City via a right-of-way use agreement.

1224.01(e)(9)F. Fences on Corner Lots

This amendment addressed the most common variance request received by the City: Constructing fences taller than 4' on a corner lot, between a home and a street. These requests often involve fences in what the property owner views as a side yard but is technically considered by the LDC to be a second front yard. The amendment would allow fences to exceed 4' if they are located in these "second" front yards, provided that they comply with the required front yard setback. This will accomplish the intent of the regulations, which is to maintain consistent front yards along a block face, while providing flexibility to property owners whose principle buildings exceed the required front yard setback. The specific wording of this amendment may evolve upon further review, and a graphic may be necessary.

1224.01(e)(19): Raising of Small Livestock

A recent appeal to the BZA revealed that the Ohio Revised Code (ORC) requires retailers to sell young poultry in quantities no less than six. The existing LDC limits small livestock on properties less than five acres to a quantity of four or less. This should be changed to six to reflect the ORC.

1226.02(c): Vision Clearance

The LDC's vision clearance standards are currently overly vague. The blanket 30" standard does not account for features such as poles, tree trunks or open fences that may exceed 30" without blocking sight. At the same time, the "unless approved by the City Planner" language gives too much discretion to staff and could result in inconsistent enforcement. The proposed changes, the details of which are pending review by the City Engineer, will strike a balance in resolving these two problems.

1234.02(b)(3)A: Temporary Parking for Recreational Vehicles and Trailers

The current code allows such vehicles to be parked temporarily for up to one week. This effectively allows parking of such vehicles for a much longer time period for two reasons: (1) Staff is unavailable on weekends to check whether vehicles are parked during that time, and (2) it allows property owners to park their recreational vehicles at their homes during the week, take the vehicle offsite on a weekend, and return it to the home the following week. The result is a loophole that undermines the intent of this requirement. Staff believes that 72 hours provides an adequate period of time for loading/unloading, while avoiding the "loophole" scenarios discussed above. It will more effectively require property owners to find a compliant, permanent storage location such as a side or rear yard, garage or an offsite storage facility.

1236.06(k) LED Signs

The proportional sign area limit for changeable copy signs were written when most changeable copy signs involved removable individual letters and numbers. The intent was to limit the size of these often unattractive and cluttered sign components. Today's electronic message centers are more streamlined in appearance and do not require the same limitations in order to achieve an aesthetically pleasing sign. The proposed change will exempt electronic signs from the proportional area limit.

1236.09(e) Drive-Through Signs

Drive-through restaurants are increasingly adding "pre-browse" menu boards to drive-through lanes. A "pre-browse" sign is a smaller companion to the larger menu board in a drive-through lane. This sign type allows additional promotional opportunities for the business, and it also can help a driver make their ordering decisions before approaching the menu board. This can help to reduce queuing. The proposed amendment allows a second drive-through sign of up to 12 sq. ft. in a stacking lane. This should accommodate most pre-browse signs without causing a significant visual impact.

1242.04: Re-Inspection Fee

Staff proposes to add an enforcement tool that is already in the Property Maintenance Code. The re-inspection fee, which is currently set at \$150 for vegetation violations and \$100 for non-vegetation violations, is invoiced to a property owner who fails to comply with a Notice of Violation by the deadline in the notice. Repeated unaddressed notices can result in repeated fees. This tool has proven to be an effective alternative to the lengthy and at times unsuccessful court process. The re-inspection fee alone is used with violations that the City cannot abate on its own. All LDC violations currently fall under this category, as the LDC does not provide authority to the Code Enforcement Officer to abate violations and charge the costs to the property owner. Many LDC violations are also of a nature that precludes abatement by the City. Staff proposes setting the LDC re-inspection fee at \$150, and to increase the current non-vegetation Property Maintenance Code re-inspection fee to \$150 to match the vegetation re-inspection fee. This necessitates amendments to Sections 298.01(f) and 298.01(g) as well.

Cover Memo
Attachments:

N/A

Budgetary Impact:

N/A

Recommendation:

Staff respectfully recommends that City Council accept Planning and Zoning Commission's endorsement and adopt Ordinance 2022-29 to amend Section 298.01(f) and 298.01(g) of the Fee Schedule, and Sections 1220.01(b), 1220.01(c), 1224.01(b)(10), 1224.01(e)(9)B, 1224.01(e)(9)F, 1224.01(e)(19), 1226.02(c), 1236.06(k), 1236.09(e), and 1242.04 of the Land Development Code.

**CITY OF XENIA, OHIO
ORDINANCE 2022 – 29**

**AMENDING SECTIONS 298.01(f) AND 298.01(g) OF THE CITY’S FEE SCHEDULE, AND
SECTIONS 1220.01(b), 1220.01(c), 1224.01(b)(10), 1224.01(e)(9)B, 1224.01(e)(9)F, 1224.01(e)(19),
1226.02(c), 1236.06(k), 1236.09(e), AND 1242.04 OF THE LAND DEVELOPMENT CODE**

WHEREAS, this Council, by Ordinance 16-26, adopted June 9, 2016, adopted a Land Development Code, which was most recently amended by Ordinance 2022-04, adopted February 24, 2022;

WHEREAS, this Council finds it is necessary to periodically amend the City of Xenia Land Development Code (LDC) to address changing development trends and community needs and to optimize efficiency and effectiveness;

WHEREAS, Section 1220.02(a)(3) of the City’s LDC allows amendments to the text of the LDC to be initiated upon the motion of the Planning and Zoning Commission;

WHEREAS, upon receipt of a text amendment, the Planning and Zoning Commission must review and hold a public hearing on the proposed amendments, and then recommend to Council to approve, approve with modification, or deny the proposed amendments; and

WHEREAS, the Planning and Zoning Commission initiated, by motion, proposed text amendments to the City’s LDC, held the required public hearing, and voted to endorse the proposed text amendments to City Council at its August 4, 2022, meeting.

NOW, THEREFORE, THE CITY OF XENIA HEREBY ORDAINS, at least four (4) members of the City Council concurring, that:

Section 1. Sections 298.01(f) and 298.01(g) are hereby amended as shown in the attached Exhibit A.

Section 2. Sections 1220.01(b), 1220.01(c), 1224.01(b)(10), 1224.01(e)(9)B., 1224.01(e)(9)F., 1224.01(e)(19), 1226.02(c), 1236.06(k), 1236.09(e), and 1242.04 of the Land Development Code, are hereby amended as shown in the attached Exhibit B.

Section 3. Existing 298.01(f), 298.01(g), 1220.01(b), 1220.01(c), 1224.01(b)(10), 1224.01(e)(9)B., 1224.01(e)(9)F., 1224.01(e)(19), 1226.02(c), 1236.06(k), 1236.09(e), and 1242.04 are hereby repealed.

Section 4. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this legislation were adopted in an open meeting of this Council and that all deliberations of this Council that resulted in this 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 5. This Ordinance shall be effective on September 24, 2022.

Introduced: August 11, 2022

Adopted:

Attest:

Wesley E. Smith
President, Xenia City Council

Michelle D. Johnson
City Clerk

298.01(f) Fees from Part Twelve – Land Development Code.

Table F.4

<u>Xenia Code Section</u>	<u>Chapter 1242: Enforcement and Penalties</u>	<u>Fee</u>
<u>1242.04(c)</u>	<u>Re-inspection</u>	<u>\$150</u>

298.01(g) Fees from Part Fourteen - Building And Housing Code.

Table G.1

<u>Xenia Code Section</u>	<u>Chapter 1490: Property Maintenance Code</u>	<u>Fee</u>
1490.01(f)(3) B.	Re-inspection	<u>\$150</u> \$100

1220.01 REVIEW AND DECISION-MAKING AUTHORITIES

(b) Planning and Zoning Commission.

(1) Establishment.

- A. The Xenia Planning and Zoning Commission (PZC) is hereby established by City Council pursuant to the Charter of the City of Xenia, Ohio.
- B. The Planning and Zoning Commission may be hereafter referred to as the "City Planning Commission," "Planning Commission, or "PZC."

(2) Membership.

The membership of the PZC shall be as follows **specified in the Charter of the City of Xenia:**

- ~~A. The City Council shall appoint members of the PZC.~~
- ~~B. The PZC shall be composed of five members, all of whom shall be residents of the City.~~
- ~~C. Each member shall serve four year terms.~~
- ~~D. In addition to the five members above, one member of City Council shall be selected by the President of City Council to serve as the chair of the PZC. The chair appointment shall be for a one year term.~~
- ~~E. Members of the PZC may be removed for misfeasance, malfeasance, or nonfeasance by City Council.~~
- ~~F. A vacancy occurring during the term of any member of the PZC shall be filled, by appointment from City Council, for the unexpired term in a manner authorized for the original appointment.~~

(3) ~~Roles and Powers~~ **and Duties** of the PZC.

In addition to the powers and duties specified in the Charter of the City of Xenia, the PZC shall have the following roles and powers and duties:

- A. Initiate, hear, review, and make recommendations to City Council related to amendments to the text of this code, the zoning map, or PUD concept plans and related zoning map amendments;
- B. Hear, review, and make decisions related to the PUD Final Development Plans;
- C. Hear, review, and make decisions on conditional uses in the respective zoning district;
- D. Review and make decisions on alternative equivalent review applications;
- E. Hear, review, and decide on any proposed major amendments to previously approved planned unit development plans and documents;
- F. Review and make decisions on minor subdivisions when such application is forwarded to the PZC by the City Planner;
- G. Review and make decisions on the preliminary plat of major subdivisions;
- H. Review, and make decisions on certain Certificates of Appropriateness (COAs);
- I. Review and make decisions on the final plat and improvement drawings of major subdivisions; **and**
- J. Review and make decisions on requests for subdivision modifications; ~~and~~
- K. Perform any other duties related to the administration and enforcement of this code as authorized by the charter, this code, and the ORC.

(4) ~~Bylaws, Rules, and Regulations~~

~~The City Council, may, by a majority vote of its entire membership, adopt bylaws for the governance of the PZC provided they are consistent with State law and with any other ordinances of the City.~~

(5) Meetings, Quorums and Decisions.

Meetings, quorums and decisions shall be governed by the Charter of the City of Xenia.

- A. ~~The PZC shall hold such meetings as it may require for conducting its business.~~
- B. ~~The Chairperson of the PZC shall establish an agenda for the PZC meetings.~~
- C. ~~At the first meeting of each year, the PZC shall elect a Vice Chairperson who shall serve for one year. These officers shall be elected from among the members of the PZC. During the temporary absence of the Chairperson, the Vice Chairperson shall fulfill the duties of the Chairperson.~~
- D. ~~All meetings shall be open to the public, except as exempted by law.~~

(6) ~~Quorums and Decisions~~

- A. ~~Any combination of three or more regular or alternate members of the PZC shall constitute a quorum.~~
- B. ~~The Chairperson of the PZC shall have no voting privileges, except in the event of a tie.~~
- C. ~~The PZC shall act when at least three members concur.~~
- D. ~~Non-decision items, such as continuance or approval of minutes, shall require a majority of the quorum to concur.~~

(c) Board of Zoning Appeals (BZA).

(1) Establishment.

The City of Xenia Board of Zoning Appeals (hereafter referred to as the "BZA") is hereby established by City Council pursuant to the Charter of the City of Xenia, Ohio.

(2) Membership.

The membership of the BZA shall be as follows specified in the Charter of the City of Xenia:

- A. ~~The City Council shall appoint members of the BZA.~~
- B. ~~The BZA shall be composed of five members, all of whom shall be residents of the City.~~
- C. ~~Each member shall serve four-year terms.~~
- D. ~~In addition to the five members above, one member of City Council shall be selected by the President of City Council to serve as the chair of the BZA. The chair appointment shall continue through the length of the council member's term.~~
- E. ~~Members of the BZA may be removed for misfeasance, malfeasance, or nonfeasance by City Council.~~
- F. ~~A vacancy occurring during the term of any member of the BZA shall be filled, by appointment from City Council, for the unexpired term in a manner authorized for the original appointment.~~

(3) Roles and Powers of the BZA.

In addition to the powers and duties specified in the Charter of the City of Xenia, the BZA shall have the following roles and powers and duties to:

- A. Hear, review, and decide on appeals of any administrative decision where it is alleged there is an error in any administrative order, requirement, decision, or determination made by the City Planner, Code Enforcement Officer, PZC, City Engineer, or other staff member authorized to make such decisions or orders, unless another appeals board is established by this code;
- B. ~~Hear, review, and decide on variance requests; and~~
- C. Perform any other duties related to the administration and enforcement of this code as authorized by ~~the charter, this code, or the ORC.~~

- (4) ~~Bylaws, Rules, and Regulations.~~
- ~~A. The City Council, may, by a majority vote of its entire membership, adopt bylaws for the governance of the BZA provided they are consistent with State law and with any other ordinances of the City.~~
 - B. The privilege of cross-examination of witnesses shall be accorded all interested parties or their counsel in accordance with the rules of the BZA.
 - ~~B. C.~~ The Chairperson, or, in his or her absence, the Vice-Chairperson, shall administer oaths and compel the attendance of witnesses.
- (5) Meetings, **Quorums and Decisions**
- Meetings, quorums and decisions shall be governed by the Charter of the City of Xenia, in addition to the following requirements:**
- ~~A. The BZA shall hold such meetings as it may require for conducting its business.~~
 - ~~B. The Chairperson of the BZA shall establish an agenda for the BZA meetings.~~
 - ~~C. At the first meeting of each year, the BZA shall elect a Vice Chairperson who shall serve for one year. These officers shall be elected from among the members of the BZA. During the temporary absence of the Chairperson, the Vice Chairperson shall fulfill the duties of the Chairperson.~~
 - ~~D. All meetings shall be open to the public, except as exempted by law.~~
 - ~~E~~ **A.** The BZA shall act by resolution or motion and shall keep minutes of its proceedings, showing the vote of each member or if any member is absent or fails to vote, the facts of each application considered by the BZA, and, where applicable, the section of this code, under which the BZA has considered the application, petition or other matter brought before the BZA.
 - ~~F~~ **B.** The BZA shall make and enter findings and conclusions which support all of its decisions. The findings and conclusions shall set forth and demonstrate the manner in which the decision recommended carries out and helps to implement the goals and objectives of the comprehensive plan, the purpose of this code, and other official policies and objectives of the City, and that the granting of the request for which application is made will not be unreasonably incompatible with or detrimental to the affected properties and to the general public.
- ~~(6) Quorums and Decisions~~
- ~~A. Any combination of three or more regular or alternate voting members of the BZA shall constitute a quorum.~~
 - ~~B. The Chairperson of the BZA shall have no voting privileges, except in the event of a tie.~~
 - ~~C. The BZA shall act when at least three members concur.~~
 - ~~D. Non decision items, such as continuance or approval of minutes, shall require a majority of the quorum to concur.~~

1224.01 ACCESSORY USES AND STRUCTURES

(b) General Provisions.

(10) Setback and Location Requirements.

- A. Unless otherwise provided for in this section, all accessory uses and structures shall be located in the rear yard.
- B. Unless otherwise required in this section, all accessory uses and structures shall be set back a minimum of three feet from all lot lines.
- C. A detached accessory building shall be set back a minimum of 10 feet from an alley if the building or structure requires access from such alley.
- D. Additional setbacks may be required from the principal building, adjacent structures, or streets based on the applicable building or fire code regulations.

- ~~E. No detached accessory structure shall be located less than ten feet from the principal building. If the separation of the accessory and main structure is less than ten feet, the accessory structure shall be protected with a fire resistant material and shall conform to the same yard requirements as the principal building.~~

1224.01 ACCESSORY USES AND STRUCTURES

(e) Standards for Specific Accessory Uses and Structures.

The following requirements apply to the specific types of accessory uses and structures listed, in addition to the requirements of Section 1224.01(b): General Provisions.

(9) Fences, Walls, and Hedges.

B. General Requirements.

- i. All fences, walls, and hedges shall be subject to the vision clearance requirements of Section 1226.02: Vision Clearance.
- ii. Small portions of fences, such as decorative fencing used for landscaping, that are not longer than 20 feet in length or more than three feet in height, but which comply with the yard and maintenance requirements set forth in this subsection, shall not require a zoning permit.
- iii. All fences, walls, hedges and invisible fences, and any related supporting structures or appurtenances, shall be contained within the lot lines of the applicable lot and shall not encroach into adjoining or abutting lots and/or rights-of-way. **An exception to this subsection is a fence built in association with an outdoor seating area within the public right-of-way that has been authorized by the City via a right-of-way use agreement.**
- iv. The smooth finished side of the fence or wall shall be the side of the fence that faces outward from the lot or yard being fenced. If a fence has two similarly finished sides, either side may face the adjacent property.
- v. All fences, walls, and hedges shall be maintained in a neat and orderly manner.
- vi. Walls shall be prohibited within all utility easements. Fences that are placed in utility easements are subject to removal without notice by utility companies or the City, to the maximum extent permissible, when work is being done in the utility easements. Replacement of the fence shall be at the property owner's expense.
- vii. Fences, walls, and hedges shall not impede, inhibit, or obstruct culverts, drains, natural watercourses, or storm water drainage in any zoning district.
- viii. It shall be the duty of each lot owner and contractor, or an agent thereof, to determine lot lines and to ascertain that the fence or wall does not deviate from the plans as approved by the City Planner issuing the zoning permit, and that the fence does not encroach on another lot or existing easement. The issuance of the permit and any inspection by the City shall not be construed to mean that the City has determined the fence is not encroaching on another lot, nor shall it relieve the property owner of the duty imposed on him or her herein.

1224.01 ACCESSORY USES AND STRUCTURES

(e) Standards for Specific Accessory Uses and Structures.

The following requirements apply to the specific types of accessory uses and structures listed, in addition to the requirements of Section 1224.01(b): General Provisions.

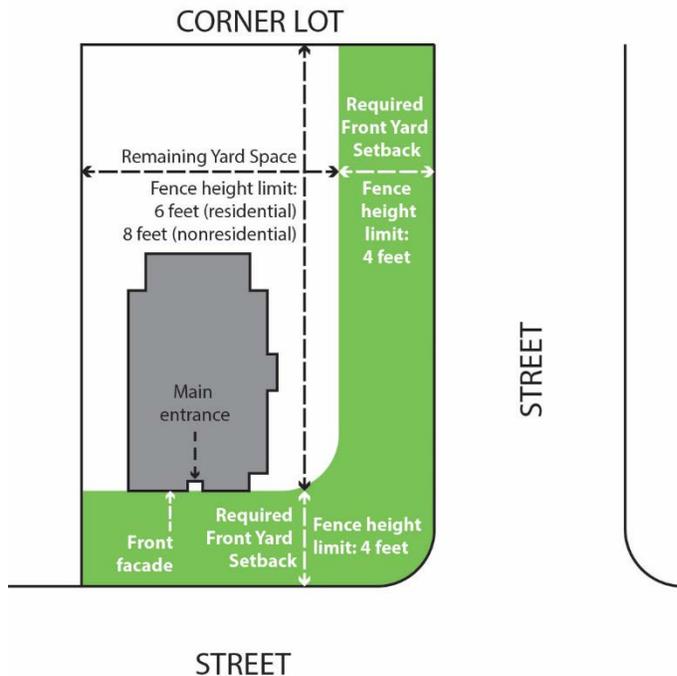
(9) Fences, Walls, and Hedges.

F. Fences, Walls, and Hedges in Front Yards.

~~The following shall apply to fencing, walls, and hedges in front yards:~~

- i. Fences, walls, and hedges shall not exceed 48 inches in the front yard or along any lot line that is adjacent to a street, including corner lots, with the following **exceptions and additional provisions:**

- a. **i.** **For corner lots, a fence or hedge in the front yard that is most closely perpendicular to the principle building front façade may be up to six feet tall, provided that the fence or hedge meets the applicable zoning district's minimum front yard setback. In no case shall a fence or hedge that is located between a principle building front façade and a street exceed 48 inches tall. Solid fences, walls, or portions thereof that run parallel and adjacent to a street shall not exceed 24 inches in height. Solid fences or walls include any fence or wall constructed of materials or in such a manner as to be more than 50 percent solid or opaque.**
- b. ~~Solid fences or walls, as defined above, may exceed 24 inches in height along the side lot lines provided the solid portion is set back a minimum of 20 feet from all front street right-of-way lines.~~



- ii. For double frontage lots, fencing in the rear yard (See Section 1226.01(a)(4)G: Double Frontage (Through) Lots.) may exceed 48 inches if the fencing is set back a minimum of 50 feet from the right-of-way but in no case shall it exceed the height allowed in rear yards for the applicable zoning district. See Figure 1224 D. This setback shall not apply if the entire block face contains double frontage lots with the rear façade of the buildings facing the same street.

1224.01 ACCESSORY USES AND STRUCTURES

(e) **Standards for Specific Accessory Uses and Structures.**

The following requirements apply to the specific types of accessory uses and structures listed, in addition to the requirements of Section 1224.01(b): General Provisions.

(19) Raising of Small Livestock.

- A. Property owners are permitted to raise and keep livestock on all properties of five acres or more in size without complying with the requirements of this section.
- B. For properties that are less than five acres, the keeping of ~~four~~ **six** chickens, rabbits, or other small livestock as approved by the City Planner, is permitted provided that:
- i. The principal use of the lot is a single-family dwelling;

- ii. No person shall keep any rooster;
- iii. The livestock shall be provided with a covered enclosure and must be kept in the covered enclosure or a fenced enclosure at all times; and
- iv. No enclosure shall be located closer than 25 feet to any residential structure on an adjacent lot.

1226.02 VISION CLEARANCE

Development proposed adjacent to any public or private street, or alley intersection, shall be designed to provide a clear visibility area for pedestrian and traffic safety.

(c) No structure, sign, or landscape element shall exceed 30 inches in height, measured from the top of the curb (or edge of street pavement where there is no curb), within the vision clearance area, ~~unless approved by the City Planner~~ **with the following exceptions:-**

- (1) Portions of fences or walls above a height of 30 inches that are no more than 25% opaque, as measured from a two-dimensional scale drawing of the fence or wall, and do not contain any element greater than one (1) foot in width or diameter;**
- (2) Tree trunks, provided that there are no overhanging branches with a clearance of less than eight (8) feet, measured from the top of the curb (or edge of street pavement where there is no curb);**
- (3) Poles, pylons, and support structures, such as for signs, not exceeding a cumulative width or diameter of one (1) foot for each structure, provided that the portion of the sign or other supported structure that exceeds one (1) foot in width or diameter has a minimum clearance of eight (8) feet;**
- (4) Utility structures;**
- (5) Structures permitted within the public right-of-way by the City Engineer.**

1234.02 OFF-STREET PARKING, LOADING AND STACKING STANDARDS

(b) General Provisions

(3) Parking and Storage of Recreational Vehicles and Trailers

- A. In any residential zoning district, there shall be no parking of recreational vehicles, motor homes, boats and trailers in the front yard of a dwelling, including the portion of the driveway in the front yard. Temporary parking is allowed for a period of **72 hours** ~~one week~~ for loading and unloading purposes.
- B. Recreational vehicles, motor homes, boats and trailers may be parked or stored outdoors in the side or rear yard of a residential premises, provided that:
 - i. All vehicles shall be parked or stored in a single location on the premises; and
 - ii. All parking spaces shall meet the surface requirement as specified in Section 1234.02(b)(8). Alternative hard surface brick or interlocking paver material may be used.
- C. The vehicle shall be properly licensed and registered for highway use as required by the State, and the vehicle shall be maintained in good condition so that it can be readily transported (wheels shall not be removed; tires shall not be flat; and the vehicle shall not be fixed to the ground).
- D. No business shall be conducted within a recreational vehicle, motor home, boat, trailer or commercial vehicle while it is parked on residential premises.
- E. No recreational vehicle, motor home, boat, trailer or commercial vehicle shall be used for dwelling purposes, except for a maximum of one week in any calendar.

1236.06 GENERAL REGULATIONS

(k) Changeable Copy Signs

(1) The following standards shall apply to changeable copy signs other than electronic message centers:

- ~~(+)~~ **A.** For any sign that has a sign area of 50 square feet or less of sign area, up to two-thirds of a permitted freestanding sign may incorporate a changeable copy sign.
- ~~(=)~~ **B.** For any sign that exceeds 50 square feet in area, up to 40 percent of the sign may incorporate a changeable copy sign.
- ~~(-)~~ **(2)** The following standards shall apply to all electronic message centers allowed in this chapter:
 - A. Any message change shall be a static, instant message change;
 - B. Messages can only change once every 4 seconds or more;
 - C. The transition time between messages shall be less than one second;

- D. All electronic signs shall contain a default mechanism that will cause the sign to revert immediately to a black screen if the sign malfunctions;
- E. Only Light Emitting Diodes (LED) technology or similar quality signs shall be permitted for electronic message centers; and
- F. Brightness Controls
 - i. The electronic message center shall come equipped with an automatic dimming photocell, which automatically adjusts the display's brightness based on ambient light conditions.
 - ii. The brightness level shall not increase by more than 0.3 foot candles (or 3.23 lumens per square meter or lux) (over ambient levels) as measured using a foot candle meter at a pre-set distance.
 - iii. The procedure and distances for measurement of brightness shall be as established by the International Sign Association's *Recommend Night-time Brightness Levels for On-Premise Electronic Message Centers*.
 - iv. The owners of such signs shall include specifications accompanying their zoning permit application, demonstrating that they will comply with the prescribed brightness limitations set by this code.

1236.09 PERMANENT SIGNS PERMITTED IN NONRESIDENTIAL ZONING DISTRICTS

(e) Drive-Through Signs

- (1) One drive-through sign **with a sign area of up to 36 square feet shall be allowed** for each stacking lane in a drive-through facility ~~shall be allowed provided it does not exceed 36 square feet in sign area.~~
- (2) The above maximum sign area shall not apply to any drive-through signs located in the rear yard and/or screened with a Type B buffer (See Section 1232.05: Landscape Buffering Requirements.), or other screening method, that fully screens the drive-through signage from view of all public rights-of-way.
- (3) A second drive-through sign with a sign area of up to 12 square feet shall be allowed for each stacking lane in a drive-through facility.**
- ~~(4)~~ (4) Drive-through signage shall not be included in the total calculated allowed signage for a property under the remainder of this chapter.
- ~~(5)~~ (5) No drive-through sign shall exceed seven feet in height measured from the grade of the adjacent driving surface to the top of the sign.
- ~~(6)~~ (6) All drive-through signs may be internally or externally illuminated.
- ~~(7)~~ (7) The drive-through sign shall be located in a landscaped area equal to or larger than the total sign area of the drive-through sign. Such landscape area may also be counted toward any other landscaping requirements in this code.

1242.04 REMEDIES

(a) In case any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained, or used or any land is or is proposed to be used in violation of this code, or any amendment or supplement thereto, City Council, the Law Director, the City Planner, Code Enforcement Officer, City Engineer, or any adjacent or neighboring property owner who would be especially damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement, or any other appropriate action or proceeding to prevent, enjoin, abate, or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance, or use.

(b) The remedy provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

(c) Upon failure of the person, firm or corporation responsible for a violation to comply with a notice of violation or order, the Code Enforcement Officer shall be authorized to assess a re-inspection fee to the person responsible for the violation. The re-inspection fee shall be in Part Two - Title Fourteen, Chapter 298 of these Codified Ordinances and shall be based upon the

jurisdiction's administrative costs associated with inspections which occur after the compliance deadline specified in the notice of violation.



**XENIA CITY COUNCIL
LEGISLATIVE COVER MEMO**

Meeting Date: August 11, 2022
Emergency: Yes
Effective Date: August 11, 2022

Agenda Item: **ORDINANCE 2022 – 30**
ESTABLISHING A SIX-MONTH MORATORIUM ON THE ESTABLISHMENT OR COMMENCEMENT OF INPATIENT AND/OR OUTPATIENT ADDICTION TREATMENT FACILITIES WITHIN THE CITY OF XENIA, AND DECLARING AN EMERGENCY

Submitted By: Brian Forschner, City Planner
Presented By: Brent Merriman, City Manager

Summary: Since the 1980s, local governments have become increasingly familiar with the challenges of homelessness, serious mental illness, and substance abuse/addiction. The deinstitutionalization of the mentally ill, though justified, also coincided with cutbacks in federal housing and welfare programs, periodic economic downturns, and economic restructuring. This led to unmet demand for social service uses in many communities across the country. More recently, the opioid-fueled drug addiction crisis has pushed this trend into overdrive.

The addiction crisis has been particularly visible in County seat communities like Xenia, which have historically been social service hubs. There is increased demand for addiction treatment facilities, as evidenced by the recent proposal at 1384 North Monroe Drive, which was denied by Planning and Zoning Commission. The City's Land Development Code (LDC) has been found to be inadequate in addressing this trend. For example, it does not distinguish between addiction treatment facilities and other uses such as medical offices and nursing homes. While all of these uses serve an important community need, more attention needs to be given to their varying levels of impacts on their neighborhoods.

It is for this reason that, before more such facilities are located in the community, City staff should undertake a study of social service regulations and recommend updates to the LDC. A moratorium is a tool that enables a temporary pause in development of a particular use, while new regulations are developed. The attached emergency ordinance will immediately enact a temporary moratorium on the establishment or commencement of inpatient and/or outpatient addiction treatment facilities and similar uses. The Charter dictates that all emergency ordinances expire after 60 days. Because 60 days is inadequate time for consideration of new regulations, staff also recommends a second similar non-emergency ordinance (Ordinance 2022-31), which will extend the moratorium period to six months (March 24, 2023).

Vote Required for Passage: An emergency ordinance requires the affirmative vote of at least five members of Council.

Recommendation: Staff respectfully recommends that City Council adopt Ordinance 2022-30, as an emergency, establishing a six-month moratorium on the establishment or commencement of inpatient and/or outpatient addiction treatment facilities within the City of Xenia.

**CITY OF XENIA, OHIO
ORDINANCE 2022 – 30**

**ESTABLISHING A SIX-MONTH MORATORIUM ON THE ESTABLISHMENT OR
COMMENCEMENT OF INPATIENT AND/OR OUTPATIENT ADDICTION TREATMENT
FACILITIES WITHIN THE CITY OF XENIA, AND DECLARING AN EMERGENCY**

WHEREAS, due to the opioid crisis that is affecting every community in this country, there is a growing need for inpatient and/or outpatient addiction treatment facilities;

WHEREAS, while recognizing the need for such addiction treatment facilities, this Council also recognizes the need to assure that such facilities are properly zoned to mitigate the potential harmful impact such facilities can have on residential and commercial areas;

WHEREAS, the City needs time to study and determine the impact such addiction treatment facilities could have on the City to assure they are properly zoned and desires to maintain the status quo while doing so; and

WHEREAS, this Council finds it to be in the best interest of the health, safety, and general welfare of the citizens of Xenia to adopt a six-month moratorium on the establishment or commencement of inpatient and/or outpatient addiction treatment facilities within the City to allow ample time to determine the appropriate zoning for such facilities;

NOW, THEREFORE, THE CITY OF XENIA HEREBY ORDAINS, at least five (5) members of the City Council concurring, that:

Section 1. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of this City, and for the further reason that this Ordinance is required to be immediately effective to protect the public's interests by imposing a six-month moratorium on the establishment or commencement of inpatient and/or outpatient addiction treatment facilities and similar uses during the review and study of these types of uses by the City.

Section 2. It is the legislative intent of this Ordinance to establish a temporary moratorium on the establishment or commencement of inpatient and/or outpatient addiction treatment facilities within the City of Xenia. The purpose of this moratorium is to maintain the status quo while the City reviews and studies these types of facilities to determine the appropriate zoning for such facilities for the purpose of protecting residential and commercial neighborhoods from negative secondary effects created by such facilities.

Section 3. A temporary moratorium is hereby imposed on the establishment or commencement of inpatient and/or outpatient addiction treatment facilities or similar uses with the City of Xenia for a period of six months from the effective date of this Ordinance, unless ended earlier by action of the City Council. Said moratorium may be reasonably extended by the Council, if necessary, by ordinance.

Section 4. No inpatient and/or outpatient addiction treatment facilities or similar uses, as determined by the City Planner, shall be established or shall commence operations within the City of Xenia for a period of six (6) months from the effective date of this Ordinance.

Section 5. The City Manager and City Planner are hereby directed to study these types of uses and to recommend to Council, as soon as is practicable, the appropriate zoning for inpatient and/or outpatient addiction treatment facilities or similar uses.

Section 6. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this legislation were adopted in an open meeting of this Council and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including ORC 121.22.

Section 7. This Ordinance shall become effective immediately; however, in accordance with Section 5.03 of the City's Charter, this Ordinance shall automatically stand repealed as of the sixty-first (61st) day following the date of adoption.

Adopted: August 11, 2022

Attest:

Wesley E. Smith
President, Xenia City Council

Michelle D. Johnson
City Clerk



**XENIA CITY COUNCIL
LEGISLATIVE COVER MEMO**

Introduction: August 11, 2022
Public Hearing & Vote: August 25, 2022
Effective Date: September 24, 2022

Agenda Item: **ORDINANCE 2022 – 31**
ESTABLISHING A SIX-MONTH MORATORIUM ON THE ESTABLISHMENT OR COMMENCEMENT OF INPATIENT AND/OR OUTPATIENT ADDICTION TREATMENT FACILITIES WITHIN THE CITY OF XENIA

Submitted By: Brian Forschner, City Planner
Presented By: Brent Merriman, City Manager

Summary: Council enacted this moratorium as an emergency measure, effective immediately, by Ordinance 2022-30. However, pursuant to Section 5.03 of the City’s Charter, that emergency ordinance will expire on October 11, 2022 (the 61st day following its adoption). As explained in the cover memo for Ordinance 2022-30, staff needs more time to do a thorough review and study of these types of uses to determine appropriate zoning. Therefore, we are requesting that the moratorium also be enacted as a regular ordinance to extend the moratorium for a six-month period (March 24, 2023).

Cover Memo Attachments: N/A

Budgetary Impact: N/A

Vote Required for Passage: The affirmative vote of a majority of the members of Council present at the meeting.

Recommendation: Staff respectfully recommends that City Council adopt Ordinance 2022-31 to establish a six-month moratorium on the establishment or commencement of inpatient and/or outpatient addiction treatment facilities within the City of Xenia.

**CITY OF XENIA, OHIO
ORDINANCE 2022 – 31**

**ESTABLISHING A SIX-MONTH MORATORIUM ON THE ESTABLISHMENT OR
COMMENCEMENT OF INPATIENT AND/OR OUTPATIENT ADDICTION TREATMENT
FACILITIES WITHIN THE CITY OF XENIA**

WHEREAS, due to the opioid crisis that is affecting every community in this country, there is a growing need for inpatient and/or outpatient addiction treatment facilities;

WHEREAS, while recognizing the need for such addiction treatment facilities, this Council also recognizes the need to assure that such facilities are properly zoned to mitigate the potential harmful impact such facilities can have on residential and commercial areas;

WHEREAS, the City needs time to study and determine the impact such addiction treatment facilities could have on the City to assure they are properly zoned and desires to maintain the status quo while doing so; and

WHEREAS, this Council finds it to be in the best interest of the health, safety, and general welfare of the citizens of Xenia to adopt a six month moratorium on the establishment or commencement of inpatient and/or outpatient addiction treatment facilities within the City to allow ample time to determine the appropriate zoning for such facilities;

NOW, THEREFORE, THE CITY OF XENIA HEREBY ORDAINS, at least four (4) members of the City Council concurring, that:

Section 1. It is the legislative intent of this Ordinance to establish a temporary moratorium on the establishment or commencement of inpatient and/or outpatient addiction treatment facilities within the City of Xenia. The purpose of this moratorium is to maintain the status quo while the City reviews and studies these types of facilities to determine the appropriate zoning for such facilities for the purpose of protecting residential and commercial neighborhoods from negative secondary effects created by such facilities.

Section 2. A temporary moratorium is hereby imposed on the establishment or commencement of inpatient and/or outpatient addiction treatment facilities or similar uses with the City of Xenia for a period of six months from the effective date of this Ordinance, unless ended earlier by action of the City Council. Said moratorium may be reasonably extended by the Council, if necessary, by ordinance.

Section 3. No inpatient and/or outpatient addiction treatment facilities or similar uses, as determined by the City Planner, shall be established or shall commence operations within the City of Xenia for a period of six (6) months from the effective date of this Ordinance.

Section 4. The City Manager and City Planner are hereby directed to study these types of uses and to recommend to Council, as soon as is practicable, the appropriate zoning for inpatient and/or outpatient addiction treatment facilities or similar uses.

Section 5. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this legislation were adopted in an open meeting of this Council and

that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including ORC 121.22.

Section 6. This Ordinance shall be effective on September 24, 2022.

Introduced: August 11, 2022

Adopted:

Attest:

Wesley E. Smith
President, Xenia City Council

Michelle D. Johnson
City Clerk