

**CITY OF XENIA, OHIO  
ORDINANCE 2021 – 23**

**RETITLING PART TWO, AMENDING TITLE TWO OF PART TWO, AND RETITLING  
AND AMENDING TITLE FOUR OF PART TWO OF THE CODIFIED ORDINANCES OF  
THE CITY OF XENIA, OHIO**

**WHEREAS**, this Council’s Legislative Review and Government Affairs Committee met on November 22, 2021, to review proposed amendments to Titles Two and Four of Part Two of the Codified Ordinances of the City of Xenia, Ohio;

**WHEREAS**, the Legislative Review and Government Affairs Committee voted unanimously to recommend that Council rename Part Two and make certain amendments and reorganization to Titles Two and Four of Part Two of the Codified Ordinances; and

**WHEREAS**, this Council deems it to be in the best interests of the City of Xenia and its inhabitants to make the recommended changes, amendments, renumbering and retitling to Part Two and Titles Two and Four of Part Two of the Codified Ordinances of the City of Xenia, Ohio.

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

**Section 1.** Part Two of the Codified Ordinances of the City of Xenia, Ohio, is hereby retitled from “Administration Code” to “City Government.”

**Section 2.** Part Two, Title Two, Chapter 202 – Codified Ordinances is renumbered as Chapter 200 and is retitled “Xenia City Code.” Section 202.01 is amended and renumbered as Section 200.01; Section 202.02 is amended and renumbered as Section 200.02; Section 202.03 is amended and renumbered as 200.03; Section 202.04 is amended and renumbered as Section 200.04; Section 202.05 is amended and renumbered as Section 200.03(e); Section 202.06 is amended and renumbered as Section 200.06, and is renamed “Determination of Legislative Intent; Conflicts of Law;” Section 202.07 is amended and renumbered as Section 200.07; and Section 200.05, titled “Computation of Time,” is hereby enacted, as shown in the attached Exhibit A.

**Section 3.** Part Two, Title Two, Chapter 204 – Official Standards is renumbered as Chapter 202. Section 204.01 is amended and renumbered as 202.01 and is renamed “Project Datum;” Section 204.02 is amended and renumbered as 202.04; Section 204.03 is amended and renumbered as 202.06; and Section 202.02, titled “Standard of Time,” Section 202.03, titled “Legal Holidays,” Section 202.05, titled “City Logo,” and Section 202.07, titled “Legal Publication,” are hereby enacted, as shown on the attached Exhibit A.

**Section 4.** Part Two, Title Two, Chapter 206 – Public Meetings is renumbered as Chapter 204 and is retitled “Public Meetings and Public Records.” Section 206.01 is amended and renumbered as Section 204.01 and is renamed “Application;” Section 206.02 is repealed; Section 206.03 is amended and renumbered as Section 204.03 and is renamed “Rules of Public Notice;” Section 206.04 is amended and renumbered as Section 204.04; Section 206.05 is amended and renumbered as Section 204.02 and is renamed “Open Meetings;” Section 206.06 is repealed; and Section 204.05, titled “Conduct at Meetings,” Section 204.06, titled “Exceptions,” Section 204.07, titled “Alternate Seat of City Government; Exercise of Powers,” and Section 204.08, titled “Public Records,” are hereby enacted, as shown in the attached Exhibit A.

**Section 5.** Part Two, Title Two, Chapter 206, titled “Miscellaneous,” consisting of Sections 206.01 to 206.04, is hereby enacted, as shown in the attached Exhibit A.

**Section 6.** Part Two, Title Two, Chapter 208 – Contracts and Purchasing, is hereby moved to Title Four: Legislative Code, is renumbered as Chapter 214, and is retitled “Contracts, Purchasing, and Sale of Personal Property.” Section 208.01 is repealed; Section 208.02 is amended and renumbered as Section 214.03 and is renamed “Advertisement for Competitive Bids or Proposals;” Sections 208.03, 208.04, and 208.05 are combined, amended, and renumbered as Section 214.04, titled “Preference System for Resident Businesses;” Sections 208.07 to 208.11 are repealed; Section 208.12 is amended and renumbered as Section 214.06; Sections 208.13 to 208.15 are repealed; and Section 214.01, titled “Threshold for Expenditures,” and Section 214.02, titled “Competitive Bidding,” are hereby enacted, as shown in the attached Exhibit B.

**Section 7.** Existing Chapter 202 (202.01 – 202.99), Chapter 204 (204.01 – 204.03), Chapter 206 (206.01 – 206.06), and Chapter 208 (208.01 – 208.15) of Part Two, Title Two, of the Codified Ordinances of the City of Xenia, Ohio, are hereby repealed.

**Section 8.** Existing Chapter 200 – Definitions, and Chapter 210 – Civil Defense, of Part Two, Title Two, of the Codified Ordinances of the City of Xenia, Ohio, are hereby repealed in their entirety, as shown in the attached Exhibit C.

**Section 9.** Part Two, Title Four: “Legislation,” is hereby retitled “Title Four: Legislative Code.”

**Section 10.** Part Two, Title Four, Chapter 220 – City Council, is hereby renumbered as Chapter 210. Section 220.01 is amended and renumbered as 210.04; Sections 220.02 to 220.04 are hereby repealed; Section 220.05 is amended and renumbered as Section 212.02, and is renamed “Legislation and Motions;” Sections 220.06 to 220.09 are repealed; Section 220.10 is amended and renumbered as Section 210.06 and is renamed “Expenses;” Section 220.11 is amended and renumbered as Section 210.05; Section 220.12 is repealed; Section 220.13 is hereby amended and renumbered as Section 210.07; and Section 210.01, titled “Oath of Office,” is hereby enacted, as shown in the attached Exhibit B.

**Section 11.** Part Two, Title Four, Chapter 222 – Ordinances and Resolutions, is hereby renumbered as Chapter 212 and is renamed “Ordinances, Resolutions, and Motions.” Section 222.01 is amended and renumbered as Section 212.04; Section 222.02 is amended and renumbered as Section 212.03; and Section 212.01, titled “Legislative Actions,” Section 212.05, titled “Determination of Legislative Intent,” Section 212.06, titled “Effect of Reenactment, Amendment or Repeal,” and Section 212.07, titled “Authentication,” are hereby enacted, as shown in the attached Exhibit B.

**Section 12.** Existing Chapter 220 (220.01 – 220.13) and Chapter 222 (222.01 – 222.02) of Part Two, Title Four, of the Codified Ordinances of the City of Xenia, Ohio, are hereby repealed.

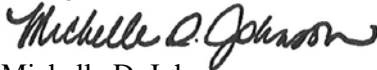
**Section 13.** Existing Chapter 224 – Mayor, and Chapter 226 – Community Funding, of Part Two, Title Four, of the Codified Ordinances of the City of Xenia, Ohio, are hereby repealed in their entirety, as shown in the attached Exhibit C.


**Section 14.** 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 15.** This Ordinance shall be effective on January 28, 2022.

Introduced: December 9, 2021  
Adopted: December 29, 2021

Attest:

  
Michelle D. Johnson  
City Clerk

  
Wesley E. Smith  
President, Xenia City Council

CHAPTER ~~200~~ 202  
Xenia City Code ~~Codified Ordinances~~

200.01	Designation; Citations; Headings	2002.05	<u>Computation of Time</u>
2002.02	General Definitions		<del>Construction of Section References</del>
2002.03	Rules of Construction	2002.06	<u>Determination of Legislative Intent</u>
2002.04	<del>Revivor; Effect of Reenactment,</del> Amendment or Repeal		<del>Repealer; Conflicts of Law</del>
		2002.07	Severability
		2002.99	General Penalty

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200.01 ~~202.01~~ DESIGNATION; CITATIONS; HEADINGS.

(a) Xenia City Code. ~~This volume consists of All ordinances and resolutions of a permanent and general nature of the City of Xenia, Ohio municipality, as revised, codified, arranged, numbered, and consolidated into general provisions, component codes, titles, chapters, and sections, and divisions, and as such shall be collectively known and may be designated as the “Xenia City Code,” or the “Codified Ordinances of Xenia, Ohio,” 2006, for which designation “City Code” or “Codified Ordinances” may be substituted. Code, title, chapter, and section, and division headings do not constitute any part of the law as contained in the Xenia City Code Codified Ordinances.~~

*Statutory reference: ORC 1.01*

(b) Component Codes. All references to codes are to such components of the Xenia City Code unless otherwise specified. Any component code may be referred to and cited by its name, such as the “Administrative Code” or the “Traffic Code.”

(c) Sections and Divisions. Sections may be referred to and cited by the designation “section” followed by the number, such as “section 101.01” or “§ 101.01,” or may be simply cited by their numerical designation, such as “101.01.” Likewise, divisions may be referred to and cited by the designation “division” followed by the number, such as “division 101.01(a),” or may be simply cited by their numerical designation, such as “101.01(a).”

200.02 ~~202.02~~ GENERAL DEFINITIONS.

(a) Applicability. As used in the Xenia City Code, unless another definition is provided or the context otherwise requires, the general definitions contained in division (b) of this section shall apply.

The following words and/or phrases used in this section are defined in Chapter 200, § 200.01:

(b) General Definitions.

- (1) “And” may be read “or,” and “or” may be read “and” if the sense requires it.
- (2) “Another,” when used to designate the owner of property that is the subject of an offense, includes not only natural persons but also every other owner of property.
- (3) “Anything of value,” as used in any section of the Xenia City Code for the violation of which there is provided a penalty or forfeiture, unless the context otherwise requires, includes:
  - A. Money, bank bills or notes, U.S. treasury notes, and other bills, bonds or notes issued by a lawful authority and intended to pass and circulate as money;
  - B. Goods and chattels;
  - C. Promissory notes, bills of exchange, orders, drafts, warrants, checks or bonds given for the payment of money;
  - D. Receipts given for the payment of money or other property;

- E. Rights in action;
  - F. Things which savor of the realty and are, at the time they are taken, a part of the freehold, whether they are of the substance or produce thereof or affixed thereto; although there may be no interval between the severing and taking away;
  - G. Any interest in realty, including fee simple and partial interests, present and future, contingent or vested interests, beneficial interests, leasehold interests and any other interests in realty;
  - H. Any promise of future employment; and/or
  - I. Every other thing of value.
- (4) "Bond" includes an undertaking.
  - (5) "CFR" means the Code of Federal Regulations.
  - (6) "Child" or "children" means progeny or offspring of parentage and includes child by adoption.
  - (7) "City" or "Municipality" when used in the Xenia City Code shall denote the City of Xenia, Ohio, irrespective of its population or legal classification.
  - (8) "Council" or "City Council" means the legislative authority of the City of Xenia, Ohio.
  - (9) "County" means Greene County, Ohio.
  - (10) "Imprisoned" or "imprisonment" shall have the same meaning as in ORC 1.05.
  - (11) "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork known as the worldwide web.
  - (12) "Keeper" or "proprietor" includes all persons, whether acting by themselves or as a servant, agent, or employee.
  - (13) "Land" and "real estate" includes rights and easements of incorporeal nature.
  - (14) "Legislative authority" means the City Council as the governing body of the City.
  - (15) "Municipal ordinance" refers to any ordinance passed by the City of Xenia or a municipal ordinance passed by another Ohio municipality.
  - (16) "OAC" refers to the Ohio Administrative Code.
  - (17) "Oath" includes affirmation, and "swear" includes affirm.
  - (18) "Of unsound mind" includes all forms of derangement or intellectual disability.
  - (19) "ORC," or "Ohio R.C.," or "Revised Code" refers to the Ohio Revised Code.
  - (20) "Owner," when applied to property, includes any part owner, joint owner or tenant in common of the whole or part of such property.
  - (21) "Person" includes an individual, corporation (whether public or private), business trust, estate, trust, partnership, and association.
  - (22) "Personal property" includes all property, except real property.
  - (23) "Plan of sewerage," "system of sewerage," "sewer," and "sewers" includes sewers, sewage disposal works and treatment plants, and sewage pumping stations, together with facilities and appurtenances necessary and proper therefor.
  - (24) "Plat" means a map of a tract or parcel of land.
  - (25) "Population" means that shown by the most recent regular federal census.
  - (26) "Premises," as applied to real property, includes land and buildings.
  - (27) "Property" includes real, personal, mixed estates and interests.
  - (28) "Public authority" means the State of Ohio, a state institution of higher education, a county, a township, a municipal corporation, a school district or other political subdivision of Ohio, or any officer, board or commission thereof.
  - (29) "Public place" includes any street, sidewalk, park, cemetery, school yard, body of water or watercourse, public conveyance, or any other place for the sale of merchandise, public accommodation, or amusement.
  - (30) "Real property" includes lands, tenements, and hereditaments.
  - (31) "Registered mail" includes certified mail, and "certified mail" includes registered mail.

- (32) “Rule” includes regulation.**
- (33) “Sidewalk” means that portion of the street between the curb line and the adjacent property line intended for the use of pedestrians.**
- (34) “State” when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof and any area subject to the legislative authority of the United States of America. “This State” or “the State” means the State of Ohio.**
- (35) “State law” means the laws of the State of Ohio.**
- (36) “Street” includes alleys, avenues, boulevards, lanes, roads, highways, viaducts and all other public thoroughfares within the City.**
- (37) “Tenant” or “occupant,” as applied to premises, includes any person holding a written or oral lease or who actually occupies the whole or any part of such premises, alone or with others.**
- (38) “Undertaking” includes a bond.**
- (39) “United States” or “U.S.” includes all the states.**
- (40) “USC” refers to the United States Code.**
- (41) “Week” means seven (7) consecutive days.**
- (42) “Whoever” includes all persons, natural and artificial, partners, principals, agents and employees, and all officials, public or private.**
- (43) “Will” includes codicil.**
- (44) “Writing” includes printing.**
- (45) “Written” or “in writing” includes any representation of words, letters, symbols or figures; however, this provision does not affect any law relating to signatures.**
- (46) “Year” means twelve (12) consecutive months.**

*Statutory References: ORC 1.02, 1.03, 1.05, 1.44, 1.59, 701.01, 711.001*

### **200.03** ~~202.03~~ RULES OF CONSTRUCTION.

**These rules apply to the Xenia City Code and its component codes, titles, chapters, sections, and divisions, and to any rules or regulations promulgated under them, unless otherwise stated therein.**

*Statutory Reference: ORC 1.41*

(a) **Common and Technical Usage Use.** Words and phrases shall be read in context and construed according to the rules of grammar and common usage. Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly.

*Statutory reference: ORC 1.42*

(b) **Singular and Plural; Gender; Tense.** As used in **the Xenia City Code** ~~these Codified Ordinances~~, unless the context otherwise requires:

- (1) The singular includes the plural, and the plural includes the singular;
- (2) Words of one gender include the other genders; and
- (3) Words in the present tense include the future tense.

*Statutory reference: ORC 1.43*

(c) **Mandatory or Discretionary.** ~~Computation of Time.~~

- (1) The words “shall” or “will” are mandatory and not discretionary.**
- (2) The word “may” is permissive and discretionary.**

~~(1) The time within which an act is required by law to be done shall be computed by excluding the first and including the last day; except that when the last day falls on Sunday or a legal holiday, then the act may be done on the next succeeding day that is not a Sunday or a legal holiday.~~

- ~~(2) When a public office, in which an act required by law is to be performed, is closed to the public for the entire day that constitutes the last day for doing the act or before its usual closing time on that day, the act may be performed on the next succeeding day that is not a Sunday or a legal holiday.~~
- ~~(3) Legal holiday, as used in subsections (c)(1) and (c)(2) of this section, means the following days:~~
- ~~A. The first day of January, known as New Year's day;~~
  - ~~B. The third Monday in January, known as Martin Luther King day;~~
  - ~~C. The third Monday in February, known as Washington Lincoln day;~~
  - ~~D. The day designated in the "Act of June 28, 1968," 82 Stat. 250, 5 U.S.C. 6103, as amended, for the commemoration of Memorial Day;~~
  - ~~E. The fourth day of July, known as Independence Day;~~
  - ~~F. The first Monday in September, known as Labor Day;~~
  - ~~G. The second Monday in October, known as Columbus Day;~~
  - ~~H. November 11, known as Veteran's Day;~~
  - ~~I. The fourth Thursday in November, known as Thanksgiving Day, and the day after Thanksgiving;~~
  - ~~J. December 25, known as Christmas Day; and~~
  - ~~K. Any day appointed and recommended by the Governor of this state or the President of the United States as a holiday.~~
- ~~(4) If any day designated in this section as a legal holiday falls on a Saturday, the preceding day is a legal holiday. If any day designated in this section as a legal holiday falls on a Sunday, the next succeeding day is a legal holiday.~~  
~~(ORC 1.14)~~
- ~~(5) When an act is to take effect or become operative from and after a day named, no part of that day shall be included. If priority of legal rights depends upon the order of events on the same day, such priority shall be determined by the times in the day at which they respectively occurred.~~  
~~(ORC 1.15)~~
- ~~(6) If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.~~  
~~(ORC 1.45)~~

**(d) Conflict in the Expression of Numbers. If there is a conflict between figures and words in expressing a number, the words govern.**

*Statutory reference: ORC 1.46*

~~Authority. When the law requires an act to be done which may by law as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.~~

**(e) 202.05-Construction of References to Sections Section References.**

- (1)** ~~(a) Wherever in a penalty section reference is made to a violation of a **series of sections** section or an inclusive group of sections, or of **divisions** subsections or subdivisions of a section, such reference shall be construed to mean a violation of any provision of the section, sections, subsections, **division** or subdivision included in **such** the reference.~~
- (2)** ~~(b) References in **the Xenia City Code** these Codified Ordinances to action taken or authorized under designated sections of **the Xenia City Code** these Codified Ordinances include, in every case, action taken or authorized under **any** the applicable, **prior section** legislative provision which **has been** is superseded by these Codified Ordinances.~~  
*Statutory Reference: ORC 1.23*
- (3)** ~~(c) A reference to any **title, chapter, section, or division of the Xenia City Code** portion of a provision of these Codified Ordinances applies to all reenactments or amendments thereof.~~

*Statutory Reference: ORC 1.55*

- (4) **If a section of the Xenia City Code refers to a series of numbers or letters, the first and the last numbers or letters are included.**

*Statutory Reference: ORC 1.56*

- (5) ~~(d)~~ Whenever in ~~one section~~ **any title, chapter, section, or division of the Xenia City Code** reference is made to another **title, chapter, section, or division** section hereof, the reference shall extend and apply to the **title, chapter, section, or division** section referred to as subsequently amended, revised, recodified, or renumbered, unless the subject matter **was** be changed or materially altered by the amendment or revision.

~~Joint Authority. All words purporting to give joint authority to three or more municipal officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it shall be otherwise expressly declared in the law giving the authority or inconsistent with state statute or Charter provisions.~~

(f) **References to Offices or Officers. Reference to a public department, division or office or department head, division head or officer shall be deemed to apply to any department, division, office, officer, or employee of the City exercising the powers, duties or functions contemplated in the reference, irrespective of any transfer of functions or change in the official title of the department, division, office, officer or employee.**

(g) **Errors and Omissions. If a manifest error is discovered consisting of the misspelling of any word or words, the omission of any word or words necessary to express the intention of the provisions affected, the use of a word or words to which no meaning can be attached, or the use of a word or words when another word or words was clearly intended to express such intent, such spelling shall be corrected and such word or words supplied, omitted or substituted as will conform with the manifest intention, and the provision shall have the same effect as though the correct words were contained in the text as originally published. No such alteration shall be made or permitted if any question exists regarding the nature or extent of such error.**

(h) **Authorized Agents. When the law requires an act to be done which may by law as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.**

(i) ~~(f)~~ **Exceptions. These rules of construction shall not apply to any chapter, section, or division of the Xenia City Code law which shall that contains any express provision excluding such construction, or which provides for its own rules of construction, or when the subject matter or context of such law may be repugnant thereto.**

**200.04** ~~202.04~~ **REVIVOR; EFFECT OF REENACTMENT, AMENDMENT OR REPEAL.**

- (a) **Reenactment.**

(1) **No ordinance shall reenact or revive any title, chapter, section, or division of the Xenia City Code unless the new ordinance contains the entire title, chapter, section, or division to be revived, with the reenacted or revived matter indicated by underscoring or by italics.**

(2) **Any ordinance that is reenacted is intended to be a continuation of the prior ordinance and not a new enactment, so far as it is the same as the prior ordinance.**

*Statutory Reference: ORC 1.54*

- (b) **Amendments.**

~~The reenactment, amendment, or repeal of these Codified Ordinances does not, except as provided in subsection (c) of this section:~~



- (1) **When any title, chapter, section, or division of the Xenia City Code is being amended, the ordinance amending the title, chapter, section, or division shall set forth the entire title, chapter, section, or division being amended and shall indicate the matter to be omitted or deleted by enclosing it in brackets or by strikeout and shall indicate the new matter by underscoring or by italics.**  
(Charter 5.03)
- (2) **When any title, chapter, section, or division of the Xenia City Code is being amended, the ordinance so amending shall also repeal the existing title, chapter, section, or division. The word “existing” shall be used to indicate that the title, chapter, section, or division is being repealed to amend it.**  
*Statutory Reference: ORC 731.19*
- (3) **Any ordinance that is amended is intended to be a continuation of the prior ordinance and not a new enactment, so far as it is the same as the prior ordinance.**  
*Statutory Reference: ORC 1.54*
- (4) **If amendments to the same title, chapter, section, or division of the Xenia City Code are enacted at the same or different meetings of the Council, one amendment without reference to another, the amendments are to be harmonized, if possible, so that effect may be given to each. If the amendments are substantively irreconcilable, the latest in date of enactment prevails. Amendments are irreconcilable only when the changes made by each cannot reasonably be put into simultaneous operation.**  
*Statutory Reference: ORC 1.52*

(c) **Repeals.**

- (1) **When any title, chapter, section, or division of the Xenia City Code is being repealed without amending or replacing it, the ordinance repealing the title, chapter section or division shall set forth the entire title, chapter, section, or division being repealed and shall indicate the matter to be omitted or deleted by enclosing it in brackets or by strikeout.**
- (2) **When any title, chapter, section, or division of the Xenia City Code is being repealed without amending or replacing it, the words “is hereby repealed in its entirety” shall be used in the ordinance to indicate the title, chapter, section, or division is being repealed without amendment or replacement.**
- (3) (a) The repeal of a repealing **ordinance** ~~provision~~ does not reenact or revive the **title, chapter, section, or division of the Xenia City Code** ~~provision~~ originally repealed, nor impair the effect of any saving clause therein.  
*Statutory Reference: ORC 1.57*

~~If the penalty, forfeiture, or punishment for any offense is reduced by a re-enactment or amendment of these Codified Ordinances, the penalty, forfeiture, or punishment, if not already imposed, shall be imposed according to these Codified Ordinances as amended.~~

(d) **Effect.**

- (1) ~~(b)~~ The reenactment, amendment, or repeal of **any provision, title, chapter, section, or division of the Xenia City Code** ~~these Codified Ordinances~~ does not, except as provided in **division (d)(2)** ~~subsection (e)~~ of this section:
  - A. ~~(1)~~ Affect the prior operation of the provision, **title, chapter, section, or division** or any prior action taken thereunder;
  - B. ~~(2)~~ Affect any validation, cure, right, privilege, obligation or liability previously acquired, accrued, accorded, or incurred thereunder;
  - C. ~~(3)~~ Affect any violation thereof or penalty, forfeiture or punishment incurred in respect thereto, prior to the amendment or repeal; or

- D. ~~(4)~~ Affect any investigation, proceeding, or remedy in respect of any privilege, obligation, liability, penalty, forfeiture, or punishment; and the investigation, proceeding, or remedy may be instituted, continued, or enforced, and the penalty, forfeiture, or punishment imposed, as if the provision, **title, chapter, section, or division** had not been repealed or amended.
- ~~(2)~~ ~~(e)~~ If the penalty, forfeiture, or punishment for any offense is reduced by a reenactment or amendment of **the Xenia City Code** ~~these Codified Ordinances~~, the penalty, forfeiture, or punishment, if not already imposed, shall be imposed according to **the title, chapter, section, or division** ~~these Codified Ordinances~~ as amended.  
*Statutory Reference: ORC 1.58*

**(e) Not a Limitation. Nothing in this section shall be construed to prevent the passage of an ordinance that, in any combination, enacts new titles, chapters, sections or divisions; amends existing titles, chapters, sections or divisions; and repeals in their entirety various titles, chapters, sections or divisions, so long as the enactment, amendment and repeal all relate to the same subject.**

**200.05 COMPUTATION OF TIME.** ~~202.05 CONSTRUCTION OF SECTION REFERENCES.~~

(a) **Computing Time in which an Act is to be Done.**

- (1) The time within which an act is required by any provision of the Xenia City Code to be done shall be computed by excluding the first and including the last day; except that, when the last day falls on Sunday or a legal holiday, the act may be done on the next succeeding day that is not Sunday or a legal holiday.**
- (2) When a public office in which an act, required by the Xenia City Code, is to be performed is closed to the public for the entire day that constitutes the last day for doing the act or before its usual closing time on that day, the act may be performed on the next succeeding day that is not a Sunday or a legal holiday.**
- (3) For the purposes of this section, "legal holiday" shall be as defined in Section 202.03 of these General Provisions.**

*Statutory Reference: ORC 1.14*

Whenever in a penalty section reference is made to a violation of a section or an inclusive group of sections, or of subsections or subdivisions of a section, such reference shall be construed to mean a violation of any provision of the section, sections, subsections or subdivisions included in the reference.

(b) **Effective Date. When any title, chapter, section, or division of the Xenia City Code is to become operative beginning on a date named, the title, chapter, section, or division shall become effective at 12:01 a.m. on the day so named.**

References in these Codified Ordinances to action taken or authorized under designated sections of these Codified Ordinance include, in every case, action taken or authorized under the applicable legislative provision which is superseded by these Codified Ordinances.

(c) **Computing Months. If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.**

*Statutory Reference: ORC 1.45*

~~A reference to any portion of a provision of these Codified Ordinances applies to all re-enactments or amendments thereof.~~

(d) **Definition of Reasonable Time. In all cases where the law shall require any act to be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall mean such**

**time only as may be necessary for the prompt performance of such duty or compliance with such notice.**

Whenever in one section reference is made to another section hereof, the reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered, unless the subject matter changed or materially altered by the amendment or revision.

**(e) Priority of Legal Rights. If priority of legal rights depends upon the order of events on the same day, such priority shall be determined by the times in the day which they respectively occurred.**

*Statutory Reference: ORC 1.15*

**200.06 202.06 DETERMINATION OF LEGISLATIVE INTENT; ~~REPEALER~~; CONFLICTS OF LAW.**

**(a) Intent. In enacting any provision, title, chapter, section, or division of the Xenia City Code, it is presumed that:**

- (1) Compliance with the constitutions of the State and of the United States is intended;**
- (2) The entire provision, title, chapter, section, or division is intended to be effective;**
- (3) A just and reasonable result is intended; and**
- (4) A result feasible of execution is intended.**

*Statutory Reference: ORC 1.47*

All ordinances, resolutions, rules and regulations of the municipality, and all parts of the same, enacted prior to the date of the adoption of these Codified Ordinances and inconsistent or in conflict with any of the provisions of these Codified Ordinances, are hereby repealed, save and except any ordinance, resolution, rule or regulation, or part of the same, expressly excepted from repeal by the ordinance that adopts these Codified Ordinances. No ordinance, resolution, rule or regulation, or part of the same, of the municipality, that is not inconsistent or in conflict with any of the provisions of these Codified Ordinances and/or that can be reasonably interpreted to be compatible with the provisions of these Codified Ordinances, shall be deemed to be repealed by the adoption of these Codified Ordinances. Such ordinances, resolutions, rules and regulations, and all parts of the same, shall continue to be viable and enforceable by the municipality.

**(b) Presumed Prospective. All provisions, titles, chapters, sections, and divisions of the Xenia City Code shall be presumed to be prospective in their operation unless expressly made retrospective.**

*Statutory Reference: ORC 1.48*

In the event of a conflict between any of the provisions of these Codified Ordinances, or between any of the provisions of these Codified Ordinances and a provision of any standard code adopted by the municipality pursuant to Ohio R.C. 731.231, the provision that establishes the higher or stricter standard shall control. In the event of a conflict between any of the provisions of these Codified Ordinances and any provision of state law, including rules and regulations promulgated pursuant to state law, the state law, rule or regulation shall control if it is of a kind required to be in conformity with state law by Article XVIII, Section 3, of the Ohio Constitution; otherwise, the provision of these Codified Ordinances shall control.

**(c) Construction by the Court. If any provision, title, chapter, section, or division of the Xenia City Code is ambiguous, the court, in determining the intention of the Council, may consider among other matters:**

- (1) The object sought to be attained;**
- (2) The circumstances under which the provision, title, chapter, section, or division was enacted;**
- (3) The legislative history;**
- (4) The common law or former legislative provisions, including laws upon the same or similar subjects;**
- (5) The consequences of a particular construction; and/or**

**(6) The administrative construction of the provision, title, chapter, section, or division.**

*Statutory Reference: ORC 1.49*

**(d) Conflicts.**

- (1) If the provisions of any title(s), chapter(s), section(s) or division(s) of the Xenia City Code, which are enacted at different meetings of Council are irreconcilable, the ordinance latest in date of enactment prevails.**
- (2) In the event of a conflict between any of the provisions of the Xenia City Code, or between any of the provisions of the Xenia City Code and a provision of any technical code adopted in accordance with Section 5.08 of the City Charter, the provision that establishes the higher or stricter standard shall control.**
- (3) In the event of a conflict between any of the provisions of the Xenia City Code and any provision of state law, including rules and regulations promulgated pursuant to state law, the provisions of the Xenia City Code shall control and be deemed to be a valid exercise of the City's home rule authority under Article XVIII of the Ohio Constitution, unless the state law is a valid general law, in which case the state law shall control.**

**200.07** ~~202.07~~ SEVERABILITY.

If the provisions of a **any title, chapter, section, or division** of **the Xenia City Code** ~~these Codified Ordinances~~ or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the **title, chapter, section, or division** or related sections that can be given effect without the invalid provision or application, and to this end the provisions are severable.

*Statutory reference: ORC 1.50*

**200.99** ~~202.99~~ GENERAL PENALTY.

Whenever, in the **Xenia City Code** ~~Codified Ordinances~~ or in any ordinance of the **City** municipality, any act is prohibited or is made or declared to be unlawful, ~~or~~ an offense or a misdemeanor, or whenever the doing of any act is required **and** ~~or~~ the failure to do any act is declared to be unlawful, ~~the commission or performance of such act, or the failure to commit or perform such act, as required, shall, unless another penalty is provided, be deemed a minor misdemeanor and the offender shall be fined not more than one hundred dollars (\$100.00) for each offense.~~ **and where no specific penalty is otherwise provided, whoever violates any such provision shall be guilty of a 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 shall the offender be 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) that may be filed in the underlying case.** A separate offense shall be deemed committed each day during or on which ~~the~~ a violation **occurs** or noncompliance ~~occurs or~~ continues, unless otherwise provided **in the relevant title, chapter, section, or division.**

CHAPTER ~~202~~ 204  
Official Standards

<del>2024.01</del> <u>202.01</u> <u>Project Datum</u> <del>Datum Line</del>	<u>202.05</u> <u>City Logo</u>
<u>202.02</u> <u>Standard of Time</u>	<del>2024.06</del> <u>City Flag</u>
<u>202.03</u> <u>Legal Holidays</u>	<u>202.07</u> <u>Legal Publication</u>
<del>2024.04</del> <u>City Seal</u>	

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202.01 PROJECT DATUM. ~~204.01 DATUM LINE.~~

(a) Datum. The vertical and horizontal positioning for all public works and engineering projects shall be furnished using the latest datum produced by the National Geodetic Survey (NGS). The project datum is to be collected following the latest version of the Ohio Department of Transportation (ODOT) Survey and Mapping Specifications.

~~The datum line or zero point for all the engineering works under the direction and control of the city government is established at an elevation of 197.913 feet below a knob in the center of a stone in the pavement on Market Street, 6.25 feet south of the southwest corner of the city building in the city, and such knob on such stone shall be a perpetual point with an elevation of 197.913 feet.~~

(b) Surveys. Surveyors shall use:

- (1) ODOT Path 1, 2 or 3;
- (2) Survey grade Global Navigation Satellite System (GNSS) receivers and antennas;
- (3) The United States Continuously Operating Reference Stations (CORS); and
- (4) Shall process the data using the Online Positioning User Service (OPUS) for all control points.
- (5) Any other survey methods to establish project datum requires the approval of the City Engineer.

(c) Grades. All grades hereafter established by the City shall refer to this process to establish a project datum.

202.02 STANDARD OF TIME.

(a) Official Time. Eastern Standard Time or Eastern Standard Daylight Savings Time, when in force, shall be the official time of the City of Xenia for the transaction of all City business, the operation of the various City Departments and offices, the application of any laws that specify time, and for all legal and official proceedings.

(b) Clocks. Every clock or timepiece maintained at the public expense or upon any public building belonging to the City shall be set, run, and operated according to Eastern Standard Time or Eastern Standard Daylight Savings Time, when in force, by the person in charge or control thereof.  
*Statutory Reference: ORC 1.04*

202.03 LEGAL HOLIDAYS.

(a) Legal Holidays. The following days represent the legal holidays of the City solely for the purposes of computing time under Section 200.05:

- |  |                                 |
|--|---------------------------------|
| <u>(1) New Year's Day</u>              | <u>January 1<sup>st</sup></u>   |
| <u>(2) Martin Luther King, Jr. Day</u> | <u>Third Monday in January</u>  |
| <u>(3) Presidents Day</u>              | <u>Third Monday in February</u> |

<u>(4) Memorial Day</u>	<u>Last Monday in May</u>
<u>(5) Juneteenth National Independence Day</u>	<u>June 19<sup>th</sup></u>
<u>(6) Independence Day</u>	<u>July 4<sup>th</sup></u>
<u>(7) Labor Day</u>	<u>First Monday in September</u>
<u>(8) Columbus Day</u>	<u>Second Monday in October</u>
<u>(9) Veterans Day</u>	<u>November 11<sup>th</sup></u>
<u>(10) Thanksgiving Day</u>	<u>Fourth Thursday in November</u>
<u>(11) Day after Thanksgiving Day</u>	<u>Fourth Friday in November</u>
<u>(12) Christmas Day</u>	<u>December 25<sup>th</sup></u>
<u>(13) Any day that the City Administration Building is closed for a whole day or part of a day in observance of a holiday.</u>	

**(b) Observance.** If any day designated in this section as a legal holiday falls on a Sunday, the next succeeding day is a legal holiday.

*Statutory Reference: ORC 1.14*

**202.04** ~~204.02~~ CITY SEAL.

(a) **Official Seal.** The following is hereby adopted and made the official seal of the City:



(b) **Use of Seal.** The seal may be used on official documents of the City, but the failure to affix the seal to documents of the City shall in no way affect their validity. **The design of the City seal is the property of the City and shall not be reproduced or used for, or in conjunction with, merchandise for sale, advertisements, political campaigning, nor for any other purpose not associated with official City business.**

**(c) Penalty.** **Whoever violates division (b) 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.**

**202.05** CITY LOGO.

(a) **Use of Logo.** **The design of the official logo(s) of the City is the property of the City and shall only be used for official City business. Such logo(s) shall not be reproduced or used by City officials or employees for matters that are not related to official City business. Such logo(s) shall not be used**

by any person not affiliated with the City, except as otherwise authorized by the City Manager, who may authorize reproduction of the City logo when the purpose is to:

- (1) Aid educational or historical programs;
- (2) Promote economic or cultural development of the City in a manner deemed appropriate by the City Manager;
- (3) On clothing to be worn by City officials or employees while performing their official duties; or
- (4) Any other purpose deemed appropriate and approved by the City Manager.

(b) Penalty. 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.

202.06 ~~204.03~~ CITY FLAG.

- (a) City Flag. The official City flag will have a white background with the City Seal in the center.
- (b) Use of City Flag. The use of the City flag shall be subject to the following conditions:
  - (1) ~~(a)~~ The design of the City flag, including the City Seal, is the property of the City and shall not be reproduced, except as authorized by the City Manager or his designee.
  - (2) ~~(b)~~ The City flag shall not be used as, or in conjunction with, merchandise for sale, or advertisements, or political campaigns ~~except as authorized by the City Manager or his designee.~~
  - ~~(c) The City Flag must be treated with flag etiquette and honors and accorded the courtesies of respect consistent with the State and United States Flag of the United States of America and shall be in a lower priority position per U.S.C. 4, Chapter 1 The Flag.~~
  - (3) ~~(d)~~ Citizens, organizations, interested groups, or individuals may purchase a City flag at City Hall in from the office of the City Manager at its cost, which is set forth in the fee schedule in Part Two — Title Twelve, Chapter 298 of these Codified Ordinances. ~~The City has the right to update this fee, with the approval of City Council, to reflect the current costs to purchase the flags.~~

(c) Display of City Flag. The display of the City flag at all City buildings and other public institutions within the City is encouraged, subject to the following conditions:

- (1) If the City flag is displayed, it may be flown every day either from a flagpole or a staff, when weather permits, from sunrise until sunset. The City flag shall only be flown at night when properly lighted. Any flagpole or staff upon which the City flag is flown shall be at least two and one-half (2½) times as long as the City flag.
- (2) When the City flag and the United States flag are displayed at the same time, the City flag shall not be larger than the United States flag. When the City flag and the United States flag are displayed together against a wall from crossed staffs, the City flag shall be on the left of the United States flag, and the staff supporting the City flag shall be behind the staff supporting the United States flag. When the City flag is flown from the same halyard as the United States flag, the City flag shall be displayed beneath the United States flag. When the City flag is carried in a procession in which the United

States flag is unfurled, the City flag shall be displayed on the marching left of the United States flag.

- (3) The City flag shall be displayed at half-staff on the following days, from sunrise to sunset, unless otherwise indicated:
- A. When displayed with the United States flag, at any time the United States flag is to be flown at half-staff pursuant to 4 USC §7 or upon a Presidential Order; or
  - B. At any time the United States flag is ordered to be flown at half-staff pursuant to an order from the Ohio Governor.
  - C. The City flag (but not the United States flag) may also be flown at half-staff pursuant to an administrative directive from the City Manager in the event of a death of a present or former City official or employee.

(c) Repair or Destruction. The City flag should be cleaned in a manner that is best suited to the material of the flag and may be repaired. When the City flag is damaged beyond repair is in such condition that it is no longer an appropriate emblem for display, it shall be destroyed privately either by cutting it into small pieces and burning it until only ashes remain or by sealing it in a plastic bag or box before discarding it in a trash collection, it shall be the responsibility of the buyer of the flag to destroy the flag in a dignified way or return said or the flag may be returned to the City Manager for appropriate disposal.

#### 202.07 LEGAL PUBLICATION.

(a) Newspaper of General Circulation. Whenever the City is required by law to make any legal publication in a newspaper, the newspaper shall be a newspaper of general circulation. As used in this section, “newspaper” or “newspaper of general circulation,” except daily law journals in existence on or before July 1, 2011, and performing the functions described in ORC 2701.09 for a period of three (3) years immediately preceding any such legal publication required to be made, is a publication bearing a title or name that is regularly issued at least once a week, and that meets all of the following requirements:

- (1) It is printed in the English language using standard printing methods, being not less than eight (8) pages in the broadsheet format or sixteen (16) pages in the tabloid format;
- (2) It contains at least twenty-five percent (25%) editorial content, which includes, but is not limited to, local news, political information, and local sports;
- (3) It has been published continuously for at least three (3) years immediately preceding legal publication by the City;
- (4) The publication has the ability to add subscribers to its distribution list; and
- (5) The publication is circulated generally by United States mail or carrier delivery in the City within the twelve (12) months immediately preceding legal publication.

(b) Mediation of Disputes. A person who disagrees that a publication is a “newspaper of general circulation” in which legal publication may be made under this section may deliver a written request for mediation to the publisher of the publication and to the Greene County Court of Common Pleas. The Court of Common Pleas shall appoint a mediator, and the parties shall follow the procedures of the mediation program operated by the Court.

*Statutory Reference: ORC 7.12*

(c) Multiple Notices. If a section of the ORC or of the Xenia City Code requires publication of a notice or advertisement two (2) or more times in a newspaper of general circulation, the first publication of the notice or advertisement shall be made in its entirety in a newspaper of general circulation in the City and may be made by a preprinted insert in the newspaper, but the second publication otherwise required may be made in abbreviated form in a newspaper of general



**circulation in the City and on the newspaper's internet website, if the newspaper has one. Any further newspaper publications may be eliminated provided that the second, abbreviated notice or advertisement meets all of the following requirements:**

- (1) It is published in a newspaper of general circulation in which the first publication of the notice or advertisement was made;**
- (2) It is posted by the publisher of the newspaper on the Ohio News Media Association's Public Notices Ohio website. The publisher shall post the required notice or advertisement on the website at no additional cost;**
- (3) It includes a title, followed by a summary paragraph or statement that clearly described the specific purpose of the notice or advertisement, and include a statement that the notice or advertisement is posted in its entirety on the official public notice website. The notice or advertisement also may be posted on the City's internet website; and**
- (4) It includes the internet address of the official public notice website and the name, address, telephone number, and email address of the City.**

**(d) Posting on Website. A notice or advertisement published under this section on an internet website shall be published in its entirety.**

*Statutory Reference: ORC 7.16*

**(e) Limitations. This section shall be applied in a manner that would amend or lessen any publication requirements set forth in the Ohio Constitution or the Xenia City Charter.**

CHAPTER ~~204~~ 206  
Public Meetings and Public Records

<del>2046.01</del> <u>Application</u> <del>Decision-Making Public Bodies</del>	<del>2046.05</del> <u>Conduct at Meetings</u> <del>Open Meetings</del>
<del>2046.02</del> <u>Open Meetings</u> <del>Absence of Members</del>	<del>2046.06</del> <u>Exceptions</u> <del>Enforcement</del>
<del>2046.03</del> <u>Rules of Public</u> <del>Notice Requirements of Meetings</del>	<del>204.07</del> <u>Alternate Seat of City Government;</u> <u>Exercise of Powers</u>
<del>2046.04</del> <u>Executive Sessions of Public Bodies</u>	<del>204.08</del> <u>Public Records</u>

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~~204.01 APPLICATION. 206.01 DECISION-MAKING PUBLIC BODIES.~~

(a) Application. This Chapter shall apply to the following public bodies:

- (1) The City Council;
- (2) The Planning & Zoning Commission;
- (3) The Board of Zoning Appeals;
- (4) The Civil Service Commission;
- (5) The Charter Review Commission; and
- (6) Any other board, commission, committee, or similar decision-making body of the City, whether created by Charter, by ordinance, or by the Rules of Council, including any subcommittee of any such board, commission, committee, or similar decision-making body.

~~The City Council, the Civil Service Commission, the Planning and Zoning Commission, the Board of Zoning Appeals, the Community Relations Commission, the Board for Recreation, Arts and Cultural Activities, the Traffic Commission and any other decision-making public commission, board or committee of the city, except the Loan Trust Fund Committee and the Tax Appeals Committee, are subject to the requirements of this chapter.~~

(b) Definitions.

- (1) "Chair" means the President or Chairperson of the public body and includes the Vice President or Vice Chairperson, when acting for the Chair, or the Chair Pro Tem.
- (2) "Deliberation" means the act of weighing and examining reasons for or against a choice.
- (3) "Discussing public business" means the exchange of words, comments, or ideas by members of the public body on public business.
- (4) "Executive session" is a conference between members of a public body from which the public is excluded.
- (5) "Meeting" means any prearranged discussion of the public business of the public body by a majority of its members.
- (6) "Public body" includes all those entities listed in division (a) of this section.
- (7) "Quasi-Judicial" means acting in a quasi-judicial capacity to fulfill a public body's adjudicative duties, such as hearing appeals.

(c) Construction. This Chapter and any rules or regulations promulgated hereunder shall be liberally construed to require all public bodies of the City to take official action and to conduct all deliberations upon official business only in open meetings unless the public body is acting in a quasi-judicial manner or if the subject matter under consideration is specifically exempted by City Charter or state law.

*Statutory Reference: ORC 121.22(A), (B)*

204.02 OPEN MEETINGS. ~~206.02 ABSENCE OF MEMBERS~~

**(a) Open Meetings.** All meetings of any public body of the City at which public business is discussed or deliberated upon are declared to be public meetings open to the public at all times, excepting when that body has properly exited into executive session or when that body is exercising its quasi-judicial functions and is deliberating in private.

**(b) Presence Required.** A member of the public body must be present in person at a meeting to be considered present, to vote on any official business, or for the purpose of determining whether a quorum is present at the meeting.

**(c) Exempted Gatherings.**

- (1) Gatherings of a strictly investigative and information-seeking nature which do not involve actual deliberations of public business are not meetings for the purposes of this section. Examples of such gatherings include, but are not limited to, question-and-answer sessions between the public body and others, conversations between employees of a public body, a presentation to a public body by its legal counsel when the public body is receiving legal advice, or a press conference.**
- (2) The quasi-judicial deliberations of quasi-judicial bodies whose responsibilities include adjudicative duties, when acting in their quasi-judicial capacity, are not meetings for the purposes of this section.**
- (3) Collective bargaining meetings with employee organizations are not meetings for the purposes of this section.**

**(d) Invalidity.**

- (1) A resolution, rule or formal action of any kind is invalid unless adopted in an open meeting of the public body. A resolution, rule or formal action adopted in an open meeting that results from deliberations in a meeting not open to the public is invalid unless the deliberations were for a purpose specifically for and conducted in an executive session or when such deliberations were undertaken by a public body acting in a quasi-judicial capacity.**
- (2) A resolution, rule or formal action adopted in an open meeting is invalid if the public body that adopted the resolution, rule or formal action violated the rules of public notice contained in Section 204.03.**

*Statutory Reference: ORC 121.22(C), (H)*

~~When any member of a board or commission, except the City Council, misses three consecutive meetings, the City Council member who is the Chairperson of the board or commission shall report such absences to the President of the City Council at the next regular City Council meeting. The City Council shall by motion declare the position vacant or take such other action as it deems appropriate. In the event the board or commission is not chaired by a City Council member, then the Clerk of the board or commission shall report such absences to the President of the City Council.~~

204.03 ~~206.03~~ RULES OF PUBLIC NOTICE REQUIREMENTS OF MEETINGS.

**(a) Regular Meetings.**

- (1) Date and Time: Every public body of the City shall set dates and times for their regular meetings unless such body meets only on an “as-needed” basis.**
- (2) Place: Every public body of the City that holds regular meetings shall set a regular location for such meetings, which location shall be the City Administration Building, unless the City Manager determines that such location is not practicable due to scheduling conflicts or security issues.**

- (3) Notice: By December 1<sup>st</sup> of each year, the secretary of each public body that holds regular meetings shall give notice to the City Clerk of the public body's regular meeting schedule for the following year. The City Clerk shall then give notice of the public body's regular meetings by posting the same at the City Administration Building and on the City's website.
- (4) Change in Date, Time or Location: If the date, time or location of a regular meeting is changed, the secretary of the public body shall immediately give notice of the same to the City Clerk, and the Clerk shall give notice of the change by notifying the news media and by posting notice of the change at the City Administration Building and on the City's website as far in advance of the meeting as possible, but not less than twenty-four (24) hours prior to the meeting.
- (5) City Council: Regular meetings of Council and the standing committees of Council shall be called and held in accordance with the City Charter and the Rules of Council.

The decision making public bodies of the city shall post upon the bulletin board in City Hall the date, time and place of all regularly scheduled meetings.

(b) Special Meetings.

- (1) Purpose: Any meeting other than a regularly scheduled meeting is a special meeting. The meetings of public bodies that meet on an "as-needed" basis shall be considered special meetings. No business or action other than that stated as the purpose of such special meeting shall be conducted at such meeting. The stated purpose may be for general purposes.
- (2) How Called: Special meetings of any public body of the City may be held at the call of the public body's Chair or upon a majority vote of the public body taken at any regular or special meeting. The call for a special meeting shall specify the date, time, location, and purposes of the meeting. Unless otherwise provided, special meetings will be held at the same location as regular meetings.
- (3) Notice:
  - A. The secretary of the public body shall immediately give notice of the date, time, location, and purpose of the special meeting to the City Clerk. The Clerk, or the Finance Director in the Clerk's absence, incapacity, or refusal to act, shall give notice of the date, time, location, and purposes of a special meeting by posting notice in the same locations as provided for posting notice of regular meetings. Notice shall be posted as far in advance of the meeting as practicable, but not less than twenty-four (24) hours prior to the meeting.
  - B. A public body shall not hold a special meeting unless it gives at least twenty-four (24) hours' advanced notice to the news media that have requested notification.
- (4) City Council: Special meetings of Council and the standing committees of Council shall be called and held in accordance with the City Charter and the Rules of Council.

~~Notice of special meetings shall be posted on the bulletin board in City Hall at least 24 hours in advance. Such notice shall state the purpose of the special meeting as well as the date, time and place.~~

(c) Emergency Meetings.

- (1) Purpose: Emergency meetings are special meetings that, due to an emergency requiring immediate official action, must be held without the required twenty-four hours' notice for a special meeting. No business or action other than that stated as the purpose for holding such emergency meeting shall be conducted at such meeting. The stated purpose may not be for general purposes.
- (2) How Called: Emergency meetings of a public body may be held at the call of the public body's Chair. The call for an emergency meeting shall specify the date, time, location,

**and purposes of the meeting. Unless otherwise provided, emergency meetings will be held at the same location as regular meetings.**

**(3) Notice:**

**A. The secretary of the public body shall immediately give notice of the date, time, location, and purpose of the special meeting to the City Clerk. The Clerk, or the Finance Director in the Clerk's absence, incapacity, or refusal to act, shall give notice of the date, time, location, and purpose of an emergency meeting by immediately posting notice of the meeting at the City building and on the City's website.**

**B. The secretary of the public body or the City Clerk immediately shall notify the news media that have requested notification of the time, place, and purpose of the emergency meeting.**

**C. A public body shall not hold a special meeting unless it gives at least twenty-four (24) hours' advanced notice to the news media that have requested notification.**

**(4) City Council: Emergency meetings of the City Council and the standing committees of Council shall be called in accordance with the City Charter and the Rules of Council.**

**(d) Notification to News Media.** The news media ~~may~~ shall, by written notice to the City Clerk of the City Council, request notification of the ~~date, time, place and purpose of~~ all special meetings **of all or any of the public bodies of the City, including City Council.** Such notification may be given by the City Clerk in writing, **which includes** ~~in person, by e-mail, by fax, transmission or by telephone.~~ The president or chairperson of the public body shall notify the clerk of the body prior to the 24-hour period so that compliance with this chapter may be accomplished.

~~(d) In the event of an emergency requiring immediate action, the president or chairperson of the decision-making body shall cause the news media that have requested notification to be notified of such meeting.~~

**(e) Notice of Meetings to Discuss Particular Business.**

**(1) The City Clerk shall give reasonable advance notice of any regular or special meeting of any public body of the City, including City Council, at which a particular type of public business is to be discussed to any person who has requested such notice. If time permits, such notice shall be by email; otherwise, such notice shall be given by telephone. A request for such advance notice shall be made in writing, and shall state the requestor's name, address, email address, telephone number, and the nature of the public business in which the requestor has a particular interest and desires notice. Any such request shall remain in effect until December 31<sup>st</sup> of the then current year. There shall be no charge to the requestor for such notice.**

**(2) Any person who requests advance notice of meetings of a public body at which particular public business will be discussed may also request that the agenda for such meetings be mailed to them. Such request shall be in writing and shall only become effective upon the payment of the fee established for such mailings in the City's Fee Schedule (Section 298.01).**

*Statutory Reference: ORC 121.22(F)*

~~Any person may, upon written request and the fee as set forth in the fee schedule in Part Two—Title Twelve, Chapter 298 of these Codified Ordinances for a one-year period, be entitled to advance notification of all meetings of a specific board, commission or committee to which any specific type of public business is to be discussed. Such notification shall be fulfilled by the mailing of an agenda to the person requesting notification. Such person shall furnish self-addressed stamped envelopes for such purpose. Such notification may also be accomplished by e-mail or fax transmission.~~

**(f) Notice of Cancelled Meetings. If a meeting is cancelled due to inclement weather or other unforeseen circumstances, or if the meeting of any public body that maintains a regular meeting schedule is cancelled due to a lack of agenda items, the secretary of the public body shall immediately notify the City Clerk, who shall give notice of the cancellation by posting it in the lobby of the City Administration Building, by posting it on the City's website, and by notifying any news media or other person to whom notice of the meeting was already given.**

**(g) Special Notice Required by Law. When a particular form or method of notice is otherwise required by law for a public hearing or meeting of any public body of the City, notice of the hearing or meeting shall be given in the form and manner prescribed by statute, in addition to the notice otherwise required under this section.**

**204.04** ~~206.04~~ EXECUTIVE SESSIONS OF PUBLIC BODIES.

**(a) Executive Session. The members of a public body may hold an executive session at a regular, special, or emergency meeting of the public body for the purposes set forth in ORC 121.22(G). Other, intertwined issues may be discussed in executive session, but only if those issues have a direct bearing on the topic that is a permissible subject of executive session discussion.**

~~The quorum of a public body may hold an executive session only at a regular or special meeting for the sole purpose of the consideration of any of the following matters:~~

- ~~(1) To consider the appointment, employment, dismissal, discipline, promotion, demotion or compensation of a public employee or official or the investigation of charges or complaints against a public employee, official, licensee or regulated individual, unless such persons request a public hearing. Except as otherwise provided by law, no public body shall hold an executive session for the discipline of an elected official for conduct relating to the performance of his or her official duties or for his or her removal from office;~~
- ~~(2) To consider the purchase of property for public purposes, or for the sale of property, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal, private interest is adverse to the general public interest. No member of the public body, nor a person present at the executive session, shall use this subsection as a subterfuge for providing covert information to prospective buyers or sellers. A purchase or sale of public property is void if the seller or buyer of the public property has received covert information from a member of the public body or from a person present, which information has not been disclosed to the general public in sufficient time for other prospective buyers and sellers to prepare and submit offers. If the minutes of the public body show that all meetings and deliberations of the public body have been conducted in compliance with this section, any instrument executed by the public body purporting to convey, lease or otherwise dispose of any right, title or interest in any public property shall be conclusively presumed to have been executed in compliance with this section insofar as title or other interest of any bona fide purchasers, lessees or transferees of the property is concerned;~~
- ~~(3) Conferences with an attorney for the public body, concerning disputes involving the public body that are the subject of pending or imminent court actions;~~
- ~~(4) Preparing for, conducting or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment;~~
- ~~(5) Matters required to be kept confidential by federal law or rules or state statutes; or~~
- ~~(6) Specialized details of security arrangements where disclosure of the matters discussed might reveal information that could be used for the purpose of committing, or avoiding prosecution for, a violation of the law.~~
- ~~(7) To consider confidential information related to marketing plans, specific business strategy, production techniques, trade secrets, or personal financial statements of an applicant for economic development assistance, or to negotiations with other political subdivisions respecting requests for economic development assistance, provided that both of the following conditions apply:~~

- ~~A. The information is directly related to a request for economic development assistance that is to be provided or administered under any provisions of Chapter 715, 725, 1724, or 1728 or sections 701.07, 3735.67 to 3735.70, 5709.40 to 5709.43, 5709.61 to 5709.69, 5709.73 to 5709.75, or 5709.77 to 5709.81 of the Revised Code, or that involves public infrastructure improvements or the extension of utility services that are directly related to an economic development project.~~
- ~~B. A unanimous quorum of the public body determines, by a roll call vote, that the executive session is necessary to protect the interests fo the applicant or the possible investment or expenditure of public funds to be made in connection with the economic development project.~~

(b) **Method.**

- (1) Motion: A motion for executive session must state which one or more of the approved matters listed in ORC 121.22(G) are to be considered in the executive session.**
- (2) Roll Call Vote: Members of the public body may adjourn into executive session only after a majority of a quorum of the public body approves the motion by roll call vote, and the vote must be recorded in the minutes of the public body.**
- (3) Persons Present: The public shall be excluded from a properly called executive session; however, the public body may invite anyone it chooses to attend the executive session.**
- (4) Exiting: The Chair of the public body may call the return to open session. A motion to end the executive session is not necessary.**
- (5) Minutes: The minutes need only reflect the motion and roll call vote, as the motion will indicate the general subject matter of purpose of the executive session.**

If a public body holds an executive session to consider any of the matters listed in this section, an agenda published concerning the executive session shall state which one or more of the approved matters listed are to be considered at the executive session.

**(c) Effect. A resolution, rule or any other formal action of any kind is invalid unless adopted in an open meeting of the public body. A resolution, rule or formal action adopted in an open meeting that results from deliberation in a meeting not open to the public is invalid unless the deliberations were for a purpose specifically authorized under ORC 121.22(G) and conducted at an executive session held in compliance with this section.**

*Statutory Reference: ORC 121.22*

204.05 **CONDUCT AT MEETINGS.** 206.05 **OPEN MEETING REQUIREMENTS**

**(a) Venue. All public bodies of the City shall conduct their meetings in a venue that is open to the public.**

**(b) Right to be Heard. In any meeting of any City public body that is open to the public, any person shall have the right to attend and observe said meeting; however, this does not bestow the right to be heard at the meeting, except during public hearings. Any person who is disruptive may be removed from an open meeting at the request of the presiding officer of the public body. The presiding officer of any public body that takes audience comments may place limitations on the time and manner in which members of the public may have the right to address the public body.**

**(c) Recording. Audio and video recording of an open meeting of any City public body is permitted; provided, however, that any recording equipment used for such purposes shall be silent, unobtrusive, self-contained and self-powered to limit interference with the meeting. Furthermore, if the recording of the meeting interferes with the ability of others to hear, see, and/or participate in the meeting, the Chair of the public body may order such recording to be stopped. Any person who**

**unreasonably interferes with an open meeting or refuses to cease recording after being so ordered by the Chair may be removed from the meeting at the request of the Chair of the public body.**

**(d) Minutes.**

- (1) All public bodies of the City shall keep full and accurate minutes of its meetings. The minutes may be the approved recording of the meeting. If the recording of the meeting is not used, the written minutes must include enough facts and information to permit the public to understand and appreciate the rationale behind the public body's decision, but need not be a verbatim transcript.**
- (2) The minutes need only reflect the motion, including the stated purpose therefor, to adjourn into executive session and the roll call vote thereon.**
- (3) The minutes of the City's public bodies shall be promptly prepared, filed and maintained and shall be open to public inspection. Statutory Reference: ORC 121.22(C)**

An ordinance, resolution, rule or formal action of any kind is invalid unless adopted in an open meeting of the public body. An ordinance, resolution, rule or formal action adopted in an open meeting that results from deliberations in a meeting not open to the public is invalid, unless the deliberations were for a purpose specifically authorized at an executive session held in compliance with this chapter.

**204.06 EXCEPTIONS. 206.06 ENFORCEMENT**

**The requirements of this Chapter do not include notice of meetings which are exempted from such requirements under City Charter, ORC 121.22, or other applicable law.**

(a) Upon proof of a violation or threatened violation of this chapter in an action brought by any person, the Court of Common Pleas shall issue an injunction to compel the members of the public body to comply with its provisions.

(b) If the Court of Common Pleas issues an injunction pursuant to this chapter, the Court may award to the party that sought the injunction all court costs and reasonable attorney's fees and shall also order the public body that it enjoins to pay a civil forfeiture of one hundred dollars (\$100.00). If the Court of Common Pleas does not issue an injunction pursuant to this chapter and the Court determines, at that time, that the bringing of the action was frivolous conduct, as defined in Ohio R.C. 2323.51, the Court may award to the public body all court costs and reasonable attorney's fees.

(c) Irreparable harm and prejudice to the party that sought the injunction shall be conclusively and irrebuttably presumed upon proof of a violation or threatened violation of this chapter.

(d) A member of a public body or other person present at an executive session who knowingly violates an injunction issued pursuant to this chapter may be removed from office by an action brought in the Court of Common Pleas for that purpose.

**204.07 ALTERNATE SEAT OF GOVERNMENT; EXERCISE OF POWERS.**

**(a) Designation of Alternate Seat of City Government. The City Council, by ordinance or resolution, may establish and designate alternate or substitute sites or places, within or without the territorial limits of the City, as the emergency location(s) of City government and may make necessary arrangements for the use of those sites or places, whether such location(s) are within or without the City's territorial limits.**

**(b) Exercise of Powers.**

- (1) If, during a declared emergency, it becomes imprudent, inexpedient or impossible to conduct the affairs of the City at the regular or usual place(s) thereof, the City Council**



may meet at previously designated alternate sites or places, or at any other convenient site or place, on the call of the presiding officer of the Council or any two (2) members of the Council, as the emergency location of City government.

- (2) All or any part of the public business of the City may be conducted at the emergency location(s) during the declared emergency. During such time, the City's Council and its public officers shall have and possess and shall exercise, at the emergency location(s), all of the executive, legislative and judicial powers and functions conferred upon them under the City's Charter, the laws of the State, or the laws of the City. Such powers and functions may be exercised in the light of the exigencies of the emergency without regard to, or compliance with, this Chapter, including the rules of public notice, or with ORC 121.22, and all acts of that public body and officers shall be as valid and binding as if performed within the territorial limits of the City.

*Statutory Reference: ORC 5502.24*

#### **204.08 PUBLIC RECORDS.**

(a) Public Records Policy. City Council, by resolution, shall adopt a public records policy in compliance with ORC 149.43 for responding to public records requests. In accordance with ORC 149.43, such public records policy shall be distributed to each City employee who is a records custodian, records manager, or otherwise has custody of the records of that City department or division. Each such employee shall be required to acknowledge receipt of the policy.

(b) Posting. At each City building or facility open to the public, there shall be posted a poster that describes the City's public records policy, which shall be posted in a conspicuous place. The policy shall also be posted on the City's website and shall be included in the City's Personnel Manual or other manual or handbook that contains employee policies and procedures.

(c) Training. In accordance with ORC 149.43, all elected officials of the City or their appropriate designee(s) shall attend public records training approved by the Ohio Attorney General.

#### **(d) Materials Submitted in Response to Competitive Solicitation.**

(1) Except as otherwise provided in division (d)(2) of this section, materials submitted in response to a competitive solicitation shall not be considered public records for the purposes of ORC 149.43 until the date the City Council awards the contract based on the competitive solicitation or upon the cancellation of the competitive solicitation.

(2) If all bids or proposals received in response to a competitive solicitation are rejected and, concurrently with the announcement of the rejection the City gives notice of its intent to reissue the solicitation, the materials submitted in response to the original competitive solicitation shall not be considered public records for the purposes of ORC 149.43 until the date the City Council announce the award of a contract based on the reissued competitive solicitation or the cancellation of the reissued competitive solicitation.

(3) For the purposes of this division, "competitive solicitation" means a request for proposals or any other solicitation or announcement by the City requiring bids or proposals for the provision of goods or services to the City.

*Statutory Reference: ORC 9.28*

CHAPTER 206  
Miscellaneous

<u>206.01</u>	<u>Gifts, Devises, and Bequests</u>	<u>206.04</u>	<u>Witness’s Right to Counsel</u>
<u>206.02</u>	<u>Bond Issuance for Other Entities</u>		
<u>206.03</u>	<u>Liability for Public Moneys; Unclaimed Moneys</u>		

**206.01 GIFTS, DEVICES, AND BEQUESTS.**

The City, through the City Council, may receive by gift, devise, or bequest moneys, lands, and other properties for the City’s benefit and may hold and apply the moneys, lands, or properties according to the terms of the gift, devise, or bequest. The gifts or devises of real estate may be in fee simple or of any lesser estate and may be subject to any reasonable reservation. This section does not affect any state statutory provisions as to devises or bequests for such purposes.

*Statutory reference: ORC 9.20*

**206.02 BOND ISSUANCE FOR OTHER ENTITIES.**

(a) Authority to Issue. If the City, pursuant to state law, created or participated in the creation of any board, authority, commission, district, agency, body, corporation, or other entity which is authorized to issue bonds, notes, or other obligations, the City may act for such issuer as the governmental unit on behalf of which such issuer issues bonds, notes, or other obligations or as the next higher governmental unit from which the authority of that issuer is derived for purposes of any federal law or United States treasury regulation which requires that bonds, notes, or other obligations of such issuer be approved by the applicable elected representative of such governmental unit or that other conditions be met in order for the interest income on such obligations to be exempt from federal income tax.

(b) Applicable Elected Representatives. For purposes of this section, “applicable elected representatives” means the City Council and any appointed officer(s) designated by the Council to act on behalf of the City.

(c) Approvals. Approvals under this section shall be based solely upon findings of fact made by the issuer, shall be solely for the purposes of satisfying requirements of the federal law and United States treasury regulations, shall be final and conclusive for such purpose, and shall not constitute an exercise of functions conferred by law upon the issuer, which functions shall remain in the issuer.

(d) Not a Limitation. The authority granted by this section is in addition to and not a limitation upon other authorization granted by or pursuant to law or the constitution, and does not preclude any other actions by the designated or other bodies or officials which would satisfy the requirements of the federal law or United States treasury regulations, which actions are hereby authorized.

*Statutory reference: ORC 9.97*

**206.03 LIABILITY FOR PUBLIC MONEYS; UNCLAIMED MONEYS.**

(a) Liability. All public officials of the City are liable for all public money received or collected by them or by their subordinates under color of office.

**(b) Unclaimed Moneys. All money received or collected by a public official under color of office and not otherwise paid out according to law shall be paid into the City treasury to the credit of a trust fund and shall be retained there until claimed by its lawful owner. If not claimed within a period of five (5) years, the money shall revert to the City's General Fund.**

*Statutory Reference: ORC 9.39*

**(c) Definitions. For the purposes of this section:**

- (1) "Color of office" means actually, purportedly, or allegedly done under any law, ordinance, resolution, order, or other pretension of official right, power, or authority.**
- (2) "Public money" has the same meaning as in ORC 117.01.**
- (3) "Public official" means any officer, employee, or duly authorized representative or agent of the City.**

*Statutory Reference: ORC 117.01*

#### **206.04 WITNESS'S RIGHT TO COUNSEL.**

**(a) Right to Counsel. Except as otherwise provided in division (b) of this section, any person appearing as a witness before a public body or public official of this City in an administrative or executive proceeding or investigation, public or private, shall be permitted to be accompanied, represented, and advised by an attorney, if the witness so requests. Such attorney's participation shall be limited to the protection of the rights of the witness, and the attorney may not examine or cross-examine witnesses. The witness shall be advised of the right to counsel before the witness is interrogated.**

**(b) Exceptions. This section does not apply to a City employee who appears only as a witness in an employment interview, investigation, or proceeding conducted by or for the employee's appointing authority.**

*Statutory Reference: ORC 9.84*

CHAPTER ~~210~~ 220  
City Council

210.01	<u>Oath of Office</u> Regular Meetings	210. <del>0511</del>	Compensation
210.02	<u>Members</u> President and Vice President	210. <del>0610</del>	<u>Expenses</u>
210.03	<u>Rules of Council</u> Committees		Expenditures for Guests of City Officials
210.04	<u>Meetings</u> Order of Business	210. <del>0713</del>	Use of Personal Communication Devices

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210.01 OATH OF OFFICE. ~~220.01 REGULAR MEETINGS.~~

**(a) Oath.** Before entering upon the duties of his or her office, each member of Council and the Mayor, whether elected or appointed, shall take and subscribe to an oath or affirmation that he or she will support the constitution of the United States and the constitution of Ohio, support the Charter and ordinances of the City, and that he or she will faithfully, honestly, and impartially discharge the duties of his or her office.

*Reference: Ohio Constitution, Article XV, Section 7*

**(b) Kept on File.** The sworn oaths of each member of Council shall be filed and kept in the office of the City Clerk.

**(c) Failure to Take Oath.** City Council may declare vacant the office of any person elected or appointed to Council who fails to take the required Oath of Office before his or her term begins.

*Statutory Reference: ORC 731.49*

**(d) Administration of Oaths.** Each member of Council, including the Mayor, as a person holding elective office under the constitution or laws of Ohio may administer oaths of office to persons holding elected or appointed to offices under the constitution or laws of Ohio within the geographical limits of the City. Nothing in this section shall prohibit any judge of a court established by the constitution of Ohio or a notary public commissioned in Ohio from administering an oath to any person.

*Statutory Reference: ORC 3.24*

~~The regular meetings of the City Council shall be held on the second and fourth Thursdays of each month at 7:00 p.m. or at such other time as determined by the City Council. If the day hereby fixed for a regular meeting is a holiday, then the meeting shall be held at such date and time as determined by the City Council. All meetings of the City Council shall be held in the City Council Chamber of the City Hall or at such other place within the city as designated by the City Council.~~

**210.02 MEMBERS.** ~~220.02 PRESIDENT AND VICE PRESIDENT~~

**(a) Qualifications.**

**(1) Only qualified electors of the City who have physically lived in the City for at least two (2) years immediately preceding the filing of a nominating petition or declaration of intent to be a write-in candidate shall be eligible to hold the office of Council member or Mayor.**

*(Charter 4.01)*

**(2) No member of the Council or the Mayor shall hold any other elective public office with Greene County, the State of Ohio or the United States, or any other office or employment that has been found to be incompatible with the position of Council member or Mayor by the Ohio Attorney General or the Ohio Ethics Commission, except where otherwise authorized by this Charter.**

*Statutory Reference: ORC 731.02*

(Charter 4.01)

- (3) No person who has pled guilty to a disqualifying offense, as the same is defined in ORC 2961.02, and whose plea is accepted by the court or any person against whom a verdict of finding of guilt for committing a disqualifying offense is returned is incompetent to hold the office of member of Council or the office of Mayor. This prohibition does not apply if a plea or verdict is reversed, expunged, or annulled or if the person is granted a full pardon.**

*Statutory reference: ORC 2961.02*

**(b) Successors. Every member of Council, including the Mayor, shall continue in office until his or her successor is elected or appointed and qualified, unless otherwise provided in the Ohio Constitution, the Xenia City Charter, or the Xenia City Code.**

*Statutory Reference: ORC 3.01*

The City Council shall, at its first meeting in January of each year, elect by majority vote its President and Vice President, who each shall serve for a term of one year. In the event of resignation or death of the President, the Vice President shall succeed to the office of President and the City Council shall forthwith elect a Vice President, who shall serve the unexpired term.

#### **210.03 RULES OF COUNCIL. ~~220.03 COMMITTEES.~~**

**(a) Rules of Council. As authorized by the Xenia City Charter, the Council may adopt Rules of Council to govern the procedures and order for all its meetings; to establish its duties and privileges; to establish the duties and privileges of its officers and appointed officials; to establish standing committees and the procedures for the establishment of select committees; to establish the procedures for investigations by the Council; and to address any other items related to the organization or business of the Council. Such Rules may be adopted, rescinded, or amended by motion.**

(Charter 4.14(E))

**(b) Code of Conduct. Such Rules of Council may also set forth specific standards of conduct for the members of Council, beyond those specified in the Charter, and may provide sanctions for the violations of such code of conduct, as the Council deems appropriate.**

(Charter 4.10)

**(c) Limitations. Any such Rules of Council shall be in compliance with the Xenia City Charter and any applicable provisions of the Xenia City Code or Ohio Revised Code.**

**(d) Robert's Rules of Order. In the absence of any Rules of Council, the procedures and order for all meetings of the Council shall be governed by Robert's Rules of Order.**

Unless in any instance the City Council directs, the President may, from time to time, as he or she may deem proper, create, alter or abolish standing and special committees and appoint or remove the members thereof. All matters other than ordinances and resolutions may be referred by the President to some proper committee or city officer unless the City Council itself desires to make such reference or otherwise dispose of the matter.

#### **210.04 MEETINGS. ~~220.04 ORDER OF BUSINESS.~~**

**Regular, special, and emergency meetings shall be called and conducted in accordance with the Rules of Council. Notice of such meetings shall be given to the members of Council and the public in accordance with the Rules of Council or, when there are no Rules of Council in force, in accordance with Section 204.03 of the Xenia City Code.**

~~The business of each regular meeting of the City Council shall follow an order as determined by the President of the City Council, or as the City Council may determine by majority vote. Business shall include, but not be limited to, the following: invocation; roll call; approval of the minutes of prior meetings; monthly reports of committees; audience comment period; reports of city offices and officials; introduction of resolutions and ordinances, and second reading of resolutions and ordinances; reading of communications; and general discussion.~~

~~220.05 INTRODUCTION OF ORDINANCES AND RESOLUTIONS.~~

~~—(a) The City Manager shall have the privilege of introducing ordinances or resolutions relating to matters which have been referred to him or her by the City Council or by any committee or member thereof, or which relate to the ordinary and regular transaction of the business and affairs of the city, but no such ordinances or resolutions shall be introduced by him or her if objection is made thereto by any member of the City Council.~~

~~—(b) Members of the City Council shall likewise have the privilege of introducing ordinances or resolutions for the consideration of the City Council.~~

~~220.06 REDUCTION OF MOTIONS TO WRITING.~~

~~A motion shall be reduced to writing before being acted upon if the President or any member so requests.~~

~~220.07 RECORDING VOTES OF ABSENT MEMBERS.~~

~~Any member, having been absent from a regular or special meeting, may at the next regular meeting be permitted to have recorded upon the journal the manner in which he or she would have voted if he or she had been present.~~

~~220.08 SUSPENSION, AMENDMENT OR REPEAL OF RULES.~~

~~Any of the rules of the City Council not prescribed by law may be suspended at any time by a vote of a majority of all the members elected to the City Council, and any such rule may be amended or repealed by a vote of the majority of all the members elected to the City Council, provided that notice of such proposed amendment has been given at a previous regular meeting of the City Council.~~

~~220.09 ROBERT'S RULES OF ORDER.~~

~~—(a) Robert's Rules of Order for deliberative assemblies shall govern the City Council in all cases wherein they are applicable and not inconsistent with any rule adopted by the City Council or with any provision of law.~~

~~—(b) The minutes of the meetings of the City Council shall reflect action taken on motions, resolutions and ordinances, and may contain summarizations of reports of city officials and other persons speaking to the Council. Minutes may also contain summarizations of pertinent statements of City Council members.~~

**210.05 ~~220.11~~ COMPENSATION.**

(a) Terms beginning January 1, 2020. Members of Council, including the Mayor, whose terms begin on or after January 1, 2020, shall receive an annual salary as follows:

- (1) For 2020, four thousand four hundred two dollars (\$4,402);
- (2) For 2021, four thousand five hundred thirty-four dollars (\$4,534);
- (3) For 2022, four thousand six hundred seventy dollars (\$4,670);
- (4) For 2023, four thousand eight hundred and ten dollars (\$4,810).

In accordance with the City Charter, these increases do not exceed three percent (3%) per year.

(b) Terms beginning January 1, 2022. Members of Council, including the Mayor, whose terms begin on or after January 1, 2022, shall receive an annual salary as follows:

- (1) For 2022, four thousand four hundred two dollars (\$4,402);
- (2) For 2023, four thousand five hundred thirty-four dollars (\$4,534);
- (3) For 2024, four thousand six hundred seventy dollars (\$4,670);
- (4) For 2025, four thousand eight hundred and ten dollars (\$4,810).

In accordance with the City Charter, these increases do not exceed three percent (3%) per year.

(c) Mayor and Council President. In addition to the compensation received as a Council member, the Mayor and the President of Council shall each receive an additional five hundred dollars (\$500) per year, as set forth in Section 4.03 of the City Charter.

**(d) Adjustments.** In accordance with Section 4.04 of the Xenia City Charter, Council may, by ordinance, adjust the annual compensation of the members of Council, including the Mayor, but such adjustments shall not exceed three percent (3%). Any ordinance adjusting the compensation of the members of Council, including the Mayor, shall be adopted on or before June 1<sup>st</sup> of any odd-numbered year.

**(e) Limitations.** Any adjustment to the compensation of the members of City Council, including the Mayor, shall be subject to the limitations contained in ORC 102.03 and the Council is prohibited from enacting any ordinance that grants any member of Council, including the Mayor, an in-term increase in compensation.

*Statutory Reference: ORC 731.07*

#### **210.06 EXPENSES** ~~220.10 EXPENDITURES FOR GUESTS OF CITY OFFICIALS.~~

**(a) Expenses.** Members of Council, including the Mayor, shall receive their actual and necessary expenses incurred in the performance of their official duties, when appropriations for such expenses have been made by the City Council. Such expenses, or reimbursements for the same, shall comply with the City's Purchasing Manual.

(Charter 4.07)

**(b) Expenditures for Guests.** The Director of Finance is hereby authorized ~~and directed~~ to expend city funds, when appropriations for such expense have been made as approved by the City Council, for food and nonalcoholic beverages consumed by guests of members of the City Council, **including the Mayor,** at civic and governmental meetings, conferences and seminars, when such expenditures are in the furtherance of city affairs. Such expenses, or reimbursements for the same, shall comply with the City's Purchasing Manual.

**(c) Disputes.** The Finance Director shall not pay or reimburse any expenses under this section for which appropriations have not been made or that are not submitted in compliance with the City's Purchasing Manual. In the case of a dispute regarding any expense or reimbursement, the Finance Director shall, at the next regular meeting of the Council, present the matter to City Council for its determination. The Council shall either approve the expense or reimbursement, approve the expense or reimbursement with modification, or deny the expense or reimbursement. Such determination by the Council shall be made by motion and shall be final.

#### ~~220.12 CODE OF CONDUCT.~~

~~(a) The Mayor and members of City Council shall:~~

- ~~(1) Regularly attend all scheduled meetings of the City Council as well as special or called meetings relevant to the office.~~
- ~~(2) Maintain courtesy and consideration toward fellow Council members, citizens and staff during all discussions and deliberations.~~

- ~~(3) Allow citizens, colleagues and staff sufficient opportunity to present their view, within the prescribed format and rules of conduct for meetings of the City Council.~~
- ~~(4) No person shall recklessly cause inconvenience, annoyance, or alarm to another by doing any of the following: (1) Engaging in fighting, in threatening harm to persons or property, or in violent or turbulent behavior; (2) Making unreasonable noise or an offensively coarse utterance, gesture, or display or communicating unwarranted and grossly abusive language to any person; (3) Insulting, taunting, or challenging another, under circumstances in which that conduct is likely to provoke a violent response; (4) Hindering or preventing the movement of persons on a public street, road, highway, or right of way, or to, from, within, or upon public or private property, so as to interfere with the rights of others, and by any act that serves no lawful and reasonable purpose of the offender; (5) Creating a condition that is physically offensive to persons or that presents a risk of physical harm to persons or property, by any act that serves no lawful and reasonable purpose of the offender.~~
- ~~(5) No person shall knowingly cause another to believe that the offender will cause physical harm to the person or property of the other person, the person's unborn, or a member of the other person's immediate family.~~
- ~~(6) All matters discussed in executive session shall be considered confidential. Any breach of said confidentiality shall be prosecuted to the fullest extent of the law.~~
- ~~(7) Abide by all local, state and federal laws, rules, and other regulations.~~

~~(b) Communications between members of Council and city administration. Per Section 7.02, Interference by Council, of the Xenia City Charter, no member of City Council shall in any way interfere with the daily administrative services of any city department or employee by ordering or instructing action to be taken or not taken with respect to the city's daily administrative matters. This prohibition does not apply to a Council member's work with or relationship to boards or commissions or staff representatives assigned to boards or commissions. In addition, this prohibition does not apply to minor requests made of staff members. In the event any Council member violates the provisions of this section, City Council shall be notified and may take corrective action.~~

~~(c) Direction and complaints. The City Charter vests all authority for the direction and control of city administrative employees in the appropriate appointed official, and no member of Council should attempt to direct or control the day to day activities of city employees. Suggestions regarding the performance of city employees or recommendations for commendation or discipline should always be directed to the appropriate appointed official. Under no circumstances should members of Council do or say anything that a city employee might interpret as an order to do or refrain from any act in the course and scope of his or her employment. Threats or promises by Council members concerning promotion, reassignment, termination or compensation of employees or their offices or departments are never acceptable except in the context of duly convened meetings of Council or its committees.~~

~~(d) Due process.~~

- ~~(1) Prior to imposing any sanction, Council shall provide due process to the member for whom sanctions will be considered, which shall include: a written charge specifying the act or omission of the member which is alleged to violate this Code of Conduct; the date and time of the meeting at which the sanctions will be considered; and an opportunity to be heard at the meeting, in public session, to explain or defend against the charges.~~
- ~~(2) The Law Director or his or her designee, as counsel for the city and Council, shall prepare the formal charge from the information provided by any elector or employee of the city. If the Law Director determines that a charge is legally insufficient or frivolous, he or she may summarily dismiss same and the Law Director's determination shall be final and conclusive. He or she shall be under no duty to refer a dismissed charge to Council.~~



- ~~(3) At any meeting of Council to consider censure, the Law Director or his or her designee shall conduct the examination of the complaining witness and any other witnesses on behalf of Council and the city and cross examine the accused member and any witnesses presented on his or her behalf.~~
- ~~(4) The accused member shall be entitled to appear and be represented by his or her own legal counsel at his or her own expense and to present witnesses on his or her behalf.~~
- ~~(5) Any meeting concerning the possible censure of a member shall be in open session. The testimony of all witnesses shall be under oath or affirmation. The rules of evidence should be followed to the extent practicable but shall not be strictly applied. A record of the meeting shall be made and maintained in the same manner as regular meetings of Council except, at the option of the Law Director, a court reporter may be engaged at city expense to make a verbatim record.~~

~~(e) Penalties/sanction:~~

- ~~(1) Council, by motion or resolution by majority vote, may sanction any member who violates this Code of Conduct.~~
- ~~(2) Penalties for violation may include warning against future misconduct, public reprimand or censure, or referral to property authority for further action, including but not limited to, the prosecuting attorney, Ohio Ethics Commission or court having jurisdiction in the matter.~~

**210.07** ~~220.13~~ **POLICY ON USE OF CITY PROVIDED PERSONAL COMMUNICATIONS DEVICES.**

**(a) Provisions for allotment of City-Owned Personal Communication Devices.**

- (1) The City will purchase, or otherwise provide under other contractual arrangements, **personal communication devices** cellular telephones, pagers or personal organizers for City Council members **of Council who request such devices** under the provisions stated herein. Because of the very nature of the need for these devices, City Council members should consider always having it on his or her person, with the exception of safety-related occasions and occasions where the equipment would be subjected to probable damage from water or other hazards or lost.
- (2) The selection of specific rate plans will be made by the IT **Department** ~~Division~~. Rate plans will be adjusted from time to time as business usage dictates and contracts allow. Rate plans will not be adjusted for the sole purpose of avoiding personal phone call charges.

**(b) Acquisition of Personal Communication Devices.**

- (1) City Council members will follow the guidelines and procedures set forth by the **IT Department** ~~Information Technology Division~~ for the purchase and general use of the **personal communication device** equipment. If a City Council member needs a **City-issued personal** cell phone, or similar communications device, an upgrade for an existing device, or other equipment, a written request should be submitted **by the Council member** to the IT **Department** ~~Division~~.
- (2) After receiving the request, the IT **Department** ~~Division~~ will arrange for the acquisition of **an** the appropriate device through a vendor approved by the **Department** ~~Division~~. IT **Department** personnel will be responsible for coordinating the billing, training, and technical support.
- (3) Upon leaving office for any reason, a Council member who is issued a City-owned personal communication device shall return that device to the City's IT Department within three (3) business days of the expiration or termination of the Council member's tenure. Failure to return a City-owned personal communication device may result in the filing of criminal charges.**

(c) ~~(4)~~ Use of **City-Provided Personal Electronic Communication** Devices.

- ~~(1)~~ **A. The use of cell phones and other personal communications devices provided by the City shall** ~~is to~~ be limited to official City business. The use of City-provided personal communications devices for personal calls is prohibited, except in cases of emergency. Under no circumstances are City-provided **personal** communications devices to be used for any private commercial enterprise in which **the Council member** ~~an associate of the city~~ may hold an interest.
- ~~(2)~~ **B. The City subscribes to a communications plan with specific services (data, minutes, etc.). The services provided in the plan are those which the City has deemed to be necessary in the performance of the Council members' official duties job functions. The City may seek to recoup costs incurred when a member of Council uses a personal communication device service for personal reasons or utilizes a when the utilized service on the device that is not included in the plan. The City may require a reimbursement of ten cents (\$.10) per minute on personal calls and the amount of the plan overages on personal calls and any amount due for service not covered by the plan. It is the Council members' responsibility to know what services are available to them for the purpose of performing their official duties job.**
- ~~(3)~~ **C. City Council members shall, by the acceptance of a City-issued cellular phone or other personal communication device, confirm that they are responsible for adhering to the requirements of this section employee rule and regulation and any subsequent amendments.**
- ~~(4)~~ **The City's IT Department shall have the right to implement any programs, apps, or tools for the administration, security, and protection of City-provided personal communication devices or other devices as it deems necessary. This includes City data, documents, or intellectual property of any kind. The City's IT Department shall also have the right to use GPS or location services for legitimate City purposes including circumstances where the device is lost, misplaced, or stolen.**
- ~~(5)~~ **The City's IT Department shall have the right to "wipe" (remove all data and reset) any City-issued personal communication device. In the event of a lost, misplaced, or stolen personal communication device, or upon a Council member leaving his or her office, the City's IT Department shall perform a partial "wipe" (remove all data and reset) on the City-issued personal communication device.**

~~(d)~~ ~~(2)~~ Reimbursement for use of **Stipend for Council Member-Owned** Personal Communication Devices.

- ~~(1)~~ **A Council member may elect to receive a stipend in lieu of receiving a City-issued personal communication device. The monthly stipend shall be the same as that received by City employees and is taxable. The payment shall be made once each month. In no case shall the City be responsible for any payment to the Council member's service provider, and the Council member shall remain responsible for timely payment of his or her monthly service bill. In addition, the Council member shall remain solely responsible for buying, maintaining, insuring and, if necessary, replacing his or her own personal communication device.**
- ~~(2)~~ **A Council member who elects to receive a stipend shall provide the City Clerk with the phone number of the personal communication device for which the stipend is being issued. It is expected that the Council member will receive email communications from the City network via the device. In addition, the IT Department may request the ability to protect City data, documents, or intellectual property on a Council member's personal device and/or the installation of a device management tool in exchange for the stipend.**
- ~~(3)~~ **A personal communication device owned by a Council member for which a stipend is issued shall remain the property of the Council member; provided, however, that any**

records related to City business are public and the Council member shall provide, if requested, any public information stored on the device.

- (4) Any Council member who receives a stipend under this section shall immediately report to the City's IT Department if his or her device is lost, misplaced, or stolen.
- (5) Any Council member's stipend may be suspended or cancelled by the City's IT Department for any of the following reasons:
  - A. Service to the Council member's personal communication device is discontinued or disconnected for any reason;
  - B. The device is damaged beyond use, lost, or stolen and is not replaced in a timely manner;
  - C. The phone number associated with the device is changed and the City Clerk is not notified in a timely manner; or
  - D. The Council member removes any device management software installed by the City's IT Department or refuses the installation of such software.
- (6) In cases of major emergencies, such as major weather events, or when an emergency is declared by the federal government, state government or City Manager, a Council member may incur a substantial increase in usage of his or personal communication device for which he or she receives a stipend. In such cases, the Council member may submit a written request, with supporting documentation, to the Finance Director requesting reimbursement of the overage calls and/or data usage that resulted from the use of the device for the Council member's official duties.

~~The city will reimburse Council members for official city business calls made on their own personal cell phone and the cost of the e-mail component. Council will review any requests for reimbursements before payment is made. A copy of the invoice, highlighting the city business call(s) or data plan must be attached to the request for reimbursement. An explanation of the nature of the city business calls must be provided. Calls will be reimbursed at a rate of ten cents (\$.10) per minute. If a member of Council is provided a cell phone from another employer, the city can reimburse the employer under a contractual arrangement for service. Reimbursements should in no circumstance exceed the amount the city would pay for providing a cell phone.~~

~~(3) Use of Personal Communications Devices while driving. City Council members should not use city-provided personal communications devices while operating a motor vehicle. City Council members are asked to safely park the vehicle before operating any electronic device.~~

~~(d) Repairs and/or replacement of damaged equipment.~~

- ~~(1) If there is a potential that equipment may be lost or damaged, the City Council member is responsible for making reasonable accommodations to protect this equipment.~~
- ~~(2) City provided communications devices will be repaired or replaced as follows:~~
  - ~~A. Equipment that requires repair or replacement due to normal wear and tear will be repaired or replaced at the expense of the city.~~
  - ~~B. Equipment that requires repair or replacement due to negligence, including but not limited to: misuse, abuse, carelessness, misplacement, water damage, or other physical damage will be repaired or replaced at the expense of the city and will be subject to review by City Council for action.~~

(e) Public Records. Council members are reminded that any emails, text messages or phone calls or other electronic communications, whether received or sent on a City-provided personal communication device or a Council member's own personal communication device, that meet the definition of a public record under ORC 149.43 must be retained in accordance with the records retention schedule for City Council.

~~Policy enforcement. Noncompliance with this policy by any Council member may result in a City Council review to determine the validity of any abuse of privileges or equipment.~~

**(f) Violations. Violations of this section may be punished by censure, in accordance with the Rules of Council. Any violation that results in the loss of City-owned property, including any data or documents, may be punished under appropriate State law.**

**(g) Definitions. For the purposes of this section, the following definitions apply:**

- (1) "Council member" means a duly elected or appointed member of the City Council, including the Mayor, who is serving his or her current term of office.**
- (2) "IT Department" means the Information Technology Department of the City.**
- (3) "Personal Communication Device" means any cellular phone, smart phone, tablet, or other similar electronic device.**

CHAPTER ~~212~~ 222  
Ordinances, ~~and Resolutions,~~ and Motions

212.01	<u>Legislative Actions</u>	212.05	<u>Determination of Legislative Intent</u>
212.02	<u>Legislation and Motions</u>	212.06	<u>Effect of Reenactment, Amendment or</u>
212.03	Publication by Title and Summary Only		<u>Repeal</u>
212.04	Posting Places	212.07	<u>Authentication</u>

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**212.01 LEGISLATIVE ACTIONS.**

**(a) Legislative Actions.** The legislative power of the City shall be exercised by the City Council through the adoption of ordinances, the passage of resolutions, and/or the passage of administrative motions.

**(b) Ordinances.** Ordinances shall be the formal, written enactment of the City Council's exercise of a governmental power vested by the Ohio Constitution, the Xenia City Charter, or state law in the City for the regulation of the conduct of its citizens, for the regulation of the conduct or functions of City government, or other subjects under its control. Ordinances are intended to be of a permanent duration and shall have the full force and effect of law.

**(c) Resolutions.** Resolutions shall be the formal, written enactment of the City Council's legislative or administrative authority of a less permanent nature or to dispose of a specific matter not required by the Ohio Constitution, the Xenia City Charter, or state law to be done by ordinance. Resolutions may prescribe administrative rules and regulations when such rules and regulations are promulgated pursuant to the authority granted under the Xenia City Code or state law.

**(d) Administrative Motions.** When legislative or administrative action by the City Council is not required by law to be done by ordinance or resolution, the same may be taken by administrative motion. The following actions may be taken by the City Council by administrative motion:

- (1) Approval of the schedule of bills;**
- (2) Appointments to any board or commission;**
- (3) Approval of the purchase of any goods or services that do not require competitive solicitation or that are purchased through a cooperative purchasing program;**
- (4) Approval of Council's annual budget priorities;**
- (5) Authorizing the application for any grant funds, where a resolution is not required under the applicable grant program; and**
- (6) Changing or rescheduling any scheduled regular meeting of the Council.**

**212.02 220.05 LEGISLATION AND MOTIONS INTRODUCTION OF ORDINANCES AND RESOLUTIONS.**

**(a) Appointed Officials.** The City Manager, Finance Director and/or Law Director shall have the privilege of presenting introducing ordinances and or resolutions to relating to matters which have been referred to him or her by the City Council as the same may be required for or by any committee or member thereof, or which relate to the ordinary and regular transaction of the business and affairs of the City, but no such ordinances or resolutions shall be introduced by him or her if objection is made thereto by any member of the City Council. Likewise, the three (3) appointed officials shall have the privilege of requesting administrative motions from the City Council.

**(b) Members of Council.** Any member of Council, including the Mayor, may request the City Manager, the Finance Director and/or the Law Director to present to the City Council any ordinance,

**resolution, or request for an administrative motion on a matter referred to the Appointed Official by the Council member. The City Manager, the Finance Director and/or the Law Director shall have the right to request approval, by motion, of a majority of the Council before preparing any ordinance, resolution, or request for administrative motion for formal presentation to the Council.**

Members of the City Council shall likewise have the privilege of introducing ordinances or resolutions for the consideration of the City Council.

**(c) Form. All ordinances and resolutions presented to the City Council shall be in writing, and shall be in the form prescribed by the City Charter. Requests for administrative motions, except for approval of the schedule of bills, shall be presented to the City Council in writing but the motion itself does not have to be in written form.**

(Charter 5.03)

**(d) Presentation to City Council. Ordinances and resolutions shall be presented to the City Council by the presiding officer, who shall present the ordinance or resolution by reading the title thereof, which reading shall be deemed the first reading. Any member of Council may then formally introduce such ordinance or resolution. Requests for administrative motions shall also be presented to the City Council by the presiding officer.**

(Charter 5.03)

**(e) Action by City Council. In accordance with Section 5.04 of the City Charter, except in the case of an emergency ordinance or resolution, no ordinance or resolution shall be passed by the Council until the ordinance or resolution has had its second reading, which shall occur at least one (1) week after the first reading. The presiding officer shall present the ordinance or resolution to the City Council by reading the title thereof, which reading shall be deemed to be the second reading. Action on ordinances and resolutions shall be made by a member of Council and shall be duly seconded. Ordinances and resolutions shall be adopted or passed upon the affirmative vote of a majority of the members of Council, except for emergency ordinances and resolutions which shall be adopted or passed by a roll call vote of at least five (5) members of the Council, or when City Charter, the Ohio Constitution or applicable state law requires the affirmative vote of at least five (5) members of Council. All votes on ordinances and resolutions shall be taken by roll call vote.**

(Charter 5.03)

**(f) Administrative Motions. Administrative motions shall not require a first or second reading as they are not required to be in writing. In accordance with Section 5.05 of the City Charter, action on a request for an administrative motion shall be made by a member of Council and shall be duly seconded. Administrative motions shall be passed upon the affirmative vote of a majority of a quorum of Council and shall be taken by voice vote.**

(Charter 5.05)

**(g) Duty of the Law Director. The Law Director shall review all ordinances, resolutions, and requests for administrative motions before they are presented to the City Council for correct legal form and possible contradiction with existing ordinances or conflict with provisions of the City Charter, the U.S. or Ohio Constitution, or applicable state law.**

### **212.03** ~~222.02~~ PUBLICATION BY TITLE AND SUMMARY ONLY.

Ordinances and resolutions ~~in excess of 200 words~~ may be published **in a newspaper of general circulation within the City** by a notice containing the title and summary of the ordinance or resolution only, **so long as the ordinance or resolution is published in full on the City's website.**

(Charter 5.07)

**212.04** ~~222.04~~ POSTING PLACES.

**(a) Ordinances and Resolutions.** In accordance with Section 5.07 of the City Charter, the following locations **within the City of Xenia** are hereby designated as places for the public posting of ordinances **and** resolutions, documents and other official papers of the City which are required by law to be publicly posted:

- (1)** ~~(a)~~ The lobby of **the City Administration Building, 107 E. Main Street; Xenia City Hall, 101 N. Detroit Street, Xenia, Ohio 45385;**
- (2)** ~~(b)~~ The first-floor lobby of the Greene County Courthouse, 45 N. Detroit Street, ~~Xenia, Ohio 45385;~~
- (3)** ~~(c)~~ The first-floor lobby of the Greene County Administration Building, 69 Greene Street, ~~Xenia, Ohio 45385;~~
- (4)** ~~(d)~~ The lobby of the Greene County Library, 76 E. Market Street, ~~Xenia, Ohio 45385;~~ and
- (5)** ~~(e)~~ The lobby of the United States Post Office, 189 E. Main Street, ~~Xenia, Ohio 45385.~~  
(Charter 5.07)

**(b) Other Documents.** **The locations listed in division (a) of this section may also be used as posting places for other City documents and official papers that are required by law to be publicly posted.**

**212.05 DETERMINATION OF LEGISLATIVE INTENT.**

**(a) Intent.** **By the enactment of any ordinance or the passage of any resolution by the City Council, it is presumed that:**

- (1) Compliance with the constitutions of Ohio and of the United States is intended;**
- (2) The entire ordinance or resolution is intended to be effective;**
- (3) A just and reasonable result is intended; and**
- (4) A result feasible of execution is intended.**

*Statutory Reference: ORC 1.47*

**(b) Presumed Prospective.** **All ordinances and resolutions shall be presumed to be prospective in their operation unless expressly made retrospective.**

*Statutory Reference: ORC 1.48*

**(c) Construction by the Court.** **If ordinance or resolution is ambiguous, the court, in determining the intention of the Council, may consider among other matters:**

- (1) The object sought to be attained;**
- (2) The circumstances under which the ordinance was adopted or resolution passed;**
- (3) The legislative history;**
- (4) The common law or former legislative provisions, including laws upon the same or similar subjects;**
- (5) The consequences of a particular construction; and/or**
- (6) The administrative construction of the ordinance or resolution.**

*Statutory Reference: ORC 1.49*

**212.06 EFFECT OF REENACTMENT, AMENDMENT OR REPEAL.**

**(a) Continuation of Prior Legislation.** **An ordinance or resolution that is reenacted or amended is intended to be a continuation of the prior ordinance or resolution and not a new enactment, so far as it is the same as the prior ordinance or resolution.**

*Statutory Reference: ORC 1.54*

**(b) Amendments.**

(1) **When any ordinance or resolution amends an existing ordinance or resolution, it shall set forth in full the ordinance or resolution being amended and shall indicate the matter to be omitted or deleted by enclosing it in brackets or by strikeout, and shall indicate the new matter by underscoring or by italics.**

(Charter § 5.03)

(2) **When any ordinance or resolution is being amended, the ordinance or resolution so amending shall also repeal the existing ordinance or resolution. The word “existing” shall be used to indicate that the ordinance or resolution is being repealed to amend it.**

*Statutory Reference: ORC 731.19*

(3) **If amendments to the same ordinance or resolution are enacted at the same or different meetings of the Council, one amendment without reference to another, the amendments are to be harmonized, if possible, so that effect may be given to each. If the amendments are substantively irreconcilable, the latest in date of enactment prevails. Amendments are irreconcilable only when the changes made by each cannot reasonably be put into simultaneous operation.**

*Statutory Reference: ORC 1.52*

**(c) Repeals.**

(1) **When any ordinance or resolution is being repealed without amending or replacing it, the ordinance or resolution so repealing shall set forth the entire ordinance or resolution being repealed and shall indicate the matter to be omitted or deleted by enclosing it in brackets or by strikeout.**

(Charter 5.03)

(2) **When any ordinance or resolution is being repealed, the words “is hereby repealed in its entirety” shall be used in the ordinance or resolution to indicate that the ordinance or resolution is being repealed without amendment.**

*Statutory Reference: ORC 731.19*

(3) **The repeal of a repealing ordinance or resolution does not reenact or revive the ordinance or resolution originally repealed, nor impair the effect of any saving clause therein.**

*Statutory Reference: ORC 1.57*

**(d) Effect. The amendment or repeal of any ordinance or resolution does not affect the prior operation of the ordinance or resolution or any prior action taken thereunder nor affect any validation, cure, right, privilege, obligation or liability previously acquired, accrued, accorded, or incurred thereunder.**

*Statutory Reference: ORC 1.58*

**(e) Limitations. Ordinances shall only be reenacted, amended, or repealed by ordinance and resolutions shall only be reenacted, amended, or repealed by resolution.**

**212.07 AUTHENTICATION.**

**In accordance with Section 5.06 of the City Charter, all ordinances and resolutions adopted or passed by the City Council shall be signed by the presiding officer and authenticated by the City Clerk; however, the failure or refusal of the presiding officer or the City Clerk to sign or authenticate such ordinance or resolution shall not invalidate an otherwise properly enacted ordinance or resolution.**



CHAPTER ~~214~~ 208  
Contracts, and Purchasing, and Sale of Personal Property

214.01	<u>Threshold for Expenditures</u>	214.04	<u>Local Bidder Preference System for</u>
214.02	<u>Competitive Bidding</u>		<u>Resident Businesses</u>
214.03	Advertisement for <u>Competitive</u> Bids	214.05	<u>Joint Purchasing Programs</u>
	<u>or Proposals</u> for <del>Certain Contracts</del>	214.06	Disposal of Personal Property

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**214.01 THRESHOLD FOR EXPENDITURES.** ~~208.01 DEFINITIONS~~

**As authorized pursuant to Section 9.16 of the City Charter, Council hereby sets the threshold for expenditures requiring Council approval under Section 9.16 of the City Charter at fifty thousand dollars (\$50,000).**

The following words and/or phrases used in this section are defined in Chapter 200, §200.01:

~~EXCESSIVE PRICE~~

~~LOCAL BIDDER~~

~~LOWEST AND BEST~~

~~PRODUCED~~

**214.02 COMPETITIVE BIDDING.**

**(a) When Required. Except as provided in division (b) of this section, all contracts for the purchase of materials, supplies, equipment, services, and/or labor which are estimated to exceed fifty thousand dollars (\$50,000) shall be awarded only after competitive bidding, or in the case of services only, after a competitive request for proposals.**

**(b) When Not Required. Competitive bidding or a competitive request for proposals shall not be required, even when the estimated cost is to exceed fifty thousand dollars (\$50,000), in the following specific cases:**

- (1) When competitive bidding is not required under the Ohio Revised Code or common law of the State;**
- (2) When the expenditure is for personal or professional services of a specialized nature;**
- (3) When Council has determined that an item is available and can only be purchased from a single source or the purchase consists of services related to information technology that are proprietary or limited to a single source;**
- (4) When the purchase is made through a cooperative or joint purchasing program where the cost has already been set by competitive bid;**  
*Statutory Reference: ORC 9.48*
- (5) When the purchase is from the federal government, the State, a county, a municipality, a township, a board of education, an educational service center, or other political subdivision;**  
*Statutory Reference: ORC 9.25, ORC 713.23*
- (6) When the purchase is for used equipment and/or supplies;**  
*Statutory Reference: ORC 735.052*
- (7) When the purchase is for utility services;**  
*Statutory Reference: ORC 9.30*
- (8) When the purchase is for supplies or materials and is made due to a real and present emergency arising in connection with the maintenance or repair of a City-owned and operated utility;**

*Statutory Reference: ORC 735.051, ORC 743.11*

**(9) When contracting for electronic data processing, payroll, or computer services to perform necessary mechanical, clerical, or record-keeping services;**

*Statutory Reference: ORC 9.35*

**(10) When the Council determines, by resolution, that a waiver of competitive bidding is in the best interest of the City or is necessary due to a real and present emergency.**

(Charter 9.16)

**214.03 208.02 ADVERTISEMENT FOR COMPETITIVE BIDS OR PROPOSALS FOR CERTAIN CONTRACTS.**

**(a) Public Notice. Whenever competitive bidding is required, public notice of the time and place when and where the bids or proposals will be received** All contracts for expenditures for the purchase of materials, supplies, tools, machinery and equipment, requiring Council approval under § 9.16 of the City Charter, shall be advertised not less than once in a newspaper of general circulation in the City of Xenia and/or the Council may determine that publication shall be by other electronic media **on the City's website** for at least fourteen (14) calendar days preceding the **date stated in the public notice for** day of the opening of the bids **or the receipt of proposals.**

**(b) Exceptions. Division (a) of this section shall not apply when other public notice requirements must be met on contracts being funded with federal or state funds.**

**214.04 208.03 SYSTEM OF PREFERENCES SYSTEM FOR RESIDENT BUSINESSES.**

**(a) Purpose. The intent of this section and the preference system established hereunder is to benefit the local economy. For the purposes of this preference system, "local bidder" shall be deemed to be a resident business of the City of Xenia, Ohio, or Xenia Township, Greene County, Ohio, and "local bid" shall mean a bid submitted by a local bidder.**

**(b) System of Preferences.**

**(1)** Subject to the system of preferences as set forth in **this Chapter**, Chapter 208 of the Xenia Codified Ordinances, and in accordance with sound fiscal management practices, contracts for the purchase of all equipment, materials, and supplies, **insurance, or services other than construction services for public improvements** by the City of Xenia, may **shall** be awarded to the lowest and best bidder.

**(2)** Prior to awarding **such** a contract for the purchase of equipment, materials and supplies or prior to entering into a contract for services, the City **shall** of Xenia may evaluate **the** all bids received **to determine whether a bid response is from a local bidder. Information furnished in the bid response shall be relied upon but may be verified in making the determination. Any bid response that does not meet this requirement may be removed, except in those circumstances where the City determines compliance would** according to the criteria and procedures contained in §§ 208.04 and 208.05. The City of Xenia may select the lowest and best bids from among the bids that offer goods or services that have been produced in the City of Xenia or Xenia Township, where sufficient competition can be generated within the City of Xenia or Xenia Township, to insure that compliance with these requirements will not result in **the payment of** an excessive price for the product or service, or result in the purchase or acquisition of a disproportionately **or acquiring an** inferior product.

(c) 208.04 Local Bidder Preference.

**(1) Following the determination required by division (b)(2) of this section, the bids shall be evaluated so as to give preference to local bidders.**

**(2) (a) ~~Where~~ When the preliminary analysis of bids identifies the apparent low bidder as a local bidder City of Xenia bid, the City ~~shall~~ may proceed with its standard contract award practices and procedures. Where the preliminary analysis of bids identifies that no local bidders submitted any bids, the City shall proceed with its standard contract award procedures without regard to this system of preferences.**

**(3) (b) ~~When~~ Where the preliminary analysis identifies the apparent low bidder as one other than a local bidder City of Xenia bid, the City shall apply the following preferences ~~may~~ consider the following factors:**

~~(1) Whether the goods or services that can be procured in the City of Xenia or Xenia Township is sufficient and in reasonably available quantities and of a satisfactory quality;~~

~~(2) Whether a City of Xenia or Xenia Township bid has been submitted;~~

~~(3) In determining the lowest bidder, a credit can be given to a local bidder as outlined below:~~

~~A. A credit equal to three percent (3%) of the lowest bid submitted by a non-local bidder will be given to local bidders for contracts that are fifty thousand dollars (\$50,000.00) or less.~~

~~B. A credit equal to two percent (2%) of the lowest bid submitted by a non-local bidder will be given to local bidders for contracts that are between fifty thousand and one hundred and fifty thousand dollars (\$50,001.00) and two hundred and fifty thousand dollars (\$250,000.00).~~

~~C. A credit equal to one percent (1%) of the lowest bid submitted by a non-local bidder will be given to local bidders for contracts that are greater than two hundred fifty thousand (\$250,000.00) or ten thousand dollars (\$10,000.00), whichever is less.~~

~~D. This local preference section shall apply to businesses in the City of Xenia and Xenia Township. The applicable credit shall be first applied to the City of Xenia business bid to determine if it becomes the lowest bid. If it becomes the lowest bid, it may be awarded the bid. If after application of the applicable credit, the City of Xenia business does not become the low bid, the applicable credit shall be applied to the Xenia Township business. If it becomes the low bid, then the bid may be awarded to the Xenia Township business. If not, it may be awarded to the low bidder.~~

**(4) If sufficient competition does not exist, or if it is determined that the prices or bids submitted by the local bidders are excessive, or where it is determined that selection of the lowest local bidder will result in a disproportionately inferior product or service, the City may cancel the bid in its entirety, may rebid the intended contract, or may award the contract to the lowest and best nonlocal bidder. For the purposes of this section, a price is excessive if the lowest price or bid submitted by a local bidder exceeds the apparent low bid submitted by a nonlocal bidder by more than five percent (5%).**  
~~Whether the lowest City of Xenia or Xenia Township bid, if any, offers a disproportionately inferior product or service.~~

(d) Other Considerations.

**(1) If, after applying the credits provided in division (c)(3) of this section, the analysis of bids still identifies the apparent low bidder as one other than a local bidder, the City shall consider the following factors:**

**A. Whether the goods or services can be procured from a local bidder in sufficient and reasonably available quantities and of satisfactory quality;**

**B. Whether a local bid has been submitted;**

**C. Whether the lowest local bid offers a price deemed to be an excessive price;**

**D. Whether the lowest local bid offers a disproportionately inferior product or service.**

- (2) ~~(e)~~ Where the City determines the selection of the lowest **local** ~~City of Xenia or Xenia Township bidder, if any,~~ will not result in an excessive price or disproportionately inferior product or service, the City may **award the contract** ~~propose a contract award to the lowest local bidder~~ low City of Xenia or Xenia Township bid at the bid price quoted.

**(e) Not a Limitation.** Where the City **otherwise** determines that it is not **advantageous** appropriate to award the contract to **a local** ~~a City of Xenia or Xenia Township bidder,~~ the City may proceed to ~~conduct its normal bid evaluation procedures and~~ award the **contract** bid to the lowest and best **nonlocal** bidder.

**(f) 208.05 Notice to Bidders; Bidder Certifications. When the preference system outlined in this section is to be applied on any bid, the City shall:**

- (1) ~~(a)~~ The City of Xenia may **Indicate** in its invitations to bid that it will apply a **local bidder** ~~City of Xenia or Xenia Township bid~~ preference, as outlined in this section, in the evaluation and award of bids **received**.
- (2) ~~(b)~~ **Assure that the bid packets require all bidders to complete and attest to** ~~The local bidder must provide proof of local bidder status by completing a local bidder's certification form, which shall be provided in the bid packet and returned with the bidder's bid.~~

**(g) Exceptions.** The provisions of this section do not apply to the following contracts or situations:

- (1) State and federally funded projects, where prohibited by state or federal law, regulations, or rules;
- (2) Emergency procurement situations;
- (3) Direct awards;
- (4) Sole source purchases;
- (5) Purchases made through **joint purchasing programs or State cooperative purchasing programs** ~~state of Ohio contracts or through contracts held by another political subdivision of the state of Ohio;~~
- (6) Requests for proposals or requests for qualifications; **and/or**
- (7) **When there are no local bidders that provide the particular goods or services being sought.**

#### **214.05 JOINT PURCHASING PROGRAMS.**

**(a) Authority. Council may, by resolution, authorize the City to:**

- (1) **Participate in any joint purchasing program operated by or through a national or state association of political subdivisions in which the City is eligible for membership;**
- (2) **Participate in contract offerings from the federal government including, but not limited to, contract offerings from the General Services Administration;**
- (3) **Participate in contracts with another political subdivision, as the same is defined in ORC 2744.01, for the acquisition of equipment, material, supplies, or services;**
- (4) **Participate in any joint or cooperative purchasing programs operated by the State of Ohio or any of its agencies; and/or**
- (5) **Participate in any other joint or cooperative purchasing programs or contracts authorized under ORC 9.48.**

**(b) Exempt from Competitive Bidding Requirements. Acquisition of any equipment, materials, supplies, or services through the participation in a contract of another political subdivision or participation in any of the programs listed in division (a) of this section is exempt from any competitive selection requirements otherwise required by law, so long as the contract in which the City is participating was awarded pursuant to a publicly solicited request for a proposal or a competitive selection procedure.**

**(c) Purchase of Supplies or Services from Another Party. The City may purchase supplies or services from another party instead of through participation in the contracts authorized under division (a) of this section if the City can purchase those supplies or services from the other party upon equivalent terms, conditions, and specifications but at a lower price than it can through participation in those contracts. Purchases made under this division are exempt from any competitive bidding procedures otherwise required by law. For any purchase made under this division, the City shall maintain sufficient information regarding the purchase to verify it satisfied the conditions for making a purchase under this division.**

*Statutory Reference: ORC 9.48*

**(d) Not a Limitation. The authorization granted under this section shall be in addition to, and not in derogation of, any other powers or authority granted to the City by State law, the Ohio Constitution, City Charter, or the provisions of any ordinance or resolution.**

~~208.07 PREFERENCE FOR RECYCLED MATERIALS.~~

~~(a) The city, in an effort to promote the recycling of materials, shall participate in programs designed to encourage recycling.~~

~~(b) The City Manager, the Director of Finance and other city officials who purchase paper materials are hereby directed and encouraged to insist upon and purchase recycled paper materials whenever possible.~~

~~208.08 CONTRACTS FOR CONSTRUCTION MANAGEMENT AND PROFESSIONAL DESIGN SERVICES.~~

~~Contracts for construction management and contracts for professional design services in an amount exceeding twenty five thousand dollars (\$25,000.00) that are not awarded by the process established in § 208.13 shall be awarded on the basis of qualifications of the potential contractor and price as determined by the City Manager or his or her designee. Prospective contractors shall submit proposals in accordance with the instructions and specification of the city. These proposals shall include price. The city may reject any and all proposals. The City Manager shall recommend to the City Council the lowest and best proposal, based on the qualifications of the contractor, price and other relevant factors. These procedures are not intended to be formal bidding requirements, but rather an informal procedure to determine the best contractor to whom a contract should be awarded. In addition to the requirements set forth in this section, all requirements of the Xenia City Charter and these Codified Ordinances shall be complied with.~~

~~208.09 PARTICIPATION IN CONTRACTS WITH THE SOUTHWEST OHIO PURCHASERS FOR GOVERNMENT.~~

~~(a) The City of Xenia hereby agrees to become a member of the Southwest Ohio Purchasers for Government, to pay the attendant dues and to designate its representative as a delegate.~~

~~(b) The city hereby agrees to participate in the cooperative purchasing activities of the Southwest Ohio Purchasers for Government and in other cooperative purchasing agreements of its members under the terms stipulated in the organization's charter.~~

~~208.10 PARTICIPATION IN CONTRACTS WITH THE OHIO DEPARTMENT OF ADMINISTRATIVE SERVICES.~~

~~(a) The City Manager hereby requests authority, in the name of the City of Xenia, to participate in state contracts which the Department of Administrative Services, Office of State Purchasing, has entered into for the purchase of supplies, services, equipment and certain materials pursuant to Ohio R.C. 125.04.~~

~~(b) The City Manager is hereby authorized to agree, in the name of the City of Xenia, to be bound by all contract terms and conditions as the Department of Administrative Service, Office of State Purchasing,~~

prescribes. Such terms and conditions may include a reasonable fee to cover the administrative costs which the Department of Administrative Services incurs as a result of the City of Xenia's participation in a contract. Further, the City Manager hereby agrees to be bound by all such terms and conditions.

(e) The City Manager is hereby authorized to agree, in the name of the City of Xenia, to directly pay the vendor, under each such state contract in which it participates, for items it receives pursuant to the contract, and the City Manager does hereby agree to directly pay the vendor.

#### ~~208.11 PARTICIPATION IN CONTRACTS WITH THE OHIO DEPARTMENT OF TRANSPORTATION.~~

(a) The City Manager hereby requests authority, in the name of the City of Xenia, to participate in contracts of the Ohio Department of Transportation for the purchase of machinery, materials, supplies or other articles which the Department has entered into pursuant to Ohio R.C. 5513.01(B).

(b) The City Manager is hereby authorized to agree, in the name of the City of Xenia, to be bound by all terms and conditions as the Director of Transportation prescribes.

(c) The City Manager is hereby authorized to agree, in the name of the City of Xenia, to pay vendors, under each such contract of the Ohio Department of Transportation in which the City of Xenia participates, for items it receives pursuant to Ohio R.C. 5513.01(B).

(d) The City of Xenia hereby agrees to hold the Director of Transportation and the Ohio Department of Transportation harmless for any claim or dispute arising out of participation in a state contract pursuant to Ohio R.C. 5513.01(B).

#### 214.06 ~~208.12~~ DISPOSAL OF PERSONAL PROPERTY.

(a) **Personal Property Having No Value.** Upon a recommendation from the department head or division head that has management or supervision of personal property belonging to the City that such personal property is not needed for any municipal purpose, is obsolete or unfit for the use for which it was acquired, and that the property has no value, the City Manager is hereby authorized to discard or salvage such property by administrative directive. The city may dispose of personal property owned by the city and no longer needed for municipal purposes by private or public sale and with or without competitive bidding.

(b) **Estimated Value of Less Than \$25,000.** Personal property **belonging to** of the City **that is** not needed for **any** municipal purpose, ~~as determined by the City Manager, and having an~~ **the** estimated value **of which is less than** not exceeding twenty-five thousand dollars (\$25,000) **per item**, may be sold or traded by **the department or officer having supervision or management of the property, upon the approval of** the City Manager **by administrative directive, without advertising for bids, by competitive bidding, by auction, or by internet auction, in accordance with division (d) of this section.** City Council shall be notified of such sale or disposal.

(c) **Estimated Value of \$25,000 or More.** Personal property **belonging to the City, the estimated value of which is** exceeding twenty-five thousand dollars (\$25,000) **or more per item, that is no longer** not needed for **any** municipal purpose **or that is obsolete or unfit for the use for which it was acquired** **may** shall be sold **pursuant to a resolution passed by** only upon authorization and direction by ordinance of the City Council **authorizing such sale. Council shall indicate in the resolution whether the property shall be sold by competitive bidding, by auction, or by internet auction, in accordance with division (d) of this section.**

(d) **Methods of Sale of Personal Property.**

- (1) **Competitive Bids:** Bids shall be taken after advertising once in a newspaper of general circulation within the City and for no less than two (2) weeks on the City's website. When the estimated value of the personal property is less than twenty-five thousand dollars (\$25,000), per item, the City Manager shall sell the property to the highest and best bidder. When the estimated value of the personal property is twenty-five thousand (\$25,000) or more, per item, the bids submitted shall be referred to Council and Council may accept the bid which it considers highest and best. Council shall, after it deems the bid price acceptable, authorize the City Manager to execute a contract with the highest and best bidder. In all bid solicitations, the City shall reserve the right to reject all bids and in the event all bids are rejected, the City shall have no duty to bid the property again.
- (2) **Auctions:** The services of an auctioneer may be retained to sell personal property at a public auction, which shall be advertised once in a newspaper of general circulation within the City and for no less than two (2) weeks on the City's website.
- (3) **Internet Auctions:** The City may contract with a third-party to sell personal property by internet auction, upon such general terms and conditions, including a minimum price, as are set by the City. Notice of the internet auction shall be advertised once in a newspaper of general circulation within the City and for no less than two (2) weeks on the City's website.

~~Personal property exceeding twenty five thousand dollars (\$25,000) not needed for municipal purposes shall be traded only upon authorization by motion of the City Council.~~

(e) **Refuse.**

- (1) **The Public Service Director is hereby authorized to sell refuse, street scrapings or ashes which the Director determines, in his sole discretion, are not necessary for the improvement of City property and that are under charge of the Street Division and not necessary for the purposes of that Division, without competitive bidding.**  
*Statutory Reference: ORC 721.16*
- (2) **Money arising from a sale under (e)(1) of this section shall be deposited in the treasury of the City, in the Street Fund, and shall be immediately available, in addition to the appropriations by Council, for the current expenses of the Street Division of the Public Service Department, and may be withdrawn upon the warrant of the Finance Director for such purpose. Such money shall not be considered a source of revenue subject to appropriation by Council and may be expended as provided in this section without having been appropriated by Council.**  
*Statutory Reference: ORC 721.17*

**(f) Sale Without Competitive Bidding. Notwithstanding anything to the contrary in this Chapter and regardless of the property's value, Council may, by resolution, authorize the sale of personal property owned by the City that is not needed for a municipal purpose to the United States government or any agency thereof, to the State of Ohio or any agency thereof, to any other political subdivision, or to any corporation or quasi-corporation not for profit, organized for a public or charitable purpose, upon such terms as may be deemed proper by Council, without competitive bidding.**

(g) **Trade-Ins.**

- (1) **When the City has vehicles, equipment or machinery that is obsolete, unneeded or unfit for public use, or which needs to be replaced with other vehicles, equipment or machinery of the same type, and when it is in the best interest of the City that the sale of the obsolete, unneeded or unfit vehicles, equipment or machinery be made**

- simultaneously with the purchase of new vehicles, equipment or machinery of the same type, those vehicles, equipment or machinery may be sold by trade in and the selling price credited against the purchase price of the new vehicles, equipment or machinery.
- (2) Such sale and purchase shall be consummated by a single contract with the lowest and best bidder, to be determined by subtracting from the selling price of the vehicles, equipment, or machinery to be purchased the purchase price offered for the City-owned vehicles, equipment, or machinery.
- (3) When advertising for bids for the purchase of vehicles, equipment or machinery, such advertisements may include a notice of willingness to accept bids for the purchase of the City-owned vehicles, equipment or machinery as a “trade-in credit” against the purchase price.

~~208.13 DESIGN-BUILD PROCESS:~~

~~(a) *Definitions.* The following words and/or phrases used in this section are defined in Chapter 200, § 200.01.~~

- ~~— *CITY*~~
- ~~— *CONCEPTUAL DOCUMENTS*~~
- ~~— *DESIGN-BUILD CONTRACT*~~
- ~~— *DESIGN/BUILDER*~~
- ~~— *ENTITY*~~
- ~~— *PROFESSIONAL DESIGN FIRM*~~
- ~~— *PROFESSIONAL DESIGN SERVICES*~~
- ~~— *PROPOSAL*~~
- ~~— *PROPOSER*~~
- ~~— *REQUEST FOR PROPOSALS* or *RFP*~~
- ~~— *REQUEST FOR QUALIFICATIONS* or *RFQ*~~
- ~~— *RESPONDENT*~~
- ~~— *STATEMENT OF QUALIFICATIONS* or *SOQ*~~

~~(b) *Design/builder qualifications.*~~

- ~~(1) At the time design-build services are to be provided under a design-build contract, a design/builder must be an entity, employ an entity, or have as a partner, member, joint venturer or subcontractor an entity, that is licensed, registered or otherwise qualified under Ohio law to provide the design professional services and construction services to complete the public improvement project and do business in Ohio.~~
- ~~(2) In accordance with this subsection, a design/builder may contract with the city to provide design professional services and construction services that the design/builder is not itself licensed, registered or otherwise qualified under Ohio law to perform if the design/builder provides the services through subcontracts with licensed, registered or otherwise qualified entities under Ohio law.~~

~~(c) *Procurement process.*~~

- ~~(1) When a design-build contract is considered by the city for implementation of a public improvement project, the city shall utilize a two-step, competitive procurement process to award the design-build contract. A description of the procurement process shall be included in the RFQ and RFP.~~
- ~~(2) The first step in the procurement process shall be to issue an RFQ, receive and evaluate SOQs from respondents, and short list the most qualified respondents in accordance with subsection (d) of this section.~~
- ~~(3) The second step in the procurement process shall be to issue an RFP, receive, evaluate and rank the proposals, negotiate the design-build contract and award the design-build contract. Prior to the~~



~~ranking of proposers, the city may require and evaluate submittals of preliminary proposals or re-submittals of proposals from each proposer.~~

~~(d) Request for qualifications and short listing of respondents.~~

- ~~(1) The city shall advertise the availability of the RFQ not less than once in a newspaper of general circulation in the City of Xenia and/or the Council may determine that publication shall be by other electronic media for at least 14 calendar days preceding the day of the opening of the SOQs. The advertisement shall provide a general description of the public improvement project and the method for obtaining a copy of the RFQ.~~
- ~~(2) The RFQ shall include the following information:
  - A. The location of the public improvement project;
  - B. A general description of the public improvement project;
  - C. A description of the procurement process;
  - D. The submittal requirements for the SOQ; and
  - E. A description of evaluation criteria to be used in short listing respondents, including an indication of the relative importance of each criterion. The evaluation criteria may include any of the following:
    1. Experience;
    2. Past performance;
    3. Key staff;
    4. Financial capability and condition; and
    5. Other criteria set forth in the RFQ.~~
- ~~(3) Any entity that assisted in the (1) preparation of the RFQ, RFP, conceptual documents, or the design-build contract, or (2) procurement of a design/builder, may not be a part of any team submitting an SOQ for the public improvement project.~~
- ~~(4) The city may interview or seek clarifications from some or all of the respondents during the evaluation of the SOQs.~~
- ~~(5) After evaluation of the SOQs in accordance with the criteria set forth in the RFQ, the city shall short list the most qualified, responsive respondents to receive the RFP. The city may short list no less than two respondents.~~
- ~~(6) If at any time prior to receipt of proposals a short listed respondent withdraws from the procurement process or is disqualified from continuing in the procurement process, the city may add a respondent that was not previously short listed to the short list.~~

~~(e) Request for proposals.~~

- ~~(1) The city shall issue an RFP to each of the short listed respondents.~~
- ~~(2) The RFP shall include the following information:
  - A. The location of the public improvement project;
  - B. A general description of the public improvement project;
  - C. A description of the procurement process;
  - D. The submittal requirements for proposals; and
  - E. A description of evaluation criteria to be used in evaluating proposals and selecting the design/builder, including relative importance of each criterion. The evaluation criteria may include any of the following:
    1. Experience;
    2. Past performance;
    3. Key staff;
    4. Financial capability and condition;
    5. Technical approach;
    6. Price; and
    7. Any other criteria defined in the RFP.~~

- ~~(3) Any entity that assisted in the (1) preparation of the RFQ, RFP, conceptual documents, or the design build contract, or (2) procurement of a design/builder, may not be a part of any team submitting a proposal for the public improvement project.~~
- ~~(4) The city may establish a maximum budget for the public improvement project and require all price proposals to be less than the maximum budget in order for a design build contract to be awarded. If the city elects to establish a maximum budget for the public improvement project, the city's maximum budget shall be defined in the RFP.~~

~~(f) Evaluation of proposals and award of design build contract.~~

- ~~(1) The city shall evaluate proposals in accordance with the procurement process and evaluation criteria defined in the RFP.~~
- ~~(2) As defined in the RFP, the city may meet with proposers, seek clarification on proposals, consider proposed alternatives, revise the RFP or require best and final proposals.~~
- ~~(3) The city shall evaluate and rank the proposals and, if applicable, best and final proposals based on the factors, weighting (if applicable), and process identified in the RFP.~~
- ~~(4) The city is not required to rank first the proposer that submits the lowest price proposal.~~
- ~~(5) The city may reject any and all proposals, except for the purpose of evading the provisions and policies of this section.~~
- ~~(6) The city may negotiate any design build contract term with the highest ranked proposer, except for those terms identified in the RFP as non negotiable.~~
- ~~(7) If the city is unable to negotiate a design build contract with the highest ranked proposer, the city may suspend or end negotiations with that proposer and initiate negotiations with the next highest ranked proposer.~~
- ~~(8) The city shall continue in accordance with this procedure until a contract agreement is reached or the selection process is terminated.~~

~~208.14 PARTICIPATION IN CONTRACTS WITH THE NATIONAL JOINT POWERS ALLIANCE.~~

~~(a) The City Council authorizes the City Manager to enter into an agreement and the City to participate in the National Joint Powers Alliance Cooperative Purchasing Program per Ohio R.C. 9.48.~~

~~(b) The City Manager is hereby authorized to agree, in the name of the City of Xenia, to directly pay the vendor, under each such contract in which it participates, for items it receives pursuant to the contract, and the City Manager does hereby agree to directly pay the vendor.~~

~~208.15 PARTICIPATION IN CONTRACTS WITH THE NATIONAL INTERGOVERNMENTAL PURCHASING ALLIANCE AND THE COOPERATIVE PURCHASING NETWORK.~~

~~(a) The City Council authorizes the City Manager to enter into an agreement and the city to participate in the National Intergovernmental Purchasing Alliance and The Cooperative Purchasing Networks per Ohio R.C. 9.48.~~

~~(b) The City Manager is hereby authorized to agree, in the name of the city, to directly pay the vendor or its authorized purchasing agent under each such contract in which it participates, for items it receives pursuant to the contract, and the City Manager does hereby agree to directly pay the vendor or its authorized purchasing agent.~~

CHAPTER 200  
Definitions

~~200.01 DEFINITIONS.~~

~~For the purpose of these Codified Ordinances, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~AND. May be read OR, and OR may be read AND, if the sense requires it.~~

~~ANOTHER. When used to designate the owner of property which is the subject of an offense, includes not only natural persons but also every other owner of property.~~

~~BOND. Includes an undertaking.~~

~~CHARITABLE ORGANIZATION. The same as in Ohio R.C. 2915.01(H).~~

~~CHILD. Includes child by adoption.~~

~~CITY. The City of Xenia, Ohio.~~

~~CITY COMMISSION AND COUNCIL. The legislative authority of the municipality.~~

~~COMMUNITY FUNDING. Contributions made to Xenia non profit or charitable organizations by City Council from the general operating budget.~~

~~CONCEPTUAL DOCUMENTS. The drawings and specifications and/or other graphic or written materials, criteria and information concerning the city's requirements for the public improvement project, such as design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, including those items enumerated in the request for proposals which show or describe the character and scope of, or relate to, the work to be performed or furnished and which have been prepared by or for the city.~~

~~COUNTY. Greene County, Ohio.~~

~~DESIGN BUILD CONTRACT. Any written agreement involving a project delivery system for the erection, alteration, repair, replacement, renovation, installation or demolition of any public improvement project by which an entity is responsible contractually to the city for design, construction, and other related services required for the implementation of the public improvement project.~~

~~DESIGN/BUILDER. An entity that furnishes the necessary design, construction, and related services under a design build contract, whether by itself or through contractual arrangements.~~

~~ENTITY. An individual, a firm, a partnership, a limited liability company, a joint venture, an association, a corporation or other legal person licensed to provide the services in Ohio.~~

~~EXCESSIVE PRICE. A price that exceeds by more than one percent, two percent, or three percent, whichever is applicable in § 208.04(b)(3), the lowest bid received for any product, purchase or service.~~

~~FIRE CHIEF. The Chief of the Fire Division.~~

~~IMPRISONED.~~ Has the same meaning as in Ohio R.C. 1.05.

~~INTERNET.~~ The international computer network of both federal and non federal interoperable packet switched data networks, including the graphical subnetwork known as the world wide web.

~~KEEPER or PROPRIETOR.~~ Includes all persons, whether acting by themselves or as a servant, agent or employee.

~~LAND or REAL ESTATE.~~ Includes rights and easements of incorporeal nature.

~~LEGISLATIVE AUTHORITY.~~ The legislative authority of the municipality.

~~LOCAL BIDDER.~~ A business organization that:

- ~~(1) Has sales offices, divisions, sales outlets, distribution centers or manufacturing facilities in the City of Xenia or Xenia Township, or which facilities demonstrate capital investment in the City of Xenia or Xenia Township; and~~
- ~~(2) Pays required local taxes to the City of Xenia, if claiming a City of Xenia preference.~~

~~LOWEST AND BEST.~~ The lowest and best bidder that meets all requirements of the bid specifications and predetermined evaluation criteria.

~~MAY.~~ Is permissive.

~~MUNICIPALITY or CITY.~~ The City of Xenia, Ohio.

~~NON-PROFIT ORGANIZATION.~~ An organization exempt from federal income taxation pursuant to Section 501(a) and (c)(3) of the Internal Revenue Code.

~~OAC.~~ Refers to the Ohio Administrative Code.

~~OATH.~~ Includes affirmation; and ~~SWEAR~~ includes affirm.

~~OHIO R.C., ORC OR REVISED CODE.~~ Refers to the Ohio Revised Code.

~~OWNER.~~ When applied to property, includes any part owner, joint owner or tenant in common of the whole or part of such property.

~~PERSON.~~ Includes an individual, corporation, business trust, estate, trust, partnership and association.

~~PERSONAL PROPERTY.~~ Includes all property except real property.

~~PLAN OF SEWERAGE, SYSTEM OF SEWERAGE, SEWER and SEWERS.~~ Includes sewers, sewage disposal works and treatment plants, and sewage pumping stations, together with facilities and appurtenances necessary and proper therefor.

~~PREMISES.~~ As applied to property, includes land and buildings.

~~PRODUCED.~~ Processing, mining, developing, and making of a this into a new article, with distinct character and use, through the application of input within the City of Xenia or Xenia Township, of products, labor, skill or other services.

~~*PROFESSIONAL DESIGN FIRM.* Any person legally engaged in rendering professional design services.~~

~~*PROFESSIONAL DESIGN SERVICES.* Services within the scope of practice of an architect or landscape architect registered under Ohio R.C. Chapter 4703 or a professional engineer or surveyor registered under Ohio R.C. Chapter 4733.~~

~~*PROPERTY.* Includes real, personal, mixed estates and interests.~~

~~*PROPOSAL.* A written offer by a potential design/builder to enter into a design-build contract for a public improvement project in response to a request for proposals.~~

~~*PROPOSER.* An entity who submits a proposal in response to a request for proposals.~~

~~*PUBLIC AUTHORITY.* Includes boards of education; the municipal, county, state or federal government, its officers, or an agency thereof; or any duly authorized public official.~~

~~*PUBLIC PLACE.* Includes any street, sidewalk, park, cemetery, school yard, body of water or watercourse, public conveyance, or any other place for the sale of merchandise, public accommodation, or amusement.~~

~~*REAL PROPERTY.* Includes lands, tenements and hereditaments.~~

~~*REGISTERED MAIL.* Includes certified mail; and *CERTIFIED MAIL* includes registered mail.~~

~~*REQUEST FOR PROPOSALS* or *RFP.* The document prepared by or for the city specifying and describing the city's objectives and the procedure to be followed in preparing and submitting a proposal and awarding the design-build contract.~~

~~*REQUEST FOR QUALIFICATIONS* or *RFQ.* The document prepared by or for the city specifying and describing the city's objectives and the procedure to be followed in preparing and submitting a statement of qualifications and short listing respondents.~~

~~*RESPONDENT.* An entity who submits a statement of qualifications in response to a request for qualifications.~~

~~*SHALL.* Is mandatory.~~

~~*SIDEWALK.* The portion of the street between the curb line and the adjacent property line intended for the use of pedestrians.~~

~~*STATE.* The State of Ohio.~~

~~*STATEMENT OF QUALIFICATIONS* or *SOQ.* The information submitted by a respondent in response to a request for qualifications.~~

~~*STREET.* Includes alleys, avenues, boulevards, lanes, roads, highways, viaducts and all other public thoroughfares within the municipality.~~

~~*TENANT* or *OCCUPANT.* As applied to premises, includes any person holding a written or oral lease, or who actually occupies the whole or any part of such premises, alone or with others.~~

~~*UNDERTAKING.* Includes a bond.~~

~~*WEEK.* Seven consecutive days.~~

~~*WHOEVER.* Includes all persons, natural and artificial; partners; principals, agents, and employees; and all officials, public or private.~~

~~*WRITING.* Includes printing.~~

~~*WRITTEN or IN WRITING.* Include any representation of words, letters, symbols or figures; this provision does not affect any law relating to signatures.~~

~~*YEAR.* Twelve consecutive months.~~

~~Chapter 210~~  
~~Civil Defense~~

~~210.01 REGIONAL ORGANIZATION ESTABLISHED.~~

~~The City Council hereby gives its consent and approval to the agreement between Montgomery and Greene Counties establishing a regional local organization or authority for civil defense. The City Manager and the Clerk of Council are authorized to execute and deliver any and all papers necessary to evidence such consent and make such agreement effective.~~

~~Chapter 224~~  
Mayor



Chapter 226  
Community Funding

~~226.01 DEFINITIONS.~~

~~The following words and/or phrases used in this section are defined in Chapter 200, § 200.01.~~

~~Charitable Organization~~

~~Community Funding~~

~~Nonprofit Organization~~

~~226.02 ALLOCATION OF FUNDS.~~

~~City of Xenia General Fund moneys allocated each year to the Community Funding Program are limited to ten thousand dollars (\$10,000.00) per calendar year. Community Funding may be made available under the following tiered system:~~

~~— (a) Tier I: Charitable and non-profit organizations, including special event committees, located in and providing not for profit services to the city may seek funding for special programs or projects that directly benefit the people of the community. Funding for Tier I applicants is limited to three thousand dollars (\$3,000.00) per application. Tier I organizations may only be awarded twice in a five year period and not in consecutive years, unless as part of a two-phased project.~~

~~— (b) Tier II: Recreation organizations located in and providing services to the city may seek funding for special programs or projects that benefit segments of the community. To be eligible for funding, recreation organizations must provide a scholarship program for participants of lesser means to help offset participation costs. Funding for Tier II applicants is limited to two thousand dollars (\$2,000.00) per application. Tier II organizations may only be awarded twice in a five year period and not in consecutive years, unless as part of a two-phased project.~~

~~— (c) Tier III: Community organizations (profit based) and recreation organizations that do not provide scholarships for participants of lesser means that are located in and providing services to the city may seek funding for programs or projects that benefit segments of the community. Funding for Tier III organizations is limited to one thousand dollars (\$1,000.00) per application once within a five year period, unless as part of a two-phased project.~~

~~226.03 APPLICATION AND PROGRAM GUIDELINES.~~

~~The following rules apply to the requesting organization:~~

~~— (a) Community funding may be made available to local organizations that provide programming that benefits the broader community, including community service activities and special events. Funding may also be provided for organizations who demonstrate a need for capital funding for specific purchases or projects, the results of which will provide benefit to the broader community.~~

~~— (b) The requesting organization must have been in existence for a minimum of two years and must provide a copy of its by laws, charter or other records that document their existence, including, when applicable, documentation identifying the organization's tax status.~~

~~— (c) An organization/applicant can apply for only one source of funds at a time from the city, including community funding.~~

~~— (d) An applicant may apply for a two year phased project or a one year project.~~

~~— (e) The population and geographic area to be served by project/event must be defined. Should the population being served include adjacent political subdivisions (townships or county), applicant must also pursue support from those respective political bodies and show proof of such pursuit.~~

~~—(f) Applicants must show other funding/support sources for the project. Support can be via in-kind contributions.~~

~~—(g) The community/organizational impact of the project/event must be defined. The applicant must provide a report to the City Manager's office stating the outcome of the project/event at its conclusion.~~

~~—(h) Community funding must be used for the purposes designated in the original application and for such purposes only. Should an applicant fail to meet this requirement, the city may seek a return of the funds and declare the applicant ineligible for any future city funding.~~

~~—(i) Awarded applicants must complete any post-project documentation demonstrating use of the funds as requested by the City Manager. The city shall be provided the ability to audit the financial records of the applicant.~~

~~—(j) The applicant must state what the outcome will be if the proposed project/event is not funded.~~

~~—(k) Applicants must obtain applications from and return applications to the City Manager's office by the deadline set by the City Manager's office.~~

~~—(l) Funding assistance to schools within the City of Xenia is limited annually to one thousand dollars (\$1,000.00) per school project/event. PTOs and booster type groups are not eligible applicants.~~

~~—(m) City Council has the discretion to make exceptions to these guidelines.~~

#### ~~226.04 RECOMMENDATIONS AND DISBURSEMENT OF FUNDS.~~

~~The City Manager will make recommendations to City Council based on the applications received, and City Council shall either confirm the recommendations or select other applicants to receive funds. City Council shall then direct the Finance Director to disburse the funds.~~