

**CITY OF XENIA, OHIO
ORDINANCE 2021 – 27**

**PROVIDING FOR THE SPECIAL ELECTION ON AMENDMENTS TO ARTICLES V, VIII
AND X OF THE CHARTER OF THE CITY OF XENIA, OHIO, SAID ELECTION TO BE HELD
ON THE SAME DATE AND TIMES AS THE MAY 3, 2022, PRIMARY ELECTION**

WHEREAS, Section 8.05 of the City’s Charter requires that a Charter Review Commission meet at least once every five years for the purpose of reviewing the Charter of the City and recommending to Council such alterations, revisions, and amendments to the Charter as, in its judgment, are desirable;

WHEREAS, said Charter Review Commission was appointed in accordance with Section 8.05 of the City’s Charter and has made recommendations to this Council for amendments to Articles V, VIII, and X of the Charter; and

WHEREAS, after consideration of the recommendations of the Charter Review Commission, this Council finds it desirable to submit such proposed Charter amendments, in the manner provided by the Constitution of the State of Ohio, to the City’s qualified electors.

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

Section 1. The question of amendments to Articles V, VIII, and X of the City of Xenia Charter shall be submitted to a vote of the qualified electors of the City at a special election, to be held on the same date and times as the May 3, 2022, primary election, at the regular hours and regular places of voting in the City. If approved by a majority vote at said election, Articles V, VIII, and X of the City Charter shall be amended as shown in Exhibit A and shall become effective upon certification of the election results by the Greene County Board of Elections.

Section 2. The ballots for the election shall be entitled: “Xenia City Charter Articles V, VIII, and X Amendments Ballot,” and the question to be submitted on the ballot shall be: “Shall the proposed amendments to Articles V, VIII, and X of the Xenia City Charter be adopted?” To the left of said wording, in boxes with appropriate place for marking, shall appear the words, “Yes,” and “No,” and each voter shall indicate his or her vote by making a mark in the place so provided. Under this question shall appear a digest/summary of said amendments, to read as follows:

ARTICLE V – LEGISLATION.

§5.01. Add language specifying that ordinances are to be used for the exercise of legislative powers of the City and are intended to cover matters of a permanent nature such as laws of the City or establishing the governmental organization of the City (e.g., establishing a police division, enacting a traffic code, establishing public utilities, etc.). Specify that resolutions are used for matters that are ministerial or temporary in nature (e.g., awarding a bid, authorizing purchases, approval to apply for a grant, etc.).

Specify that procedural motions are to only be used by Council for matters regarding its own organization (e.g., appointing a Chair and Vice Chair) or housekeeping functions (e.g., setting meeting times). Remove current Charter language that ordinances and resolutions are interchangeable – they are not, and such language creates potential for abuse of the legislative process.

§5.02. Move existing language to §5.01 B.; move existing provisions in §5.03 here and amend title to “Ordinances in General”. Add language that requires a public hearing at the time of the second reading on all ordinances (except emergency ordinances) before they may be adopted to allow citizen input. Require a majority vote of the members of Council who are present for the adoption of all ordinances. Require all voting be done by roll call vote so that the public knows how each Councilmember and Mayor voted.

§5.03. Move existing language to §5.02 and §5.05. Move existing provisions in §5.04 here and amend title to “Emergency Ordinances.” Add language stating that except for appropriation ordinances, emergency ordinances stand automatically repealed as of the 61st day after their adoption to prohibit abuse of the emergency ordinance process.

§5.04. Move existing language to §5.02 and §5.05. Replace with section titled “Emergency Ordinances for Appropriations.” As Ohio’s Uniform Tax Levy Law requires appropriations be made by ordinance, add language specifying that the affirmative vote of four members of Council is required for adoption.

§5.05. Move existing language to §5.06. Replace with section titled “Resolutions,” which adds language outlining the process for the passage of a resolution. Add language that allows Council to accept public comment upon any resolution upon a motion to entertain public comment. Require a majority vote of the members of Council who are present for the adoption of all resolutions. Require all voting be done by roll call vote so that the public knows how each Councilmember and Mayor voted.

§5.06. Move existing language to §5.07. Move existing §5.05 here and amend title to “Procedural Motions.” Require a majority vote of the members of Council who are present for the passage of all procedural motions. Amend current Charter requirement that votes be taken by voice vote (yeas and nays) and allow roll call or voice vote, as determined by Council.

§5.07. Move existing language to §5.02 E., §5.03 B. and §5.05 C. Moving existing §5.06 here and amend title to “Authentication and Recording of Ordinances and Resolutions.” Keep language that the presiding officer and Clerk are to sign all legislation, but add language if they refuse to sign, it does not invalidate an otherwise properly enacted ordinance or resolution. Add language that an ordinance or resolution certified by the City Clerk are admissible as evidence in any court.

§5.08. Move existing language to §5.09. Replace with section titled “Initiative and Referendum,” which recognizes the right of citizens to propose and submit ordinances by initiative petition, and to challenge any ordinance passed by referendum.

§5.09. Move existing language to §5.10. Move existing §5.08 here and amend title to “Adoption of Technical Codes by Reference.” Add language specifying that the adoption of a technical code (e.g., Ohio Building Code, Ohio Fire Code, etc.) must be done by ordinance. Remove requirement that an entire copy of the technical code be given to each Council member before adoption and requirement that the City Clerk keep copies of such codes for sale at cost.

§5.10. Enact new section titled “Codification.” Move existing §5.09 here and modify that the Xenia City Code need only be codified in paper form every 5 years instead of every 3 years.

ARTICLE VIII – BOARDS AND COMMISSIONS.

§8.01. No substantial changes; editorial revisions only.

§8.02. Amend title to “Boards and Commissions.” Keep the City residency requirement for the four (4) Boards and Commissions created by Charter (Planning & Zoning, Zoning Appeals, Civil Service and Charter Review). Amend language to allow each Board and Commission to set its own meeting dates and times. Add language that each Board and Commission must comply with the new §13.03, titled “Open Meetings.” Add language that a majority of the voting members of a Board or Commission constitutes a quorum, and a majority vote of the members present is required to take any action. Add language regarding removals and filling vacancies.

§8.03. Move existing language to §8.02. Replace with section titled “Planning and Zoning Commission” that outlines the membership, terms, organization, and powers and duties of this Commission.

§8.04. Delete current language and replace with section titled “Board of Zoning Appeals” that outlines the membership, term, organization, and powers and duties of this Board.

§8.05. Move existing language to §8.06. Replace with section titled “Civil Service Commission” that outlines the membership, term, organization, and powers and duties of this Board.

§8.06. Enact new section, titled “Charter Review Commission,” that consists of the existing language in §8.05 with no substantial changes; editorial revisions only.

ARTICLE X – CIVIL SERVICE AND PERSONNEL.

Amend title from “Human Resource System” to “Civil Service and Personnel.”

§10.01. Amend title to “Civil Service.” Add language indicating the intent of this Article is to comply with the civil service requirements of the Ohio Constitution while at the same time setting local rules and regulations regarding civil service.

§10.02. Delete existing language. Move provisions of existing §10.04, titled “Classification of Civil Service,” here. The categories of current classified and unclassified employees remain as existing.

§10.03. Existing language moved to §8.05. Replace with section titled “Civil Service Rules,” and add language requiring the Civil Service Commission to make rules regarding the administration of competitive examinations for hire and promotion; lateral hires; preparation of eligibility lists for the hiring and promotion of classified employees.

§10.04. Existing language moved to §10.02. Replace with section titled “Original Appointments,” and add language governing how original appointments to a civil service position are filled by competitive examination, or lateral hire, or when such positions are filled noncompetitively. Requires the Civil Service Commission to set, by rule, the probationary period (6 months – 1 year) for original appointments.

§10.05. Enact new section titled “Promotions,” which addresses how promotional positions in the Civil Service are to be filled by competitive examination. Requires the Civil Service Commission to set, by rule, the probationary period (6 months – 1 year) for original appointments.

§10.06. Enact new section titled “Organizational Plan; Pay Plan; Fringe Benefits,” which requires Council to approve an Organizational Plan (number of employees and pay grade for each position); a Pay Plan setting yearly salaries; and the establishment, by ordinance, of fringe benefits, including hours of work, holidays, overtime pay, and any benefits required under federal or state law.

§10.07. Enact new section titled “Personnel Manual,” which requires the Administrative Steering Committee to establish and maintain rules and policies governing personnel management for items such as the appointment, transfer, promotion, demotion, or lay off of employees, discipline, retirement or resignations, ethics of public employment and the conduct of City employees, and other matters governing employee behavior.

Section 3. As ORC 3505.06 requires that when condensed text is used on a ballot question, issue, or amendment, the full text of the proposed question, issue, or amendment, together with the percentage of affirmative votes necessary for passage, shall be posted in each polling place, the attached Exhibit A shall be used as the full text of the proposed ballot item at each polling place.

Section 4. The Greene County Board of Elections shall give public notice of the time and place of holding the election on the proposed Charter amendments at least ten (10) days prior to the day of election, in accordance with Ohio Revised Code 3501.03.

Section 5. The City Clerk is directed to publish the full text of the proposed Charter amendments once a week for not less than two (2) consecutive weeks in a newspaper of general circulation in the City or as provided in ORC 7.16, with the first publication being at least fifteen (15) days prior to the election, in accordance with Ohio Constitution, Article XVIII, Section 9 and ORC 731.211.

Section 6. The City Clerk is directed to certify a copy of this Ordinance to the Board of Elections of Greene County no later than February 18, 2022.

Section 7. If the amendments to Articles V, VIII, and X of the Charter of the City of Xenia are approved by a majority vote, the City Clerk shall certify a copy of the amendments to the Ohio Secretary of State within (30) days of the election.

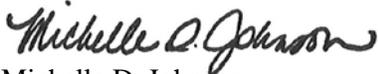
Section 8. It is found that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code, and the Rules of Council.

Section 9. This Ordinance shall take effect on February 12, 2022.

Introduced: December 29, 2021
Adopted: January 13, 2022



Wesley E. Smith
President, Xenia City Council

Attest:

Michelle D. Johnson
City Clerk

CITY OF XENIA BALLOT ITEM ____

PROPOSED AMENDMENTS TO ARTICLES V, VIII, AND X OF THE CITY'S CHARTER

ARTICLE V – LEGISLATION

§ 5.01 ORDINANCES, RESOLUTIONS AND MOTIONS.

- A. Actions of the Council. ~~Formal Legislative actions of the City Council shall be by ordinance or resolution. Ordinances shall be used for the exercise of the legislative powers of the City granted by the Constitution of the State of Ohio or by the Ohio Revised Code, including enactments of the Council that set forth rules or regulations regarding the conduct of the City's government and its citizens of a permanent or general nature and shall have the full force and effect of law. Resolutions shall be used for the exercise of the administrative powers of the City, including orders of the Council of a special, temporary or less permanent nature or for other matters not required by this Charter to be done by ordinance. Procedural motions shall be used for procedural matters of the City, including the organization or conducting to conduct the business of the Council in procedural matters and for elections conducted among and, for establishing or modifying the Rules of Council, and for appointments made by the Council to the various Boards, Commissions or Committees. Ordinances and resolutions shall be the enactments of the Council and shall have the full force and effect of law.~~ Formal Legislative actions of the City Council shall be by ordinance or resolution. Ordinances shall be used for the exercise of the legislative powers of the City granted by the Constitution of the State of Ohio or by the Ohio Revised Code, including enactments of the Council that set forth rules or regulations regarding the conduct of the City's government and its citizens of a permanent or general nature and shall have the full force and effect of law. Resolutions shall be used for the exercise of the administrative powers of the City, including orders of the Council of a special, temporary or less permanent nature or for other matters not required by this Charter to be done by ordinance. Procedural motions shall be used for procedural matters of the City, including the organization or conducting to conduct the business of the Council in procedural matters and for elections conducted among and, for establishing or modifying the Rules of Council, and for appointments made by the Council to the various Boards, Commissions or Committees. Ordinances and resolutions shall be the enactments of the Council and shall have the full force and effect of law.
- B. Action Requiring an Ordinance. **[5.02 Action Requiring an Ordinance or Resolution]** ~~The following legislative actions In addition to other acts required by law or by specific provision of this Charter to be done by ordinance or resolution, those acts of the City Council shall be by ordinance or resolution which:~~ The following legislative actions In addition to other acts required by law or by specific provision of this Charter to be done by ordinance or resolution, those acts of the City Council shall be by ordinance or resolution which:
- (1) Adopting or amending of an administrative code to establish, alter, or abolish any City department, office, board, commission or other agency;
 - (2) Establishing any offense and the imposition or provision of imposition of any penalty for such offense Provide for a time or fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
 - (3) Levying of taxes, except when such action may be taken by resolution under the Ohio Revised Code;
 - (4) Granting, renewing or extending a franchise;
 - (5) Regulating the rate charged for its services by a public utility;
 - (6) Authorizing the borrowing of money or appropriations for the expenditure of public funds;
 - (7) Authorizing the purchase, conveyance or lease or authorize the conveyance or lease of real property or any title or interest therein any lands of the City;
 - (8) Regulating land use and development;
 - (9) Exercise the police powers granted the City by Article XVIII of the Ohio Constitution of the State of Ohio; or and
 - (10) Amending or repealing any ordinance previously adopted.
 - (11) Fulfill other purposes, as the Council may determine.
- ~~Acts other than those referred to in the preceding sentence may be done either by ordinance, resolution, or motion.~~
- C. Action Requiring a Resolution. Administrative actions, or other official actions of the City Council that are not required by this Charter to be taken by ordinance, may be taken by resolution.

- D. Action Requiring a Procedural Motion. Actions by the City Council to conduct its own affairs in procedural matters, including its organization and elections under Section 4.04 of this Charter, establishing or modifying Rules of Council, and for appointments made by the Council may be made by procedural motion.

§ 5.02 **ORDINANCES IN GENERAL.**

~~Action Requiring an Ordinance or Resolution.~~ *[Moved to § 5.01(B)]*

- A. **[5.03(A)] Form.** Every proposed ordinance ~~or resolution~~ shall be introduced in writing and in the form required for final adoption, ~~after review by the Law Director, or his or her designee, on the question of correct legal form or possible contradiction with the U.S. Constitution or the Constitution of the State of Ohio, this Charter, existing ordinances, or general laws of the State.~~ No ordinance ~~or resolution~~ shall contain more than one (1) subject, which shall be clearly expressed in its title, ~~except for appropriation of money;~~ ~~provided, however, that appropriation ordinances may contain various subjects, accounts, and amounts for which moneys are appropriated, and an ordinance amending or enacting sections of the City Code may contain more than one title, chapter, section or subsection containing more than one subject.~~ The enacting clause shall be “The City of Xenia hereby ordains...” ~~in the case of ordinances, or “The City of Xenia hereby resolves...”, in the case of resolutions.~~ Any ordinance ~~or resolution~~ ~~which that~~ repeals or amends an existing ordinance, ~~resolution~~ or part of the **Xenia** City Code shall set out in full the ordinance, ~~resolution~~ sections or subsections to be repealed or amended, and shall indicate matters to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matters by underscoring or by italics. **Any ordinance, section or subsection so amended shall be repealed.**
- B. **[5.03 (B)] Procedure.** An ordinance ~~or resolution~~ may be introduced by any member of **Council** at any regular or special meeting of the Council. **Upon introduction of any proposed ordinance,** the City Clerk shall distribute a copy to each Council member and appointed official, ~~and shall file a copy reasonable number of copies in the office of the City Clerk, and shall publish the ordinance, by title or by a brief summary thereof, together with notice setting out the time and place for a public hearing thereon and for its consideration by the Council. Notice of the public hearing shall be published at least seven (7) days prior to the scheduled public hearing, and such other public places as Council may designate.~~ The enacting clause of any ordinance or resolution, unless it is declared to be an emergency, shall not be passed until it has been publicly read at two (2) meetings at least one (1) week apart. ~~Such readings may be by title only. Pursuant to Section 5.07 of this Charter, the ordinance or resolution shall be published by the City Clerk.~~
- C. Public Hearing. A public hearing on the proposed ordinance shall be held not earlier than seven (7) days following publication of the notice of such hearing and may be held separately or in connection with a regular or special meeting of the City Council. After the public hearing, Council may adopt the proposed ordinance, with or without amendment, or reject it.
- D. Amendment. If, after the public hearing, Council amends the ordinance and the amendment is a matter of substance, as determined by a majority vote of the members of Council who are present, the ordinance may not be voted upon until it has been subjected to the procedures required in the case of a newly introduced ordinance under Subsection B. of this section.
- E. **[5.03(D)] Adoption and Publication.** The vote on the question of adoption of each ordinance shall be taken by roll call and entered into the Clerk’s journal. No ordinance shall be adopted except upon the affirmative vote of a majority of the members of Council who are present, unless otherwise required by this Charter. After its adoption, the Clerk shall publish the ordinance again, together with a notice of its adoption. As used in this section, the term “publish” means to post on the City’s website within

seven (7) days of adoption and either to print in one or more newspapers of general circulation in the City or to post in full in not less than three (3) public places in the City, as determined by Council, within twenty (20) days of adoption, the ordinance by title or by a brief summary thereof.

~~“Published” Defined. As used in this section, the term “publish” means to print in one (1) or more newspapers of general circulation in the City, and/or by other electronic media: (1) the ordinance or resolution or a brief summary thereof, and (2) the places where copies of it have been filed and the times when it is available for public inspection and purchase at cost.~~

- F. **[5.03(C)] Effective Date.** Except as otherwise provided in this Charter, every adopted ordinance shall become effective ~~at the expiration of thirty (30) days after adoption or at any later date specified therein.~~

§ 5.03 **EMERGENCY ORDINANCES.**

Ordinances and Resolutions in General. *[Moved to § 5.02 and § 5.05]*

[5.04 Emergency Ordinances and Resolutions]

- A. **Emergency Ordinances.** To meet a public emergency affecting the peace, health, ~~or~~ safety or welfare of the inhabitants of the City, or for the preservation of their lives or property, or to insure the necessary daily operations of a ~~some~~ Municipal department or public utility, the Council may adopt one or more emergency ordinances, ~~or resolutions. Ordinances or resolutions for the appropriation of money may be declared emergency measures. Such ordinances or resolutions~~ but such emergency ordinances may not, however, levy taxes (except when incidental to incurring debt); grant, renew or extend a franchise (except one affecting health or incidental to incurring debt); ~~or~~ regulate the rate charged by a public utility for its services, or grant any special privileges.
- B. **Procedure; Adoption.** An emergency ordinance ~~or resolution~~ shall be introduced in the form and manner provided for ordinances ~~or resolutions~~ generally, except that it shall be plainly designated as an emergency ordinance ~~or resolution~~ and shall contain, after the enacting clause, ~~contain~~ a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance ~~or resolution~~ may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of five (5) members of Council shall be required for adoption, except as otherwise provided in Section 5.04. An emergency ordinance shall become effective upon adoption or at such time and date as it may by its terms specify. After adoption, the ordinance ~~or resolution~~ shall be published as prescribed for other adopted ordinances ~~or resolutions~~. Emergency ordinances, including ordinances for emergency appropriations, shall not be subject to referendum. ~~It shall become effective upon adoption or at such time and date as it may by its terms specify.~~
- C. **Automatic Repeal.** Every emergency ordinance, except one made pursuant to Section 5.04 of this Charter, or one authorizing or otherwise adopted in connection with the borrowing of money and/or the levying of taxes with respect to such borrowing, or one authorizing the purchase, conveyance or lease of real property or the title or interest therein, shall automatically stand repealed as of the sixty-first (61st) day following the date on which it was adopted, but this shall not prevent the reenactment of the ordinance in the manner specified in Section 5.02 or this section. No emergency ordinance shall be extended beyond its repeal date by the adoption of another emergency ordinance. Contract rights that vest pursuant to an emergency ordinance shall not be impaired or abridged by the repeal of such ordinance. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in Section 5.02.

§ 5.04 EMERGENCY ORDINANCES FOR APPROPRIATIONS.

~~Ordinances and Resolutions.~~ *[Moved to § 5.02 and § 5.05]*

To meet a public emergency affecting life, health, safety, property or the public welfare, or to meet an emergency in the daily operations of a City department, division or agency, City Council may make supplemental or amended appropriations. Such appropriations shall be made pursuant to an emergency ordinance in accordance with the provisions of Section 5.03; provided, however, that appropriations made by emergency ordinance shall be adopted upon the affirmative vote of at least four (4) members of Council and such emergency ordinance shall not be automatically repealed.

§ 5.05 RESOLUTIONS.

~~Motions.~~ *[Moved to § 5.06]*

- A. Resolutions shall be in written form and may be introduced by any member of Council at any regular or special meeting of the City Council. The City Clerk shall distribute a copy to each Councilmember and appointed official prior to the meeting at which the resolution is to be introduced. A resolution may be passed, with or without amendment, or rejected by the City Council at the meeting at which it is introduced, and no waiting period or hearing shall be required. The vote on the question of passage of each resolution shall be taken by roll call and entered into the Clerk's journal. No resolution shall be adopted except upon the affirmative vote of a majority of the members of Council who are present, unless otherwise required by this Charter.
- B. No waiting period, notice, or hearing shall be required for a resolution and a resolution shall become effective immediately upon its passage or at such time and date as it may specify. Notwithstanding the foregoing, Council may accept public comment upon any resolution before it upon a motion to entertain public comment, duly seconded, and approved by a majority vote of the members present.
- C. The Clerk shall publish notice of the passage of a resolution, by title or a brief summary thereof, on the City's website within seven (7) days of its passage.

§ 5.06 PROCEDURAL MOTIONS.

~~Signing and Authentication of Ordinances and Resolutions.~~ *[Moved to § 5.07]*

[5.05 Motions] Consistent with Section 5.01 of this Charter, City Council may take actions that are procedural in nature, such as organizing or conducting the business of the City Council, establishing or modifying the Rules of Council, or making appointments to Boards, Commissions or Committees, ~~not required to be done by ordinance or resolution~~ by procedural motion. Action on a procedural motion shall be made by a member of Council and duly seconded ~~and adopted by voice vote of a majority of the quorum, and.~~ The vote on a procedural motion may be by roll call or by voice vote, as determined by Council in the Rules of Council, and shall be carried upon the affirmative vote of a majority of the members of Council who are present. The procedural motion and the vote thereon shall be entered into the Clerk's Journal. No waiting period, notice, hearing or publication shall be required for a procedural motion and it shall be effective immediately unless otherwise stated in the motion upon its passage.

§ 5.07 AUTHENTICATION AND RECORDING OF ORDINANCES AND RESOLUTIONS.

~~Publication of Ordinances and Resolutions.~~ *[Moved to § 5.02 E, § 5.03 B, and § 5.05 C]*

[5.06 Signing and Authentication of Ordinances and Resolutions] All ordinances and resolutions passed by Council shall be signed by the presiding officer and authenticated by the City Clerk; however, the failure or refusal of such officers to sign such ordinance or resolution shall not invalidate an otherwise properly enacted ordinance or resolution. The Clerk shall record in full in the Clerk's Journal or other

Existing Charter Language in Black Proposed Additions in Red Proposed Deletions in Strikeout

Section Number in Blue brackets indicates language moved from another section – for informational purposes only

~~record prescribed by Council a properly indexed book all ordinances and resolutions adopted by Council. This section is discretionary only.~~ The City Clerk or a duly authorized deputy to said Clerk shall, upon the request of any person and upon the payment of any fee established by Council, certify true copies of any ordinance or resolution, which certified copies shall be admissible as evidence in any court.

~~All ordinances and resolutions shall be published one (1) time within twenty (20) days after passage 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. Ordinances or resolutions containing language in excess of that number provided for by ordinance of Council may be published by title and summary only. In the event of the publication of ordinances or resolutions, exact copies thereof shall be posted in five (5) public places in the City of Xenia for a period of ten (10) days after the date of first publication. The five (5) places of posting shall be set forth within the text of the published notice.~~

§ 5.08 INITIATIVE AND REFERENDUM.

Codes of Technical Regulations. *[Moved to § 5.09]*

Except as otherwise provided in this Charter, ordinances providing for the exercise of any powers of government granted by the Constitution of the State of Ohio or delegated by the Ohio General Assembly to the City may be proposed and submitted to the electors of the City by initiative petition. Except as otherwise provided in this Charter, the effective date of an ordinance passed by the City Council may be suspended until such ordinance is approved by the electors of the City by referendum petition. If the Council is required to pass more than one ordinance to complete and pay for any public improvement, the referendum shall apply only to the first ordinance to be passed and not to any subsequent ordinance in the series relating thereto.

§ 5.09 ADOPTION OF TECHNICAL CODES BY REFERENCE.

Codification. *[Moved to § 5.10]*

[5.08 Codes of Technical Regulations] The City Council may, by ordinance, adopt any standard code of technical regulations prepared by the State or any department, board or other agency of the State, or any standard or model ordinance or code prepared and promulgated by a public or private organization including, but not limited to, code and regulations pertaining to fire, fire hazards, fire prevention, plumbing regulations, electrical regulations, building regulations, housing regulations, environmental regulations and such other matters as the Council may determine to be appropriate for adoption and incorporation by reference ~~thereto is the adopting ordinance or resolution.~~ The ordinance adopting any such standard code shall state the date and source of such standard code and shall not be required to contain the entire code so adopted. The ordinance adopting any such standard code may also adopt and incorporate by reference any future amendments to such standard codes and upon the ordinance stating that such future amendments are adopted for incorporation by reference, no further action by the Council to adopt such future amendments shall be required. ~~The procedure and requirements governing such an adopting ordinance or resolution shall be as prescribed for ordinances and resolutions, generally, except that:~~

- ~~(1) The requirements of Section 5.03 of this Charter for distribution and filing of copies of the ordinance or resolution shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance or resolution; and~~
- ~~(2) A copy of each adopted code of technical regulations as well as of the adopting ordinance or resolution shall be authenticated and recorded by the City Clerk pursuant to Section 5.06 of this Charter. Copies of each adopted code of technical regulations shall be made available by the City Clerk for distribution or for purchase at cost.~~

§ 5.10 CODIFICATION.

- A. Codification. By a majority vote of the members elected to Council, the Council may cause the ordinances of the City to be revised, rearranged, codified or recodified and published in book form and/or electronically. Such revision, rearrangement, codification or recodification shall be done by ordinance, and may contain new matters therein. A current service supplementing such revision, rearrangement, codification or recodification or publication shall be maintained in the manner prescribed by Council.
- B. **[5.09]** Xenia City Code. Within three (3) years after adoption of this Charter, and at least every **five (5)** ~~three (3)~~ years thereafter, the City Council shall provide for the preparation of a general codification of all City ordinances and resolutions having the full force and effect of law. ~~The general codification shall be adopted by the Council by ordinance and shall be published promptly to be published~~ in bound or loose-leaf form or by means of electronic media, together with this Charter and any amendments thereto, ~~pertinent provisions of the Constitution and other laws of the State of Ohio, and such codes of technical regulations and other rules and regulations~~ **and other matters** as the Council may specify. This compilation **shall be known as the “Xenia City Code” or “City Code.”** **Copies of the Code** shall be furnished to City officers, placed in libraries and public offices **or made available on the internet** for free public reference, and made available for purchase by the public at cost.

ARTICLE VIII: BOARDS AND COMMISSIONS

§ 8.01 CREATION OF BOARDS AND COMMISSIONS.

- A. Charter-Created Boards and Commissions. The following City Boards and Commissions are hereby established ~~The City Council shall establish the following boards and commissions:~~
- (1) Planning and Zoning Commission.
 - (2) Board of Zoning Appeals.
 - (3) Civil Service Commission.
 - (4) Charter Review Commission.
- B. Additional Boards and Commissions. In addition to those Boards and Commissions enumerated above, the Council may create, alter or abolish additional boards and commissions by ordinance, or may establish standing and select committees by resolution ~~from time to time as it deems proper, create, alter or abolish additional standing and special committees and appoint or remove the members thereof.~~ If it creates any such board, commission or committee, the Council shall establish its powers and duties, and establish rules for its organization.

§ 8.02 BOARDS AND COMMISSIONS. Duties, Power and Composition.

- A. Qualifications. Members of the Planning and Zoning Commission, the Board of Zoning Appeals, the Civil Service Commission and the Charter Review Commission shall be qualified electors of the City at the time of their appointment by Council and during their respective terms of office and shall hold no other elected or appointed office nor employment with the City, unless otherwise authorized by this Charter. The qualifications for membership to any Council-created board, commission or committee shall be established by Council at the time of its creation.

~~All boards and commissions established by the City Council in accordance with this Charter shall be advisory committees, with the exception of the Board of Zoning Appeals, which shall have complete authority in accordance with adopted ordinances and State law.~~

~~Except for the Civil Service Commission, which is governed by Section 10.03 of this Charter, boards and commissions shall consist of five (5) qualified residents from the City of Xenia and shall be chaired by a member of City Council.~~

- B. Meetings.

- (1) Each board, or commission or committee shall meet as is necessary to conduct and transact the business before it, and shall meet on the dates and at the time established by said board, commission or committee by a majority vote of all the members of the board, commission or committee; provided, however, that in the case of a board, commission or committee created by the ~~conduct public meetings at times established or designated by City Council,~~ may establish the dates and times for such board, commission, or committee's meeting at the time of its creation which shall also establish rules of procedure for each board or commission. ~~The rules of order for all boards and commissions shall be the same as for City Council as prescribed in Section 4.14 of this Charter. All boards and commissions, except the Board of Zoning Appeals, shall have no legislative or judicial power and shall advise City Council on matters designated to each board or commission by Council. The Chairperson shall establish an agenda for his or her board or commission meeting and shall have no voting privilege, excepting in the event of a tie.~~

- (2) A majority ~~vote~~ of the voting members of each board, commission or committee created pursuant to Section 8.01 of this Article shall constitute a quorum for the transaction of business at any meeting of such ~~total membership, excluding the Chairperson, of a board, or commission or committee,~~ is required to approve or disapprove any matter coming before each board or commission. ~~All business conducted by each board or commission shall be in accordance with this Charter, the City of Xenia Codified Ordinances and State law.~~
- (3) Each board, commission or committee created pursuant to Section 8.01 of this Article shall conduct its meetings in compliance with Section 13.03 of this Charter.
- (4) Rules providing for the number and the manner of calling regular and special meetings, and to provide for the conduct and government of such meetings, may be adopted by a majority vote of the members of each board, commission or committee created pursuant to Section 8.01 of this Article; provided, however, that such rules shall not conflict with the provisions of this Charter or any ordinance passed by the Council. In the absence of adopting its own rules, each board, commission or committee shall follow the Rules of Council authorized under Section 4.01 I. of this Charter. If the Council has not adopted Rules of Council, then each board, commission or committee that has not adopted its own rules shall follow Robert's Rules of Order.
- (5) The Chairperson of each board and commission created pursuant to Section 8.01 A. of this Article shall act as the presiding officer at all meetings of that board or commission and shall establish or approve an agenda for each meeting of his or her respective board or commission. The Vice Chairperson shall act as the presiding officer in the Chairperson's absence. ~~In the event a Council member is unable to chair a board or commission so assigned, the Council shall designate an alternate Council member to chair that board or commission.~~

C. Majority Vote. A majority vote of the voting members present and eligible to vote of each board, commission or committee created under Section 8.01 of this Article shall be required to take action on any matter and for the passage of any motion coming before such board or commission.

D. Removals; Vacancies.

- (1) The member of any board or commission created pursuant to Section 8.01 hereof may be removed by Council, upon a majority vote, for neglect of duty, incapacity, incompetency, malfeasance in office or other good cause, as determined by the Council. Written notice of the charges for such removal shall be provided to the member at least ten (10) days prior to the public hearing on such removal before the Council. The member shall have the right to address Council during said public hearing. All removals made in accordance with this division shall be final.
- (2) The seat of a member appointed to a board or commission hereinabove referred to shall be deemed vacant if the member resigns, is unable to serve, or is absent from three (3) consecutive meetings and such absences are not excused by a majority vote. Unless otherwise provided by this Charter, such vacancy on a board or commission shall be filled for the remainder of the term in the manner authorized for an original appointment to the seat.
- (3) If a member is removed for neglect of duty or malfeasance in office, that person shall not be eligible for appointment to any City Board, Commission or Committee for a period of five (5) years after his or her removal.

§ 8.03 PLANNING AND ZONING COMMISSION.

~~Selection of Board and Commission Members and Compensation.~~ *[Moved to § 8.02]*

A. Membership; Terms. The Planning and Zoning Commission shall consist of five (5) members at-large, and one (1) Councilmember, who shall act as the Chairperson of the Commission. Members of the Planning and Zoning Commission shall be appointed by the Council, by majority vote. The at-

large members shall serve for terms of four (4) years and each member shall continue in office until his or her successor is appointed. The term of the Chairperson shall be two (2) years, and the Chairperson shall continue in office until his or her successor is appointed.

B. Organization.

- (1) The Planning and Zoning Commission shall be chaired by a sitting member of the City Council. The Chairperson of the Planning and Zoning Commission shall have no voting privileges, except in the case of a tie vote.
- (2) At its first meeting in each year, the Planning and Zoning Commission shall elect, by majority vote, from among its membership a member to serve as the Vice Chairperson. When acting as the presiding officer in the absence of the Chairperson, the Vice Chairperson shall have full voting privileges.

C. Powers and Duties.

- (1) The Planning and Zoning Commission shall perform all duties assigned to it by the City Council by ordinance or resolution related to the planning or regulation of the growth, development, platting, subdivision and land use within the City.
- (2) The Planning and Zoning Commission shall continuously review and report to the City Council its recommendations concerning the City's subdivision, platting, thoroughfare plans, land use plans, and zoning ordinances and regulations.
- (3) The Planning and Zoning Commission may conduct such studies, prepare such plans, maps and reports related to the growth, development, platting, subdivision and land use within in the City and may make such recommendations relative thereto to the City Council as it feels are in the best interest of the City.

~~Except for the Civil Service Commission, which is governed by Section 10.03 of this Charter, the City Council shall appoint citizens of the City of Xenia to serve on the various boards and commissions. No citizen so appointed may serve on more than one (1) board or commission at any given time. [Moved to § 8.02 A]~~

~~In the event a member appointed to a board or commission resigns or is unable to serve, in the event a member is absent and unexcused from three (3) consecutive meetings, or in the event City Council determines that there is good cause why a member should not serve, the seat will be declared vacant and, except for the Civil Service Commission, which is governed by Section 10.03 of this Charter, the City Council shall appoint a new member to fulfill the absent member's term. [Moved to § 8.02 D]~~

§ 8.04 BOARD OF ZONING APPEALS.

~~Terms of Appointment.~~

A. Membership; Terms. The Board of Zoning Appeals shall consist of five (5) members at-large, and one (1) Councilmember, who shall act as the Chairperson of the Board. Members of the Board of Zoning Appeals shall be appointed by Council, by majority vote. The at-large members shall serve for terms of four (4) years and each member shall continue in office until his or her successor is appointed. The term of the Chairperson shall be two (2) years, and the Chairperson shall continue in office until his or her successor is appointed.

B. Organization.

- (1) The Board of Zoning Appeals shall be chaired by a sitting member of the City Council. The Chairperson of the Board of Zoning Appeals shall have no voting privileges, except in the case of a tie vote.
- (2) At its first meeting in each year, the Board of Zoning Appeal shall elect, by majority vote, from among its membership a member to serve as the Vice Chairperson. When acting as the

presiding officer in the absence of the Chairperson, the Vice Chairperson shall have full voting privileges.

C. Powers and Duties.

- (1) The Board of Zoning Appeals shall have the authority to hear and decide appeals for exceptions to, and variances in, the application of ordinances, resolutions, rules, regulations, and measures that govern zoning, building and housing in the City, subject to such standards as may be prescribed by City Council.
- (2) The Board of Zoning Appeals shall have the authority to hear and decide appeals from the orders of administrative officials related to the application of ordinances, resolutions, rules, regulations, and measures that govern zoning, building and housing in the City, subject to such standards as may be prescribed by City Council.
- (3) The Board of Zoning Appeals shall perform all duties assigned to it by the City Council by ordinance or resolution related to the application of City ordinances, resolutions, rules, regulations, and measures related to zoning, building and housing within the City.
- (4) In any appeal from the decision of the order of any administrative official or for exception to, and variances in, the application of any zoning, building or housing ordinance, resolution, rule, regulation, or measure, the Board of Zoning Appeals shall be deemed to be acting as a quasi-judicial body.

~~Except for the Civil Service Commission, which is governed by Section 10.03 of this Charter, the term of each member appointed to a board or commission shall be four (4) years.~~

§ 8.05 CIVIL SERVICE COMMISSION.

~~Charter Review Commission.~~ *[Moved to § 8.06]*

- A. ~~[10.03(A)]~~ Membership; Terms. ~~The A~~ Civil Service Commission shall consist ~~consisting~~ of five (5) members at-large, shall be appointed by Council, by majority vote. Appointments shall be made without concern for the member's political affiliation. The members shall serve for terms ~~for a term~~ of five (5) years, one (1) to be appointed every year, and each member shall continue in office until his or her successor is appointed.

B. Organization.

- (1) At its first meeting in each year, the Civil Service Commission shall elect, by majority vote, from among its membership a member to serve as the Chairperson and a member to serve as the Vice Chairperson. Both the Chairperson and the Vice Chairperson shall have full voting privileges.
- (2) The Civil Service Commission shall appoint a Secretary, who may be from within or without the membership of the Commission or may hold other office or employment with the City. The Secretary shall keep an accurate record of the proceedings of the Commission and shall be responsible for the administration of competitive examinations and communications between the Commission and the City's administration. The position of Secretary shall be part-time, unless a full-time Secretary is authorized by the City Council.

C. Powers and Duties.

- (1) The Civil Service Commission shall be responsible for the administration of competitive examinations for original appointments and promotions in the classified service of the City.
- (2) The Civil Service Commission shall have the authority to hear appeals from administrative determinations that result in suspensions, demotions and removals, made by an appointed official pursuant to any rules, regulations or policies adopted by Council, any administrative rules, regulations or policies promulgated pursuant to authorization by Council, or as otherwise permitted by the classified employee's applicable collective bargaining agreement.

- (3) The Civil Service Commission shall perform all duties assigned to it by Article X of this Charter or by the City Council, by ordinance or resolution, related to merit system and personnel management policies for classified employees of the City.

§ 8.06 CHARTER REVIEW COMMISSION.

- A. Creation. ~~In addition to those Boards and Commissions listed in Section 8.01,~~ The Council shall appoint, at least every five (5) years, by **majority** ~~an affirmative vote of at least 4 Councilmembers,~~ a Charter Review Commission. ~~Notwithstanding any other section of this Article VIII, the Charter Review Commission's composition, powers, and duties shall be as set forth in this section.~~
- B. Membership; Terms. (1) The ~~Charter Review~~ Commission shall consist of an odd number of members, from a minimum of five (5) to a maximum of eleven (11) members, ~~who shall be electors of the City at the time of their appointment and during their respective terms of office,~~ and no more than two (2) of said members shall hold other elective office or employment with the City. The Law Director shall serve as legal counsel to the Commission, and the City Manager and the Finance Director, or their designees, may serve as advisors to the Commission. ~~(2) In the event a member resigns or is unable to serve, the seat of that member shall be deemed vacant and City Council shall appoint a new member to fill the absent member's term.~~ (3) The terms of the members of the Charter Review Commission shall terminate at the time designated by City Council for the filing of the Commission's report, with recommendations, to the Council, unless such time is extended by Council, by resolution.
- C. ~~Meetings; Powers.~~
- (1) ~~The Commission shall conduct its meetings in accordance with the Ohio Open Meeting Law, and the rules of order for the Commission shall be the same as the Rules of Council.~~
- (2) ~~The Commission shall elect its own Chair and Vice Chair, and the Chair shall establish the agenda for all meetings of the Commission.~~
- (3) ~~A majority vote of the Commission members present shall be required to approve or disapprove any motion before the Commission.~~
- C. ~~D.~~ Powers and Duties; Report to Council. The Charter Review Commission shall review the City Charter and, within the time designated by Council at the time the Commission members are appointed, and shall recommend to Council such amendments, additions, or revisions, if any, to this Charter that the Commission deems necessary or desirable. After the consideration of the recommendations of the Commission, the City Council may submit all or any of such proposed amendments, additions, or revisions to this Charter to the electorate in the manner prescribed by the Constitution of the State of Ohio.

ARTICLE X – CIVIL SERVICE AND PERSONNEL
HUMAN RESOURCE SYSTEM

§ 10.01 CIVIL SERVICE.

~~Basis for Employment.~~

- A. Intent. It is the intent of this Article to comply with Article XV, Section 10, of the Constitution of the State of Ohio while superseding the Ohio Civil Service Act, as contained in the general laws of the State. The provisions of this Article are intended to expressly delegate specific rulemaking authority to the Civil Service Commission and/or the Council, and any such rules made by the Civil Service Commission and/or Council under the authority delegated by this Article shall supersede State law.
- B. Civil Service. All appointments and promotions of City officers and employees who are in the classified service shall be made solely on the basis of merit and fitness, demonstrated by examination, where practicable, or other evidence of competence.

§ 10.02 [10.04] CLASSIFICATION OF CIVIL SERVICE.

~~Merit System.~~

~~Consistent with all applicable Federal and State laws, the City Council shall provide for the establishment, regulation and maintenance of a merit system governing personnel policies necessary to effect administration of the employees of the City's departments, offices and agencies, including, but not limited to, classification and pay plans, examinations, force reduction, removals, working conditions, provisional and exempt appointments, in-service training, grievances and relationships with employee organizations.~~

- A. **[10.04 (A)(1)] Unclassified Service**. ~~The following positions shall constitute~~ The civil services of the City shall be divided into two (2) categories: the unclassified and the classified services. (1) the unclassified service of the City shall include:
- (1) ~~(a)~~ The members of City Council, including the Mayor ~~All officers elected by the people;~~
 - (2) The members of all boards, commissions, and committees, whether created by Charter or by the Council;
 - (3) ~~(b)~~ The City Clerk of City Council, Deputy Clerks, Assistant Clerks and other officers and employees of the City Council;
 - (4) ~~(c)~~ The City Manager, ~~Finance Director,~~ Assistant City Manager, and any assistants or secretaries to the City Manager;
 - (5) The Finance Director, Assistant Finance Director, and any assistants or secretaries to the Finance Director;
 - (6) The Law Director, ~~Police Chief, Fire Chief,~~ City Prosecutor ~~Prosecuting Attorneys,~~ any assistants or secretaries to the Law Director, and any special counsel appointed or employed by the Law Director;
 - (7) The department heads and division ~~and department~~ heads of the various departments and divisions of the City, including the Police Chief and the Fire Chief, and their assistants;
 - (8) The Clerk of Court, Deputy Clerks of Court, the Chief Bailiff and Deputy Bailiffs, the Chief Probation Officer and Probation Officers, and other employees of the Xenia Municipal Court;
 - (9) Seasonal and temporary positions;
 - (10) Positions requiring peculiar and exceptional qualifications of a scientific, managerial, professional, technical or educational character;
 - (d) The Personal Secretary to the City Manager; and
 - (11) ~~(e)~~ Ordinary unskilled laborers; and

(12) Any employees placed in the unclassified service by any section of the Ohio Revised Code.

B. **[10.04 (A)(2)] Classified Service.** The classified service shall comprise all positions not specifically included in by this Charter in the unclassified service. ~~There shall be in the classified service two (2) categories to be known as the competitive and noncompetitive category:~~

~~(a) The competitive category shall include all positions and employees for which it is practicable to determine the merit, fitness and practical experience by competitive examination.~~

~~(b) The noncompetitive category shall include all positions requiring peculiar and exceptional qualifications of a scientific, managerial, professional, technical or educational character, as may be determined by the City Civil Service Commission.~~

~~The Civil Service Commission shall have the right to recommend suspension of and/or removal of employees to the appropriate authority in accordance with the provisions of this Charter, City ordinances or the general laws of the State of Ohio. The appointing authority shall have the right to suspend and/or remove employees in accordance with the provisions of this Charter, City ordinances or the general laws of the State of Ohio.~~

§ 10.03 CIVIL SERVICE RULES ~~Commission; Composition, Term and Power.~~

[Composition, Term and Power of the Civil Service Commission moved to § 8.05]

A. **Civil Service Rules.** The Civil Service Commission shall make, promulgate, and when necessary may amend, rules for the administration of competitive examinations, the ranking of candidates and the creation of eligibility lists for positions in the classified service; for the solicitation of applications and criteria for lateral entries; for the promotion of classified employees; and for the hearing of appeals filed by a classified employee. In cases of conflict, the Civil Service Rules adopted in accordance with this section are intended to and shall supersede State law.

~~A Civil Service Commission consisting of five (5) members shall be appointed by the Council for a term of five (5) years, one (1) to be appointed every year. *[Moved to § 8.05 A]*~~

B. **Required Provisions.** The Civil Service Rules shall provide:

- (1) For the establishment of categories within the classified services for classified positions that are to be filled by competitive examinations, for nonpromotional classified positions that may be filled by lateral entry, and for classified positions requiring specialized training, or skills requiring certifications or licensure, and/or qualifications of a scientific, business, managerial, professional or educational character that may be filled noncompetitively;
- (2) Rules, regulations and procedures regarding the administration of competitive examinations for those classified positions that are to be filled through competitive examination, including public notice thereof, to ascertain the merit and fitness of applicants for appointment;
- (3) Rules, regulations and procedures regarding the grading of competitive examinations and the evaluation of the same, including the establishment of passing and nonpassing scores;
- (4) Rules, regulations and procedures governing the establishment of eligibility requirements for competitive examinations and for applications for lateral entries and noncompetitive classified positions;
- (5) Rules, regulations and procedures governing the establishment of eligibility lists from competitive examinations, including rules regarding the ranking of names on such lists and seniority, veteran's preferences, or other additional preferences related to merit and fitness;
- (6) Rules, regulations and procedures governing the solicitation of applications, and the requirements for application, for nonpromotional classified positions to be filled by lateral entry and for classified positions that may be filled noncompetitively, including public notice thereof;
- (7) Rules, regulations and procedures governing the rejection of candidates, applicants, or those eligible who fail to comply with reasonable requirements as to moral, psychological or physical

character, or who have attempted deception or fraud in connection with any application or test for a position in the classified service.

- (8) Rules, regulations and procedures governing the certification to the appointing authority of eligibility lists resulting from competitive examinations;
- (9) Rules, regulations and procedures governing the temporary appointment to a classified position until the position can be filled by competitive examination, lateral hire or application, for a period not to exceed one (1) year;
- (10) Rules, regulations and procedures governing the process for promotions from among persons holding positions in successive ranks lower than the position to be filled, such promotions to be based on competitive examinations and the applicant's conduct and capacity in office;
- (11) Rules, regulations and procedures regarding the filing of and the conduct of appeals taken to the Commission regarding any suspension, demotion or removal of a classified employee by an appointing authority;
- (12) Rules, regulations and procedures governing the reinstatement of any classified employee suspended, demoted or removed; and
- (13) Any other rules, not inconsistent with the provisions of this section, as may be necessary and proper for the enforcement of the civil service and to provide for the procedures of the Civil Service Commission.

~~The Civil Service Commission shall have authority to see that the employees in the classified service are appointed and retained on the basis of merit and fitness as governed by this Charter, City ordinances or the general laws of the State of Ohio.~~

§ 10.04 ORIGINAL APPOINTMENTS.

Classification of Civil Service. *[Moved to § 10.02]*

- A. Positions Filled by Competitive Examination. When a position in the classified service is to be filled by competitive examination, the appointing authority may notify the Civil Service Commission of the fact and the Commission shall certify to the appointing authority an eligibility list, containing the names and addresses of candidates eligible for that classified position. The appointing authority shall appoint to the classified position one of the persons whose name ranks in the top ten (10) names (or less) on the eligibility list. The eligibility list shall be considered a rolling list, and persons whose names are disqualified or otherwise removed from the list may be replaced by the next eligible person on the list, until such time as the list expires, is exhausted or there are no more eligible candidates.
- B. Positions Filled by Lateral Hires. When a position in the classified service may be filled by lateral hires, the appointing authority may notify the Civil Service Commission of the fact and the Commission shall advertise for applications for the position. After the application deadline, the Commission shall certify to the appointing authority an eligibility list of those applicants that meet the eligibility criteria. Eligible applicants shall be listed in the order their applications were submitted.
- C. Positions Filled Noncompetitively. When a position in the classified service that requires specialized training, or skills requiring certifications or licensure, and/or qualifications of a scientific, business, managerial, professional or educational character becomes vacant, the appointing authority may notify the Civil Service Commission of the fact and the Commission shall advertise for applications for the position. After the application deadline, the Commission shall certify to the appointing authority an eligibility list of those applicants that meet the eligibility criteria. Eligible applicants shall be listed in the order their applications were submitted.
- D. Appointing Authority's Discretion. Notwithstanding anything to the contrary in this Article, when a position in the classified service to be filled by an original appointment becomes vacant, it is within

the appointing authority's discretion whether to fill the vacancy and to determine the timing to fill such a vacancy.

- E. Probationary Period. All original appointments shall be for a probationary period of not less than six (6) months nor more than one (1) year, as fixed by the Civil Service Rules, and the Civil Service Rules may set such probationary periods to begin on the date of obtaining any required certification for the position. No appointment shall be deemed finally made until the appointee has satisfactorily served his or her probationary period.

§ 10.05 PROMOTIONS.

- A. Competitive Examinations. The Civil Service Commission shall provide in the Civil Service Rules for promotion to positions in the classified service based on competitive examination and on records of the candidate's conduct and capacity in his or her current position. Promotion shall be by successive ranks insofar as practicable. The Civil Service Commission shall provide in the Civil Service Rules for requirements for periods of service in the lower ranks for promotion to a higher rank.
- B. Promotions. When a promotional position in the classified service becomes vacant, the appointing authority may notify the Civil Service Commission of the fact and the Commission shall certify to the appointing authority the names of the three (3) candidates standing highest on the eligibility list for that position; provided, however, that less than three (3) shall constitute a valid eligibility list. The appointing authority shall promote to the position one (1) of the persons named on the list.
- C. Competition. The Civil Service Commission shall provide in the Civil Service Rules procedures for cases where there are less than two (2) persons eligible to take the competitive examination for a promoted position, including requirements for periods of service in the next lower ranks, and procedures for when there are insufficient eligible applicants in the next lower ranks.
- D. Appointing Authority's Discretion. Notwithstanding anything to the contrary in this Article, when a position in the classified service to be filled by promotion becomes vacant, it is within the appointing authority's discretion whether to fill the vacancy and to determine the timing to fill such a vacancy.
- E. Probationary Period. All promotions shall be for a probationary period of not less than six (6) months nor more than one (1) year, as fixed by the Civil Service Rules, and no promotion shall be deemed finally made until the appointee has satisfactorily served his or her probationary period.

§ 10.06 ORGANIZATIONAL PLAN; PAY PLAN; FRINGE BENEFITS.

- A. Organizational Plan and Position Descriptions.
 - (1) The Administrative Steering Committee shall recommend to the Council an Organizational Plan, including any amendments thereto, for all City positions, whether classified or unclassified, considering the duties, authority and responsibility for each position, with adequate provision for the reorganization of such positions. Such Plan shall also include the pay grade or wage range for each position. The recommended Organizational Plan shall be approved, with or without modification, by resolution of the City Council.
 - (2) The Administrative Steering Committee shall establish, and may amend, position descriptions for each position listed within the Organizational Plan, which descriptions shall include the employment requirements, licensure requirements, essential functions and other responsibilities of each position.

- B. Pay Plan. The Administrative Steering Committee shall recommend a yearly Pay Plan for all compensated employee positions in the City's service to the Council. Such recommended Pay Plan shall be approved, with or without modification, by resolution by the City Council. Such Plan may be for a single year or multiple years, but in no case shall the Pay Plan set wages for a period longer than three (3) years.
- C. Fringe Benefits. City Council shall establish, by ordinance, the hours of work, holidays, overtime pay, authorized payroll deductions and any benefits or leave required under federal law for all City employees, whether classified or unclassified, and shall provide for any other fringe benefits to be provided to City employees, whether classified or unclassified, which fringe benefits may include, but are not limited to, health insurance, compensatory time, sick leave, vacation, personal leave, longevity pay, military leave, life insurance or injury leave. In cases of conflict, the provisions of any ordinance adopted by the City Council regarding fringe benefits are intended and shall supersede State law.

§ 10.07 PERSONNEL MANUAL.

- A. Establishment. The Administrative Steering Committee shall establish rules, regulations and policies pertaining to the merit system and personnel management policies of the City. Such rules and regulations shall be known as the "City of Xenia Personnel Manual" or "Personnel Manual."
- B. Contents. The Personnel Manual shall address the procedures and policies for the administration of any fringe benefits provided by the Council, by ordinance. In addition, the Personnel Manual shall provide for rules, regulations, policies, processes and/or procedures regarding:
- (1) The appointment, transfer, promotion, demotion or lay off of classified employees in the service of the City;
 - (2) Reductions in force, removal, suspension or other employee discipline, including the causes therefor, of City employees, whether classified or unclassified;
 - (3) Transfers, resignations, retirements and re-employment of City employees, whether classified or unclassified;
 - (4) The ethics of public employment and the conduct of City employees, whether classified or unclassified;
 - (5) All other practices and procedures necessary to the administration of the merit and personnel system of the City, including any policies or procedures governing the relationships with employee organizations or unions, and the administration of grievance procedures.
- C. Conflict with State Law. In cases of conflict, the provisions of the Personnel Manual adopted in accordance with this section are intended to and shall supersede State law.
- D. Amendments. The Personnel Manual may be amended by the Administrative Steering Committee from time to time, as needed, to assure efficient administration of the merit and personnel management of the City. In the event of a tie vote by the Administrative Steering Committee on a proposed amendment to the Personnel Manual, such amendment may be presented to Council by any of the Appointed Officials, individually or jointly, and the Council shall approve the proposed amendment, with or without amendment, or reject the proposed amendment.