

**CITY OF XENIA, OHIO  
ORDINANCE 2022 – 08**

**PROVIDING FOR THE SPECIAL ELECTION ON AMENDMENTS TO ARTICLES IV, IX, XIII,  
XIV AND XV OF THE CHARTER OF THE CITY OF XENIA, OHIO, SAID ELECTION TO BE  
HELD ON THE SAME DATE AND TIMES AS THE AUGUST 2, 2022, SPECIAL 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 IV, IX, XIII, XIV, and XV 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 as a single ballot item, 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 IV, IX, XIII, XIV, and XV of the City of Xenia Charter shall be submitted, as a single ballot item, 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 August 2, 2022, special election, at the regular hours and regular places of voting in the City. If approved by a majority vote at said election, Articles IV, IX, XIII, XIV, and XV 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 ballot for the question shall be entitled: “Xenia City Charter Articles IV, IX, XIII, XIV, and XV Amendments Ballot,” and the question to be submitted on the ballot shall be as shown on the attached Exhibit B.

**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 within five (5) days of its effective date.

**Section 7.** If the amendments to Articles IV, IX, XIII, XIV, and XV 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.

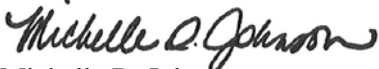
**Section 8.** It is found that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance 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 May 14, 2022.

Introduced: March 24, 2022  
Adopted: April 14, 2022

  
Wesley E. Smith  
President, Xenia City Council

Attest:

  
Michelle D. Johnson  
City Clerk

CITY OF XENIA BALLOT ITEM

PROPOSED AMENDMENTS TO ARTICLES IV, IX, XIII, XIV, AND XV  
OF THE CITY'S CHARTER

ARTICLE IV – CITY COUNCIL

§ 4.01 **POWERS OF THE COUNCIL.** ~~Compensation, Qualifications and Term.~~ [Moved to § 4.02]

~~A. Powers. The Council shall exercise all the powers, rights and authority vested in and exercised by the City of Xenia and its several officers, or which may hereafter be granted to the City. All the powers exercised, or which may be exercised hereafter, by municipal corporations are hereby vested in the Council, subject to the provisions of the Constitution of the State of Ohio, and the Council may provide, by ordinance, how any power shall be exercised.~~

All legislative powers, rights and duties of the City shall be vested in the City Council, except as otherwise provided in the Charter or the Constitution of the State of Ohio. Without limitation of the foregoing, the Council shall have and possess the following powers:

- A. Taxes and Debts. [5.02(3)] The power to levy taxes and [5.02(6)] ~~authorize the borrowing of money incur debts, subject to the limitation imposed thereon by this Charter or the Constitution of the State of Ohio.~~
- B. Local Regulations. [5.02(2)] The power to adopt and to provide for the enforcement, including penalties, ~~a time or fine or other penalty or to establish a rule or~~ of local police, sanitary and other similar regulations for violation of which a fine or other penalty is imposed ~~as are not in conflict with the general laws of the State.~~
- C. Departments, Divisions, Boards and Commissions. In addition to the departments, divisions, Boards, Commissions and Committees required under this Charter, the Council shall have the power to create and define the duties, responsibilities and authorities of other offices, departments, divisions, Boards, Commissions and Committees of the City as the Council deems necessary, and the power to combine, change, alter or abolish any office, department, division, board, commission or committee so created by the Council. [7.01, first paragraph] ~~The City Council may establish City departments, offices or agencies in addition to those created under this Charter and may prescribe the functions of all departments, offices and agencies, except that no function assigned by this Charter to a particular department, office or agency may be discontinued or, unless this Charter specifically so provides, assigned to any other.~~
- D. Personnel. [13.02 Salaries and Bonds Fixed by Council] ~~The power to~~ The Council shall fix, by ordinance or resolution, the number of employees in the various offices, departments and divisions of the City administration and to fix the salary or rate of their compensation, hours of work and to provide such other fringe benefits as deemed proper by the Council. ~~of all officers and employees of the City entitled to compensation, including the salaries of the Mayor and City Council members, in accordance with this Charter, and may require any officer or employee to give~~ The Council shall also have the power to require such bonds as, in the opinion of the Council, are necessary for the faithful discharge performance of the his or her duties of the officers and employees of the City, ~~in such an amount as it may determine, and it may provide that~~ The premium or cost for any such bonds shall be paid by the City ~~appropriation from City funds.~~

- E. Municipal Utilities. [5.02(5)] The power to establish municipal utilities and to set ~~regulate~~ the rates charged for use of such utilities and ~~its services by a public utility.~~
- F. Franchises. [5.02(4)] ~~Grant, renew or extend a franchise~~ The Council, in addition to all other rights and powers granted to it under the general laws of the State, may grant permission to any person, firm or corporation to construct and operate a public utility on, across, under or above any public street or public ground within the City. The Council may prescribe the kind and quality of service or product to be furnished, the rate or rates to be charged therefor and any other terms conducive to the public interest; provided that such grant of permission shall not extend beyond twenty-five (25) years, but such grant may be amended or renewed. All such grants, amendments or renewals shall be made subject to the continuing right of the Council to provide reasonable regulations for the adequacy of service and the maintenance and operation of such utilities with reference to such streets and public grounds, including the right to require reconstruction, relocation or discontinuance of appliances, materials or equipment used by the franchisee in, on, across or under such streets and public grounds as is, in the discretion of the Council, necessary for the public interest.
- G. Real Property. [9.16 Second Paragraph]
- (1) The power to acquire title to, or interests in, real property, whether such property is acquired by the exercise of the power of eminent domain, purchase, gift, lease, devise, bequest, in trust or otherwise.
  - (2) The power to sell, convey, lease or grant the use of real property owned by the City, or any rights therein, shall also be vested in the Council. Such sale, conveyance, lease or grant of use shall be made only upon a determination by Council, by resolution, that such property is not needed for any municipal purpose or, in those cases in which real estate is offered only for lease or use for a term, that it will not be needed for municipal purposes during the term of the proposed lease or use or that such proposed lease or use will not interfere with the property's use for municipal purposes. ~~Any The purchase, sale, conveyance, or lease or transfer of real property including fixtures thereon, are exempt from this provision, and the purchase, sale, lease or transfer of real property, including fixtures thereon, shall be made only~~ ~~may be accomplished by negotiation, informal competition, or formal bidding, negotiation or informal competition or by formal bidding as prescribed by~~ ~~upon the approval of Council in the resolution authorizing the method of sale, conveyance, lease or grant. by the adoption of an ordinance or resolution.~~ The sale, conveyance, lease or grant of use of real property owned by the City, or any rights therein, shall be effective only upon the adoption of an ordinance by Council, approved by the affirmative vote of at least four (4) members of the Council.
- H. Personal Property.
- (1) Council shall, by ordinance, prescribe rules and regulations for the disposal of personal property belonging to the City that is no longer needed for any municipal purposes or which is obsolete or unfit for the use for which it was acquired. Such rules and regulations shall set forth procedures and policies for the sale or disposal of such personal property, including when such sale shall be by competitive bid, by auction, by internet auction, by trade-in, or by such other methods as the ordinance may prescribe. In addition, the rules and regulations shall include a dollar amount for the estimated value of such personal property, which amount shall not be less than five thousand dollars (\$5,000), at which Council approval, by resolution, is required before sale or disposal.
  - (2) Notwithstanding the foregoing and regardless of the property's value, the Council may, by resolution, authorize the sale of personal property owned by the City that is not needed for any municipal purpose to the United States, the State of Ohio, to any subdivision or agent of the United States or the State of Ohio, or to any nonprofit corporation organized for a public or charitable purpose, upon such terms as may be deemed proper by Council.

- I. Rules of Council. The power to adopt Rules of Council to govern the order of all meetings, to set forth the Council's duties and privileges and establish its rules of order, investigations, and other such related items; provided, however, that such rules shall not be in conflict with the provisions of this Charter. In the absence of adopting its own Rules of Council, Robert's Rules of Order shall be followed by the Council. **[4.10 Judge of Qualifications and Standards of Conduct]** ~~The Council shall be the sole judge of the qualification and election of its own members, subject to the requirements and limits of this Charter.~~ In addition, the Council shall have the power to establish, ~~by ordinance or resolution,~~ **rules** ~~specific standards~~ of conduct for its members, beyond those specified in ~~Section 4.09 B. and any other section of this Charter~~ and may provide such sanctions for violations of such rules as ~~the Council~~ **the Council** ~~it~~ deems appropriate.
- J. All Other Powers. Council shall have and shall exercise all other powers granted to it, as the legislative authority of the City, by the Constitution of the State of Ohio, this Charter, and the general laws of the State. There is hereby expressly reserved to the Council any residual home rule powers not expressed directly in this Charter.

**§ 4.02 COMPOSITION, QUALIFICATIONS, ELECTION, AND TERMS.**

~~Mayor.~~ *[Moved to § 4.03]*

- A. **[4.01(B)] Composition**. The Xenia City Council shall consist of seven (7) members, including the Mayor, ~~elected by the qualified electors of the City at-large.~~
- B. **[4.01(C)] Qualifications**.
- (1) ~~Only qualified electors of the No candidate for Council in this 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 for office of Councilmember or Mayor unless he or she has all the qualifications of an elector at the time of filing a petition for the election for which he or she is a candidate, and he or she has been an actual resident of the City at least two (2) years immediately prior to the election; and he or she shall forfeit his or her office when he or she ceases to be an actual resident of the City.~~
  - (2) ~~No member of the Council or the Mayor He or she shall hold any no other elective public office or other office or employment that has been found to be incompatible with the position of Councilmember or Mayor by the Ohio Attorney General or the Ohio Ethics Commission, except where otherwise authorized by this Charter under Greene County, the State of Ohio or the United States.~~
- C. **[4.01(D)] Term**. All elected members of the Council shall hold office for a term of four (4) years, except as herein provided, and successors shall be elected at the next general Municipal election before the expiration of their term of office, which term of office shall be subject to recall, as hereinafter provided.

**§ 4.03 MAYOR.**

~~Salary of the Mayor and President of Council.~~ *[Moved to § 4.05]*

~~At each regular Municipal election commencing in 2001, the Mayor shall be elected for a four (4)-year term. The Mayor shall serve as is a Councilmember and have the right to vote on all matters and issues before the Council but shall have no veto power having equal voting privileges with other Councilmembers. In addition to the powers, rights, and duties as a of a Council member of the Council, the Mayor shall be recognized as the head of the municipal government for all ceremonial and non-administrative purposes exercise ceremonial functions on behalf of the City and shall perform all those other duties as required by this the Charter or and the ordinances of the City. The Mayor shall not be~~

~~permitted to serve as the President or Vice President of Council; however, during temporary absences of both the President and Vice President of Council, the Mayor shall preside over City Council meetings.~~

**§ 4.04 CHAIRPERSON AND VICE CHAIRPERSON OF THE COUNCIL.**

~~Salary of Members of Council and Adjustments.~~ *[Moved to § 4.05]*

**[4.14(B) President and Vice President]**

A. Election. At its first regular meeting in January of each year, the Council shall elect from its membership, including the Mayor, by a majority vote of the members present, a Chairperson and a Vice Chairperson, who may also be called the Chair and Vice Chair or the President and Vice President, of the Council. ~~A President and Vice President of Council shall be elected by a majority vote of Council members at the first regularly scheduled meeting in January of each year. No Council member of Council is qualified to hold the office of President or Vice President unless he or she has~~ ~~who has not served on the Council for at least two (2) or more years, whether by current term or prior terms, shall be eligible to serve as Chairperson or Vice Chairperson, unless all members of the Council have served for less than two (2) years.~~

B. Term. The term of the Chairperson and a Vice Chairperson of Council, respectively, shall run until his or her successor is elected in accordance with Section 4.04 A., above.

C. Powers and Duties. In addition to the powers, rights, and duties as a member of the Council, the Chairperson, when present, shall be the presiding officer for all meetings of the Council, shall approve the agenda for all meetings of the Council, and shall perform all other duties as required by this Charter or the ordinances of the City. The Vice Chairperson shall fulfill the duties of the Chairperson during the absence of the Chairperson.

~~The President shall serve for a one (1) year term and shall preside over all City Council meetings. In addition, the President shall approve the agenda for City Council meetings and perform such other duties as required by this Charter, any ordinance or City Council. The Vice President shall serve for a one (1) year term and during the absence of the President shall fulfill the duties of the President. The Mayor shall not hold the office of President or Vice President; however, during temporary absences of both the President and the Vice President, the Mayor shall preside over City Council meetings.~~

D. Vacancies. In cases where the Chairperson or the Vice Chairperson resigns, is removed or is ~~Should~~ ~~the President or Vice President resign or be unable or unqualified to serve as the Chairperson or the Vice Chairperson, respectively, the City Council shall elect a new Chairperson or Vice Chairperson in accordance with Section 4.04 A., except that the new Chairperson or the Vice Chairperson may be elected at the time the vacancy occurs~~ ~~qualified member of Council to serve the remainder of the President's or Vice President's term.~~

**§ 4.05 COMPENSATION AND EXPENSES.**

~~Filling of Vacancies.~~ *[Moved to § 4.06]*

A. Councilmembers. **[4.04 Salary of Members of Council and Adjustments]** ~~Members of Council shall receive an annual salary in the amount of Three Thousand Dollars (\$3,000), payable quarterly, until such amount is changed by the Council in accordance with the provisions of this Charter. The Council may determine the salaries of its members by ordinance, but no ordinance adjusting such salaries shall become effective until the date of the commencement of the terms of the members of Council, including the Mayor, elected at the next regular municipal election. Any ordinance adjusting~~ ~~changing the salaries~~ ~~salary of Councilmembers, including the Mayor, shall be adopted by June 1 of any odd numbered year. Such ordinance may set the salaries for Council, including the Mayor, per~~

year of each year of the Councilmembers' and Mayor's terms, but no ~~annual~~ salary adjustment shall exceed three percent (3%) per year.

- B. Mayor and Chairperson of Council. **[4.03 Salary of the Mayor and President of Council]** In addition to their ~~salaries~~ salary as members of Council, the Mayor and the ~~Chairperson~~ President of Council shall each receive an additional five hundred dollars (\$500.00) yearly, ~~payable quarterly~~. If the Mayor is elected as Chairperson of Council, he or she shall be entitled to receive an additional one thousand dollars (\$1,000.00) yearly in total.
- C. **[4.07] Expenses.** The Council may provide, by ordinance, the methods whereby the members of Council, including the Mayor, may ~~Council members shall~~ receive their actual and necessary expenses incurred in the performance of their duties of office.

#### § 4.06 **VACANCIES.**

##### ~~Excused Absences.~~

~~For the purpose of this Charter, excused absences shall be defined as any personal/family emergency, including childbirth, call to military service, employment commitment, jury duty, illness, bereavement or vacation. City Council may accept any other reason as an excused absence by a majority vote of Council.~~

- A. Vacancies. **[4.09(A)]** The office of a ~~Council~~ member of Council, including the Mayor, shall be deemed become vacant upon the member's death, resignation, ~~disqualification, judicial determination of mental incompetence, or removal from office or forfeiture of office in the manner authorized by this Charter of the person holding such office~~ law.
- B. Filling a Vacancy. **[4.05 first paragraph]**
- (1) When the office of a member of the ~~A vacancy on the City~~ Council, including the Mayor, becomes vacant and thirty (30) months or less of that office's term remains, the vacancy shall be filled for the unexpired term by a majority vote of the remaining members of the Council by appointment of a qualified person as a member of the Council. ~~The person selected must have the qualifications as are required by this Charter for candidates for Council.~~
  - (2) When the office of a member of the Council, including the Mayor, becomes vacant and more than thirty (30) months of that office's term remains, a qualified person shall be appointed by a majority vote of the remaining members of the Council to serve until midnight of the first day of January following the next regular municipal election, and at the next regular municipal election, a qualified person shall be elected to serve the remainder of the unexpired term, commencing at one minute after midnight on the first day of January following his or her election. ~~An appointed member of the Council, or the Mayor, shall serve until December 31 of the year of the next general election, when the unexpired term of the office shall be filled by a vote of the electorate.~~
  - (3) **[4.05 second paragraph]** In the event the Council fails to fill a vacancy as provided in this section ~~A vacancy must be filled~~ within sixty (60) days from the date the vacancy was created, then said vacancy shall immediately be filled by the appointment of a qualified person as a member of the Council by the presiding judge of the municipal court having territorial jurisdiction within the City ~~unless the vacancy occurs ninety (90) days or less before a general election, in which case the results of the general election shall be used to fill the vacancy.~~
- C. Quorum. Notwithstanding the requirements of Section 4.11 B., if at any time the membership of the Council, including the Mayor, is reduced to less than four (4) members, a majority of the remaining members shall constitute a quorum solely for the purpose of appointing, by a majority vote of the

remaining members, additional Council members to raise the membership to at least four (4) members.

**§ 4.07 REMOVAL FROM OFFICE.**

~~Expenses.~~ [Moved to § 4.05 C]

**A. Grounds for Removal. [4.09(B) Forfeiture of Office]**

The Council shall be the judge of the qualifications of its members, including the Mayor, and of the grounds for removal from office of its members. Any member of the Council, including the Mayor, may be removed from office and his or her ~~A Council member shall forfeit office~~ forfeited if he or she is found to have committed any of the grounds for removal, hereinafter set forth, by an affirmative vote of four (4) of the members of the Council. Grounds for removal shall be ~~if one (1) or more of the following occur:~~

- (1) ~~That the accused The Council member does not possess or has violated the lacks at any time during the term of office any~~ qualifications for the office of Councilmember or Mayor prescribed by this Charter ~~or by law;~~
- (2) ~~That the accused The Council member has knowingly violated violates any express prohibition or restriction contained in of this Charter during his or her term of office;~~
- (3) ~~That the accused The Council member has been is convicted of any felony or a crime above a minor misdemeanor or involving moral turpitude;~~
- (4) ~~That the accused The Council member has failed fails to attend three (3) consecutive regular Council meetings of the Council and such absences have not been without being excused by the Council; or~~
- (5) The accused member has violated a rule of conduct set forth by Council in its Rules of Council for which the provided sanction is removal.

**B. Public Hearing.** A member of Council, including the Mayor, accused of conduct constituting grounds for removal from office shall be entitled to a public hearing prior to his or her removal, and may be represented at such hearing by legal counsel. Notice of the time, date and place of the hearing shall be published at least once in a newspaper of general circulation within the City and on the City's website, or by other electronic method, at least seven (7) days prior to the hearing. At such hearing the Law Director or special counsel, as designated by the Council, shall present the evidence and testimony in support of the grounds for removal. Such hearing may be adjourned from time to time without the necessity of any further publication of notice.

**C. Subpoenas.** Upon the request of the Law Director or other special counsel presenting the charges for removal, or upon the request of the accused member or his or her legal counsel, the Chairperson of Council, or the Vice Chairperson if the Chairperson is the accused, shall have the power to and shall issue subpoenas for witnesses and for the production of other evidence. Any person who refuses to obey a lawful order issued in the exercise of such powers may be found in contempt by the issuing officer, and the issuing officer shall refer the matter to the municipal court for the determination of punishment. The judge of the municipal court may fine such person found in contempt the sum of not more than five hundred dollars (\$500) per day for each day such person refused or refuses to obey such order.

**D. Presiding Officer at Hearing.** The Council shall, upon a majority vote by procedural motion, appoint an acting judge or a retired judge of any state, county or municipal court in Ohio to act as the hearing officer. The hearing officer shall have the power to administer oaths to witnesses at the public hearing and shall preside at the public hearing.



- E. Restriction on Voting. A member of the Council, including the Mayor, who is accused of grounds for removal shall not vote on any matter pertaining to his or her removal.
- F. Appeals. A member of the Council, including the Mayor, who is removed from office in accordance with this section shall have the right to appeal such removal to the appropriate court.

**§ 4.08 PROHIBITIONS AND RESTRICTIONS.**

- A. Ohio Ethics Law. The members of the Council, including the Mayor, shall at all times and in all respects comply with Ohio Ethics Laws. ~~No Council member, including the Mayor, may hold any other public office during their term on the Council, nor shall any member of Council have an interest in any contract, job, work or service with or for the City, nor in the profits or emoluments thereof, nor in the expenditure of any money on the part of the City other than the member's fixed compensation, and any contract with the City in which such Council member is, or becomes, interested may be declared void by the Council.~~
- B. Appointment and Removal of Employees. Neither the Council nor any of its members shall, in any manner, dictate the appointment or removal of any City employee who the City Manager, the Finance Director or the Law Director are authorized to appoint, but the Council may express its views and fully and freely discuss with the appropriate appointed official anything pertaining to the appointment and removal of their employees. This section does not prevent the removal of the City Manager, the Finance Director or the Law Director because of the Council's disapproval of their respective personnel management or their respective appointment or removal of employees.
- C. [7.02] Interference with Administration by Council. Except for the purpose of inquiries and investigations under Section 4.09, the members of the Council, including the Mayor, shall deal with City officers and employees who are subject to the direction and supervision of the City Manager, the Finance Director or the Law Director through the City Manager, the Finance Director or the Law Director, respectively, and neither the Council nor its members, including the Mayor, ~~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 Councilmember'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 Councilmember violates the provisions of this Section 4.08 C., ~~the City Council~~ shall be notified and may take corrective action.

**§ 4.09 INQUIRIES.**

~~Vacancies; Forfeiture of Office.~~ *[Moved to § 4.06 and § 4.07]*

[4.12] The City Council may cause an inquiry to be made into any affairs of the City. Further, the Council may cause an inquiry to be made of any City department, division, office, agency, official or employee when the Council has reasonable cause to believe that there has been a violation of any of the provisions of this Charter, or any Federal, State or local law, rule or ordinance. The inquiry may be conducted by any combination of Councilmembers, City employees or appropriate outside agencies as determined by ~~the City~~ Council. The Council shall have ~~has~~ all other powers necessary to enforce compliance with the provisions of this Charter or any Federal, State or local law, rule or ordinance.

**§ 4.10 CITY CLERK.**

~~**Judge of Qualifications & Standards of Conduct.**~~ *[Moved to § 4.01]*

- A. Appointment. *[4.11]* The City Council shall appoint, by a majority vote of the members of the Council, an officer of the City who shall serve as the secretary to the Council and who shall have the title of City Clerk. The City Clerk shall be under the daily direction of the Finance Director but shall serve at the pleasure of the Council and may be removed from office, with or without cause, notice or hearing by a majority vote of the members of Council.
- B. Duties. The City Clerk shall:
- (1) Give notice of Council meetings and the meetings of the various Boards, Commissions and Committees of the City to their members, appointed officials, department heads and the public, in accordance with the provisions of this Charter, the Rules of Council, or the ordinances of the City;
  - (2) Keep the Clerk's Journal of Council's proceedings, and record therein all matters required under this Charter;
  - (3) Publish notice of each public hearing before the Council and/or the various Boards, Commissions and Committees of the City, in accordance with this Charter, the Rules of Council, or the ordinances of the City;
  - (4) Publish notification of each ordinance adopted and each resolution passed by the Council, in accordance with Article V of this Charter;
  - (5) Authenticate and record in the Clerk's Journal all ordinances adopted and resolutions passed by the Council; and
  - (6) Perform such other duties as are assigned to the Clerk by this Charter, the ordinances and resolutions of the City, the Rules of Council, or as otherwise directed by the City Council, or State law.
- C. Acting City Clerk. Should a vacancy in the office of City Clerk or occur, or during periods of absence or disability of the City Clerk lasting thirty (30) days or more, the Council shall, by a majority vote of the members present, appoint an Acting City Clerk. In cases where the City Clerk is absent from his or her office for a period of less than thirty (30) days due to vacation, illness or other leave, the Finance Director shall appoint, by administrative directive, an Acting City Clerk to fill the temporary vacancy. The Acting City Clerk shall have all the duties and functions of the City Clerk while so acting.
- D. Other Employment. The City Clerk and Acting City Clerk may hold other office or position of employment with the City.

**§ 4.11 COUNCIL MEETINGS.**

~~**City Clerk.**~~ *[Moved to § 4.10]*

~~4.14(A) Organization. The Council shall hold its organization meeting at its first regularly scheduled meeting in January of each year. At such meeting the newly elected members of Council shall take the oath of office, Council shall elect a President and a Vice President, and Council shall proceed to transact such other business that may come before it.~~

A. *[4.14(C)]* Meetings. ~~Meeting Frequency.~~

- (1) *Regular Meetings:* Regular meetings of the Council shall be held meet at least twice two (2) times each a month, unless cancelled for a lack of agenda items, at the times and places as the Council may determine. and, in addition, meetings

- (2) *Special Meetings:* Special meetings of the Council may be called by a vote of the Council, taken at any regular or special meeting thereof, upon a majority vote of the members present, or may be called by the Chairperson ~~President~~ or by ~~four (4)~~ any three (3) or more members of the Council. The City Clerk, or in his or her absence, the Finance Director, shall cause notice of each special meeting to be made by email, by phone or other personal contact to each member of the Council, including the Mayor, not less than twenty-four (24) hours preceding the time of the special meeting; provided, however, that in the event a special meeting is called by a vote of the Council taken at a regular or special meeting from which any member of the Council was absent, notice of the special meeting shall be given only to each absent member in the manner hereinbefore described.
- (3) *Emergency Meetings:* Emergency meetings may be called by the Chairperson or by any three (3) members of the Council. The City Clerk, or in his or her absence, the Finance Director, shall cause notice to be given to each member of the Council, including the Mayor, by personal contact as soon as the emergency meeting is called.

~~The regular meetings of the City Council shall be held on the second and fourth Thursdays of each month or at such other time as determined by the presiding officer or by four (4) members of Council.~~

[4.14(B) moved to § 4.04]

- B. ~~[4.14(F)] Quorum and Vote to Pass Legislation.~~ A majority of the ~~members~~ membership of the Council shall ~~constitute be a~~ a quorum ~~for the transaction of to transact~~ business at any meeting of the Council, but a lesser number, greater than one (1), may ~~meet to reconvene from day to day and~~ compel, by a majority vote of the members present, the attendance of ~~absent the other~~ members in such a manner and under such penalty as may be provided by ordinance or the Rules of Council resolution. The affirmative vote of ~~four (4)~~ members of the Council shall be necessary to pass any ordinance or resolution, except an emergency ordinance pursuant to Section 5.04 of this Charter, and the vote on the passage of each ordinance or resolution shall be taken by a ye or nay vote upon a roll call, and shall be entered in the journal.
- C. ~~[4.14(D)] Open Public Meetings.~~ All meetings for whatever purpose called, whether administrative or legislative, shall be open to the public, except as otherwise provided by law, of the Council shall comply with Section 13.03 of this Charter and the record of Council's proceedings, known as the Clerk's Journal, which shall be kept of all its business, both legislative and administrative, shall be open for inspection by the public.
- D. ~~[4.14(E)] Record of Proceedings. Rules; Journal.~~ A journal of the proceedings of the Council, to be known as the "Clerk's Journal," shall be kept to:
- (1) Record the minutes of all meetings of the Council;
  - (2) Record, in full, all ordinances adopted by the Council, and the vote upon the question of adoption of each ordinance coming before the Council;
  - (3) Record, in full, all resolutions passed by the Council, and the vote upon the question of passage of each resolution coming before the Council; and
  - (4) Record the vote upon each procedural motion coming before the Council.
- ~~The City Council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. The journal shall be a public record.~~

§ 4.12 Inquiries [Moved to § 4.09]

§4.13 Independent Audit [Moved to § 9.10]

§ 4.14 Council Meetings [4.14(B) moved to § 4.04; remainder moved to § 4.11]

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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

## ARTICLE IX – FINANCES FINANCIAL PROCEDURES

### § 9.01 FISCAL YEAR.

The fiscal year of the City ~~for budget, accounting, and all other similar purposes shall begin on the first day of January and end of the last day of December~~ **be the calendar year.**

### § 9.02 UNIFORM TAX LEVY LAW.

~~Submission of Budget and Budget Message.~~ *[Moved to § 9.04]*

The City shall comply with the Uniform Tax Levy Law of Ohio relating to budgets, appropriations, taxation, debts, bonds, and other fiscal matters.

~~City Council shall provide a list of project priorities to the City Manager on or before the first day of July of each year. The City Manager shall then submit to the City Council a budget for the ensuing fiscal year and an accompanying message on or before the last day of October of each year.~~

### § 9.03 DEPOSITS AND INVESTMENTS.

~~Budget Message.~~ *[Moved to § 9.04]*

A. Deposit and Investment Policy. The City Council shall adopt, by ordinance, a Deposit and Investment Policy governing the deposit of public funds and the investment of public moneys. The Policy shall define the parameters for eligible institutions that may hold public deposits, the standards for securing those deposits, and the process by which such eligible institutions shall be selected. The Policy shall also identify permitted investment instruments, the maximum term of those investments, and the process for selecting the investments, as well as custody, safekeeping, and the licensing and registration of broker dealers.

B. Uniform Depository Act. It is the intent of this section to supersede the Ohio Uniform Depository Act, as contained in the general laws of the State; provided, however, that if Council should fail to adopt the Deposit and Investment Policy required under subsection A. of this section, the Uniform Depository Act shall apply to all deposits of public funds and the investment of public moneys.

~~The City Manager's message shall explain the budget. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes; and summarize the City's debt position and include such other material as the City Manager deems desirable~~

### § 9.04 OPERATING ~~The~~ BUDGET AND CAPITAL IMPROVEMENT PLAN.

A. Operating Budget. The City Manager shall prepare and submit to Council, on or before the 1<sup>st</sup> day of November, an estimated Operating Budget for the ensuing fiscal year. ~~In addition to the tax budget required by the general laws, the budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the City Manager deems desirable or the City Council may require.~~ The **estimated Operating Budget** shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal years; and shall be ~~so~~ arranged **to showing** comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

- (1) The proposed goals and objectives and expenditures for current operations during the ensuing fiscal years, detailed for each fund by organization unit and program, purpose or activity, and the method of financing such expenditures;
- (2) Proposed capital expenditures, **as shown in the Capital Improvement Plan**, during the ensuing fiscal years, detailed for each fund by organizational unit, and the proposed method of financing each capital expenditure;
- (3) The anticipated income and expense and profit and loss for the ensuing years for each utility or other enterprise fund operated by the City; **and**
- (4) ~~B-~~ For any fund, the total of proposed expenditures shall not exceed the total of estimated income plus carried-forward fund balances.

**B. [9.11 Capital Program] Capital Improvement Plan. [9.11(A) Submission to Council]** ~~On or before the first day of October~~ The City Manager shall prepare and submit to City Council **at the same time as the Operating Budget, a five-year Capital Improvement Plan Program.** **[9.11(B) Contents]** The Capital Improvement Plan Program shall include:

- (1) A clear general summary of its content;
- (2) A list of all capital improvements and other capital expenditures which are proposed to be undertaken during the five (5) fiscal years next ensuing, with appropriate supporting information as to the necessity for each;
- (3) Cost estimates and recommended time schedules for each improvement or other capital expenditure; and
- (4) The method of financing, upon which each capital expenditure is to be reliant. The above shall be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

**C. [9.05 City Council Action on the Budget] Action by City Council. [9.05(A) Notice and Hearing]**

- (1) ~~On or before November 1<sup>st</sup>, the City Manager~~ ~~The City Council~~ shall **either publish the estimated Operating Budget and Capital Improvement Plan on the City's website or shall publish, in one or more newspapers of general circulation within the City, that said documents are available for public inspection.** ~~and/or by other electronic media, a general summary of the budget and a notice stating:~~
  - (1) ~~The times and places where copies of the message and budget are available for inspection by the public; and~~
  - (2) ~~The time and place, not less than two weeks after such publication, for a public hearing on the budget.~~
- (2) **At its first regular meeting in November, Council shall schedule and hold a time for public comment on the estimated Operating Budget and Capital Improvement Plan as presented.**
- (3) **Within thirty (30) days of presentation of the Operating Budget and the Capital Improvement Plan to Council, the Council may approve the proposed estimated Operating Budget and Capital Improvement Plan, by administrative motion, or may amend the proposed Operating Budget and/or the Capital Improvement Plan by [9.05(B) Amendment Before Adoption]** ~~After the public hearing, the City Council may adopt the budget with or without amendment. In amending the budget, the Council may adding or increasing programs or amounts or by and may deleting or decreasing any programs or amounts, except expenditures required by law for debt service, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than total estimated income. If the Council takes no action within thirty (30) days, the proposed Operating Budget and the Capital Improvement Plan shall be deemed approved as presented.~~ **[9.05(C) Adoption]** ~~The City Council shall adopt the budget on or before the first day of April of the fiscal year covered by the budget. If it fails to adopt the budget by this date, the budget proposed by the City Manager, as amended by~~

~~Council, shall go into effect. Copies of the budget may be purchased by members of the public at cost.~~

- D. Effect. The approved Operating Budget and Capital Improvement Plan shall be used as a foundation in the preparation of the Annual Appropriation Ordinance for the ensuing fiscal year.

**§ 9.05 ANNUAL APPROPRIATION ORDINANCE.**

~~City Council Action on the Budget.~~ *[Moved to § 9.04 C]*

- A. **[9.06] Annual Appropriation Ordinance**. On or before the first day of each fiscal year, the City Council shall adopt an Annual Appropriation Ordinance, classified so as to set forth separately the amounts appropriated for each office, department, and division and, within each, the amount appropriated for personnel services. Council may, if it desires, postpone the passage of the Annual Appropriation Ordinance until an amended certificate is received from the Greene County Auditor based on actual balances. In such a case, the Council may pass a temporary appropriation ordinance for meeting the ordinary expenses of the City on or before the first day of each fiscal year, but such temporary appropriation measure shall be replaced with the Annual Appropriation Ordinance no later than the 1<sup>st</sup> day of April. The total appropriations from each fund shall not exceed the total of the estimated revenue available for expenditure therefrom, as certified by the Greene County Budget Commission, or in case of appeal, by the Greene County Board of Tax Appeals.

~~To implement the adopted budget, the City Council shall adopt an appropriation ordinance making appropriations by fund and/or department or major organizational units consistent with State law.~~

- B. **[9.07(E)] When Effective**. The Annual Appropriation Ordinance shall not become effective until the Greene County Auditor files with the Finance Director a certificate that the total appropriations from each fund, taken together with all other outstanding appropriations, do not exceed the official estimated revenue or amended official estimate of revenue.

~~Limitation; Effective Date. No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.~~

- C. **[9.07(A)] Supplemental Appropriations**. ~~If During the fiscal year the Finance Director certifies that there are available for appropriation revenues in excess of those estimated in the budget, the City Council by ordinance may pass any supplemental appropriation measures make supplemental appropriations for the year up to the amount of such excess as it finds necessary, based on the revised tax budget or the official certificate of estimated resources or amendments of the certificate.~~

*[9.07(B) moved to § 5.04]*

- D. **[9.07(D) Transfer of Appropriations] Amended Appropriations**. The Annual Appropriation Ordinance may be amended by Council, by ordinance, provided that no appropriation for any purpose shall be reduced below an amount sufficient to cover all unliquidated and outstanding contracts or obligations certified from or against the appropriation. ~~At any time during the fiscal year the City Council may, by ordinance or resolution~~ Such amendments may add to or transfer part or all of the unencumbered appropriation balance from one (1) department or major organizational unit to the appropriation for another department or major organizational unit, or may transfer money in the General Fund to any other fund, or may transfer moneys between funds except where such transfer is prohibited by State law. ~~The Finance Director may transfer part or all of any unencumbered~~

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

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~~appropriation balances for any department or organizational unit, provided that such transfers are within existing appropriations and shall report such transfers to the Council in writing in a timely manner. [Last sentence moved to § 9.07 G]~~

- E. **[9.07(C)] Reduction of Appropriations.** If at any time during the fiscal year it appears probable to the City Manager and the Finance Director that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the **City Manager or the Finance Director** shall report **the same** to the City Council without delay. The estimated amount of the deficit, any remedial action taken by the **City Manager or the Finance Director**, and recommendations as to any other steps to be taken shall be indicated. The Council shall then take such further action as it deems necessary to prevent or reduce any deficit and for that purpose it may, ~~by ordinance,~~ **amend the Annual Appropriation Ordinance** to reduce one (1) or more appropriations.
- F. **Procedure.** The Annual Appropriation Ordinance and any supplements or amendments thereto shall be adopted as an emergency ordinance, in accordance with Section 5.04 of this Charter. Such emergency ordinance may contain more than one (1) subject, as provided in Section 5.02 B. of this Charter. Notwithstanding the requirements of Section 5.02 A., any emergency ordinance supplementing or amending the Annual Appropriation Ordinance need not set out the Annual Appropriation Ordinance in full but shall show what funds and/or line items are being amended. Such emergency ordinance shall be effective upon its adoption by the affirmative vote of at least four (4) members of Council.
- G. **Authority and Duty of Finance Director.**
- (1) The Finance Director may adjust appropriations within any Fund or Department in the Annual Appropriation Ordinance so long as such adjustments do not exceed the total appropriations authorized within any Fund or Department and such adjustment is not in violation of this Charter, City ordinance or State law.
  - (2) The Finance Director may establish any additional fund required under State law to ensure proper accounting. Any optional or special fund shall only be established upon the approval of the City Council, by resolution.
  - (3) The Finance Director shall maintain an updated Annual Appropriation Ordinance, showing all supplements and amendments thereto made by Council in one document, which shall be available to the public upon request.

**§ 9.06 APPROPRIATIONS AND EXPENDITURES.**

~~Appropriation Ordinances.~~ *[Moved to § 9.05 A]*

All appropriations and expenditures made by the City shall comply with the Uniform Tax Levy Law as contained in the general laws of the State.

~~To implement the adopted budget, the City Council shall adopt an appropriation ordinance making appropriations by fund and/or department or major organizational units consistent with State law.~~

**§ 9.07 [9.13] PAYMENT OF CLAIMS.**

~~Amendments after Adoption.~~ *[Moved to § 9.05]*

No warrant for the payment of any claim shall be issued by the Finance Director **unless there is an available appropriation sufficient to cover the payment** ~~until such claim has been approved first by the Manager and by the Council~~ and the Finance Director is satisfied that the same is **in proper form, correctly computed, and that the claim is legally due and payable** ~~lawful and authorized by law.~~ The

Finance Director and his or her sureties shall be liable to the City for all loss or damage sustained by the City by reason of the corrupt approval of such claim against the City, and the Finance Director shall have the power to require that the amount claimed is justly due, and is in conformity with the law and ordinances, and may summon any officer or employee and examine him or her for that purpose.

**§ 9.08. CONTRACTING PROCEDURES.**

**~~Lapse of Appropriations.~~**

- A. Competitive Bidding. Council, by ordinance, shall establish a threshold amount, which in no case shall be less than \$30,000, notice provisions and other procedures for competitive bidding. When any contract for the construction of a public improvement or the purchase of equipment, supplies, materials, or services is estimated to exceed the threshold established by Council, the contract shall be competitively bid. Council shall award the contract, by resolution, to the lowest and best bidder; provided, however, that Council may reject any and all bids in whole or by items. No contract shall be divided to avoid the requirements of competitive bidding.
- B. Waiver of Competitive Bidding. Competitive bidding is not required if:
- (1) The statutory or common law of the State does not require competitive bidding;
  - (2) Council determines that an item is available and can be acquired only from a single source or the purchase consists of services related to information technology that are proprietary or limited to a single source;
  - (3) The purchase is made through a cooperative purchasing program where the cost has already been set by bid;
  - (4) The purchase is from the federal government, the State, a county, a municipality, a township, a board of education or an educational service center;
  - (5) The purchase consists of any form of insurance or any form of health care plan; or
  - (6) Council determines, by resolution approved by an affirmative vote of no less than four (4) members, that a waiver of the competitive bidding requirement is in the best interest of the City or is necessary due to a real and present emergency.
- C. Professional Services. Contracts for professional services shall not be subject to the competitive bidding requirements of this Section and shall not require separate authorization by Council if the current Annual Appropriation Ordinance provides sufficient funding for the scope of services in any such contract.
- D. Alterations or Modifications of Contracts. Council shall, by ordinance, establish procedures for alteration or modifications of contracts. Such modification or alterations shall not require competitive bidding and shall not require separate authorization by Council if the current Annual Appropriation Ordinance provides sufficient funding for the alteration or modification.
- E. No Interest on Escrow. Notwithstanding any provision of general law, contractors and vendors shall not be entitled to receive interest on funds temporarily retained on a contract pending final acceptance of work performed or goods supplied, nor shall the City be required to maintain a separate escrow account from which to pay any contractor or vendor.

~~Every appropriation shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered.~~



**§ 9.09 [9.17] PUBLIC IMPROVEMENTS BY FORCE ACCOUNT.**  
**~~Administration of the Budget.~~**

Nothing in **Section 9.08** ~~the preceding two sections~~ shall be construed to prohibit the Council from doing any public work or making any public improvement by the direct employment of the necessary labor, including professional and/or specialized technical services, and the purchase of the necessary equipment, supplies and materials, with separate accounting as to each improvement so made, and the Council may, on so declaring by ordinance or resolution, cause any public work or improvement to be done or made in such manner.

~~The City Council shall provide by ordinance or resolution the procedures for administering the budget.~~

**§ 9.10 [9.13] INDEPENDENT AUDIT.**  
**~~Overspending of Appropriations Prohibited.~~**

The Council shall provide for an annual independent audit of all City accounts and may provide for more frequent audits as deemed necessary and proper. Such audits may be made by the Auditor of State, or a certified public accountant or accounting firm, ~~who or which~~ **that** has no personal interest, direct or indirect, in the affairs of the City or any of its officials, officers or employees.

~~No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made. Any authorization of payment or incurring an obligation in violation of the provisions of this Charter shall be void and any payment so made illegal. A violation of this provision shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation. Such officer may also be liable to the City for any amount so paid. Except where prohibited by law, however, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or in part by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond Council may authorize the payment of funds as a moral obligation, in which case this section shall not apply.~~

~~§ 9.11 Capital Program. [Moved to § 9.04]~~

~~§ 9.12 Council Action on the Capital Program. [Moved to § 9.04]~~

~~§ 9.13 Payment of Claims. [Moved to § 9.07]~~

~~§ 9.14 Certificate of Availability of Funds.~~

~~No contract, agreement, or other obligation involving the expenditure of moneys shall be entered into, nor shall any ordinance, resolution or order for the expenditure of moneys be passed by the Council, unless the Finance Director shall first certify to the Council that the money required for such contract, agreement, obligation or expenditure is in the Treasury to the credit of the fund from which it is to be drawn. The sum so certified shall not thereafter be considered unappropriated until the City is discharged from the contract, agreement or obligation. The provisions of this section shall not apply to contracts or proceedings relating to improvements, any part of the cost of which is to be paid by special assessments. This provision shall not apply to the contract of employment of the City Manager or other officials of the City; shall not apply to the annual appropriation ordinance in which moneys in the Treasury, or to come into the Treasury, during the ensuing year, may be appropriated; and shall not apply to authorizations by Council to make moral obligation payments.~~

**~~§ 9.15 Availability of Money in the Fund.~~**

~~All moneys actually in the Treasury to the credit of the fund from which they are to be drawn, and all moneys applicable to the payment of the obligation or appropriation involved that are anticipated to come into the Treasury before the maturity of such contract, agreement or obligation, from taxes, assessments or license fees, or from the sales of services, products or by products of any City undertaking, and moneys to be derived from lawfully authorized bonds sold and in the process of delivery for the purpose of such certificate, shall be deemed in the Treasury to the credit of the appropriate fund, and shall be subject to such certification.~~

**~~§ 9.16 Expenditures in Excess of Seven Thousand Five Hundred Dollars.~~ *[The first and third paragraphs now addressed in § 9.08; the second paragraph addressed in § 4.01G.(2)]***

~~All expenditures, if the cost thereof exceeds seven thousand five hundred dollars (\$7,500), shall be made upon the approval of the Council, after competitive bidding, and no division of any proposed expenditure shall be made for the purpose of evading competitive bidding. This dollar amount requiring Council approval may be increased by Council by ordinance.~~

~~The purchase, sale, lease or transfer of real property, including fixtures thereon, are exempt from this provision, and the purchase, sale, lease or transfer of real property, including fixtures thereon, may be accomplished by negotiation or informal competition or by formal bidding upon the approval of Council by the adoption of an ordinance or resolution.~~

~~The Council may authorize, in specific cases, expenditures of the funds of the City in amounts exceeding the limit hereinabove stated, without bidding, for the City, for personal and professional services, for the joint use of facilities or the exercise of powers with other political subdivisions, for the product or services of public utilities (including those Municipally operated), or, in the case of an emergency, for the immediate protection of public property or public safety.~~

**~~§ 9.17 Improvement by Direct Labor.~~ *[Moved to § 9.09]***

**~~§ 9.18 Gifts, Donations or Bequests to the City.~~**

~~Any gift, donation or bequest to the City of Xenia shall be used, appropriated and expended under the direction of Council, unless otherwise provided for in such gift, donation or bequest.~~

**~~§9.19 Collection of Debts.~~**

~~All debts owed to the City for services provided shall be collected in a timely manner. All uncollected debts exceeding ninety days shall be submitted to the Law Director for collection or other appropriate action.~~

## ARTICLE XIII – GENERAL PROVISIONS

### § 13.01 ACTIVITIES; PENALTIES.

#### A. Activities Prohibited.

- (1) No person shall be appointed to or removed from, or in any way favored or discriminated against, with respect to any City position or appointive City administrative office because of race, gender, age, handicap, religion, country of origin, or political affiliation.
- (2) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the provisions of this Charter or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.
- (3) No person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his or her test, appointment, proposed appointment or proposed promotion.
- (4) No person shall knowingly or willfully solicit or assist in soliciting any assessment, subscription or contribution for any political party or political purpose to be used in conjunction with any City election from any City employee.
- (5) No City employee shall knowingly or willfully make, solicit or receive any contribution to the campaign fund of any political party or committee to be used in a City election or to campaign funds to be used in support of or opposition to any candidate for election to City office. This section shall be not construed to limit any person's right to exercise rights as a citizen to express opinions or to cast a vote, nor shall it be construed to prohibit any person from active participation in political campaigns at any other level of government.

- B. Penalties. Any person convicted of a violation of this section shall be ineligible for a period of five (5) years following such conviction to hold any City office or position and, if an officer or employee of the City, shall immediately forfeit his or her office or position. The City Council shall establish, by ordinance, such further penalties as it may deem appropriate.

### § 13.02 **CONFLICTS OF INTEREST AND ETHICS.**

~~Salaries and Bonds Fixed by Council.~~ *[Moved to § 4.01 D]*

**The law of Ohio pertaining to conflicts of interest, ethics, criminal behavior and financial disclosure by City officials and employees shall apply under this Charter.**

~~The Council shall fix, by ordinance or resolution, the salary or rate of compensation of all officers and employees of the City entitled to compensation, including the salaries of the Mayor and City Council members, in accordance with this Charter, and may require any officer or employee to give bond for the faithful performance of his or her duties, in such an amount as it may determine, and it may provide that the premium or cost for any such bond be paid by appropriation from City funds.~~

**§ 13.03 OPEN MEETINGS.**  
**~~Ordinances and Resolutions Interchangeable.~~**

~~For purposes of this Charter, the term “ordinance(s)” shall include “resolution(s)” and the term “resolution(s)” shall include “ordinance(s).”~~

- A. Open Meetings. All deliberations, discussions and actions on official public business taken by the Council or other boards, commissions, and committees of the City, whether created by Charter or by the Council in accordance with this Charter, shall be taken in meetings open to the public, except as otherwise provided in this Charter or by the general laws of the State.
- B. Notice. Council shall provide, by ordinance, Rules of Public Notice by which the Council and all other boards, commissions, and committees of the City shall give notice of their meetings.
- C. Executive Session. The Council, boards, commissions, and committees of the City, whether created by Charter or by the Council in accordance with this Charter, may adjourn into executive session during any regular or special meeting of that body to discuss any of limited matters outlined in Ohio Revised Code Section 121.22(G), and any subsequent revisions thereto, or any other relevant provisions of the general laws of the State; provided, however, that:
- (1) The Council, Boards, Commissions, and Committees of the City may also adjourn into executive session during any regular or special meeting to receive and discuss general legal advice from the Law Director or other special counsel.
  - (2) The Council, Boards, Commissions, and Committees of the City may adjourn into executive session during any regular or special meeting to consider and discuss economic development projects when that proposed project includes a request for economic development assistance from the City or the state, or involves public infrastructure improvements or the extension of municipal utilities, without a separate finding by the public body that an executive session is necessary to protect the interest of the applicant.
  - (3) Any public body of the City exercising the quasi-judicial duties assigned to it by this Charter, by ordinance, or by the general laws of the State may adjourn into executive session to deliberate when so acting within its quasi-judicial capacity.
- D. Presence Required. A member of the Council or other Board, Commission or Committee of the City must be present in person, or by telephone, video or electronic means in the limited situations permitted by the Rules of Council, at a meeting open to the public to be considered present, to vote on any official business, or for the purpose of determining whether a quorum of the public body is present at the meeting.
- E. Minutes. The Council, Boards, Commissions, and Committees of the City shall keep full and accurate minutes of their meetings, and such minutes shall 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. Such minutes need only reflect the general subject matter of discussions in executive session, but shall record the motion, the reasons given for the executive session, and the vote to adjourn into executive session. The minutes of the City’s public bodies shall be promptly prepared, filed and maintained and shall be open to public inspection.
- F. Effect of Violation. Any ordinance, resolution, motion or formal action of any kind by the Council or any Board, Commission or Committee is invalid unless adopted in an open meeting that complied with the Rules of Public Notice. An ordinance, resolution, motion 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 part of a quasi-judicial hearing, or were for a purpose specifically authorized under Section 13.03 C. of this Article, and the executive session was held in compliance with that section.

#### **§ 13.04 [14.01] CHARTER AMENDMENTS.**

This Charter may be amended by the eligible voters of this City as provided in Article XVIII, Section 9 of the Constitution of the State Ohio, the provisions of this Charter, and the general laws of the State of Ohio.

#### **§ 13.05 RULES OF CONSTRUCTION.**

- A. Singular and Plural; Gender; Tense. As used in this Charter, 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.
- B. Mandatory or Discretionary. The words “shall” and “will” are mandatory, while the word “may” is permissive/discretionary.
- C. Common and Technical Usage. As used in this Charter, 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.
- D. Headings. Section and paragraph headings are for convenience only and are not intended to have substantive significance in interpreting any provision of this Charter.

#### **§ 13.06 [15.01] EFFECT OF PARTIAL INVALIDITY.**

~~A judicial determination that all or part of any article, section or part of a section, paragraph, or division of this Charter proves to be invalid or unconstitutional, the same shall not be held to invalidate or impair the validity, force or effect of any other part section or part of a section in this Charter, unless it clearly appears that such other section, or part of a section, except to the extent that the other part is wholly or necessarily dependent for its operation upon the part section or part of the section so held declared invalid or unconstitutional.~~

### **ARTICLE XIV: CHARTER AMENDMENTS, RENUMBERING**

#### **Section 14.01. Charter Amendments. [Moved to § 13.04]**

~~—This Charter may be amended as provided in the Constitution and general laws of the State of Ohio.~~

#### **Section 14.02. Renumbering of Charter.**

~~—The Council, by ordinance, may renumber, regroup and classify the sections of this Charter, provided that no substantive change shall be made in any of the provisions thereof.~~

**ARTICLE XV: SEPARABILITY AND VALIDITY; STATE AND MUNICIPAL LAWS**

~~Section 15.01. Separability and Validity.~~ *[Moved to § 13.06]*

~~Section 15.02. State and Municipal Laws.~~

~~—All City ordinances, resolutions, orders and regulations which are in force when this Charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto. To the extent that the Constitution and laws of the State of Ohio permit, all laws relating to or affecting this City or its agencies, officers or employees which are in force when this charter becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto.~~

**City of Xenia**

**A majority affirmative vote is necessary for passage.**

Shall Article IV, Sections 4.01-4.14, Article IX, Sections 9.01-9.19, Article XIII, Sections 13.01-13.06 of the Charter of the City of Xenia be amended, and Articles XIV and XV of the Charter of the City of Xenia be repealed, as follows:

Article IV – City Council (Summary)

Relocate all powers granted Council under Charter into one section; Keep Councilmember qualifications and terms the same, but clarify 2 year residency requirement to immediately precede the filing to run for office rather than prior to the election; Remove restriction prohibiting Mayor from serving as chair or vice chair of Council; Keep Council member salaries the same and prohibit any in term increases; add language requiring Council to establish a method for reimbursement of Council members’ expenses; Specify that when Council appoints a person to a vacant Council seat and 30 months or less remain in the term, the appointee serves until the end of the term; Specify that when Council appoints a person to a vacant Council seat and more than 30 months remain in the term, an election must be held at the next regular election; Add language authorizing Xenia Municipal Court Judge to fill a vacant Council seat if Council fails to do so within 60 days; Keep language regarding reasons for removal from office, but add language outlining process for removal; Clarify duties of City Clerk and provide for Acting City Clerk in Clerk’s absence; Require Council to keep record of its proceedings (Clerk’s Journal).

Article IX – Financial Procedures (Summary)

\*Retitle Finances

Add language recognizing City must comply with Ohio’s Uniform Tax Levy Law regarding appropriations, expenditures, budgets, taxation, debts, bonds and other fiscal matters; Remove sections of Article IX that conflict with Uniform Tax Levy Law or that are unnecessary as they quote the Uniform Tax Levy Law verbatim; Require Council to adopt a deposit and investment policy for public funds; Condense and combine related sections; expand language regarding contracting procedures and allow waiver of competitive bidding for same reasons waiver is allowed under State law.

Article XIII – General Provisions (Summary)

Specify Ohio Ethics Law applies to all City officials and employees; Add open meeting requirements that apply to Council and all Boards and Commissions; Move Sections 14.01 and 15.01 here; Clarify that the Charter may only be amended by the voters.

Article XIV – Charter Amendments; Renumbering

Repeal Article XIV; contents incorporated into Article XIII

Article XV – Separability and Validity

Repeal Article XV; contents incorporated into Article XIII

**YES**

**NO**