

**CITY OF XENIA, OHIO
ORDINANCE 2022 – 24**

PROVIDING FOR THE SPECIAL ELECTION ON AMENDMENTS TO ARTICLES VI, VII, AND XVI OF THE CHARTER OF THE CITY OF XENIA, OHIO, SAID ELECTION TO BE HELD ON THE SAME DATE AND TIMES AS THE NOVEMBER 8, 2022, GENERAL ELECTION

WHEREAS, Section 8.06 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 8.06 of the City’s Charter and has made recommendations to this Council for amendments to Articles VI, VII, and XVI 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 VI, VII, and XVI 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 the November 8, 2022, general election, at the regular hours and regular places of voting in the City. If approved by a majority vote at said election, Articles VI, VII, and XVI 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 VI, VII, and XVI 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.

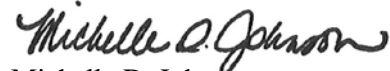
Section 7. If the amendments to Articles VI, VII, and XVI of the Charter of the City of Xenia are approved by a majority vote, the City Clerk shall certify a copy of the amendments to the Ohio Secretary of State within (30) days of the election.


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 August 27, 2022.

Introduced: July 14, 2022
Adopted: July 28, 2022

Attest:


Michelle D. Johnson
City Clerk


Wesley E. Smith
President, Xenia City Council

CITY OF XENIA BALLOT ITEM ____

PROPOSED AMENDMENTS TO ARTICLES VI, VII, AND XVI
OF THE CITY'S CHARTER

ARTICLE VI – CITY MANAGEMENT

~~A. CITY MANAGER.~~

§ 6.01 **APPOINTED OFFICIALS.**

~~Appointment and Qualifications.~~ *[Moved to § 6.02 A]*

- A. Appointed Officials. The management and administration of the City government shall be vested in three appointed officials, the City Manager, the Finance Director and the Law Director, who shall be appointed by the City Council in accordance with this Charter.
- B. Administrative Steering Committee.
- (1) There is hereby established an Administrative Steering Committee of the City to provide policy direction and guidance on building security, information technology issues and projects, human resources and personnel management and any other topics or issues affecting the departments and divisions under the direction and control of the appointed officials.
 - (2) The Administrative Steering Committee shall consist of the City Manager, the Finance Director and the Law Director, and at the discretion of the Xenia Municipal Court Judge, may also consist of the Clerk of Court of the Xenia Municipal Court.
- C. ~~6.07~~ Annual Evaluations. The City Council shall evaluate the City Manager, Finance Director, and Law Director on an annual basis.
- D. Removal. The City Manager, Finance Director, or Law Director may be removed by Council by the affirmative vote of five (5) members of the Council. The Appointed Official shall be given at least ten (10) days' notice prior to the meeting at which his or her removal will be considered. In the intervening period, the Appointed Official may be suspended with or without pay, or as otherwise required in the Appointed Official's employment contract.

§ 6.02 ~~Powers and Duties of the~~ **CITY MANAGER.**

- A. ~~6.01~~ Appointment and Qualifications. The City Council, by a majority vote of its total membership, shall select, appoint, contract with, and fix the compensation of a qualified individual for the position of City Manager. ~~The City Manager shall establish legal residency within the City within six (6) months after the assumption of duties. Such six (6) month period may be extended by Council due to special circumstances, as may be determined by Council.~~
- B. Powers and Duties of the City Manager. The City Manager shall be the chief executive and administrative officer (**CEO**) of the City and shall be recognized by the courts for civil process involving the City. The City Manager shall be responsible to the Council for the administration of all City affairs placed in the Manager's charge by or under this Charter. The City Manager shall **have the following powers, duties, and functions:**
- (1) **Appoint, employ, or hire all City employees and administrative department or division heads, when such positions are authorized by Council, and suspend, remove or otherwise discipline**

City employees and department or division heads in accordance with the City's Personnel Manual, with the exception of those under the direct supervision of the City Council, the Finance Director or the Law Director. The City Manager may authorize any administrative officer who is subject to his or her direction and supervision to exercise these powers with respect to subordinates in that officer's department, division, office, or agency.

- (2) ~~(10)~~ Execute ~~contracts~~, on behalf of the City, all contracts, agreements, bonds, notes, conveyances, evidences of indebtedness and any other instruments to which the City is a party, except as otherwise required or provided by this Charter or Ohio law. ~~Discipline and remove City employees and administrative department heads under his or her direct supervision, as necessary.~~
- (3) Direct and supervise the administration of all departments, offices, and agencies of the City, except those under the direct supervision of the Finance Director or the Law Director or as otherwise provided by this Charter or by law.
- (4) Attend City Council meetings ~~and~~ (8) make recommendations to the Council concerning the affairs of the City. The City Manager shall have the right to take part in discussion but shall not vote. ~~The City Manager's office shall also~~ (9) provide staff support services for the Council.
- (5) ~~Prepare and submit the annual City budget and capital programs to the Council.~~
- (6) ~~(5)~~ See that all laws, provisions of this Charter and acts of the City Council, subject to enforcement by the City Manager or by officers subject to the Manager's direction and supervision, are faithfully executed.
- (7) ~~(6)~~ Make an annual "State of the City" address ~~which shall be published for citizen review in a publication of general circulation as well as presented publicly prior to March 1st December 1~~ of ~~the next~~ each year, ~~which address shall be made available to the public.~~
- (8) ~~(7)~~ Make such other reports as the City Council may require concerning the operation of City departments, offices, and agencies subject to the City Manager's direction and supervision.
- (9) ~~(11)~~ Act as the ~~Public~~ Safety Director for the City.
- (10) ~~(12)~~ Perform such other duties as are specified in this Charter or as may be required by ~~the City Council.~~

C. Acting and Interim City Manager.

- (1) Should a vacancy in the office of the City Manager occur, or during periods of temporary absence or disability of the City Manager lasting thirty (30) days or more, the Assistant City Manager shall serve as the Interim City Manager, unless a majority of the Council appoints another Interim City Manager to fill the temporary vacancy.
- (2) In cases where the City Manager is vacant from his or her office for a period of less than thirty (30) days due to vacation, illness or other leave, the Assistant City Manager shall serve as the Acting City Manager, unless the City Manager appoints another to serve as Acting City Manager in his or her absence, by administrative directive.

E. ACTING MANAGER.

~~Section 6.08. Appointment, Qualifications and Duties.~~

~~— During the absence or disability of the City Manager, or if there is a vacancy in the office of City Manager for any reason, the Assistant City Manager shall execute the functions of the office. In the event of the absence of both the City Manager and the Assistant City Manager, the City Council shall designate a qualified individual to act as City Manager.~~

B. FINANCE DIRECTOR.

§ 6.03 FINANCE DIRECTOR.
Appointment and Qualifications.

- A. Appointment and Qualifications. The City Council, by a majority vote of its total membership, shall select, appoint, contract with, and fix the compensation of a qualified individual for the position of Finance Director. ~~The Finance Director shall establish legal residency within the City within six (6) months after the assumption of duties. Such six (6) month period may be extended by Council due to special circumstances, as may be determined by Council. The Finance Director shall perform the functions customarily assigned to the Auditor and Treasurer under the general laws of the State of Ohio for municipal accounting, collection of taxes, accounts and assessments and control of disbursements.~~
- B. ~~6.04.~~ Powers and Duties of the Finance Director. ~~The Finance Director shall be the chief fiscal officer (CFO) of the City and shall perform the functions customarily assigned to the municipal auditor and/or treasurer under the general laws of the State for municipal accounting, collection of taxes, accounts and assessments and control of disbursements.~~ The Finance Director shall be the head of the Department of Finance. ~~The Finance Director shall~~ **and shall have the following powers, duties, and functions:**
- (1) ~~(3)~~ Act as the fiscal manager and advisor for the City **and** ~~(5)~~ keep the City Council and the City Manager fully advised as to the financial condition of the City.
 - (2) ~~(4)~~ Issue all warrants for the payment of money by or on behalf of the City **and keep** an accurate account of all taxes and assessments.
 - (3) **Appoint, employ, or hire employees of the Finance Department, when such positions are authorized by Council, and employ such assistants and employees as Council may authorize, and suspend, remove or otherwise discipline or remove any such employees in accordance with the City's Personnel Manual when necessary for the good of the service, pursuant to rules adopted by ordinance of Council or otherwise provided by law.**
 - (4) **Act as the custodian and manager of all monies of the City, keeping and preserving the same in such manner and form as Council may by ordinance or resolution direct, and keep** an accurate account of all monies due to and all receipts and disbursements made by the City, or its assets and liabilities, and of all appropriations made by the Council.
 - (5) ~~(6)~~ Assist the City Manager in the preparation and presentation of the annual budget and capital plan for the City ~~Council.~~
 - (6) ~~(7)~~ Audit the accounts of the several departments of the City at least once each fiscal year, unless requested to do so more frequently by Council, and provide cash management services for the City.
 - (7) ~~(8)~~ Prescribe the method of keeping the accounts of all City departments, showing the receipt of all monies by such departments and the disposition thereof, at such time as the Finance Director shall determine.
 - (8) ~~(9)~~ Perform all other duties as may be required by Council, as well as other persons holding the position of auditor or treasurer under the laws of the State ~~of Ohio~~ applicable to municipalities and not inconsistent with this Charter, except that nothing contained herein shall be construed as to impose upon the Finance Director any duty or responsibility imposed by State law which is not required by this Charter.
 - ~~(10) Act as the custodian and manager of all monies of the City, keeping and preserving the same in such manner and form as Council may by ordinance or resolution direct.~~

C. Acting and Interim Finance Director.

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

- (1) Should a vacancy in the office of the Finance Director occur, or during periods of temporary absence or disability of the Finance Director lasting thirty (30) days or more, the Assistant Finance Director shall serve as the Interim Finance Director, unless a majority of the Council appoints another Interim Finance Director to fill the temporary vacancy.
- (2) In cases where the Finance Director is vacant from his or her office for a period of less than thirty (30) days due to vacation, illness or other leave, the Assistant Finance Director shall serve as the Acting Finance Director, unless the Finance Director appoints another to serve as Acting Finance Director in his or her absence, by administrative directive.

~~C. LAW DIRECTOR.~~

§ 6.04 LAW DIRECTOR.

~~Powers and Duties of the Finance Director.~~ [Moved to § 6.03 B]

- A. ~~6.05.~~ Appointment and Qualifications. The City Council, by a majority vote of its total membership, shall select, appoint, contract with, and fix the compensation of a qualified individual for the position of Law Director. ~~The Law Director shall establish legal residency within the City within six (6) months after the assumption of duties. Such six (6) month period may be extended by Council due to special circumstances, as may be determined by Council.~~ The Law Director shall be an attorney licensed to practice in the State of Ohio on the date of appointment.
- B. ~~6.06.~~ Powers and Duties of the Law Director. The Law Director shall be **the chief legal officer of the City and the head of the Department of Law.** ~~The Law Director shall~~ **and shall have the following powers, duties, and functions:**
- (1) Act as legal advisor to, and attorney for, the City and all of its departments, agencies, officials and employees, as directed by Council.
 - (2) **Review every proposed ordinance and resolution to be presented to the Council on the questions of correct legal form, possible contradictions with existing ordinances, or conflict with the Charter or provisions of the Constitution of the State of Ohio.**
 - (3) ~~(2)~~ Prepare all contracts, surety or indemnification bonds or other instruments in writing in which the City is concerned, and provide his or her endorsement thereon for approval only as to the form and correctness thereof, provided that bonds, notes and other debt obligations are exempted from this requirement, and no contract or other written instrument shall be valid until the Law Director gives endorsement thereon.
 - (4) ~~(3)~~ Prosecute all misdemeanor offenses in the Xenia Municipal Court. **The Council may authorize the position of City Prosecutor, who shall be under the supervision and direction of the Law Director.**
 - (5) ~~(4)~~ **Appoint, or employ, or hire employees of the Law Department, when such positions are authorized by Council, assistants or employees to assist the Law Director in the performance of the official duties of the office, and suspend, remove or otherwise discipline such employees in accordance with the City's Personnel Manual or remove the same when necessary for the good of the service, pursuant to rules adopted by ordinance of Council or as otherwise provided by law.**
 - (6) With the consent of Council, employ special counsel to handle particular legal matters for the **City Municipality.** **Contracts for special or outside legal counsel may be executed by the Law Director or, upon Council approval by the City Manager, and such special counsel may, when authorized by the Law Director, exercise all or any part of the powers, duties and functions granted to the Law Director under this section.**
 - (7) ~~(5)~~ Perform such other duties as Council may require or as provided by law.

ARTICLE VII - ADMINISTRATIVE DEPARTMENTS

§ 7.01 GENERAL PROVISIONS.

~~Appointment of Department Heads.~~ *[Moved to § 7.02]*

- A. Established Departments. There shall be a Department of Finance, a Department of Law, a Department of Public Safety, and a Department of Public Service. Each established Department may consist of such divisions as are established by the Council, by ordinance, and each established department and division shall have such powers, duties, and functions as are prescribed by Council, by ordinance.
- B. Creation of Departments. The City Council may establish, by ordinance, other City departments and divisions thereof, ~~offices or agencies~~ in addition to those created by this Charter, and Council shall ~~may~~ prescribe the powers, duties, and functions of such departments and divisions upon their establishment ~~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.~~

~~The City Manager, Finance Director and Law Director shall be appointed by and be under the direct supervision of the City Council. All other department or division heads and all subordinate officers shall be appointed by the City Manager or Acting City Manager, with the exception of those under the direct supervision of the Finance Director and Law Director.~~

~~All department heads shall be appointed on a basis of practical knowledge, experience and managerial ability in the position to which they are being appointed.~~

§ 7.02 APPOINTMENT OF DEPARTMENT AND DIVISION HEADS.

~~Interference by Council.~~ *[Moved to 4.08 C]*

A. Department Heads.

- (1) At the head of each Department there shall be a full-time or part-time director. The City Manager shall serve as the Director of the Department of Public Safety and shall appoint and may suspend, remove or otherwise discipline, the directors of all departments, other than the Director of the Department of Finance and the Director of the Department of Law, who shall be appointed, disciplined and removed by Council.
- (2) Each director shall be an administrative officer of the City. He or she shall have supervision and control of the department he or she heads, subject to the direction of the City Manager, except the Director of the Department of Finance and the Department of Law, who shall be subject to the direction of Council.
- (3) With the approval of Council, the City Manager may appoint one (1) person as the head of two (2) or more departments, except for the Department of Finance and Department of Law.

- B. Division Heads. For each division within each department, the appointed official with authority over the department shall appoint, and may suspend, remove or otherwise discipline, a division head. The division head shall have supervision and control of the division he or she heads, subject to the direction of the director of the department.

§ 7.03 ADMINISTRATIVE CODE.
~~**Citizen Complaints.**~~

Subject to the provisions of this Charter and after consultation with the Administrative Steering Committee, the Council shall adopt, by ordinance, an Administrative Code, which shall provide in detail the organization of the City government, define the powers and duties of each organizational unit, and determine the administrative procedures to be followed. Where the Charter, Administrative Code, or ordinances of the City are silent, the officers and employees of the City shall have and may exercise all powers, duties and functions provided for similar officers and employees by State law; however, provisions of the Charter, Administrative Code and ordinances of the City shall supersede those of the State law in case of conflict.

~~The City Council shall establish the City of Xenia Mediation Services under the direction and supervision of the Law Director. In the event that a citizen of Xenia has a complaint about the implementation of any City policy, practice or ordinance by any City department, that citizen may file a complaint with the City of Xenia Mediation Services. Upon receiving a citizen complaint, Mediation Services shall act in the role of ombudsman and schedule mediation between the complaining citizen and the City division or department head or appointed official responsible for the implementation of the City policy, practice or ordinance. A quarterly report shall be sent to the City Council summarizing the number of complaints received in that quarter, along with a summary of the outcomes of the mediations. Mediation is not a disciplinary or an adjudicatory body out of which discipline or legal orders are issued. The purpose of mediation is to provide a forum for the citizens of Xenia to present and resolve complaints concerning the operation and practices of the City and its various departments.~~

§ 7.04 SAFETY SERVICES. *[Article XVI moved here]*

The **Public** Safety Director may utilize volunteers, temporary and/or part-time firefighters, emergency medical technicians, auxiliary police officers and/or part-time police officers as a part of any manning requirement.

ARTICLE XVI: SAFETY SERVICES

~~— The Safety Director may utilize volunteers, temporary and/or part time firefighters, emergency medical technicians, auxiliary police officers and/or part time police officers as a part of any manning requirement.~~

City of Xenia

A majority affirmative vote is necessary for passage.

Shall Article VI, Sections 6.01-6.04, and Article VII, Sections 7.01-7.04, of the Charter of the City of Xenia be amended, and Article XVI be repealed, as follows:

Article VI – City Management (Summary)

Add section clarifying that the administration of City government is vested in the appointed officials – City Manager (executive), Finance Director (financial), Law Director (legal); Add language requiring an Administrative Steering Committee (City Manager, Finance Director, Law Director, and Clerk of Court) to coordinate personnel policies, building security, and IT issues across departments; Keep language requiring annual performance evaluations of appointed officials; Add language regarding the right of Council to remove an appointed official. Remove language requiring residency by the City Manager, Finance Director, and Law Director in light of ORC 9.481 and Ohio Supreme Court rulings, which prohibits Ohio’s political subdivisions from requiring residency of its non-safety personnel. Clarify functions and duties of the three appointed officials; add language allowing the City Manager and Finance Director to appoint an Acting City Manager or Acting Finance Director, respectively, when they are absent for less than 30 days; add language clarifying that if the City Manager or Finance Director are absent for 30 days more, the Assistant City Manager or Assistant Finance Director, respectively, shall serve as the Interim City Manager or Interim Finance Director, unless Council appoints another to fill the temporary vacancy.

Article VII – Administrative Departments (Summary)

Add language requiring the City to maintain a Finance Department, Law Department, Public Safety Department (Police & Fire), and Public Service Department, and require Council to set the powers and duties, as well as Divisions, of each Department by ordinance. Keep language allowing Council to establish other City Departments, but require Council do so by ordinance. Add language regarding the appointment of Department Heads/Directors; keep language that City Manager serves as the Director of Public Safety. Add language regarding the appointment of Division Heads by the appropriate appointed official. Add language requiring City Council to adopt an Administrative Code detailing the organization of the City’s government and defining the powers and duties of each Department and Division. Move current Article XVI – Safety Services, to Article VII.

Article XVI – Safety Services

Repeal Article XVI; contents incorporated into Article VII.

YES

NO