

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

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

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

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

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

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

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

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

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

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

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

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 Existing Chapters 234, 238, 240 and 242 are hereby repealed.


Section 7. It is found that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including ORC 121.22.

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

Introduced: August 11, 2022
Adopted: August 25, 2022

Attest:


Michelle D. Johnson
City Clerk


Wesley E. Smith
President, Xenia City Council

CHAPTER ~~240~~ 238
Department of Public Safety

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

240.01 ~~238.01~~ ESTABLISHMENT.

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

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

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

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

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

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

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

- C. The creation or abolition of disability parking spaces on public ways and/or public property, in accordance with state law and, when requested by private individuals, upon the recommendation of the City's Traffic Commission;
 - D. The regulation of the right-of-way at intersections of streets, alleys, and highways;
 - E. The regulation or prohibition of turns at intersections;
 - F. The creation, abolition, and regulation of through routes and truck routes, pedestrian crosswalks and safety zones, bus loading and unloading zones, business loading zones, and traffic lanes and passing zones;
 - G. The regulation of the direction of traffic on public ways and the creation and abolition of one-way public streets, roads, alleys, courts or drives; and
 - H. The establishment of snow routes and regulation of parking on those designated routes. (*Statutory reference ORC 737.022*)
- ~~(4)~~(5) The Public Safety Director shall have the authority to establish guidelines, rules, and fees by administrative directive for the rental or use of any of the Divisions' facilities by another governmental entity or corporation when such rental or use will not interfere with the daily, usual operations of the **respective** Division.
- ~~(5)~~(6) Any additional powers or duties relative to police, fire and EMS, **or emergency communication** services as may be necessary to carry out the duties placed upon the Public Safety Director pursuant to the City's Charter, by City Council or by applicable state law.

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

(d) Unclassified Service. In accordance with Section 10.02 of the City Charter, the position of Public Safety Director **and Assistant Public Safety Director** shall be in the unclassified service. (Ord. 2018-31. Adopted 10/25/18; Ord. 2021-04. Adopted 02/11/21; **Ord. 2022-28. Adopted **/**/22**)

240.03 ~~238.03~~ ANIMAL CONTROL.

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

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

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

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

240.05 EMERGENCY PREPAREDNESS ~~238.05 CIVIL SERVICE.~~

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

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

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

240.06 ~~238.06~~ RESIDENCY.

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

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

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

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

240.07 ~~238.07~~ INDIGENT BURIALS.

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

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

240.08 ~~238.08~~ USE OF DIVISION EMBLEMS.

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

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

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

(Ord. 2020-19. Adopted 08/13/20; **Ord. 2022-28. Adopted **/**/22**)

CHAPTER ~~241~~ 240
Police Division

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

241.01 ~~240.01~~ ESTABLISHMENT; COMPOSITION.

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

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

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

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

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

Reserve Police Unit.

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

(b) **Powers and Duties.**

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

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

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

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

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

241.03 FUNCTIONS. 240.03 DISPOSITION OF SURPLUS PROPERTY

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

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

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

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

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

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

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

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

241.04 REQUIREMENTS FOR ORIGINAL APPOINTMENTS.

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

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

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

(d) Required Certification.

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

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

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

241.05 POLICE CADET PROGRAM.

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

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

241.06 RESERVE POLICE OFFICERS.

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

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

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

(d) Qualifications.

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

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

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

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

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

(g) Service and Compensation.

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

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

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

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

promulgated pursuant to the provisions of this section shall be liable for injury or damage sustained to any person or property as the direct or proximate result of such action.
(Ord. 89-43. Adopted 06/08/89; Ord. 2022-28. Adopted **/**/22)

241.07 OFFENSES AFFECTING EMPLOYMENT.

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

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

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

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

241.08 SPECIAL DUTY.

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

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

241.09 VOLUNTEER PEACE OFFICERS' DEPENDENTS FUND.

(a) Volunteer Peace Officers' Dependents Fund Board.

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

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

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

(b) Election and Term of Board Members.

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

(c) Organization; Rules.

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

(d) Compensation and Expenses; Legal Advisor.

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

(ORC 143.03)

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

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

(f) Benefits.

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

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

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

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

- (4) Initial claims shall be filed with the City's Volunteer Peace Officers' Dependents Fund Board. Thereafter, on request of the claimant or the Board, claims may be transferred to a board near the claimant's current residence, if the boards concerned agree to the transfer.
(ORC 143.09)

(h) Procedure for Processing Claims.

- (1) The Volunteer Peace Officers' Dependents Fund Board shall meet within five (5) days after the receipt of a claim for benefits to determine the validity of the claim.
- (2) If the Board determines the claim is valid, it shall make a determination of the amount due and certify its determination to the Director of Commerce for payment. The certification shall show the name and address of the Board, the name and address of each beneficiary, the amount to be received by or on behalf of each beneficiary, and the name and address of the person to whom payments are to be made.
- (3) If the Board determines that a claimant is ineligible for benefits, the Board shall deny the claim and issue to the claimant a copy of its order.
- (4) The Board may make a continuing order for monthly payment to a claimant for a period not exceeding three (3) months from the date of determination. The determination may be modified after issuance to reflect any changes in the claimant's eligibility. If no changes occur at the end of the three-month period, the Director of Commerce may provide for payment if the Board certifies that the original certification is continued for an additional three-month period.
(ORC 143.10)

(i) Definitions. As used in this section:

- (1) "Killed in the line of duty" means either of the following:
A. Death in the line of duty; or
B. Death from injury sustained in the line of duty, including heart attack or other fatal injury or illness caused while in the line of duty.
- (2) "Totally and permanently disabled" means unable to engage in any substantial gainful employment for a period of not less than twelve (12) months by reason of a medically determinable physical impairment that is permanent or presumed to be permanent.
- (3) "Volunteer Peace Officer" or "Volunteer Police Officer" means any person who is employed as a police officer in a part-time, reserve or volunteer capacity by the Division of Police and is not either of the following:
A. A member of the Ohio Public Employees Retirement System, Ohio Police and Fire Pension Fund, State Highway Patrol Retirement System or the Cincinnati Retirement System; or
B. A retirant, as defined in ORC 145.01.
(ORC 143.01)
(Ord.2022-28. Adopted **/**/22)

241.10 COURT FEES.

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

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

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

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

241.11 CITIZENS' REWARD PROGRAM.

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

(Statutory reference: ORC 2981.11)

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

CHAPTER 242
Fire & EMS Division

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

242.01 ESTABLISHMENT.

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

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

~~(c) Personnel. All personnel of the Fire Division shall be appointed by the Director of Public Safety and shall be under the supervision and control of the Fire Chief.~~
(Ord.74-52. Adopted 06/27/74; Ord. 2019-19. Adopted 09/26/19; **Ord. 2022-28. Adopted **/**/22**)

242.02 FIRE CHIEF; **ASSISTANTS.**

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

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

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

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

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

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

242.03 FUNCTIONS.

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

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

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

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

242.04 STATIONING; WORK PERIOD.

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

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

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

242.05 REQUIREMENTS FOR ORIGINAL APPOINTMENTS.

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

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

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

(c) Ohio Police and Fire Pension Fund. Prior to making any original appointment, the City shall file with the Ohio Police and Fire Pension Fund a copy of the report or findings of the licensed physician, physician assistant, clinical nurse-specialist, certified nurse-practitioner, or certified nurse-midwife required under division (b) of this section.
(Statutory reference: ORC 124.42)

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

- (1) The person has received a certificate issued under former ORC 3303.07 or ORC 4765.55 evidencing satisfactory completion of a firefighter training program; and
(Statutory Reference: ORC 737.08)
- (2) The person holds a current, valid certificate issued under ORC 4765.30 to practice as an EMT or as an EMT-paramedic. Preference in hiring will be given to those persons who are certified as paramedics. Upon appointment, the person must maintain all State-required certifications for continued employment at the highest level of EMT certification obtained or held upon his or her appointment or during his or her employment.
(Ord. 2019-19. Adopted 09/26/19; **Ord. 2022-28. Adopted **/**/22**)

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

The Fire **& EMS Division** Chief is hereby authorized, with the approval of the Public Safety Director, to establish a ~~Fire Corps~~ or Fire **& EMS** Cadet Program to employ persons as fire cadets at age eighteen (18) or above for the purpose of training them to become firefighters. Any such Fire **& EMS** Cadet Program shall be governed by the rules and regulations established therefor by the Fire **& EMS** Chief, with the approval of the Public Safety Director.
(Ord. 2019-19. Adopted 09/26/19; **Ord. 2022-28. Adopted **/**/22**)

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

(a) Request for Criminal Records Check.

- (1) The Fire **& EMS** Chief may request a criminal records check with respect to any person who is under consideration for appointment or employment as a permanent, full-time employee of the Fire **& EMS** Division.
- (2) If the Fire **& EMS** Chief intends to request a criminal records check for an applicant, the Chief shall inform each applicant, at the time of the person's initial application for appointment or employment, that the applicant is required to provide a set of impressions of the person's fingerprints and that the Fire **& EMS** Chief requires a criminal records check to be conducted and satisfactorily completed as a part of the employment or appointment application process.

(b) Required Forms.

- (1) If the Fire **& EMS** Chief requests a criminal records check under division (a) of this section, the Chief shall provide to each person the required form and a standard impression sheet to obtain fingerprint impressions.
- (2) Any person subject to a criminal records check who receives a copy of the form and a copy of the impression sheet pursuant to division (b)(1) of this section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form, or

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

(c) Restrictions on Appointment.

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

(Statutory reference: ORC 737.081)

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

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

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

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

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

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

242.09 ~~242.08~~ USER FEES.

(a) Establishment.

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

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

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

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

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

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

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

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

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

(f) Definitions. As used in this section:

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

~~242.10 POLICE AND FIRE FUND.~~

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

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

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

CHAPTER 243
Emergency Communications Division

243.01 Establishment

243.03 Functions

**243.02 Emergency Communications
Administrator**

**243.04 Xenia-Greene Central Communications
Center**

243.01 ESTABLISHMENT.

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

243.02 EMERGENCY COMMUNICATIONS ADMINISTRATOR.

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

(b) Powers and Duties.

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

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

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

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

243.03 FUNCTIONS.

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

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

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

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

243.04 XENIA-GREENE CENTRAL COMMUNICATIONS CENTER.

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

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

CHAPTER ~~234~~ **245**
Department of Law

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245.01 ~~234.01~~ ESTABLISHMENT.

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

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

- (1) The City Prosecution Division;
 - (2) The Victim Advocate Division.
- (Ord. 2018-27. Adopted 09/13/18; **Ord. 2022-28. Adopted **/**/22**)

245.02 ~~234.02~~ LAW DIRECTOR.

(a) Appointment. The Law Director shall be appointed by City Council and shall be under the direct supervision of the City Council.
(Charter 6.05 and 7.01)

(b) Powers and Duties.

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

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

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

(d) Unclassified Service. In accordance with Section 10.02 of the City's Charter, the position of Law Director shall be in the unclassified service.

(e) Acting Law Director.

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

245.03 ~~243.03~~ CITY PROSECUTION DIVISION.

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

(b) City Prosecutor:

- (1) *Appointment:* The City Prosecutor shall be the head of the City Prosecution Division and shall be under the supervision and control of the Law Director.
- (2) *Powers and Duties:* The City Prosecutor shall perform such duties and have such obligations and responsibilities as are set forth in this Section and all other ordinances and resolutions Adopted by the City Council or applicable statutes of this State relative to prosecution, and as assigned and directed by the Law Director.
- (2) *Unclassified Service:* In accordance with Section 10.02 of the City's Charter, the position of City Prosecutor shall be in the unclassified service.

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

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

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

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

245.04 ~~234.04~~ VICTIM ADVOCATE DIVISION.

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

(b) Victim Advocate Supervisor.

- (1) *Appointment* - The Victim Advocate Supervisor shall be the head of Victim Advocate Division and shall be under the supervision and control of the Law Director.
- (2) *Powers and Duties* - The Victim Advocate Supervisor shall perform such duties and have such obligations and responsibilities as are set forth in this Section and all other ordinances and resolutions Adopted by the City Council or applicable statutes of this State relative to victim advocate services, and as assigned and directed by the Law Director.
- (3) *Unclassified Service* - In accordance with Section 10.02 of the City's Charter, the position of Victim Advocate Program Supervisor shall be in the unclassified service.

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

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

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

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

245.05 ~~234.05~~ ASSISTANTS; SPECIAL COUNSEL.

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

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

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