

**CITY OF XENIA, OHIO
ORDINANCE 2022 – 29**

**AMENDING SECTIONS 298.01(f) AND 298.01(g) OF THE CITY’S FEE SCHEDULE, AND
SECTIONS 1220.01(b), 1220.01(c), 1224.01(b)(10), 1224.01(e)(9)B, 1224.01(e)(9)F, 1224.01(e)(19),
1226.02(c), 1236.06(k), 1236.09(e), AND 1242.04 OF THE LAND DEVELOPMENT CODE**

WHEREAS, this Council, by Ordinance 16-26, adopted June 9, 2016, adopted a Land Development Code, which was most recently amended by Ordinance 2022-04, adopted February 24, 2022;

WHEREAS, this Council finds it is necessary to periodically amend the City of Xenia Land Development Code (LDC) to address changing development trends and community needs and to optimize efficiency and effectiveness;

WHEREAS, Section 1220.02(a)(3) of the City’s LDC allows amendments to the text of the LDC to be initiated upon the motion of the Planning and Zoning Commission;

WHEREAS, upon receipt of a text amendment, the Planning and Zoning Commission must review and hold a public hearing on the proposed amendments, and then recommend to Council to approve, approve with modification, or deny the proposed amendments; and

WHEREAS, the Planning and Zoning Commission initiated, by motion, proposed text amendments to the City’s LDC, held the required public hearing, and voted to endorse the proposed text amendments to City Council at its August 4, 2022, meeting.

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

Section 1. Sections 298.01(f) and 298.01(g) are hereby amended as shown in the attached Exhibit A.

Section 2. Sections 1220.01(b), 1220.01(c), 1224.01(b)(10), 1224.01(e)(9)B., 1224.01(e)(9)F., 1224.01(e)(19), 1226.02(c), 1236.06(k), 1236.09(e), and 1242.04 of the Land Development Code, are hereby amended as shown in the attached Exhibit B.


Section 3. Existing 298.01(f), 298.01(g), 1220.01(b), 1220.01(c), 1224.01(b)(10), 1224.01(e)(9)B., 1224.01(e)(9)F., 1224.01(e)(19), 1226.02(c), 1236.06(k), 1236.09(e), and 1242.04 are hereby repealed.


Section 4. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this legislation were adopted in an open meeting of this Council and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 5. This Ordinance shall be effective on September 24, 2022.

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

Attest:


Michelle D. Johnson
City Clerk


Wesley E. Smith
President, Xenia City Council

298.01(f) Fees from Part Twelve – Land Development Code.

Table F.4

<u>Xenia Code Section</u>	<u>Chapter 1242: Enforcement and Penalties</u>	<u>Fee</u>
<u>1242.04(c)</u>	<u>Re-inspection</u>	<u>\$150</u>

298.01(g) Fees from Part Fourteen - Building And Housing Code.

Table G.1

<u>Xenia Code Section</u>	<u>Chapter 1490: Property Maintenance Code</u>	<u>Fee</u>
1490.01(f)(3) B.	Re-inspection	<u>\$150</u> \$100

1220.01 REVIEW AND DECISION-MAKING AUTHORITIES

(b) Planning and Zoning Commission.

(1) Establishment.

- A. The Xenia Planning and Zoning Commission (PZC) is hereby established by City Council pursuant to the Charter of the City of Xenia, Ohio.
- B. The Planning and Zoning Commission may be hereafter referred to as the "City Planning Commission," "Planning Commission, or "PZC."

(2) Membership.

The membership of the PZC shall be as follows specified in the Charter of the City of Xenia:

- ~~A. The City Council shall appoint members of the PZC.~~
- ~~B. The PZC shall be composed of five members, all of whom shall be residents of the City.~~
- ~~C. Each member shall serve four year terms.~~
- ~~D. In addition to the five members above, one member of City Council shall be selected by the President of City Council to serve as the chair of the PZC. The chair appointment shall be for a one year term.~~
- ~~E. Members of the PZC may be removed for misfeasance, malfeasance, or nonfeasance by City Council.~~
- ~~F. A vacancy occurring during the term of any member of the PZC shall be filled, by appointment from City Council, for the unexpired term in a manner authorized for the original appointment.~~

(3) ~~Roles and Powers~~ and Duties of the PZC.

In addition to the powers and duties specified in the Charter of the City of Xenia, ~~the~~ PZC shall have the following ~~roles and powers~~ and duties:

- A. Initiate, hear, review, and make recommendations to City Council related to amendments to the text of this code, the zoning map, or PUD concept plans and related zoning map amendments;
- B. Hear, review, and make decisions related to the PUD Final Development Plans;
- C. Hear, review, and make decisions on conditional uses in the respective zoning district;
- D. Review and make decisions on alternative equivalent review applications;
- E. Hear, review, and decide on any proposed major amendments to previously approved planned unit development plans and documents;
- F. Review and make decisions on minor subdivisions when such application is forwarded to the PZC by the City Planner;
- G. Review and make decisions on the preliminary plat of major subdivisions;
- H. Review, and make decisions on certain Certificates of Appropriateness (COAs);
- I. Review and make decisions on the final plat and improvement drawings of major subdivisions; **and**
- J. Review and make decisions on requests for subdivision modifications; ~~and~~
- K. Perform any other duties related to the administration and enforcement of this code as authorized by ~~the charter, this code, and the ORC.~~

(4) ~~Bylaws, Rules, and Regulations~~

~~The City Council, may, by a majority vote of its entire membership, adopt bylaws for the governance of the PZC provided they are consistent with State law and with any other ordinances of the City.~~

(5) Meetings, Quorums and Decisions.

Meetings, quorums and decisions shall be governed by the Charter of the City of Xenia.

- A. ~~The PZC shall hold such meetings as it may require for conducting its business.~~
- B. ~~The Chairperson of the PZC shall establish an agenda for the PZC meetings.~~
- C. ~~At the first meeting of each year, the PZC shall elect a Vice Chairperson who shall serve for one year. These officers shall be elected from among the members of the PZC. During the temporary absence of the Chairperson, the Vice Chairperson shall fulfill the duties of the Chairperson.~~
- D. ~~All meetings shall be open to the public, except as exempted by law.~~

(6) ~~Quorums and Decisions~~

- A. ~~Any combination of three or more regular or alternate members of the PZC shall constitute a quorum.~~
- B. ~~The Chairperson of the PZC shall have no voting privileges, except in the event of a tie.~~
- C. ~~The PZC shall act when at least three members concur.~~
- D. ~~Non-decision items, such as continuance or approval of minutes, shall require a majority of the quorum to concur.~~

(c) Board of Zoning Appeals (BZA).

(1) Establishment.

The City of Xenia Board of Zoning Appeals (hereafter referred to as the "BZA") is hereby established by ~~City Council pursuant to~~ the Charter of the City of Xenia, Ohio.

(2) Membership.

The membership of the BZA shall be as follows specified in the Charter of the City of Xenia:

- A. ~~The City Council shall appoint members of the BZA.~~
- B. ~~The BZA shall be composed of five members, all of whom shall be residents of the City.~~
- C. ~~Each member shall serve four-year terms.~~
- D. ~~In addition to the five members above, one member of City Council shall be selected by the President of City Council to serve as the chair of the BZA. The chair appointment shall continue through the length of the council member's term.~~
- E. ~~Members of the BZA may be removed for misfeasance, malfeasance, or nonfeasance by City Council.~~
- F. ~~A vacancy occurring during the term of any member of the BZA shall be filled, by appointment from City Council, for the unexpired term in a manner authorized for the original appointment.~~

(3) Roles and Powers of the BZA.

In addition to the powers and duties specified in the Charter of the City of Xenia, ~~the~~ BZA shall have the following roles and powers and duties ~~to~~:

- A. Hear, review, and decide on appeals of any administrative decision where it is alleged there is an error in any administrative order, requirement, decision, or determination made by the City Planner, Code Enforcement Officer, PZC, City Engineer, or other staff member authorized to make such decisions or orders, unless another appeals board is established by this code;
- B. ~~Hear, review, and decide on variance requests; and~~
- C. Perform any other duties related to the administration and enforcement of this code as authorized by ~~the charter, this code, or the ORC.~~

- (4) ~~Bylaws, Rules, and Regulations.~~
- ~~A. The City Council, may, by a majority vote of its entire membership, adopt bylaws for the governance of the BZA provided they are consistent with State law and with any other ordinances of the City.~~
 - B. The privilege of cross-examination of witnesses shall be accorded all interested parties or their counsel in accordance with the rules of the BZA.
 - ~~B. C.~~ The Chairperson, or, in his or her absence, the Vice-Chairperson, shall administer oaths and compel the attendance of witnesses.
- (5) Meetings, **Quorums and Decisions**
- Meetings, quorums and decisions shall be governed by the Charter of the City of Xenia, in addition to the following requirements:**
- ~~A. The BZA shall hold such meetings as it may require for conducting its business.~~
 - ~~B. The Chairperson of the BZA shall establish an agenda for the BZA meetings.~~
 - ~~C. At the first meeting of each year, the BZA shall elect a Vice Chairperson who shall serve for one year. These officers shall be elected from among the members of the BZA. During the temporary absence of the Chairperson, the Vice Chairperson shall fulfill the duties of the Chairperson.~~
 - ~~D. All meetings shall be open to the public, except as exempted by law.~~
 - ~~E~~ **A.** The BZA shall act by resolution or motion and shall keep minutes of its proceedings, showing the vote of each member or if any member is absent or fails to vote, the facts of each application considered by the BZA, and, where applicable, the section of this code, under which the BZA has considered the application, petition or other matter brought before the BZA.
 - ~~F~~ **B.** The BZA shall make and enter findings and conclusions which support all of its decisions. The findings and conclusions shall set forth and demonstrate the manner in which the decision recommended carries out and helps to implement the goals and objectives of the comprehensive plan, the purpose of this code, and other official policies and objectives of the City, and that the granting of the request for which application is made will not be unreasonably incompatible with or detrimental to the affected properties and to the general public.
- ~~(6) Quorums and Decisions~~
- ~~A. Any combination of three or more regular or alternate voting members of the BZA shall constitute a quorum.~~
 - ~~B. The Chairperson of the BZA shall have no voting privileges, except in the event of a tie.~~
 - ~~C. The BZA shall act when at least three members concur.~~
 - ~~D. Non decision items, such as continuance or approval of minutes, shall require a majority of the quorum to concur.~~

1224.01 ACCESSORY USES AND STRUCTURES

(b) General Provisions.

(10) Setback and Location Requirements.

- A. Unless otherwise provided for in this section, all accessory uses and structures shall be located in the rear yard.
- B. Unless otherwise required in this section, all accessory uses and structures shall be set back a minimum of three feet from all lot lines.
- C. A detached accessory building shall be set back a minimum of 10 feet from an alley if the building or structure requires access from such alley.
- D. Additional setbacks may be required from the principal building, adjacent structures, or streets based on the applicable building or fire code regulations.

- ~~E. No detached accessory structure shall be located less than ten feet from the principal building. If the separation of the accessory and main structure is less than ten feet, the accessory structure shall be protected with a fire resistant material and shall conform to the same yard requirements as the principal building.~~

1224.01 ACCESSORY USES AND STRUCTURES

(e) Standards for Specific Accessory Uses and Structures.

The following requirements apply to the specific types of accessory uses and structures listed, in addition to the requirements of Section 1224.01(b): General Provisions.

(9) Fences, Walls, and Hedges.

B. General Requirements.

- i. All fences, walls, and hedges shall be subject to the vision clearance requirements of Section 1226.02: Vision Clearance.
- ii. Small portions of fences, such as decorative fencing used for landscaping, that are not longer than 20 feet in length or more than three feet in height, but which comply with the yard and maintenance requirements set forth in this subsection, shall not require a zoning permit.
- iii. All fences, walls, hedges and invisible fences, and any related supporting structures or appurtenances, shall be contained within the lot lines of the applicable lot and shall not encroach into adjoining or abutting lots and/or rights-of-way. **An exception to this subsection is a fence built in association with an outdoor seating area within the public right-of-way that has been authorized by the City via a right-of-way use agreement.**
- iv. The smooth finished side of the fence or wall shall be the side of the fence that faces outward from the lot or yard being fenced. If a fence has two similarly finished sides, either side may face the adjacent property.
- v. All fences, walls, and hedges shall be maintained in a neat and orderly manner.
- vi. Walls shall be prohibited within all utility easements. Fences that are placed in utility easements are subject to removal without notice by utility companies or the City, to the maximum extent permissible, when work is being done in the utility easements. Replacement of the fence shall be at the property owner's expense.
- vii. Fences, walls, and hedges shall not impede, inhibit, or obstruct culverts, drains, natural watercourses, or storm water drainage in any zoning district.
- viii. It shall be the duty of each lot owner and contractor, or an agent thereof, to determine lot lines and to ascertain that the fence or wall does not deviate from the plans as approved by the City Planner issuing the zoning permit, and that the fence does not encroach on another lot or existing easement. The issuance of the permit and any inspection by the City shall not be construed to mean that the City has determined the fence is not encroaching on another lot, nor shall it relieve the property owner of the duty imposed on him or her herein.

1224.01 ACCESSORY USES AND STRUCTURES

(e) Standards for Specific Accessory Uses and Structures.

The following requirements apply to the specific types of accessory uses and structures listed, in addition to the requirements of Section 1224.01(b): General Provisions.

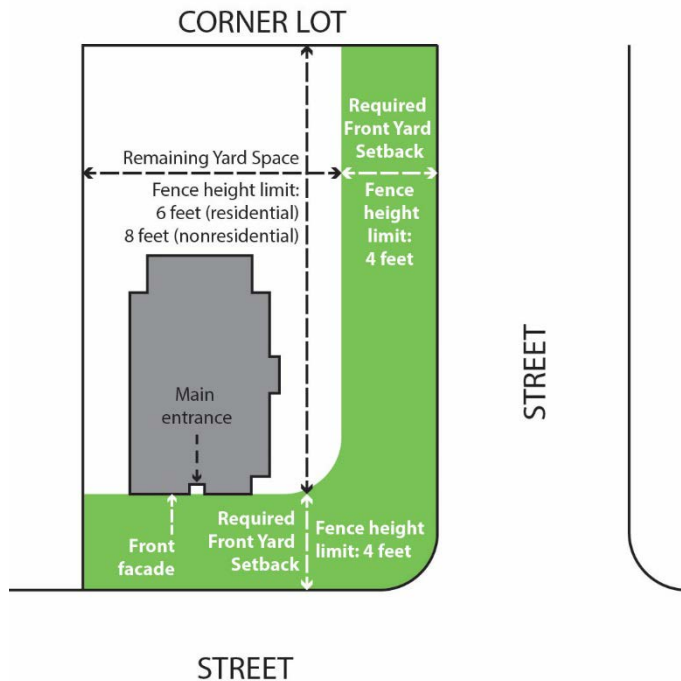
(9) Fences, Walls, and Hedges.

F. Fences, Walls, and Hedges in Front Yards.

~~The following shall apply to fencing, walls, and hedges in front yards:~~

- i. Fences, walls, and hedges shall not exceed 48 inches in the front yard or along any lot line that is adjacent to a street, including corner lots, with the following **exceptions and additional provisions:**

- a. **i.** **For corner lots, a fence or hedge in the front yard that is most closely perpendicular to the principle building front façade may be up to six feet tall, provided that the fence or hedge meets the applicable zoning district's minimum front yard setback. In no case shall a fence or hedge that is located between a principle building front façade and a street exceed 48 inches tall. Solid fences, walls, or portions thereof that run parallel and adjacent to a street shall not exceed 24 inches in height. Solid fences or walls include any fence or wall constructed of materials or in such a manner as to be more than 50 percent solid or opaque.**
- b. ~~Solid fences or walls, as defined above, may exceed 24 inches in height along the side lot lines provided the solid portion is set back a minimum of 20 feet from all front street right-of-way lines.~~



- ii. For double frontage lots, fencing in the rear yard (See Section 1226.01(a)(4)G: Double Frontage (Through) Lots.) may exceed 48 inches if the fencing is set back a minimum of 50 feet from the right-of-way but in no case shall it exceed the height allowed in rear yards for the applicable zoning district. See Figure 1224 D. This setback shall not apply if the entire block face contains double frontage lots with the rear façade of the buildings facing the same street.

1224.01 ACCESSORY USES AND STRUCTURES

(e) **Standards for Specific Accessory Uses and Structures.**

The following requirements apply to the specific types of accessory uses and structures listed, in addition to the requirements of Section 1224.01(b): General Provisions.

(19) Raising of Small Livestock.

- A. Property owners are permitted to raise and keep livestock on all properties of five acres or more in size without complying with the requirements of this section.
- B. For properties that are less than five acres, the keeping of ~~four~~ **six** chickens, rabbits, or other small livestock as approved by the City Planner, is permitted provided that:
- i. The principal use of the lot is a single-family dwelling;

- ii. No person shall keep any rooster;
- iii. The livestock shall be provided with a covered enclosure and must be kept in the covered enclosure or a fenced enclosure at all times; and
- iv. No enclosure shall be located closer than 25 feet to any residential structure on an adjacent lot.

1226.02 VISION CLEARANCE

Development proposed adjacent to any public or private street, or alley intersection, shall be designed to provide a clear visibility area for pedestrian and traffic safety.

(c) No structure, sign, or landscape element shall exceed 30 inches in height, measured from the top of the curb (or edge of street pavement where there is no curb), within the vision clearance area, ~~unless approved by the City Planner~~ **with the following exceptions:-**

- (1) Portions of fences or walls above a height of 30 inches that are no more than 25% opaque, as measured from a two-dimensional scale drawing of the fence or wall, and do not contain any element greater than one (1) foot in width or diameter;**
- (2) Tree trunks, provided that there are no overhanging branches with a clearance of less than eight (8) feet, measured from the top of the curb (or edge of street pavement where there is no curb);**
- (3) Poles, pylons, and support structures, such as for signs, not exceeding a cumulative width or diameter of one (1) foot for each structure, provided that the portion of the sign or other supported structure that exceeds one (1) foot in width or diameter has a minimum clearance of eight (8) feet;**
- (4) Utility structures;**
- (5) Structures permitted within the public right-of-way by the City Engineer.**

1234.02 OFF-STREET PARKING, LOADING AND STACKING STANDARDS

(b) General Provisions

(3) Parking and Storage of Recreational Vehicles and Trailers

- A. In any residential zoning district, there shall be no parking of recreational vehicles, motor homes, boats and trailers in the front yard of a dwelling, including the portion of the driveway in the front yard. Temporary parking is allowed for a period of **72 hours** ~~one week~~ for loading and unloading purposes.
- B. Recreational vehicles, motor homes, boats and trailers may be parked or stored outdoors in the side or rear yard of a residential premises, provided that:
 - i. All vehicles shall be parked or stored in a single location on the premises; and
 - ii. All parking spaces shall meet the surface requirement as specified in Section 1234.02(b)(8). Alternative hard surface brick or interlocking paver material may be used.
- C. The vehicle shall be properly licensed and registered for highway use as required by the State, and the vehicle shall be maintained in good condition so that it can be readily transported (wheels shall not be removed; tires shall not be flat; and the vehicle shall not be fixed to the ground).
- D. No business shall be conducted within a recreational vehicle, motor home, boat, trailer or commercial vehicle while it is parked on residential premises.
- E. No recreational vehicle, motor home, boat, trailer or commercial vehicle shall be used for dwelling purposes, except for a maximum of one week in any calendar.

1236.06 GENERAL REGULATIONS

(k) Changeable Copy Signs

(1) The following standards shall apply to changeable copy signs other than electronic message centers:

- ~~(+)~~ **A.** For any sign that has a sign area of 50 square feet or less of sign area, up to two-thirds of a permitted freestanding sign may incorporate a changeable copy sign.
- ~~(+)~~ **B.** For any sign that exceeds 50 square feet in area, up to 40 percent of the sign may incorporate a changeable copy sign.
- ~~(+)~~ **(2)** The following standards shall apply to all electronic message centers allowed in this chapter:
 - A. Any message change shall be a static, instant message change;
 - B. Messages can only change once every 4 seconds or more;
 - C. The transition time between messages shall be less than one second;

- D. All electronic signs shall contain a default mechanism that will cause the sign to revert immediately to a black screen if the sign malfunctions;
- E. Only Light Emitting Diodes (LED) technology or similar quality signs shall be permitted for electronic message centers; and
- F. Brightness Controls
 - i. The electronic message center shall come equipped with an automatic dimming photocell, which automatically adjusts the display's brightness based on ambient light conditions.
 - ii. The brightness level shall not increase by more than 0.3 foot candles (or 3.23 lumens per square meter or lux) (over ambient levels) as measured using a foot candle meter at a pre-set distance.
 - iii. The procedure and distances for measurement of brightness shall be as established by the International Sign Association's *Recommend Night-time Brightness Levels for On-Premise Electronic Message Centers*.
 - iv. The owners of such signs shall include specifications accompanying their zoning permit application, demonstrating that they will comply with the prescribed brightness limitations set by this code.

1236.09 PERMANENT SIGNS PERMITTED IN NONRESIDENTIAL ZONING DISTRICTS

(e) Drive-Through Signs

- (1) One drive-through sign **with a sign area of up to 36 square feet shall be allowed** for each stacking lane in a drive-through facility ~~shall be allowed provided it does not exceed 36 square feet in sign area.~~
- (2) The above maximum sign area shall not apply to any drive-through signs located in the rear yard and/or screened with a Type B buffer (See Section 1232.05: Landscape Buffering Requirements.), or other screening method, that fully screens the drive-through signage from view of all public rights-of-way.
- (3) A second drive-through sign with a sign area of up to 12 square feet shall be allowed for each stacking lane in a drive-through facility.**
- ~~(4)~~ (4) Drive-through signage shall not be included in the total calculated allowed signage for a property under the remainder of this chapter.
- ~~(5)~~ (5) No drive-through sign shall exceed seven feet in height measured from the grade of the adjacent driving surface to the top of the sign.
- ~~(6)~~ (6) All drive-through signs may be internally or externally illuminated.
- ~~(7)~~ (7) The drive-through sign shall be located in a landscaped area equal to or larger than the total sign area of the drive-through sign. Such landscape area may also be counted toward any other landscaping requirements in this code.

1242.04 REMEDIES

(a) In case any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained, or used or any land is or is proposed to be used in violation of this code, or any amendment or supplement thereto, City Council, the Law Director, the City Planner, Code Enforcement Officer, City Engineer, or any adjacent or neighboring property owner who would be especially damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement, or any other appropriate action or proceeding to prevent, enjoin, abate, or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance, or use.

(b) The remedy provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

(c) Upon failure of the person, firm or corporation responsible for a violation to comply with a notice of violation or order, the Code Enforcement Officer shall be authorized to assess a re-inspection fee to the person responsible for the violation. The re-inspection fee shall be in Part Two - Title Fourteen, Chapter 298 of these Codified Ordinances and shall be based upon the

jurisdiction's administrative costs associated with inspections which occur after the compliance deadline specified in the notice of violation.