

# XENIA CITY CHARTER

Effective November 8, 2022

## **EFFECTIVE DATES:**

Originally Adopted on August 30, 1917

Readopted in its entirety on November 3, 1998 (Ordinance 98-48)

## **Amendments:**

Article XVI – Enacted November 2, 2010 (Ordinance 2010-31)

Section 8.05 – Enacted November 6, 2018 (Ordinance 2018-25)

Articles V, VIII, and X – Enacted on May 3, 2022 (Ordinance 2021-27)

Articles IV, IX, and XIII – Enacted on August 2, 2022 (Ordinance 2022-08)

Articles XIV and XV – Repealed on August 2, 2022 (Ordinance 2022-08)

Articles VI and VII – Enacted on November 8, 2022 (Ordinance 2022-24)

Article XVI – Repealed on November 8, 2022 (Ordinance 2022-24)

Articles I, II and III – Enacted on November 8, 2022 (Ordinance 2022-25)

---

## TABLE OF CONTENTS

---

### **PREAMBLE**

#### **ARTICLE I - NAME**

Section 1.01	Name	1
--------------	------	---

#### **ARTICLE II - FORM OF GOVERNMENT**

Section 2.01	City Council – City Manager Plan	1
--------------	----------------------------------	---

#### **ARTICLE III - POWERS OF THE CITY**

Section 3.01	General Powers Granted	1
Section 3.02	Exercise of Powers	2
Section 3.03	Construction of Powers	2
Section 3.04	Rights and Liability of the City; Limitations	2

#### **ARTICLE IV - CITY COUNCIL**

Section 4.01	Powers of the Council	2
Section 4.02	Composition, Qualifications, Election, and Terms	4
Section 4.03	Mayor	4
Section 4.04	Chairperson and Vice Chairperson of the Council	5
Section 4.05	Compensation and Expenses	5
Section 4.06	Vacancies	5
Section 4.07	Removal from Office	6
Section 4.08	Prohibitions and Restrictions	7
Section 4.09	Inquiries	7
Section 4.10	City Clerk	8
Section 4.11	Council Meetings	8

#### **ARTICLE V - LEGISLATION**

Section 5.01	Ordinances, Resolutions and Motions	9
Section 5.02	Ordinances in General	10
Section 5.03	Emergency Ordinances	11
Section 5.04	Emergency Ordinances for Appropriations	11
Section 5.05	Resolutions	12
Section 5.06	Procedural Motions	12
Section 5.07	Authentication and Recording of Ordinances and Resolutions	12
Section 5.08	Initiative and Referendum	12
Section 5.09	Adoption of Technical Codes by Reference	13
Section 5.10	Codification	13

#### **ARTICLE VI - CITY MANAGEMENT**

Section 6.01	Appointed Officials	13
Section 6.02	City Manager	14
Section 6.03	Finance Director	15
Section 6.04	Law Director	16

#### **ARTICLE VII - ADMINISTRATIVE DEPARTMENTS**

Section 7.01	General Provisions	16
Section 7.02	Appointment of Department and Division Heads	17
Section 7.03	Administrative Code	17
Section 7.04	Safety Services	17

---

## TABLE OF CONTENTS

---

### **ARTICLE VIII - BOARDS AND COMMISSIONS**

Section 8.01	Creation of Boards and Commissions	18
Section 8.02	Boards and Commissions	18
Section 8.03	Planning and Zoning Commission	19
Section 8.04	Board of Zoning Appeals	20
Section 8.05	Civil Service Commission	20
Section 8.06	Charter Review Commission	21

### **ARTICLE IX - FINANCES**

Section 9.01	Fiscal Year	21
Section 9.02	Uniform Tax Levy Law	22
Section 9.03	Deposits and Investments	22
Section 9.04	Operating Budget and Capital Improvement Plan	22
Section 9.05	Annual Appropriation Ordinance	23
Section 9.06	Appropriations and Expenditures	24
Section 9.07	Payment of Claims	24
Section 9.08	Contracting Procedures	24
Section 9.09	Public Improvements by Force Account	25
Section 9.10	Independent Audit	25

### **ARTICLE X – CIVIL SERVICE AND PERSONNEL**

Section 10.01	Civil Service	26
Section 10.02	Classification of Civil Service	26
Section 10.03	Civil Service Rules	26
Section 10.04	Original Appointments	27
Section 10.05	Promotions	28
Section 10.06	Organizational Plan; Pay Plan; Fringe Benefits	29
Section 10.07	Personnel Manual	29

### **ARTICLE XI - ELECTIONS**

Section 11.01	Rules for Elections	30
Section 11.02	Petition for Place on Ballot	30
Section 11.03	General Election Laws to Apply	31
Section 11.04	General Initiative and Referendum Laws to Apply	31
Section 11.05	General Recall Laws to Apply	31

### **ARTICLE XII - UTILITY REGULATION; FRANCHISES**

Section 12.01	Utility Regulation	31
Section 12.02	Franchises	31

### **ARTICLE XIII - GENERAL PROVISIONS**

Section 13.01	Activities Prohibited; Penalties	32
Section 13.02	Conflicts of Interest and Ethics	33
Section 13.03	Open Meetings	33
Section 13.04	Charter Amendments	34
Section 13.05	Rules of Construction	34
Section 13.06	Effect of Partial Invalidity	34



## **PREAMBLE**

WE THE PEOPLE of the City of Xenia, Greene County, State of Ohio, in order to exercise the power and full privileges of Home Rule (local self-government) available to us under the Constitution of the State of Ohio, believing thereby that a more efficient and capable conduct of municipal affairs may be obtained, do ordain, adopt, and enact this Charter for the Government of the City of Xenia, Ohio.

## **ARTICLE I – NAME**

### **§ 1.01 NAME.**

The municipal corporation existing as the City of Xenia as its limits now are, or may hereinafter be, shall continue to be a body politic and corporate under the same name under this Charter and shall have perpetual succession as such, with all powers of home rule granted under the Constitution and laws of the State of Ohio, as amended.

## **ARTICLE II – FORM OF GOVERNMENT**

### **§ 2.01 CITY COUNCIL – CITY MANAGER PLAN.**

The municipal government provided by this Charter shall be known as the “City Council – City Manager Plan.” Pursuant to its provisions and subject only to the limitations imposed by the Constitution of the State of Ohio and by this Charter, all powers of the City shall be vested in an elected City Council, hereinafter referred to as “the Council,” which shall enact local legislation, adopt budgets, determine policies and appoint the City Manager, Finance Director and Law Director, who shall execute the laws and administer the government of the City. All powers of the City shall be exercised in the manner prescribed by this Charter, or, if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

## **ARTICLE III – POWERS OF THE CITY**

### **§ 3.01 GENERAL POWERS GRANTED.**

The City of Xenia shall have all powers and authority possible for a City to have under the Constitution of the State of Ohio and laws of the State as fully and completely as though they were specifically enumerated in this Charter. All general laws of the State applicable to municipal corporations now existing, or which may hereinafter be enacted, when not in conflict with the provisions of this Charter, or with any ordinances enacted for its government, shall apply to the government of the City of Xenia, Ohio. All ordinances of the City of Xenia now in force, or when this Charter takes effect, and not inconsistent therewith, shall continue in full force and effect until repealed, altered or amended by the City of Xenia through its duly constituted authority for such purpose, and herein provided for.

**§ 3.02 EXERCISE OF POWERS.**

All powers and authority shall be exercised in the manner prescribed by this Charter or, if not so prescribed, in the manner provided by the ordinances of the City. When not prescribed in this Charter or by ordinance, then the powers shall be exercised in the manner provided by the laws of the State.

**§ 3.03 CONSTRUCTION OF POWERS.**

The powers and authority of the City under this Charter shall be liberally construed in favor of the City, and the specific mention of particular powers in this Charter shall not be construed as limiting in any way the General Powers granted in this Article.

**§ 3.04 RIGHTS AND LIABILITY OF THE CITY; LIMITATIONS.**

- A. Title to all real property shall be taken in the name of the City of Xenia, Ohio.
- B. The City may exercise any of its powers, perform any of its functions and provide related financing, jointly or in cooperation, by contract or otherwise, with the State of Ohio, any county, township, municipality or any other political subdivision of Ohio or the divisions or agencies thereof; with the United States government or any of its divisions or agencies; or any individual, partnership, corporation or other type of entity, whether for profit or nonprofit, unless prohibited by the Constitution of the State of Ohio.
- C. No property rights, interests, or ownership in real, personal or intangible property vested in the City shall be affected by the adoption of this Charter, nor shall any right be taken away or liability affected, or prosecution or action for or against the City be abated or in any manner altered or changed by such adoption.

**ARTICLE IV – CITY COUNCIL**

**§ 4.01 POWERS OF THE COUNCIL.**

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

- A. Taxes and Debts. The power to levy taxes and incur debts, subject to the limitation imposed thereon by this Charter or the Constitution of the State of Ohio.
- B. Local Regulations. The power to adopt and to provide for the enforcement, including penalties, of local police, sanitary and other similar regulations as are not in conflict with the general laws of the State.
- C. Departments, Divisions, Boards and Commissions. In addition to the departments, divisions, Boards, Commissions and Committees required under this Charter, the Council shall have the power to create and define the duties, responsibilities and authorities of other offices, departments, divisions, Boards, Commissions and Committees of the City as the Council deems necessary, and the power to combine,

change, alter or abolish any office, department, division, board, commission, or committee so created by the Council.

- D. Personnel. The power to fix the number of employees in the various offices, departments, and divisions of the City administration and to fix the rate of their compensation, hours of work and to provide such other fringe benefits as deemed proper by the Council. The Council shall also have the power to require such bonds as, in the opinion of the Council, are necessary for the faithful discharge of the duties of the officers and employees of the City. The premium for such bonds shall be paid by the City.
- E. Municipal Utilities. The power to establish municipal utilities and to set the rates charged for use of such utilities and services.
- F. Franchises. The Council, in addition to all other rights and powers granted to it under the general laws of the State, may grant permission to any person, firm or corporation to construct and operate a public utility on, across, under or above any public street or public ground within the City. The Council may prescribe the kind and quality of service or product to be furnished, the rate or rates to be charged therefor and any other terms conducive to the public interest; provided that such grant of permission shall not extend beyond twenty-five (25) years, but such grant may be amended or renewed. All such grants, amendments or renewals shall be made subject to the continuing right of the Council to provide reasonable regulations for the adequacy of service and the maintenance and operation of such utilities with reference to such streets and public grounds, including the right to require reconstruction, relocation or discontinuance of appliances, materials or equipment used by the franchisee in, on, across or under such streets and public grounds as is, in the discretion of the Council, necessary for the public interest.
- G. Real Property.
- (1) The power to acquire title to, or interests in, real property, whether such property is acquired by the exercise of the power of eminent domain, purchase, gift, lease, devise, bequest, in trust or otherwise.
  - (2) The power to sell, convey, lease, or grant the use of real property owned by the City, or any rights therein, shall also be vested in the Council. Such sale, conveyance, lease or grant of use shall be made only upon a determination by Council, by resolution, that such property is not needed for any municipal purpose or, in those cases in which real estate is offered only for lease or use for a term, that it will not be needed for municipal purposes during the term of the proposed lease or use or that such proposed lease or use will not interfere with the property's use for municipal purposes. Any sale, conveyance, or lease shall be made only by negotiation, informal competition, or formal bidding, as prescribed by Council in the resolution authorizing the method of sale, conveyance, lease, or grant. The sale, conveyance, lease or grant of use of real property owned by the City, or any rights therein, shall be effective only upon the adoption of an ordinance by Council, approved by the affirmative vote of at least four (4) members of the Council.
- H. Personal Property.
- (1) Council shall, by ordinance, prescribe rules and regulations for the disposal of personal property belonging to the City that is no longer needed for any municipal purposes or which is obsolete or unfit for the use for which it was acquired. Such rules and regulations shall set forth procedures and policies for the sale or disposal of such personal property, including when such sale shall be by competitive bid, by auction, by internet auction, by trade-in, or by such other methods as the ordinance may prescribe. In addition, the rules and regulations shall include a dollar amount for the estimated value of such personal property, which amount shall

not be less than five thousand dollars (\$5,000), at which Council approval, by resolution, is required before sale or disposal.

- (2) Notwithstanding the foregoing and regardless of the property's value, the Council may, by resolution, authorize the sale of personal property owned by the City that is not needed for any municipal purpose to the United States, the State of Ohio, to any subdivision or agent of the United States or the State of Ohio, or to any nonprofit corporation organized for a public or charitable purpose, upon such terms as may be deemed proper by Council.

I. Rules of Council. The power to adopt Rules of Council to govern the order of all meetings, to set forth the Council's duties and privileges and establish its rules of order, investigations, and other such related items; provided, however, that such rules shall not be in conflict with the provisions of this Charter. In the absence of adopting its own Rules of Council, Robert's Rules of Order shall be followed by the Council. In addition, the Council shall have the power to establish rules of conduct for its members beyond those specified in this Charter and may provide such sanctions for violations of such rules as the Council deems appropriate.

J. All Other Powers. Council shall have and shall exercise all other powers granted to it, as the legislative authority of the City, by the Constitution of the State of Ohio, this Charter, and the general laws of the State. There is hereby expressly reserved to the Council any residual home rule powers not expressed directly in this Charter.

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

A. Composition. The Xenia City Council shall consist of seven (7) members, including the Mayor, elected by the qualified electors of the City at-large.

B. Qualifications.

- (1) Only qualified electors of the City who have physically lived in the City for at least two (2) years immediately preceding the filing of a nominating petition or declaration of intent to be a write-in candidate shall be eligible to hold the office of Councilmember or Mayor.
- (2) No member of the Council or the Mayor shall hold any other elective public office or other office or employment that has been found to be incompatible with the position of Councilmember or Mayor by the Ohio Attorney General or the Ohio Ethics Commission, except where otherwise authorized by this Charter.

C. Term. All elected members of the Council shall hold office for a term of four (4) years, except as herein provided, and successors shall be elected at the next general Municipal election before the expiration of their term of office, which term of office shall be subject to recall, as hereinafter provided.

#### **§ 4.03 MAYOR.**

The Mayor shall serve as a Councilmember and have the right to vote on all matters and issues before the Council but shall have no veto power. In addition to the powers, rights, and duties as a member of the Council, the Mayor shall be recognized as the head of the municipal government for all ceremonial and non-administrative purposes and shall perform all other duties as required by this Charter or the ordinances of the City.



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

- A. Election. At its first regular meeting in January of each year, the Council shall elect from its membership, including the Mayor, by a majority vote of the members present, a Chairperson and a Vice Chairperson, who may also be called the Chair and Vice Chair or the President and Vice President, of the Council. No member of Council who has not served on the Council for at least two (2) or more years, whether by current term or prior terms, shall be eligible to serve as Chairperson or Vice Chairperson, unless all members of the Council have served for less than two (2) years.
- B. Term. The term of the Chairperson and a Vice Chairperson of Council, respectively, shall run until his or her successor is elected in accordance with Section 4.04 A., above.
- C. Powers and Duties. In addition to the powers, rights, and duties as a member of the Council, the Chairperson, when present, shall be the presiding officer for all meetings of the Council, shall approve the agenda for all meetings of the Council, and shall perform all other duties as required by this Charter or the ordinances of the City. The Vice Chairperson shall fulfill the duties of the Chairperson during the absence of the Chairperson.
- D. Vacancies. In cases where the Chairperson or the Vice Chairperson resigns, is removed or is unable or unqualified to serve as the Chairperson or the Vice Chairperson, respectively, the Council shall elect a new Chairperson or Vice Chairperson in accordance with Section 4.04 A., except that the new Chairperson or the Vice Chairperson may be elected at the time the vacancy occurs.

**§ 4.05 COMPENSATION AND EXPENSES.**

- A. Councilmembers. The Council may determine the salaries of its members by ordinance, but no ordinance adjusting such salaries shall become effective until the date of the commencement of the terms of the members of Council, including the Mayor, elected at the next regular municipal election. Any ordinance adjusting the salaries of Councilmembers, including the Mayor, shall be adopted by June 1<sup>st</sup>. Such ordinance may set the salaries for Council, including the Mayor, per year of each year of the Councilmembers' and Mayor's terms, but no salary adjustment shall exceed three percent (3%) per year.
- B. Mayor and Chairperson of Council. In addition to their salaries as members of Council, the Mayor and the Chairperson of Council shall each receive an additional five hundred dollars (\$500.00) yearly. If the Mayor is elected as Chairperson of Council, he or she shall be entitled to receive an additional one thousand dollars (\$1,000.00) yearly in total.
- C. Expenses. The Council may provide, by ordinance, the methods whereby the members of Council, including the Mayor, may receive their actual and necessary expenses incurred in the performance of their duties of office.

**§ 4.06 VACANCIES.**

- A. Vacancies. The office of a member of Council, including the Mayor, shall be deemed vacant upon the death, resignation, disqualification, judicial determination of mental incompetence, or removal from office, in the manner authorized by this Charter, of the person holding such office.

B. Filling a Vacancy.

- (1) When the office of a member of the Council, including the Mayor, becomes vacant and thirty (30) months or less of that office's term remains, the vacancy shall be filled for the unexpired term by a majority vote of the remaining members of the Council by appointment of a qualified person as a member of the Council.
- (2) When the office of a member of the Council, including the Mayor, becomes vacant and more than thirty (30) months of that office's term remains, a qualified person shall be appointed by a majority vote of the remaining members of the Council to serve until midnight of the first day of January following the next regular municipal election, and at the next regular municipal election, a qualified person shall be elected to serve the remainder of the unexpired term, commencing at one minute after midnight on the first day of January following his or her election.
- (3) In the event the Council fails to fill a vacancy as provided in this section within sixty (60) days from the date the vacancy was created, then said vacancy shall immediately be filled by the appointment of a qualified person as a member of the Council by the presiding judge of the municipal court having territorial jurisdiction within the City.

- C. Quorum. Notwithstanding the requirements of Section 4.11 B., if at any time the membership of the Council, including the Mayor, is reduced to less than four (4) members, a majority of the remaining members shall constitute a quorum solely for the purpose of appointing, by a majority vote of the remaining members, additional Council members to raise the membership to at least four (4) members.

**§ 4.07 REMOVAL FROM OFFICE.**

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

- (1) That the accused member does not possess or has violated the qualifications for the office of Councilmember or Mayor prescribed by this Charter;
- (2) That the accused member has knowingly violated any prohibition or restriction contained in ~~of~~ this Charter during his or her term of office;
- (3) That the accused member has been convicted of any felony or a misdemeanor involving moral turpitude;
- (4) That the accused member has failed to attend three (3) consecutive regular Council meetings and such absences have not been excused by the Council; or
- (5) The accused member has violated a rule of conduct set forth by Council in its Rules of Council for which the provided sanction is removal.

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

- 
- C. Subpoenas. Upon the request of the Law Director or other special counsel presenting the charges for removal, or upon the request of the accused member or his or her legal counsel, the Chairperson of Council, or the Vice Chairperson if the Chairperson is the accused, shall have the power to and shall issue subpoenas for witnesses and for the production of other evidence. Any person who refuses to obey a lawful order issued in the exercise of such powers may be found in contempt by the issuing officer, and the issuing officer shall refer the matter to the municipal court for the determination of punishment. The judge of the municipal court may fine such person found in contempt the sum of not more than five hundred dollars (\$500) per day for each day such person refused or refuses to obey such order.
- D. Presiding Officer at Hearing. The Council shall, upon a majority vote by procedural motion, appoint an acting judge or a retired judge of any state, county or municipal court in Ohio to act as the hearing officer. The hearing officer shall have the power to administer oaths to witnesses at the public hearing and shall preside at the public hearing.
- E. Restriction on Voting. A member of the Council, including the Mayor, who is accused of grounds for removal shall not vote on any matter pertaining to his or her removal.
- F. Appeals. A member of the Council, including the Mayor, who is removed from office in accordance with this section shall have the right to appeal such removal to the appropriate court.

#### **§ 4.08 PROHIBITIONS AND RESTRICTIONS.**

- A. Ohio Ethics Law. The members of the Council, including the Mayor, shall at all times and in all respects comply with Ohio Ethics Laws.
- B. Appointment and Removal of Employees. Neither the Council nor any of its members shall, in any manner, dictate the appointment or removal of any City employee who the City Manager, the Finance Director or the Law Director are authorized to appoint, but the Council may express its views and fully and freely discuss with the appropriate appointed official anything pertaining to the appointment and removal of their employees. This section does not prevent the removal of the City Manager, the Finance Director or the Law Director because of the Council's disapproval of their respective personnel management or their respective appointment or removal of employees.
- C. Interference with Administration. Except for the purpose of inquiries and investigations under Section 4.09, the members of the Council, including the Mayor, shall deal with City officers and employees who are subject to the direction and supervision of the City Manager, the Finance Director or the Law Director through the City Manager, the Finance Director or the Law Director, respectively, and neither the Council nor its members, including the Mayor, shall in any way interfere with the daily administrative services of any City department or employee by ordering or instructing action to be taken or not taken with respect to the City's daily administrative matters. This prohibition does not apply to a Councilmember's work with or relationship to boards or commissions or staff representatives assigned to boards or commissions. In the event any Councilmember violates the provisions of this Section 4.08 C., the Council shall be notified and may take corrective action.

#### **§ 4.09 INQUIRIES.**

The Council may cause an inquiry to be made into any affairs of the City. Further, the Council may cause an inquiry to be made of any City department, division, office, agency, official or employee when the Council has reasonable cause to believe that there has been a violation of any of the provisions of this Charter, or any federal, state, or local law, rule, or ordinance. The inquiry may be conducted by any

combination of Councilmembers, City employees or appropriate outside agencies as determined by the Council. The Council shall have all other powers necessary to enforce compliance with the provisions of this Charter or any federal, state, or local law, rule, or ordinance.

#### § 4.10 CITY CLERK.

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

#### § 4.11 COUNCIL MEETINGS.

- A. Meetings.
- (1) *Regular Meetings*: Regular meetings of the Council shall be held at least twice a month, unless cancelled for a lack of agenda items, at the times and places as the Council may determine.
  - (2) *Special Meetings*: Special meetings of the Council may be called by a vote of the Council, taken at any regular or special meeting thereof, upon a majority vote of the members present, or may be called by the Chairperson or by any three (3) or more members of the Council. The City Clerk, or in his or her absence, the Finance Director, shall cause notice of each special meeting to be made by email, by phone or other personal contact to each member of the Council, including the Mayor, not less than twenty-four (24) hours preceding the time of the

special meeting; provided, however, that in the event a special meeting is called by a vote of the Council taken at a regular or special meeting from which any member of the Council was absent, notice of the special meeting shall be given only to each absent member in the manner hereinbefore described.

- (3) *Emergency Meetings*: Emergency meetings may be called by the Chairperson or by any three (3) members of the Council. The City Clerk, or in his or her absence, the Finance Director, shall cause notice to be given to each member of the Council, including the Mayor, by personal contact as soon as the emergency meeting is called.
- B. Quorum. A majority of the members of the Council shall constitute a quorum for the transaction of business at any meeting of the Council, but a lesser number, greater than one (1), may meet to compel, by a majority vote of the members present, the attendance of absent members in such a manner and under such penalty as may be provided by ordinance or the Rules of Council.
- C. Open Meetings. All meetings of the Council shall comply with Section 13.03 of this Charter and the record of Council's proceedings, known as the Clerk's Journal, shall be open for inspection by the public.
- D. Record of Proceedings. A journal of the proceedings of the Council, to be known as the "Clerk's Journal," shall be kept to:
- (1) Record the minutes of all meetings of the Council;
  - (2) Record, in full, all ordinances adopted by the Council, and the vote upon the question of adoption of each ordinance coming before the Council;
  - (3) Record, in full, all resolutions passed by the Council, and the vote upon the question of passage of each resolution coming before the Council; and
  - (4) Record the vote upon each procedural motion coming before the Council.

## ARTICLE V – LEGISLATION

### § 5.01 ORDINANCES, RESOLUTIONS AND MOTIONS.

- A. Actions of the Council. Formal actions of the City shall be by ordinance or resolution. Ordinances shall be used for the exercise of the legislative powers of the City granted by the Constitution of the State of Ohio or by the Ohio Revised Code, including enactments of the Council that set forth rules or regulations regarding the conduct of the City's government and its citizens of a permanent or general nature and shall have the full force and effect of law. Resolutions shall be used for the exercise of the administrative powers of the City, including orders of the Council of a special, temporary, or less permanent nature or for other matters not required by this Charter to be done by ordinance. Procedural motions shall be used for procedural matters of the City, including the organization or conducting the business of the Council, for establishing or modifying the Rules of Council, and for appointments made by the Council to the various Boards, Commissions or Committees.
- B. Action Requiring an Ordinance.  
The following legislative actions of the City Council shall be by ordinance:
- (1) Adopting or amending of an administrative code to establish, alter, or abolish any City department, office, board, commission, or other agency;
  - (2) Establishing any offense and the imposition or provision of imposition of any penalty for such offense;

- (3) Levying of taxes, except when such action may be taken by resolution under the Ohio Revised Code;
  - (4) Granting, renewing, or extending a franchise;
  - (5) Regulating the rate charged for its services by a public utility;
  - (6) Authorizing the borrowing of money or appropriations for the expenditure of public funds;
  - (7) Authorizing the purchase, conveyance or lease of real property or any title or interest therein;
  - (8) Regulating land use and development;
  - (9) Exercise the police powers granted the City by Article XVIII of the Constitution of the State of Ohio; or
  - (10) Amending or repealing any ordinance previously adopted.
- C. Action Requiring a Resolution. Administrative actions, or other official actions of the City Council that are not required by this Charter to be taken by ordinance, may be taken by resolution.
- D. Action Requiring a Procedural Motion. Actions by the City Council to conduct its own affairs in procedural matters, including its organization and elections under Section 4.04 of this Charter, establishing or modifying Rules of Council, and for appointments made by the Council may be made by procedural motion.

#### **§ 5.02 ORDINANCES IN GENERAL.**

- A. Form. Every proposed ordinance shall be introduced in writing and in the form required for final adoption, after review by the Law Director, or his or her designee, on the question of correct legal form or possible contradiction with the U.S. Constitution or the Constitution of the State of Ohio, this Charter, existing ordinances, or general laws of the State. No ordinance shall contain more than one (1) subject, which shall be clearly expressed in its title; provided, however, that appropriation ordinances may contain various subjects, accounts, and amounts for which moneys are appropriated, and an ordinance amending or enacting sections of the City Code may contain more than one title, chapter, section or subsection containing more than one subject. The enacting clause shall be “The City of Xenia hereby ordains...”. Any ordinance that repeals or amends an existing ordinance or part of the Xenia City Code shall set out in full the ordinance, sections, or subsections to be repealed or amended, and shall indicate matters to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matters by underscoring or by italics. Any ordinance, section or subsection so amended shall be repealed.
- B. Procedure. An ordinance may be introduced by any member of Council at any regular or special meeting of the Council. Upon introduction of any proposed ordinance, the City Clerk shall distribute a copy to each Council member and appointed official, shall file a copy in the office of the City Clerk, and shall publish the ordinance, by title or by a brief summary thereof, together with notice setting out the time and place for a public hearing thereon and for its consideration by the Council. Notice of the public hearing shall be published at least seven (7) days prior to the scheduled public hearing.
- C. Public Hearing. A public hearing on the proposed ordinance shall be held not earlier than seven (7) days following publication of the notice of such hearing and may be held separately or in connection with a regular or special meeting of the City Council. After the public hearing, Council may adopt the proposed ordinance, with or without amendment, or reject it.
- D. Amendment. If, after the public hearing, Council amends the ordinance and the amendment is a matter of substance, as determined by a majority vote of the members of Council who are present, the ordinance may not be voted upon until it has been subjected to the procedures required in the case of a newly introduced ordinance under Subsection B. of this section.

- E. Adoption and Publication. The vote on the question of adoption of each ordinance shall be taken by roll call and entered into the Clerk's journal. No ordinance shall be adopted except upon the affirmative vote of a majority of the members of Council who are present, unless otherwise required by this Charter. After its adoption, the Clerk shall publish the ordinance again, together with a notice of its adoption. As used in this section, the term "publish" means to post on the City's website within seven (7) days of adoption and either to print in one or more newspapers of general circulation in the City or to post in full in not less than three (3) public places in the City, as determined by Council, within twenty (20) days of adoption, the ordinance by title or by a brief summary thereof.
- F. Effective Date. Except as otherwise provided in this Charter, every adopted ordinance shall become effective thirty (30) days after adoption or at any later date specified therein.

### **§ 5.03 EMERGENCY ORDINANCES.**

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

### **§ 5.04 EMERGENCY ORDINANCES FOR APPROPRIATIONS.**

To meet a public emergency affecting life, health, safety, property, or the public welfare, or to meet an emergency in the daily operations of a City department, division or agency, City Council may make supplemental or amended appropriations. Such appropriations shall be made pursuant to an emergency ordinance in accordance with the provisions of Section 5.03; provided, however, that appropriations made

by emergency ordinance shall be adopted upon the affirmative vote of at least four (4) members of Council and such emergency ordinance shall not be automatically repealed.

**§ 5.05 RESOLUTIONS.**

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

**§ 5.06 PROCEDURAL MOTIONS.**

Consistent with Section 5.01 of this Charter, City Council may take actions that are procedural in nature, such as organizing or conducting the business of the City Council, establishing or modifying the Rules of Council, or making appointments to boards, commissions or committees by procedural motion. Action on a procedural motion shall be made by a member of Council and duly seconded. The vote on a procedural motion may be by roll call or by voice vote, as determined by Council in the Rules of Council, and shall be carried upon the affirmative vote of a majority of the members of Council who are present. The procedural motion and the vote thereon shall be entered into the Clerk's Journal. No waiting period, notice, hearing or publication shall be required for a procedural motion and it shall be effective immediately unless otherwise stated in the motion.

**§ 5.07 AUTHENTICATION AND RECORDING OF ORDINANCES AND RESOLUTIONS.**

All ordinances and resolutions passed by Council shall be signed by the presiding officer and authenticated by the City Clerk; however, the failure or refusal of such officers to sign such ordinance or resolution shall not invalidate an otherwise properly enacted ordinance or resolution. The Clerk shall record in full in the Clerk's Journal or other record prescribed by Council all ordinances and resolutions adopted by Council. The City Clerk or a duly authorized deputy to said Clerk shall, upon the request of any person and upon the payment of any fee established by Council, certify true copies of any ordinance or resolution, which certified copies shall be admissible as evidence in any court.

**§ 5.08 INITIATIVE AND REFERENDUM.**

Except as otherwise provided in this Charter, ordinances providing for the exercise of any powers of government granted by the Constitution of the State of Ohio or delegated by the Ohio General Assembly to the City may be proposed and submitted to the electors of the City by initiative petition. Except as otherwise provided in this Charter, the effective date of an ordinance passed by the City Council may be suspended until such ordinance is approved by the electors of the City by referendum petition. If the



Council is required to pass more than one ordinance to complete and pay for any public improvement, the referendum shall apply only to the first ordinance to be passed and not to any subsequent ordinance in the series relating thereto.

#### **§ 5.09 ADOPTION OF TECHNICAL CODES BY REFERENCE.**

The City Council may, by ordinance, adopt any standard code of technical regulations prepared by the State or any department, board or other agency of the State, or any standard or model ordinance or code prepared and promulgated by a public or private organization including, but not limited to, code and regulations pertaining to fire, fire hazards, fire prevention, plumbing regulations, electrical regulations, building regulations, housing regulations, environmental regulations and such other matters as the Council may determine to be appropriate for adoption and incorporation by reference. The ordinance adopting any such standard code shall state the date and source of such standard code and shall not be required to contain the entire code so adopted. The ordinance adopting any such standard code may also adopt and incorporate by reference any future amendments to such standard codes and upon the ordinance stating that such future amendments are adopted for incorporation by reference, no further action by the Council to adopt such future amendments shall be required.

#### **§ 5.10 CODIFICATION.**

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

## **ARTICLE VI: CITY MANAGEMENT**

#### **§ 6.01 APPOINTED OFFICIALS.**

- A. Appointed Officials. The management and administration of the City government shall be vested in three appointed officials, the City Manager, the Finance Director, and the Law Director, who shall be appointed by the City Council in accordance with this Charter.
- B. Administrative Steering Committee.
  - (1) There is hereby established an Administrative Steering Committee of the City to provide policy direction and guidance on building security, information technology issues and projects, human resources and personnel management and any other topics or issues affecting the departments and divisions under the direction and control of the appointed officials.

- (2) The Administrative Steering Committee shall consist of the City Manager, the Finance Director and the Law Director, and at the discretion of the Xenia Municipal Court Judge, may also consist of the Clerk of Court of the Xenia Municipal Court.
- C. Annual Evaluations. The City Council shall evaluate the City Manager, Finance Director, and Law Director on an annual basis.
- D. Removal. The City Manager, Finance Director, or Law Director may be removed by Council by the affirmative vote of five (5) members of the Council. The Appointed Official shall be given at least ten (10) days' notice prior to the meeting at which his or her removal will be considered. In the intervening period, the Appointed Official may be suspended with or without pay, or as otherwise required in the Appointed Official's employment contract.

## **§ 6.02 CITY MANAGER.**

- A. Appointment and Qualifications. The City Council, by a majority vote of its total membership, shall select, appoint, contract with, and fix the compensation of a qualified individual for the position of City Manager.
- B. Powers and Duties of the City Manager. The City Manager shall be the chief executive and administrative officer (CEO) of the City and shall be recognized by the courts for civil process involving the City. The City Manager shall be responsible to the Council for the administration of all City affairs placed in the Manager's charge by or under this Charter. The City Manager shall have the following powers, duties, and functions:
- (1) Appoint, employ, or hire City employees and department or division heads, when such positions are authorized by Council, and suspend, remove, or otherwise discipline City employees and department or division heads in accordance with the City's Personnel Manual, with the exception of those under the direct supervision of the Council, the Finance Director or the Law Director. The City Manager may authorize any administrative officer who is subject to his or her direction and supervision to exercise these powers with respect to subordinates in that officer's department, division, office, or agency.
  - (2) Execute, on behalf of the City, all contracts, agreements, bonds, notes, conveyances, evidences of indebtedness and any other instruments to which the City is a party, except as otherwise required or provided by this Charter or Ohio law.
  - (3) Direct and supervise the administration of all departments, offices, and agencies of the City, except those under the direct supervision of the Finance Director or the Law Director or as otherwise provided by this Charter or by law.
  - (4) Attend City Council meetings and make recommendations to the Council concerning the affairs of the City. The City Manager shall have the right to take part in discussion but shall not vote. The City Manager's office shall also provide staff support services for the Council.
  - (5) Prepare and submit the annual City budget and capital programs to the Council.
  - (6) See that all laws, provisions of this Charter and acts of the Council, subject to enforcement by the City Manager or by officers subject to the Manager's direction and supervision, are faithfully executed.
  - (7) Make an annual "State of the City" address prior to March 1<sup>st</sup> of the next year, which address shall be made available to the public.
  - (8) Make such other reports as the Council may require concerning the operation of City departments, offices, and agencies subject to the City Manager's direction and supervision.
  - (9) Act as the Public Safety Director for the City.
  - (10) Perform such other duties as are specified in this Charter or as may be required by ~~the City~~ Council.

C. Acting and Interim City Manager.

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

**§ 6.03 FINANCE DIRECTOR.**

A. Appointment and Qualifications. The City Council, by a majority vote of its total membership, shall select, appoint, contract with, and fix the compensation of a qualified individual for the position of Finance Director.

B. Powers and Duties of the Finance Director. The Finance Director shall be the chief fiscal officer (CFO) of the City and shall perform the functions customarily assigned to the municipal auditor and/or treasurer under the general laws of the State for municipal accounting, collection of taxes, accounts and assessments and control of disbursements. The Finance Director shall be the head of the Department of Finance and shall have the following powers, duties, and functions:

- (1) Act as the fiscal manager and advisor for the City and keep the Council and the City Manager fully advised as to the financial condition of the City.
- (2) Issue all warrants for the payment of money by or on behalf of the City and keep an accurate account of all taxes and assessments.
- (3) Appoint, employ, or hire employees of the Finance Department, when such positions are authorized by Council, and suspend, remove, or otherwise discipline any such employees in accordance with the City's Personnel Manual.
- (4) Act as the custodian and manager of all monies of the City, keeping and preserving the same in such manner and form as Council may by ordinance or resolution direct, and keep an accurate account of all monies due to and all receipts and disbursements made by the City, or its assets and liabilities, and of all appropriations made by the Council.
- (5) Assist the City Manager in the preparation and presentation of the annual budget and capital plan for the City.
- (6) Audit the accounts of the several departments of the City at least once each fiscal year, unless requested to do so more frequently by Council, and provide cash management services for the City.
- (7) Prescribe the method of keeping the accounts of all City departments, showing the receipt of all monies by such departments and the disposition thereof, at such time as the Finance Director shall determine.
- (8) Perform all other duties as may be required by Council, as well as other persons holding the position of auditor or treasurer under the laws of the State applicable to municipalities and not inconsistent with this Charter, except that nothing contained herein shall be construed as to impose upon the Finance Director any duty or responsibility imposed by State law which is not required by this Charter.

C. Acting and Interim Finance Director.

- (1) Should a vacancy in the office of the Finance Director occur, or during periods of temporary absence or disability of the Finance Director lasting thirty (30) days or more, the Assistant Finance Director shall serve as the Interim Finance Director, unless a majority of the Council appoints another Interim Finance Director to fill the temporary vacancy.

- (2) In cases where the Finance Director is vacant from his or her office for a period of less than thirty (30) days due to vacation, illness or other leave, the Assistant Finance Director shall serve as the Acting Finance Director, unless the Finance Director appoints another to serve as Acting Finance Director in his or her absence, by administrative directive.

#### **§ 6.04 LAW DIRECTOR.**

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

## **ARTICLE VII: ADMINISTRATIVE DEPARTMENTS**

#### **§ 7.01 GENERAL PROVISIONS.**

- A. Established Departments. There shall be a Department of Finance, a Department of Law, a Department of Public Safety, and a Department of Public Service. Each established Department may consist of such divisions as are established by the Council, by ordinance, and each established department and division shall have such powers, duties, and functions as are prescribed by Council, by ordinance.

- B. Creation of Departments. The Council may establish, by ordinance, other City departments and divisions thereof, in addition to those created by this Charter, and Council shall prescribe the powers, duties, and functions of such departments and divisions upon their establishment.

**§ 7.02 APPOINTMENT OF DEPARTMENT AND DIVISION HEADS.**

A. Department Heads.

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

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

**§ 7.03 ADMINISTRATIVE CODE.**

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

**§ 7.04 SAFETY SERVICES.**

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

## ARTICLE VIII: BOARDS AND COMMISSIONS

### § 8.01 CREATION OF BOARDS AND COMMISSIONS.

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

### § 8.02 BOARDS AND COMMISSIONS.

- A. Qualifications. Members of the Planning and Zoning Commission, the Board of Zoning Appeals, the Civil Service Commission, and the Charter Review Commission shall be qualified electors of the City at the time of their appointment by Council and during their respective terms of office and shall hold no other elected or appointed office nor employment with the City, unless otherwise authorized by this Charter. The qualifications for membership to any Council-created board, commission or committee shall be established by Council at the time of its creation.
- B. Meetings.
- (1) Each board, commission or committee shall meet as is necessary to conduct and transact the business before it, and shall meet on the dates and at the time established by said board, commission or committee by a majority vote of all the members of the board, commission or committee; provided, however, that in the case of a board, commission or committee created by the Council, Council may establish the dates and times for such board, commission, or committee's meeting at the time of its creation.
  - (2) A majority of the voting members of each board, commission or committee created pursuant to Section 8.01 of this Article shall constitute a quorum for the transaction of business at any meeting of such board, commission, or committee.
  - (3) Each board, commission or committee created pursuant to Section 8.01 of this Article shall conduct its meetings in compliance with Section 13.03 of this Charter.
  - (4) Rules providing for the number and the manner of calling regular and special meetings, and to provide for the conduct and government of such meetings, may be adopted by a majority vote of the members of each board, commission or committee created pursuant to Section 8.01 of this Article; provided, however, that such rules shall not conflict with the provisions of this Charter or any ordinance passed by the Council. In the absence of adopting its own rules, each board, commission, or committee shall follow the Rules of Council authorized under Section 4.01 I. of this Charter. If the Council has not adopted Rules of Council, then each board, commission or committee that has not adopted its own rules shall follow Robert's Rules of Order.
  - (5) The Chairperson of each board and commission created pursuant to Section 8.01 A. of this Article shall act as the presiding officer at all meetings of that board or commission and shall

---

establish or approve an agenda for each meeting of his or her respective board or commission. The Vice Chairperson shall act as the presiding officer in the Chairperson's absence.

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

### § 8.03 PLANNING AND ZONING COMMISSION.

- A. Membership; Terms. The Planning and Zoning Commission shall consist of five (5) members at-large, and one (1) Councilmember, who shall act as the Chairperson of the Commission. Members of the Planning and Zoning Commission shall be appointed by the Council, by majority vote. The at-large members shall serve for terms of four (4) years and each member shall continue in office until his or her successor is appointed. The term of the Chairperson shall be two (2) years, and the Chairperson shall continue in office until his or her successor is appointed.
- B. Organization.
- (1) The Planning and Zoning Commission shall be chaired by a sitting member of the City Council. The Chairperson of the Planning and Zoning Commission shall have no voting privileges, except in the case of a tie vote.
  - (2) At its first meeting in each year, the Planning and Zoning Commission shall elect, by majority vote, from among its membership a member to serve as the Vice Chairperson. When acting as the presiding officer in the absence of the Chairperson, the Vice Chairperson shall have full voting privileges.
- C. Powers and Duties.
- (1) The Planning and Zoning Commission shall perform all duties assigned to it by the City Council by ordinance or resolution related to the planning or regulation of the growth, development, platting, subdivision and land use within the City.
  - (2) The Planning and Zoning Commission shall continuously review and report to the City Council its recommendations concerning the City's subdivision, platting, thoroughfare plans, land use plans, and zoning ordinances and regulations.
  - (3) The Planning and Zoning Commission may conduct such studies, prepare such plans, maps and reports related to the growth, development, platting, subdivision, and land use within in the City

and may make such recommendations relative thereto to the City Council as it feels are in the best interest of the City.

**§ 8.04 BOARD OF ZONING APPEALS.**

- A. Membership; Terms. The Board of Zoning Appeals shall consist of five (5) members at-large, and one (1) Councilmember, who shall act as the Chairperson of the Board. Members of the Board of Zoning Appeals shall be appointed by Council, by majority vote. The at-large members shall serve for terms of four (4) years and each member shall continue in office until his or her successor is appointed. The term of the Chairperson shall be two (2) years, and the Chairperson shall continue in office until his or her successor is appointed.
- B. Organization.
- (1) The Board of Zoning Appeals shall be chaired by a sitting member of the City Council. The Chairperson of the Board of Zoning Appeals shall have no voting privileges, except in the case of a tie vote.
  - (2) At its first meeting in each year, the Board of Zoning Appeal shall elect, by majority vote, from among its membership a member to serve as the Vice Chairperson. When acting as the presiding officer in the absence of the Chairperson, the Vice Chairperson shall have full voting privileges.
- C. Powers and Duties.
- (1) The Board of Zoning Appeals shall have the authority to hear and decide appeals for exceptions to, and variances in, the application of ordinances, resolutions, rules, regulations, and measures that govern zoning, building, and housing in the City, subject to such standards as may be prescribed by City Council.
  - (2) The Board of Zoning Appeals shall have the authority to hear and decide appeals from the orders of administrative officials related to the application of ordinances, resolutions, rules, regulations, and measures that govern zoning, building, and housing in the City, subject to such standards as may be prescribed by City Council.
  - (3) The Board of Zoning Appeals shall perform all duties assigned to it by the City Council by ordinance or resolution related to the application of City ordinances, resolutions, rules, regulations, and measures related to zoning, building, and housing within the City.
  - (4) In any appeal from the decision of the order of any administrative official or for exception to, and variances in, the application of any zoning, building, or housing ordinance, resolution, rule, regulation, or measure, the Board of Zoning Appeals shall be deemed to be acting as a quasi-judicial body.

**§ 8.05 CIVIL SERVICE COMMISSION.**

- A. Membership; Terms. The Civil Service Commission shall consist of five (5) members at-large, shall be appointed by Council, by majority vote. Appointments shall be made without concern for the member's political affiliation. The members shall serve for terms of five (5) years, one (1) to be appointed every year, and each member shall continue in office until his or her successor is appointed.
- B. Organization.
- (1) At its first meeting in each year, the Civil Service Commission shall elect, by majority vote, from among its membership a member to serve as the Chairperson and a member to serve as the Vice Chairperson. Both the Chairperson and the Vice Chairperson shall have full voting privileges.



- (2) The Civil Service Commission shall appoint a Secretary, who may be from within or without the membership of the Commission or may hold other office or employment with the City. The Secretary shall keep an accurate record of the proceedings of the Commission and shall be responsible for the administration of competitive examinations and communications between the Commission and the City's administration. The position of Secretary shall be part-time unless a full-time Secretary is authorized by the City Council.

C. Powers and Duties.

- (1) The Civil Service Commission shall be responsible for the administration of competitive examinations for original appointments and promotions in the classified service of the City.
- (2) The Civil Service Commission shall have the authority to hear appeals from administrative determinations that result in suspensions, demotions, and removals, made by an appointed official pursuant to any rules, regulations or policies adopted by Council, any administrative rules, regulations, or policies promulgated pursuant to authorization by Council, or as otherwise permitted by the classified employee's applicable collective bargaining agreement.
- (3) The Civil Service Commission shall perform all duties assigned to it by Article X of this Charter or by the City Council, by ordinance or resolution, related to merit system and personnel management policies for classified employees of the City.

**§ 8.06 CHARTER REVIEW COMMISSION.**

- A. Creation. The Council shall appoint, at least every five (5) years, by majority vote, a Charter Review Commission.
- B. Membership; Terms. The Commission shall consist of an odd number of members, from a minimum of five (5) to a maximum of eleven (11) members, and no more than two (2) of said members shall hold other elective office or employment with the City. The Law Director shall serve as legal counsel to the Commission, and the City Manager and the Finance Director, or their designees, may serve as advisors to the Commission. The terms of the members of the Charter Review Commission shall terminate at the time designated by City Council for the filing of the Commission's report, with recommendations, to the Council, unless such time is extended by Council, by resolution.
- C. Powers and Duties. The Charter Review Commission shall review the City Charter and, within the time designated by Council at the time the Commission members are appointed, and shall recommend to Council such amendments, additions, or revisions, if any, to this Charter that the Commission deems necessary or desirable. After the consideration of the recommendations of the Commission, the City Council may submit all or any of such proposed amendments, additions, or revisions to this Charter to the electorate in the manner prescribed by the Constitution of the State of Ohio.

**ARTICLE IX: FINANCES**

**§ 9.01 FISCAL YEAR.**

The fiscal year of the City for budget, accounting, and all other similar purposes shall be the calendar year.

**§ 9.02 UNIFORM TAX LEVY LAW.**

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

**§ 9.03 DEPOSITS AND INVESTMENTS.**

- A. Deposit and Investment Policy. The City Council shall adopt, by ordinance, a Deposit and Investment Policy governing the deposit of public funds and the investment of public moneys. The Policy shall define the parameters for eligible institutions that may hold public deposits, the standards for securing those deposits, and the process by which such eligible institutions shall be selected. The Policy shall also identify permitted investment instruments, the maximum term of those investments, and the process for selecting the investments, as well as custody, safekeeping, and the licensing and registration of broker dealers.
- B. Uniform Depository Act. It is the intent of this section to supersede the Ohio Uniform Depository Act, as contained in the general laws of the State; provided, however, that if Council should fail to adopt the Deposit and Investment Policy required under subsection A. of this section, the Uniform Depository Act shall apply to all deposits of public funds and the investment of public moneys.

**§ 9.04 OPERATING BUDGET AND CAPITAL IMPROVEMENT PLAN.**

- A. Operating Budget. The City Manager shall prepare and submit to Council, on or before the 1<sup>st</sup> day of November, an estimated Operating Budget for the ensuing fiscal year. The estimated Operating Budget shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal years; and shall be arranged to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:
- (1) The proposed goals and objectives and expenditures for current operations during the ensuing fiscal years, detailed for each fund by organization unit and program, purpose or activity, and the method of financing such expenditures;
  - (2) Proposed capital expenditures, as shown in the Capital Improvement Plan, during the ensuing fiscal years, detailed for each fund by organizational unit, and the proposed method of financing each capital expenditure;
  - (3) The anticipated income and expense and profit and loss for the ensuing years for each utility or other enterprise fund operated by the City; and
  - (4) For any fund, the total of proposed expenditures shall not exceed the total of estimated income plus carried-forward fund balances.
- B. Capital Improvement Plan. The City Manager shall prepare and submit to Council at the same time as the Operating Budget, a Capital Improvement Plan. The Capital Improvement Plan shall include:
- (1) A clear general summary of its contents;
  - (2) A list of all capital improvements and other capital expenditures which are proposed to be undertaken during the five (5) fiscal years next ensuing, with appropriate supporting information as to the necessity for each;
  - (3) Cost estimates and recommended time schedules for each improvement or other capital expenditure; and
  - (4) The method of financing, upon which each capital expenditure is to be reliant. The above shall be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

C. Action by City Council.

- (1) On or before November 1<sup>st</sup>, the City Manager shall either publish the estimated Operating Budget and Capital Improvement Plan on the City's website or shall publish, in one or more newspapers of general circulation within the City, that said documents are available for public inspection.
- (2) At its first regular meeting in November, Council shall schedule and hold a time for public comment on the estimated Operating Budget and Capital Improvement Plan as presented.
- (3) Within thirty (30) days of presentation of the Operating Budget and the Capital Improvement Plan to Council, the Council may approve the proposed estimated Operating Budget and Capital Improvement Plan, by administrative motion, or may amend the proposed Operating Budget and/or the Capital Improvement Plan by adding or increasing programs or amounts or by deleting or decreasing any programs or amounts, except expenditures required by law for debt service, provided that no amendment shall increase the authorized expenditures to an amount greater than total estimated income. If the Council takes no action within thirty (30) days, the proposed Operating Budget and the Capital Improvement Plan shall be deemed approved as presented.

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

**§ 9.05 ANNUAL APPROPRIATION ORDINANCE.**

- A. Annual Appropriation Ordinance. On or before the first day of each fiscal year, the City Council shall adopt an Annual Appropriation Ordinance, classified so as to set forth separately the amounts appropriated for each office, department, and division and, within each, the amount appropriated for personnel services. Council may, if it desires, postpone the passage of the Annual Appropriation Ordinance until an amended certificate is received from the Greene County Auditor based on actual balances. In such a case, the Council may pass a temporary appropriation ordinance for meeting the ordinary expenses of the City on or before the first day of each fiscal year, but such temporary appropriation measure shall be replaced with the Annual Appropriation Ordinance no later than the 1<sup>st</sup> day of April. The total appropriations from each fund shall not exceed the total of the estimated revenue available for expenditure therefrom, as certified by the Greene County Budget Commission, or in case of appeal, by the Greene County Board of Tax Appeals.
- B. When Effective. The Annual Appropriation Ordinance shall not become effective until the Greene County Auditor files with the Finance Director a certificate that the total appropriations from each fund, taken together with all other outstanding appropriations, do not exceed the official estimated revenue or amended official estimate of revenue.
- C. Supplemental Appropriations. During the fiscal year, the Council may pass any supplemental appropriation measures as it finds necessary, based on the revised tax budget or the official certificate of estimated resources or amendments of the certificate.
- D. Amended Appropriations. The Annual Appropriation Ordinance may be amended by Council, by ordinance, provided that no appropriation for any purpose shall be reduced below an amount sufficient to cover all unliquidated and outstanding contracts or obligations certified from or against the appropriation. Such amendments may add to or transfer part or all of the unencumbered appropriation balance from one (1) department or major organizational unit to the appropriation for another department or major organizational unit, or may transfer money in the General Fund to any other fund, or may transfer moneys between funds except where such transfer is prohibited by State law.

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

## **§ 9.06 APPROPRIATIONS AND EXPENDITURES.**

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

## **§ 9.07 PAYMENT OF CLAIMS.**

No warrant for the payment of any claim shall be issued by the Finance Director unless there is an available appropriation sufficient to cover the payment and the Finance Director is satisfied that the same is in proper form, correctly computed, and that the claim is legally due and payable. The Finance Director and his or her sureties shall be liable to the City for all loss or damage sustained by the City by reason of the corrupt approval of such claim against the City, and the Finance Director shall have the power to require that the amount claimed is justly due, and is in conformity with the law and ordinances, and may summon any officer or employee and examine him or her for that purpose.

## **§ 9.08 CONTRACTING PROCEDURES.**

- A. Competitive Bidding. Council, by ordinance, shall establish a threshold amount, which in no case shall be less than \$30,000, notice provisions and other procedures for competitive bidding. When any contract for the construction of a public improvement or the purchase of equipment, supplies, materials, or services is estimated to exceed the threshold established by Council, the contract shall be

competitively bid. Council shall award the contract, by resolution, to the lowest and best bidder; provided, however, that Council may reject any and all bids in whole or by items. No contract shall be divided to avoid the requirements of competitive bidding.

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

#### **§ 9.09 PUBLIC IMPROVEMENTS BY FORCE ACCOUNT.**

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

#### **§ 9.10 INDEPENDENT AUDIT.**

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

## ARTICLE X: CIVIL SERVICE AND PERSONNEL

### § 10.01 CIVIL SERVICE.

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

### § 10.02 CLASSIFICATION OF CIVIL SERVICE.

- A. Unclassified Service. The following positions shall constitute the unclassified service of the City:
- (1) The members of City Council, including the Mayor;
  - (2) The members of all boards, commissions, and committees, whether created by Charter or by the Council;
  - (3) The City Clerk, Deputy Clerks, Assistant Clerks and other officers and employees of the City Council;
  - (4) The City Manager, Assistant City Manager, and any assistants or secretaries to the City Manager;
  - (5) The Finance Director, Assistant Finance Director, and any assistants or secretaries to the Finance Director;
  - (6) The Law Director, City Prosecutor, any assistants or secretaries to the Law Director, and any special counsel appointed or employed by the Law Director;
  - (7) The department heads and division heads of the various departments and divisions of the City, including the Police Chief and the Fire Chief, and their assistants;
  - (8) The Clerk of Court, Deputy Clerks of Court, the Chief Bailiff and Deputy Bailiffs, the Chief Probation Officer and Probation Officers, and other employees of the Xenia Municipal Court;
  - (9) Seasonal and temporary positions;
  - (10) Positions requiring peculiar and exceptional qualifications of a scientific, managerial, professional, technical, or educational character;
  - (11) Ordinary unskilled laborers; and
  - (12) Any employees placed in the unclassified service by any section of the Ohio Revised Code.
- B. Classified Service. The classified service shall comprise all positions not specifically included in this Charter in the unclassified service.

### § 10.03 CIVIL SERVICE RULES.

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

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

- (1) For the establishment of categories within the classified services for classified positions that are to be filled by competitive examinations, for nonpromotional classified positions that may be filled by lateral entry, and for classified positions requiring specialized training, or skills requiring certifications or licensure, and/or qualifications of a scientific, business, managerial, professional, or educational character that may be filled noncompetitively;
- (2) Rules, regulations, and procedures regarding the administration of competitive examinations for those classified positions that are to be filled through competitive examination, including public notice thereof, to ascertain the merit and fitness of applicants for appointment;
- (3) Rules, regulations, and procedures regarding the grading of competitive examinations and the evaluation of the same, including the establishment of passing and nonpassing scores;
- (4) Rules, regulations, and procedures governing the establishment of eligibility requirements for competitive examinations and for applications for lateral entries and noncompetitive classified positions;
- (5) Rules, regulations, and procedures governing the establishment of eligibility lists from competitive examinations, including rules regarding the ranking of names on such lists and seniority, veteran's preferences, or other additional preferences related to merit and fitness;
- (6) Rules, regulations, and procedures governing the solicitation of applications, and the requirements for application, for nonpromotional classified positions to be filled by lateral entry and for classified positions that may be filled noncompetitively, including public notice thereof;
- (7) Rules, regulations, and procedures governing the rejection of candidates, applicants, or those eligible who fail to comply with reasonable requirements as to moral, psychological, or physical character, or who have attempted deception or fraud in connection with any application or test for a position in the classified service.
- (8) Rules, regulations, and procedures governing the certification to the appointing authority of eligibility lists resulting from competitive examinations;
- (9) Rules, regulations, and procedures governing the temporary appointment to a classified position until the position can be filled by competitive examination, lateral hire, or application, for a period not to exceed one (1) year;
- (10) Rules, regulations, and procedures governing the process for promotions from among persons holding positions in successive ranks lower than the position to be filled, such promotions to be based on competitive examinations and the applicant's conduct and capacity in office;
- (11) Rules, regulations, and procedures regarding the filing of and the conduct of appeals taken to the Commission regarding any suspension, demotion, or removal of a classified employee by an appointing authority;
- (12) Rules, regulations, and procedures governing the reinstatement of any classified employee suspended, demoted, or removed; and
- (13) Any other rules, not inconsistent with the provisions of this section, as may be necessary and proper for the enforcement of the civil service and to provide for the procedures of the Civil Service Commission.

**§ 10.04 ORIGINAL APPOINTMENTS.**

- A. Positions Filled by Competitive Examination. When a position in the classified service is to be filled by competitive examination, the appointing authority may notify the Civil Service Commission of the fact and the Commission shall certify to the appointing authority an eligibility list, containing the names and addresses of candidates eligible for that classified position. The appointing authority shall appoint to the classified position one of the persons whose name ranks in the top ten (10) names (or less) on the eligibility list. The eligibility list shall be considered a rolling list, and persons whose names are disqualified or otherwise removed from the list may be replaced by the next eligible person on the list, until such time as the list expires, is exhausted or there are no more eligible candidates.

- B. Positions Filled by Lateral Hires. When a position in the classified service may be filled by lateral hires, the appointing authority may notify the Civil Service Commission of the fact and the Commission shall advertise for applications for the position. After the application deadline, the Commission shall certify to the appointing authority an eligibility list of those applicants that meet the eligibility criteria. Eligible applicants shall be listed in the order their applications were submitted.
- C. Positions Filled Noncompetitively. When a position in the classified service that requires specialized training, or skills requiring certifications or licensure, and/or qualifications of a scientific, business, managerial, professional, or educational character becomes vacant, the appointing authority may notify the Civil Service Commission of the fact and the Commission shall advertise for applications for the position. After the application deadline, the Commission shall certify to the appointing authority an eligibility list of those applicants that meet the eligibility criteria. Eligible applicants shall be listed in the order their applications were submitted.
- D. Appointing Authority's Discretion. Notwithstanding anything to the contrary in this Article, when a position in the classified service to be filled by an original appointment becomes vacant, it is within the appointing authority's discretion whether to fill the vacancy and to determine the timing to fill such a vacancy.
- E. Probationary Period. All original appointments shall be for a probationary period of not less than six (6) months nor more than one (1) year, as fixed by the Civil Service Rules, and the Civil Service Rules may set such probationary periods to begin on the date of obtaining any required certification for the position. No appointment shall be deemed finally made until the appointee has satisfactorily served his or her probationary period.

#### **§ 10.05 PROMOTIONS.**

- A. Competitive Examinations. The Civil Service Commission shall provide in the Civil Service Rules for promotion to positions in the classified service based on competitive examination and on records of the candidate's conduct and capacity in his or her current position. Promotion shall be by successive ranks insofar as practicable. The Civil Service Commission shall provide in the Civil Service Rules for requirements for periods of service in the lower ranks for promotion to a higher rank.
- B. Promotions. When a promotional position in the classified service becomes vacant, the appointing authority may notify the Civil Service Commission of the fact and the Commission shall certify to the appointing authority the names of the three (3) candidates standing highest on the eligibility list for that position; provided, however, that less than three (3) shall constitute a valid eligibility list. The appointing authority shall promote to the position one (1) of the persons named on the list.
- C. Competition. The Civil Service Commission shall provide in the Civil Service Rules procedures for cases where there are less than two (2) persons eligible to take the competitive examination for a promoted position, including requirements for periods of service in the next lower ranks, and procedures for when there are insufficient eligible applicants in the next lower ranks.
- D. Appointing Authority's Discretion. Notwithstanding anything to the contrary in this Article, when a position in the classified service to be filled by promotion becomes vacant, it is within the appointing authority's discretion whether to fill the vacancy and to determine the timing to fill such a vacancy.



- E. Probationary Period. All promotions shall be for a probationary period of not less than six (6) months nor more than one (1) year, as fixed by the Civil Service Rules, and no promotion shall be deemed finally made until the appointee has satisfactorily served his or her probationary period.

**§ 10.06 ORGANIZATIONAL PLAN; PAY PLAN; FRINGE BENEFITS.**

A. Organizational Plan and Position Descriptions.

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

- B. Pay Plan. The Administrative Steering Committee shall recommend a yearly Pay Plan for all compensated employee positions in the City's service to the Council. Such recommended Pay Plan shall be approved, with or without modification, by resolution by the City Council. Such Plan may be for a single year or multiple years, but in no case shall the Pay Plan set wages for a period longer than three (3) years.

- C. Fringe Benefits. City Council shall establish, by ordinance, the hours of work, holidays, overtime pay, authorized payroll deductions and any benefits or leave required under federal law for all City employees, whether classified or unclassified, and shall provide for any other fringe benefits to be provided to City employees, whether classified or unclassified, which fringe benefits may include, but are not limited to, health insurance, compensatory time, sick leave, vacation, personal leave, longevity pay, military leave, life insurance or injury leave. In cases of conflict, the provisions of any ordinance adopted by the City Council regarding fringe benefits are intended and shall supersede State law.

**§ 10.07 PERSONNEL MANUAL.**

- A. Establishment. The Administrative Steering Committee shall establish rules, regulations and policies pertaining to the merit system and personnel management policies of the City. Such rules and regulations shall be known as the "City of Xenia Personnel Manual" or "Personnel Manual."

- B. Contents. The Personnel Manual shall address the procedures and policies for the administration of any fringe benefits provided by the Council, by ordinance. In addition, the Personnel Manual shall provide for rules, regulations, policies, processes and/or procedures regarding:

- (1) The appointment, transfer, promotion, demotion, or layoff of classified employees in the service of the City;
- (2) Reductions in force, removal, suspension, or other employee discipline, including the causes therefor, of City employees, whether classified or unclassified;
- (3) Transfers, resignations, retirements, and re-employment of City employees, whether classified or unclassified;
- (4) The ethics of public employment and the conduct of City employees, whether classified or unclassified;

- (5) All other practices and procedures necessary to the administration of the merit and personnel system of the City, including any policies or procedures governing the relationships with employee organizations or unions, and the administration of grievance procedures.
- C. Conflict with State Law. In cases of conflict, the provisions of the Personnel Manual adopted in accordance with this section are intended to and shall supersede State law.
- D. Amendments. The Personnel Manual may be amended by the Administrative Steering Committee from time to time, as needed, to assure efficient administration of the merit and personnel management of the City. In the event of a tie vote by the Administrative Steering Committee on a proposed amendment to the Personnel Manual, such amendment may be presented to Council by any of the Appointed Officials, individually or jointly, and the Council shall approve the proposed amendment, with or without amendment, or reject the proposed amendment.

## **ARTICLE XI: ELECTIONS**

### **§ 11.01 RULES FOR ELECTIONS.**

- A. Time and Submission. Regular Municipal elections shall be held on the first Tuesday after the first Monday in November in each odd-numbered year, except as hereinafter provided. Any matter which by the terms of this Charter may be submitted to the electors of the City at any special election may be submitted at any regular Municipal election.
- B. Nonpartisan Ballots. All officers to be elected under this Charter shall be elected upon one (1) ballot without any party designation of any kind.
- C. Determinations. The Council shall be the judge of the qualification and election of its own members, subject to the requirements and limits of this Charter.

### **§ 11.02 PETITION FOR PLACE ON BALLOT.**

Candidates for Council and Mayor shall be nominated only by petition. The name of any elector of the City shall be printed and signed upon a petition which is to be filed with the Greene County Board of Elections.

- (1) Such petitions shall state the name and place of residence of each person whose name is presented for a place upon the ballot, and that he or she is a candidate for Council or Mayor for the City of Xenia.
- (2) Such petitions shall be signed by seventy-five (75) electors of the Municipality.
- (3) An elector signing a petition shall add to his or her signature his or her place of residence with the street number, and the date of signing. An elector may subscribe to one (1) nominating petition for each of the offices to be filled, and no more. All signatures shall be made in ink.
- (4) Signatures of all the petitioners shall be on forms approved by the Greene County Board of Elections.
- (5) No petition shall be signed by any elector more than one hundred twenty (120) days prior to the day of the election, and such petition shall be filed with the Board of Elections not less than ninety (90) days previous to the date of such election, except as hereinafter provided.
- (6) Any person whose name has been submitted for nomination by any such petition shall file his or her acceptance of such nomination with the Board of Elections at the time of filing of his or

her petition, except as hereinafter provided; otherwise, his or her name shall not appear upon the ballot.

- (7) Write-in candidates shall be permitted for the office of Council member in accordance with Ohio election laws.

### **§ 11.03 GENERAL ELECTION LAWS TO APPLY.**

All elections shall be conducted, and the results canvassed and certified by, the election authorities prescribed by the general election laws, except as otherwise provided by this Charter, or by ordinance or resolution of the Council hereafter elected.

### **§ 11.04 GENERAL INITIATIVE AND REFERENDUM LAWS TO APPLY.**

The Constitution and the general laws of Ohio shall govern the procedure for initiative and referendum.

No ordinance or resolution adopted by an electoral vote can be repealed or amended within one (1) year after its adoption except by an electoral vote; however, an ordinance or resolution to repeal or amend any such ordinance or resolution may be submitted to an electoral vote at any regular election, or at any special Municipal election called for some other purpose, provided that notice of the intention to do so be published by the Council not more than sixty (60) days nor less than thirty (30) days prior to such election, in the manner required for the publication of ordinances and resolutions. If an amendment is so proposed, such notice shall contain the proposed amendment in full. Such submission shall be in the same manner, and the notice shall have the same effect, as in cases of ordinances or resolutions submitted to an election by popular petition.

### **§ 11.05 GENERAL RECALL LAWS TO APPLY.**

The provisions of Chapter 705 of the Revised Code of Ohio, and any subsequent version of that statute, shall govern the procedure for recall of elected officials of the City.

## **ARTICLE XII: UTILITY REGULATION; FRANCHISES**

### **§ 12.01 UTILITY REGULATION.**

All grants shall be subject to the right of the City, whether in terms reserved or not, to control, regulate, in, over, under or across all streets, alleys or public places occupied by any such public utility, and the Council may cause to be reconstructed, relocated or discontinued any such structure or fixture, and the Council may pass all regulatory ordinances effecting such utilities which may be required in the interests of public health, safety, or accommodation.

### **§ 12.02 FRANCHISES.**

- A. Restrictions. No grant to exercise a franchise in the City of Xenia shall be exclusive and no such grant shall be renewed earlier than two (2) years prior to its expiration. No franchise or public utility shall be assignable without the consent of the Council by ordinance or resolution first advertised, and any attempted assignment without such ordinance or resolution shall be void and of no effect.

- B. Extension to Annexed Property. In the grant of any franchise or right to exercise any public utility within the City, the extension of the same to any territory annexed to the City shall, without being expressed therein, be a part of the right which may be enforced by appropriate proceedings.
- C. Right of Purchase. All grants of the right to exercise a franchise made by the Council shall reserve to the City the right to purchase or lease all property of the utility used, for the operation of the utility at a price either fixed in the ordinance or resolution making the grant, or to be fixed in the manner provided by such ordinance or resolution, which price shall in no event include any value for the grant. Nothing in such ordinance or resolution shall prevent the City from acquiring such property by condemnation proceedings or in any other lawful mode, which rights shall be in addition to those reserved in the ordinance making such grant. Upon the acquisition of such property by purchase, condemnation, or otherwise, all grants shall at once terminate.
- D. Extension, Connection and Utilization of City Utilities. The extension, connection, and utilization of City utilities to tributary areas shall be permitted and the City Council shall establish a schedule of fees for use of and connection to City utilities. The extension, connection and use of City utilities shall only apply to utilities with sufficient capacity.

## ARTICLE XIII: GENERAL PROVISIONS

### § 13.01 ACTIVITIES PROHIBITED; PENALTIES.

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

---

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

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

**§ 13.03 OPEN MEETINGS.**

- A. Open Meetings. All deliberations, discussions and actions on official public business taken by the Council or other boards, commissions, and committees of the City, whether created by Charter or by the Council in accordance with this Charter, shall be taken in meetings open to the public, except as otherwise provided in this Charter or by the general laws of the State.
- B. Notice. Council shall provide, by ordinance, Rules of Public Notice by which the Council and all other boards, commissions, and committees of the City shall give notice of their meetings.
- C. Executive Session. The Council, boards, commissions, and committees of the City, whether created by Charter or by the Council in accordance with this Charter, may adjourn into executive session during any regular or special meeting of that body to discuss any of limited matters outlined in Ohio Revised Code Section 121.22(G), and any subsequent revisions thereto, or any other relevant provisions of the general laws of the State; provided, however, that:
- (1) The Council, Boards, Commissions, and Committees of the City may also adjourn into executive session during any regular or special meeting to receive and discuss general legal advice from the Law Director or other special counsel.
  - (2) The Council, Boards, Commissions, and Committees of the City may adjourn into executive session during any regular or special meeting to consider and discuss economic development projects when that proposed project includes a request for economic development assistance from the City or the state, or involves public infrastructure improvements or the extension of municipal utilities, without a separate finding by the public body that an executive session is necessary to protect the interest of the applicant.
  - (3) Any public body of the City exercising the quasi-judicial duties assigned to it by this Charter, by ordinance, or by the general laws of the State may adjourn into executive session to deliberate when so acting within its quasi-judicial capacity.
- D. Presence Required. A member of the Council or other Board, Commission or Committee of the City must be present in person, or by telephone, video or electronic means in the limited situations permitted by the Rules of Council, at a meeting open to the public to be considered present, to vote on any official business, or for the purpose of determining whether a quorum of the public body is present at the meeting.
- E. Minutes. The Council, Boards, Commissions, and Committees of the City shall keep full and accurate minutes of their meetings, and such minutes shall include enough facts and information to permit the public to understand and appreciate the rationale behind the public body's decision but need not be a verbatim transcript. Such minutes need only reflect the general subject matter of discussions in executive session, but shall record the motion, the reasons given for the executive session, and the vote to adjourn into executive session. The minutes of the City's public bodies shall be promptly prepared, filed and maintained and shall be open to public inspection.
- F. Effect of Violation. Any ordinance, resolution, motion or formal action of any kind by the Council or any Board, Commission or Committee is invalid unless adopted in an open meeting that complied with the Rules of Public Notice. An ordinance, resolution, motion or formal action adopted in an open meeting that results from deliberations in a meeting not open to the public is invalid unless the

deliberations were part of a quasi-judicial hearing, or were for a purpose specifically authorized under Section 13.03 C. of this Article, and the executive session was held in compliance with that section.

**§ 13.04 CHARTER AMENDMENTS.**

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

**§ 13.05 RULES OF CONSTRUCTION.**

- A. Singular and Plural; Gender; Tense. As used in this Charter, unless the context otherwise requires:
  - (1) The singular includes the plural, and the plural includes the singular;
  - (2) Words of one gender include the other genders; and
  - (3) Words in the present tense include the future.
- B. Mandatory or Discretionary. The words “shall” and “will” are mandatory, while the word “may” is permissive/discretionary.
- C. Common and Technical Usage. As used in this Charter, words and phrases shall be read in context and construed according to the rules of grammar and common usage. Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly.
- D. Headings. Section and paragraph headings are for convenience only and are not intended to have substantive significance in interpreting any provision of this Charter.

**§ 13.06 EFFECT OF PARTIAL INVALIDITY.**

A judicial determination that all or any part of any article, section, paragraph, or division of this Charter is invalid or unconstitutional shall not invalidate or impair the validity, force, or effect of any other part except to the extent that the other part is wholly or necessarily dependent for its operation upon the part declared invalid or unconstitutional.