

CENTERVILLE MUNICIPAL CODE

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CHAPTER 202
Municipal Code

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| 202.01 | Designation; citation; headings. | 202.06 | Determination of legislative intent. |
| 202.02 | General definitions. | 202.07 | Conflicts of laws. |
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| 202.05 | Construction of section references. | 202.99 | General Code penalty. |

CROSS REFERENCES

See section histories for similar State law
Codification in book form - see Ohio R.C. 731.23
Imprisonment until fine paid - see Ohio R.C. 1905.30, 2947.14
Ordinances and resolutions - see ADM. Ch. 224
Traffic Code penalties - see TRAF. Ch. 408
Statute of limitations on prosecutions - see GEN. OFF. 606.06
General Offenses Code penalties and sentencing - see GEN. OFF. Ch. 698

202.01 DESIGNATION; CITATION; HEADINGS.

(a) This volume consists of all ordinances and resolutions of a general and permanent nature of the Municipality, as revised, codified, arranged, numbered and consolidated into component codes, titles, chapters and sections, and as such shall be known and may be designated as the Municipal Code of Centerville, Ohio, 1994, for which designation "Municipal Code" may be substituted. Code, title, chapter and section headings do not constitute any part of the law as contained in the Codified Ordinances. (ORC 1.01)

(b) All references to codes, titles, chapters and sections are to such components of this Municipal Code, unless otherwise specified. Any component code may be referred to and cited by its name, such as the "Traffic Code." Sections may be referred to and cited by the designation "Section, " followed by the number, such as "Section 202.01."

202.02 GENERAL DEFINITIONS.

As used in this Municipal Code, unless otherwise expressly provided or the context otherwise requires:

- (a) "And" may be read "or", and "or" may be read "and", if the sense requires it.
- (b) "Another," when used to designate the owner of property which is the subject of an offense, includes not only natural persons but also every other owner of property.
- (c) "Bond" includes an undertaking.
- (d) "Child" includes child by adoption.
- (e) "City Manager" and "Manager" mean either the Manager of the City or his or her designated agent.
- (f) "Council" means the legislative authority of the Municipality.
- (g) "County" means the County of Montgomery, Ohio for that section of the City located in Montgomery County, Ohio and means the County of Greene for that section of the City located in Greene County, Ohio.
(Ord. 26-06. Passed 10-16-06; Ord. 27-06. Passed 11-20-06.)
- (h) "Fire Chief" shall include the Chief of the Fire Department if such Fire Department has been established in the Municipality, and shall include the Fire Prevention Officer if no Fire Department has been established in the Municipality.
- (i) "Imprisoned" shall have the same meaning as in Ohio R.C. 1.05.
- (j) "Internet" means the international computer network of both federal and non-federal interoperable packet switched data networks, including the graphical subnetwork known as the world wide web.
- (k) "Keeper" or "proprietor" includes all persons, whether acting by themselves or as a servant, agent, or employee.
- (l) "Land" or "real estate" includes rights and easements of incorporeal nature.
- (m) "Legislative authority" means the legislative authority of the Municipality.
- (n) "May" is permissive.
- (o) "Municipality" or "City" means the City of Centerville, Ohio.
- (p) "OAC" refers to the Ohio Administrative Code.

- (q) "Oath" includes affirmation; and "swear" includes affirm.
- (r) "Ohio R.C.," "ORC" or "Revised Code" refers to the Ohio Revised Code.
- (s) "Owner," when applied to property, includes any part owner, joint owner, or tenant in common of the whole or part of such property.
- (t) "Person" includes an individual, corporation, business trust, estate, trust, partnership, and association.
- (u) "Personal property" includes all property except real property.
- (v) "Plan of sewerage," "system of sewerage," "sewer," and "sewers" includes sewers, sewage disposal works and treatment plants, and sewage pumping stations, together with facilities and appurtenances necessary and proper therefor.
- (w) "Premises," as applied to property, includes land and buildings.
- (x) "Property" includes real, personal, mixed estates, and interests.
- (y) "Public authority" includes boards of education; the Municipal, County, State, or Federal government, its officers, or an agency thereof; or any duly authorized public official.
- (z) "Public place" includes any street, sidewalk, park, cemetery, school yard, body of water or watercourse, public conveyance, or any other place for the sale of merchandise, public accommodation, or amusement.
- (aa) "Real property" includes lands, tenements, and hereditaments.
- (bb) "Registered mail" includes certified mail; and "certified mail" includes registered mail.
- (cc) "Shall" is mandatory.
- (dd) "Sidewalk" means that portion of the street between the curb line and the adjacent property line intended for the use of pedestrians.
- (ee) "State" means the State of Ohio.
- (ff) "Street" includes alleys, avenues, boulevards, lanes, roads, highways, viaducts, and all other public thoroughfares within the Municipality.
- (gg) "Tenant" or "occupant," as applied to premises, includes any person holding a written or oral lease, or who actually occupies the whole or any part of such premises, alone or with others.
- (hh) "Undertaking" includes a bond.
- (ii) "Week" means seven consecutive days.
- (jj) "Whoever" includes all persons, natural and artificial; partners; principals, agents, and employees; and all officials, public or private.
- (kk) "Writing" includes printing.
- (ll) "Written" or "in writing" include any representation of words, letters, symbols, or figures; this provision does not affect any law relating to signatures.
- (mm) "Year" means twelve consecutive months.
(ORC 1.02, 1.05, 1.44, 1.59, 701.01)

202.03 RULES OF CONSTRUCTION.

(a) Common and Technical Use. 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.

(ORC 1.42)

- (b) Singular and Plural; Gender; Tense.
- (1) The singular includes the plural, and the plural includes the singular.
 - (2) Words of one gender include the other genders.
 - (3) Words in the present tense include the future.
(ORC 1.43)
- (c) Computation of Time.
- (1) The time within which an act is required by law to be done shall be computed by excluding the first and including the last day; except that when the last day falls on Sunday or a legal holiday, then the act may be done on the next succeeding day that is not a Sunday or a legal holiday.
 - (2) When a public office, in which an act required by law is to be performed, is closed to the public for the entire day that constitutes the last day for doing the act or before its usual closing time on that day, the act may be performed on the next succeeding day that is not a Sunday or a legal holiday.
 - (3) “Legal holiday,” as used in divisions (c)(1) and (c)(2) of this section, means the following days:
 - A. The first day of January, known as New Year's day;
 - B. The third Monday in January, known as Martin Luther King day;
 - C. The third Monday in February, known as Washington-Lincoln day;
 - D. The day designated in the “Act of June 28, 1968,” 82 Stat. 250, 5 U.S.C. 6103, as amended, for the commemoration of Memorial day;
 - E. The fourth day of July, known as Independence day;
 - F. The first Monday in September, known as Labor day;
 - G. The second Monday in October, known as Columbus day;
 - H. The eleventh day of November, known as Veteran’s day;
 - I. The fourth Thursday in November, known as Thanksgiving day;
 - J. The twenty-fifth day of December, known as Christmas day;
 - K. Any day appointed and recommended by the Governor of this State or the President of the United States as a holiday.
 - (4) If any day designated in this section as a legal holiday falls on a Sunday, the next succeeding day is a legal holiday.
(ORC 1.14)
 - (5) When an act is to take effect or become operative from and after a day named, no part of that day shall be included. If priority of legal rights depends upon the order of events on the same day, such priority shall be determined by the times in the day at which they respectively occurred.
(ORC 1.15)

- (6) If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.
(ORC 1.45)

(d) Authority. When the law requires an act to be done which may by law as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.

(e) Joint Authority. All words purporting to give joint authority to three or more Municipal officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it is otherwise expressly declared in the law giving the authority or inconsistent with State statute.

(f) General Terms Following Specific Terms. A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

(g) Reference to Offices or Officers. Reference to a public office or officer shall be deemed to apply to any office, officer or employee of this Municipality exercising the powers, duties or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

(h) Exceptions. The rules of construction set forth in this section shall not apply to any law which contains any express provision excluding such construction, or when the subject matter or context of such law may be repugnant thereto.

202.04 REVIVOR; EFFECT OF RE-ENACTMENT, AMENDMENT OR REPEAL.

(a) The repeal of a repealing provision of this Municipal Code does not revive the provision originally repealed nor impair the effect of any saving clause therein.
(ORC 1.57)

(b) The re-enactment, amendment or repeal of a provision of this Municipal Code does not, except as provided in division (c) of this section:

- (1) Affect the prior operation of the provision or any prior action taken thereunder;
- (2) Affect any validation, cure, right, privilege, obligation or liability previously acquired, accrued, accorded or incurred thereunder;
- (3) Affect any violation thereof or penalty, forfeiture or punishment incurred with respect thereto, prior to the amendment or repeal;

- (4) Affect any investigation, proceeding or remedy with respect to any such privilege, obligation, liability, penalty, forfeiture or punishment; and the investigation, proceeding or remedy may be instituted, continued or enforced, and the penalty, forfeiture or punishment imposed, as if the provision had not been repealed or amended.

(c) If the penalty, forfeiture or punishment for any offense is reduced by a re-enactment or amendment of a provision of this Municipal Code, the penalty, forfeiture or punishment, if not already imposed, shall be imposed according to the provision as amended.

(ORC 1.58)

202.05 CONSTRUCTION OF SECTION REFERENCES.

(a) Wherever in a penalty section reference is made to a violation of a section or an inclusive group of sections, or of divisions or subdivisions of a section, such reference shall be construed to mean a violation of any provision of the section, sections, divisions or subdivisions included in the reference.

(b) References in the Codified Ordinances to action taken or authorized under designated sections of the Codified Ordinances include, in every case, action taken or authorized under the applicable legislative provision which is superseded by the Codified Ordinances.

(ORC 1.23)

(c) Whenever in one section reference is made to another section hereof, the reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered, unless the subject matter be changed or materially altered by the amendment or revision.

(ORC 1.55)

202.06 DETERMINATION OF LEGISLATIVE INTENT.

(a) In enacting an ordinance, it is presumed that:

- (1) Compliance with the Constitutions of the State and of the United States is intended;
- (2) The entire ordinance is intended to be effective;
- (3) A just and reasonable result is intended;
- (4) A result feasible of execution is intended.

(ORC 1.47)

(b) An ordinance is presumed to be prospective in its operation unless expressly made retrospective.

(ORC 1.48)

(c) If an ordinance is ambiguous, the court, in determining the intention of Council, may consider, among other matters:

- (1) The object sought to be attained;
 - (2) The circumstances under which the ordinance was enacted;
 - (3) The legislative history;
 - (4) The common law or former legislative provisions, including laws upon the same or similar subjects;
 - (5) The consequences of a particular construction;
 - (6) The administrative construction of the ordinance.
- (ORC 1.49)

202.07 CONFLICTS OF LAWS.

(a) If there is a conflict between figures and words in expressing a number, the words govern.

(ORC 1.46)

(b) If a general provision conflicts with a special or local provision, they shall be construed, if possible, so that effect is given to both. If the conflict between the provisions is irreconcilable, the special or local provision prevails as an exception to the general provision, unless the general provision is the later adoption and the manifest intent is that the general provision prevail.

(ORC 1.51)

(c) If ordinances enacted at different meetings of Council are irreconcilable, the ordinance latest in date of enactment prevails.

(d) If amendments to the same ordinance are enacted at different meetings of Council, one amendment without reference to another, the amendments are to be harmonized, if possible, so that effect may be given to each. If the amendments are substantively irreconcilable, the latest in date of enactment prevails. The fact that a later amendment restates language deleted by an earlier amendment, or fails to include language inserted by an earlier amendment, does not of itself make the amendments irreconcilable. Amendments are irreconcilable only when changes made by each cannot reasonably be put into simultaneous operation.

(ORC 1.52)

(e) In the event of a conflict between any of the provisions of this Municipal Code, or between any of the provisions of this Municipal Code and a provision of any standard code adopted by the Municipality pursuant to Section 5.06 of the City Charter, the provision that establishes the higher or stricter standard shall control. In the event of a conflict between any of the provisions of this Municipal Code and any provision of State law, including rules and regulations promulgated pursuant to State law, the State law, rule or regulation shall control in those areas where conformity to State law is required by Article XVIII, Section 3, of the Ohio Constitution, and the provision of this Municipal Code shall control in all other cases.

202.08 GENERAL REPEALER.

All ordinances, resolutions, rules and regulations of the Municipality, and all parts of the same, enacted prior to the date of the adoption of this Municipal Code and inconsistent or in conflict with any of the provisions of this Municipal Code, are hereby repealed, save and except any ordinance, resolution, rule or regulation, or part of the same, expressly excepted from repeal by the ordinance that adopts this Municipal Code. No ordinance, resolution, rule or regulation, or part of the same, of the Municipality,

that is not inconsistent or in conflict with any of the provisions of this Municipal Code and/or that can be reasonably interpreted to be compatible with the provisions of this Municipal Code, shall be deemed to be repealed by the adoption of this Municipal Code. Such ordinances, resolutions, rules and regulations, and all parts of the same, shall continue to be viable and enforceable by the Municipality.

202.09 SEPARABILITY.

If any provision of a section of this Municipal Code, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the section or related sections which can be given effect without the invalid provision or application, and to this end the provisions are separable.

(ORC 1.50)

202.99 GENERAL CODE PENALTY.

Whenever, in this Municipal Code, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever the doing of any act is required or the failure to do any act is declared to be unlawful, the commission or performance of such act, or the failure to commit or perform such act, as required, shall, unless another penalty is provided, be deemed a minor misdemeanor and the offender shall be fined not more than one hundred dollars (\$100.00) for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues, unless otherwise provided.

CHAPTER 204
Official Standards

EDITOR'S NOTE: The State of Ohio operates on Eastern Daylight Savings Time from 2:00 a.m. of the first Sunday in April until 2:00 a.m. of the last Sunday in October. Congress, on March 22, 1966, passed the Uniform Time Act requiring uniform observance throughout the nation of Daylight Savings Time starting in 1967, except that a state legislature could exempt the entire state from Daylight Savings Time or divide a state into not more than two parts, each with a different time standard. The Ohio Legislature, through inaction, has elected to observe Eastern Daylight Savings Time throughout the State of Ohio.

On August 8, 2005, the Energy Policy Act of 2005 was enacted. This Act changed the time change dates for Daylight Saving Time in the United States. Beginning in 2007, the State of Ohio begins Daylight Saving Time at 2:00 a.m. on the second Sunday in March and reverts to standard time at 2:00 a.m. on the first Sunday in November. The Secretary of Energy will report the impact of this change to Congress. Congress retains the right to resume the 2005 Daylight Saving Time schedule once the Department of Energy study is complete.

204.01 City flag and seal.

204.02 City flower.

CROSS REFERENCES

State standard of time - see Ohio R.C. 1.04

State legal holidays - see Ohio R.C. 1.14, 5.20 et seq., 1303.45

State flag and other insignia - see Ohio R.C. 5.01 et seq.

State seals - see Ohio R.C. 5.10 et seq.

Weights and measures - see Ohio R.C. 901.10

204.01 CITY FLAG AND SEAL.

The flag and seal as hereinafter described are hereby proclaimed the official flag and seal of the City.

- (a) Seal. The seal shall be a circle with the words "Progress" and "Stability" at the top in the border and "City of Centerville, Ohio" at the bottom in the border. Within the border there shall be a colonial frame which shall frame four stars at each corner with a large star in the center signifying the fact that Centerville is located at the center of an area bounded by Dayton, Miamisburg, Ridgeville and Springboro. At the bottom of the stars shall appear the words "Founded 1796".
- (b) Flag. The flag shall be a rectangle and divided in the middle vertically. The half of the flag nearest the staff shall be white with the seal of the City superimposed in the middle. The opposite half of the flag shall be horizon blue.

(Ord. 63-72. Passed 10-16-72.)

204.02 CITY FLOWER.

The Council of the City hereby designates the daylily or Hermerocalis as the official flower for the City and urges all citizens to plant said flower on their premises as a community project for the City.
(Ord. 59-74. Passed 7-15-74.)

CHAPTER 206
Code of Ethics

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|--------|-------------------------------------|--------|---|
| 206.01 | Application of chapter;
purpose. | 206.04 | Violations; censure,
suspensions, removal from
office, etc. |
| 206.02 | Conflicts of interest. | | |
| 206.03 | Application of State law. | | |

CROSS REFERENCES

- Personal financial interest of officers and employees - see
CHTR. Sec. 12.06
- Investigation of complaints - see ADM. Ch. 208
- Conflicts of interest of members of the Centerville Historical
Commission - see ADM. 270.03(g)
- Conflicts of interest of members of the Residential Board of
Appeals - see ADM. 288.04
- Unlawful interest in a public contract - see GEN. OFF. 606.17
- Soliciting or receiving improper compensation - see GEN. OFF.
606.18
- Conflicts of interest of members of the Planning Commission -
see P. & Z. 1202.02

206.01 APPLICATION OF CHAPTER; PURPOSE.

A Code of Ethics, as provided in this chapter, is hereby established for all elected and appointed public officials of the City, including Council and all board and commission members.

The purpose of this chapter is to establish ethical standards of conduct by setting forth those actions that are in conflict with the best interest of the community and by directing disclosure of any financial or personal beneficial interest in matters affecting the City. (Ord. 51-79. Passed 11-5-79.)

206.02 CONFLICTS OF INTEREST.

No public official, whether paid or unpaid, shall engage in any business or transaction or shall have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his or her official duties in the public interest or would tend to impair his or her independence of judgment or action in the performance of his or her official duties. "Personal" as distinguished from "financial interest" includes an interest arising from blood or marital relationships or close business or political associations. Specific areas of potential conflicts of interest are set forth as follows:

- (a) Employment. It is hereby recognized that public officials shall retain their rights as citizens to pursue interests of a personal and economic nature and to accept employment and follow other pursuits which do not interfere with the full and faithful discharge of their public duties. No specific occupations, per se, are deemed to be essentially incompatible with public office. However, it is recognized that on occasion there may develop specific conflicts between personal, financial or other private interests of a public official and the public interest. On those occasions the public official must take specific actions and refrain from specific actions as set forth in this chapter.
(Ord. 51-79. Passed 11-5-79.)
- (b) Legislation, Contracts or Other Public Matters. A public official who has a personal, financial or other private interest in any proposed legislation, contract award or other public matter shall:
- (1) Not engage in any discussion with other City officials or employees of the City, either formally or informally, about the specific situation;
and
 - (2) Disclose on the record that a conflict exists or may be perceived to exist and physically exit the meeting or discussion until such time as the discussion is ended or the legislation or other matter is acted upon.
(Ord. 6-84. Passed 3-19-84.)
- (c) Representation of Private Interests. No public official shall represent or appear on behalf of a private interest, other than his or her own personal residential interest, in any matter pending before any element of the City government. He or she shall not represent a private interest in any action or proceeding against the interests of the City in any litigation to which the City is a party. A member of Council may appear before elements of the City government on behalf of constituents in the course of his or her duties as a representative of the electorate or in the performance of public or civic obligations. However, no public official shall accept a retainer or other compensation that is contingent upon a specific action by the City.
- (d) Use of Influence. No public official shall use or attempt to use his or her public position or office to obtain financial gain or unlawful benefits, advantages or privileges for himself or herself, for his or her immediate family or for any business with which he or she is associated. Financial gain shall not include regularly approved compensation for salary or expenses.
- (e) Confidential Information. No public official may use or disclose confidential information acquired by him or her in the course of his or her official duties, in any way that could result in financial gain for himself or herself or any member of his or her immediate family, either directly or indirectly.

- (f) Gifts and Favors. No public official shall accept or solicit anything of value; whether in the form of a gift or promise of a gift, from any person, firm or corporation which, to his or her knowledge, is involved in business dealings with the City. For purposes of this chapter, a gift shall include the receipt of any goods, services or loans for an amount less than the amount charged to the general public for like goods, services or loans, provided, however, that any public official may accept food or drink for immediate consumption when offered in a situation which is in a normal business context or in the nature of a social context.
- (g) Special Treatment. No public official shall grant any special consideration, treatment or advantage to any citizen beyond that which is reasonably available to every other citizen.
(Ord. 51-79. Passed 11-5-79.)

206.03 APPLICATION OF STATE LAW.

Nothing in this chapter shall be deemed in any way to restrict the application of any provision of the Ohio Revised Code or common law provisions with respect to conflicts of interest or malfeasance, misfeasance or nonfeasance in office which would otherwise be applicable to any person subject to the provisions of this chapter. The provisions of this chapter shall be deemed additional requirements and shall in no way be construed as a derogation under home rule of present statutory penalties and other local remedies for acts prohibited by this chapter.
(Ord. 51-79. Passed 11-5-79.)

206.04 VIOLATIONS; CENSURE, SUSPENSIONS, REMOVAL FROM OFFICE, ETC.

A violation of any provision of this chapter may constitute a cause for censure by City Council and recommendation for or against suspension, removal from office or other disciplinary action by the appropriate authority after due notice and hearing.
(Ord. 51-79. Passed 11-5-79.)

CHAPTER 208
Investigation of Complaints

- 208.01 Definitions.
- 208.02 Contents of complaints; records.
- 208.03 Presentation of complaints to Council.
- 208.04 Investigatory procedures.
- 208.05 Hearings.
- 208.06 Findings of violations; dismissal of complaints.
- 208.07 Investigative powers of Council.
- 208.08 Witness fees.
- 208.09 Compensation of agents of investigating units.
- 208.10 Failure or refusal of witnesses to testify.
- 208.11 Expenses of investigations.
- 208.99 Penalty.

CROSS REFERENCES

- Council - see CHTR. Secs. 4.01 et seq; ADM. Ch. 220
- Personal financial interest of officers and employees - see CHTR.
Sec. 12.06
- Investigation of municipal officers by mayor - see Ohio R.C. 733.34
et seq.
- Code of Ethics - see ADM. Ch. 206
- Unlawful interest in a public contract - see GEN. OFF. 606.17

208.01 DEFINITIONS.

For purposes of this chapter, the following words shall have the meanings given herein:

- (a) "Complainant" means any person who has filed a complaint.
- (b) "Complaint" means a formal written complaint filed with the Manager in the form of an affidavit made on personal knowledge alleging misfeasance, malfeasance or nonfeasance by a respondent in the conduct of the affairs or administration of the City.
- (c) "Respondent" means any person or Municipal department, division, board or commission against whom a complaint has been filed.

(Ord. 11-87. Passed 5-18-87.)

208.02 CONTENTS OF COMPLAINTS; RECORDS.

(a) A complaint filed with the Manager shall be made under oath and shall set forth the following:

(1) A detailed description of the conduct alleged to constitute misfeasance, malfeasance or nonfeasance, including a reference to any law, ordinance or regulation allegedly violated.

(2) The names of all individuals believed to have information concerning the alleged violation.

(b) Complaints shall be numbered consecutively and recorded under the complaint number in a permanent ledger. All subsequent action taken on each complaint shall also be recorded in that ledger. The ledger shall be kept by the Manager.

(Ord. 11-87. Passed 5-18-87.)

208.03 PRESENTATION OF COMPLAINTS TO COUNCIL.

(a) The Manager shall inform Council of the filing of a complaint and shall present the complaint at an executive session of Council pursuant to Ohio R.C. 121.22(G)(1). Such executive session shall be held during the first Council meeting subsequent to the receipt of a complaint by the Manager.

(b) An investigation of any complaint so presented shall commence only upon an affirmative vote by at least four members of Council that the facts alleged in the complaint, if true, constitute misfeasance, malfeasance or nonfeasance by the respondent in the conduct of Municipal affairs or administration. Any such vote of Council shall be taken in a public meeting immediately following the executive session. If less than a majority of Council vote to commence an investigation, or if no vote is taken at that meeting, the complaint shall be deemed dismissed.

If at least four members of Council vote to commence an investigation, a copy of the complaint, together with notice that an investigation is in process, shall be provided to the respondent within three business days from said vote. Such service shall be made to the respondent either personally or by certified mail, return receipt requested, delivery restricted to the addressee only, at his or her last known address on the records of the City.

(c) Neither the name of any respondent nor the allegations in the complaint shall be referred to or discussed in a public meeting. Rather, the complaint shall be identified only by its assigned number. This subsection shall prevail over any contrary provisions of the Council rules or any other ordinance of the City.

(d) Since Ohio R.C. 121.22(G)(1) allows the investigation of complaints against public employees and officials and the consideration of dismissal or discipline of such employees and officials to be conducted in private executive sessions, all records, proceedings and documents relating to complaints and any hearings thereon shall remain confidential until the investigation is terminated or dismissed and as provided in Sections 208.04(g) and 208.06(c).

(Ord. 11-87. Passed 5-18-87.)

208.04 INVESTIGATORY PROCEDURES.

(a) The Manager shall investigate the complaint, gathering all available evidence both supporting and refuting the complaint.

(b) The investigation by the Manager shall be completed within six weeks after the vote by Council to commence such investigation. An extension of this time may be granted by Council for good cause shown.

(c) The Manager shall prepare a written report of the findings of the investigation. The report shall include a recommendation as to whether the investigation should be continued or the complaint be dismissed. The written report shall be presented and discussed at an executive session of Council held during the first Council meeting subsequent to the completion of the investigation.

(d) If, in a public meeting immediately following the executive session, at least four members of Council vote that there is probable cause to believe the allegations occurred, the Manager shall schedule an executive session hearing on the matter. If at least four members of Council do not vote that there is probable cause, or if no vote is taken at that meeting, the complaint shall be deemed dismissed.

(e) The provisions of Section 208.03(c) shall apply to said public meeting.

(f) If the complaint is not dismissed, written notice of the date, time and place of the hearing thereon shall be served upon the respondent and complainant within seven working days of said public meeting, personally or by certified mail to the last known address of each on the records of the City, return receipt requested, delivery restricted to the addressee only. Such notice shall also include a statement of the alleged violation and shall inform the respondent and the complainant of his or her right, and of the right of the Manager, to be represented by counsel, to examine evidence against him or her, to produce evidence, to call and subpoena witnesses, to confront his or her accusers and to cross-examine witnesses.

(g) If the complaint is dismissed, Council and the Manager shall make a public report of the findings if requested to do so by any respondent. However, all evidence and other matters referred to in Section 208.03(d) shall remain confidential, unless a respondent specifically requests that it also be made public.

(h) If the Manager is named as a respondent in any complaint, or if Council finds that the Manager has a personal interest in the results of any investigation, Council may remove the Manager from all duties under this chapter and appoint an independent investigator who shall assume all the duties and powers given the Manager hereunder. (Ord. 11-87. Passed 5-18-87.)

208.05 HEARINGS.

(a) A hearing shall be set by the Manager to be held no less than thirty days nor more than forty-five days after the Council meeting at which the investigation report is given and probable cause to proceed is found.

(b) The Manager may grant continuances at the request of the respondent, the complainant or the Council, or upon his or her own volition, if the interest of justice so requires. Such requests must be in writing and filed with the Manager no later than seven days prior to the scheduled hearing. Such a request shall contain a brief written statement setting forth the reasons for the requested continuance. Each continuance granted by the Manager shall be to a date certain, not to exceed forty-five days after the previously scheduled hearing.

(c) All hearings under this section shall be held in private executive session pursuant to Ohio R.C. 121.22, unless the respondent requests a public hearing, in which case the hearing shall be held in public.

(d) A record of all hearings shall be made, and the parties shall have the rights described in Section 208.04(d) through (f).

(e) The Council may appoint one of its members as presiding officer or may appoint as such officer any attorney at law licensed to practice in the State, whether or not that attorney is a member of Council. The activities of such a non-Councilmember presiding officer shall be limited to the administration of the hearing and decisions regarding the procedure at the hearing. The Manager shall present the evidence against the respondent to the complainant or may delegate this task to an attorney named by the Manager for this task.

(f) All testimony given at any such hearing, whether public or in executive session, shall be taken under oath. The presiding officer shall conduct the hearing so as to afford due process of law to the respondent and the complaining party.

(g) Council shall serve as the hearing body in all investigations. Its decisions shall be final, and there shall be no administrative appeal from any decision or recommendation of Council made in such capacity. (Ord. 11-87. Passed 5-18-87.)

208.06 FINDINGS OF VIOLATIONS; DISMISSAL OF COMPLAINTS.

(a) If, upon evidence given at the hearing, at least four members of Council find, by a preponderance of the evidence, that the facts alleged in the complaint and/or in the investigation report are true and that such facts constitute misfeasance, malfeasance or nonfeasance in the conduct of Municipal affairs or administration, the Council shall state its findings of a violation and make a recommendation of appropriate action.

(b) If Council does not so find a violation by a preponderance of the evidence, the complaint shall be dismissed.

(c) If a complaint is dismissed after a hearing under Section 208.05, Council and the Manager shall make public the report of its findings if requested to do so by any respondent. However, all evidence, other matters referred to in Section 208.03(d) and the transcript of the hearing shall remain confidential, unless a respondent specifically requests that it also be made public.

(Ord. 11-87. Passed 5-18-87.)

208.07 INVESTIGATIVE POWERS OF COUNCIL.

For the purpose of investigations and hearings hereunder, the Council shall be vested with the following rights, powers and prerogatives, all of which may be exercised by the presiding officer appointed by Council:

(a) To compel the attendance of witnesses and the production of books, papers and other evidence and to issue subpoenas or attachments therefor. No officer or employee of the City shall, by virtue of such office or employment, be exempt from being called as a witness. The Council, through its presiding officer, shall exercise the foregoing powers on behalf of and upon request of the Manager and of any respondent.

(b) To appoint any police officer or other person to serve subpoenas for witnesses.

(c) To appoint any police officer or other person to maintain order and decorum at any hearing held by the Council.

(d) To appoint such clerks, stenographers and other assistants as may be necessary in order to carry on the investigation at hand.

(e) To administer oaths.

(Ord. 11-87. Passed 5-18-87.)

208.08 WITNESS FEES.

Each witness who is not an officer or employee of the City subpoenaed hereunder shall be entitled to receive a fee of twelve dollars (\$12.00) for each day in attendance or six dollars (\$6.00) for each half day in attendance at any hearing or deposition.

(Ord. 11-87. Passed 5-18-87.)

208.09 COMPENSATION OF AGENTS OF INVESTIGATING UNITS.

The compensation to be paid for the service of subpoenas or the performance of any other acts or duties authorized or specified by this chapter shall be fixed by the Manager on the approval of the City Council, except that no compensation in addition to regular compensation shall be so allowed to any duly elected or appointed official or to any employee in the classified or unclassified service of the City.

(Ord. 11-87. Passed 5-18-87.)

208.10 FAILURE OR REFUSAL OF WITNESSES TO TESTIFY.

No witness shall fail or refuse to testify on any matter under investigation of which he or she has knowledge, but such testimony shall not be used against him or her in any criminal prosecution, except for perjury.

(Ord. 11-87. Passed 5-18-87.)

208.11 EXPENSES OF INVESTIGATIONS.

All expenses of any investigation, including fees, compensation for services rendered and all other expenses necessary and incidental thereto, shall be vouchered in the usual manner then in use in the City and shall be paid by the City, on approval by Council, out of funds appropriated for that purpose by the Council.

(Ord. 11-87. Passed 5-18-87.)

208.99 PENALTY.

Whoever fails to comply with a subpoena issued pursuant to the provisions of Section 208.07(a), after having been personally served therewith, and any person who violates the provisions of Section 208.10, shall be guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both.

(Ord. 11-87. Passed 5-18-87.)

CHAPTER 210
Contracts and Purchasing

<p>210.01 Authority of Manager; competitive bids.</p> <p>210.02 Advertisement for bids.</p> <p>210.03 Opening of bids.</p> <p>210.04 Bid specifications.</p> <p>210.041 Reverse auction method of competitive bidding.</p> <p>210.05 Right of rejection; waiver of irregularities.</p> <p>210.06 Award of bid; execution of contract.</p> <p>210.07 Exceptions to competitive bids in case of public disasters.</p> <p>210.08 Purchasing procedure.</p> <p>210.09 Purchase orders and contracts.</p>	<p>210.10 Inspections of supplies, materials, equipment or contractual services.</p> <p>210.11 Purchase of Federal and/or State Government surplus.</p> <p>210.12 Certification of invoices; payment.</p> <p>210.13 Certification of contracts; payment.</p> <p>210.14 Participation in contracts with the Ohio Department of Administrative Services.</p> <p>210.15 Participation in contracts with the Ohio Department of Transportation.</p> <p>210.16 Construction management contracts and professional design services.</p>
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CROSS REFERENCES

Central purchasing - see CHTR. Sec. 7.06
 Contracting procedure - see CHTR. Sec. 7.07
 Continuation of contracts prior to effective date of Charter - see CHTR. Sec. 13.08
 Contracts for utility services without advertising for bids - see Ohio R.C. 9.30
 Public contracts generally - see Ohio R.C. 735.05 et seq.
 Unlawful interest in a public contract - see ADM. 206.02; GEN. OFF. 606.17
 Preparation of contracts by Municipal Attorney - see ADM. 246.04
 Contracts with other political subdivisions re Building Code enforcement - see B. & H. 1440.03

210.01 AUTHORITY OF MANAGER; COMPETITIVE BIDS.

(a) The Manager is authorized to make any contract, purchase supplies and materials and provide labor for any work for the City involving an expenditure of not more than fifty thousand dollars (\$50,000).

(b) When an expenditure for any purpose mentioned in subsection (a) hereof exceeds fifty thousand dollars (\$50,000), the Manager shall take bids and Council shall, by resolution, authorize and direct the Manager to make and execute all necessary contracts and to make such expenditures according to the procedure hereinafter set forth.

(c) The authorization contained in subsections (a) and (b) hereof shall include, but shall not be limited to, contracts involving the joint purchase of supplies, materials and labor with other jurisdictions and regional authorities, provided, however, that with respect to the Manager's authority under subsection (a) hereof requiring no bids, he or she shall not have the authority to bind the City to any contract with another jurisdiction or regional authority if the City's joint or several liability thereunder may exceed fifty thousand dollars (\$50,000).

(d) The provisions of Ohio R.C. 153.50 through 153.52 shall have no application to any contracts for work and materials on public improvement projects within the City, and the Manager may, at his or her discretion, determine that such projects may be bid as a whole and not separately.

(Ord. 17-97. Passed 10-20-97; Ord. 15-03. Passed 8-18-03; Ord. 3-13. Passed 3-18-13.)

210.02 ADVERTISEMENT FOR BIDS.

(a) The Manager shall cause the advertisement for bids to be published once each week, for not less than two weeks nor more than four weeks, in a newspaper of general circulation within the City. (Ord. 63-75. Passed 7-21-75.)

(b) Both the Dayton Daily News or the Centerville-Bellbrook Times are hereby designated as a newspaper of general circulation for public bidding purposes for the City. (Ord. 5-97. Passed 5-19-97; Ord. 3-13. Passed 3-18-13.)

210.03 OPENING OF BIDS.

The Manager or his or her designee, at a time specified in the advertisement provided for in Section 210.02, and during business hours, shall open bids in the Municipal Building on the last day for filing them, which shall be at least seven days after the last published notice for bids, and which may be longer than seven days if so specified in the notice. The Manager or his or her designee shall publicly read the bids. (Ord. 63-75. Passed 7-21-75.)

210.04 BID SPECIFICATIONS.

Each bid shall contain the full name of each person or company interested therein and shall be accompanied by a sufficient bond or certified check on a solvent bank of not less than five percent of the amount of the bid, the condition of such bond or certified check being that if a bid is accepted a contract will be entered into and its performance properly secured. If the work bid embraces both labor and material, such items shall be separately stated with the price thereof. The Manager may reject any bid where there is reason to believe there is collusion or combination among bidders, upon nonsubmission of a sufficient bond or certified check, or for other reasons where there are sufficient grounds to do so.

The Manager may establish prequalifications for bidders, including references and a statement of similar work performed.

No bid submitted under this procedure may be altered or modified on or after the date and time specified in the invitation to bidders.

Bids shall not be split between or among bidders, and if this occurs, it shall be sufficient cause for rejection of the bid or bids. (Ord. 13-69. Passed 4-7-69.)

210.041 REVERSE AUCTION METHOD OF COMPETITIVE BIDDING.

(a) As used in this section:

- (1) "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork called the world wide web.
- (2) "Reverse auction" means a purchasing process in which offerors submit proposals in competition to sell services or supplies in an open environment via the internet.
- (3) "Services" means the furnishing of labor, time, or effort by a person, not involving the delivery of a specific end product other than a report which, if provided, is merely incidental to the required performance. "Services" does not include services furnished pursuant to employment agreements or collective bargaining agreements.
- (4) "Supplies" means all property, including, but not limited to, equipment, materials, other tangible assets, and insurance, but excluding real property or interests in real property.

(b) Whenever the City is required by law to purchase services or supplies by competitive sealed bidding or competitive sealed proposals and the Manager determines that the use of a reverse auction is advantageous to the City, the Manager, in accordance with this section, may purchase services or supplies by reverse auction.

(c) The Manager or his or her designee shall solicit proposals through a request for proposals. The request for proposals shall state the relative importance of price and other evaluation factors. The Manager or his or her designee shall give notice of the request for proposals in accordance with the provisions of Section 210.02 of this Code.

(d) As provided in the request for proposals and in accordance with the provisions of Chapter 210 of this Code, and to ensure full understanding of and responsiveness to solicitation requirements, the Manager or his or her designee may conduct discussions with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award. The Manager or his or her designee shall accord offerors fair and equal treatment with respect to any opportunity for discussion regarding any clarification, correction, or revision of their proposals.

(e) The City Council may award a contract to the offeror whose proposal the Manager determines to be the most advantageous to the City, taking into consideration factors such as price and the evaluation criteria set forth in the request for proposals. The contract file shall contain the basis on which the award is made.

(f) A performance bond in the amount of 100% of the proposed price shall be required.
(Ord. 6-04. Passed 5-17-04.)

210.05 RIGHT OF REJECTION; WAIVER OF IRREGULARITIES.

The Manager and/or the City Council shall have the right to reject any and all bids or parts of bids and to waive irregularities. (Ord. 63-75. Passed 7-21-75.)

210.06 AWARD OF BID; EXECUTION OF CONTRACT.

The City Council shall award the bid to the lowest and best qualified bidder meeting the specifications as set forth in this chapter. The Manager, when duly authorized, shall make and execute a written contract with the bidder specified by Council. (Ord. 63-75. Passed 7-21-75.)

210.07 EXCEPTIONS TO COMPETITIVE BIDS IN CASE OF PUBLIC DISASTERS.

In case of a public disaster, declared by a resolution approved by at least five members of Council, purchases and contractual services may be made without competitive bidding. The Manager is authorized to secure such purchases or contractual services. (Ord. 13-69. Passed 4-7-69.)

210.08 PURCHASING PROCEDURE.

Whenever the head of a department deems it necessary or desirable that supplies, materials, equipment or contractual services be purchased or secured, said department head shall prepare, sign and submit to the Purchasing Agent a requisition thereof, approved by the Manager, specifying the nature of the purchase desired, the quantity required and the performance requirements to be met. Upon receipt of such requisition, the Purchasing Agent shall inquire of potential suppliers as to the cost of such purchase, in the form of informal offers to supply the items required. If the probable cost thereof will be fifty thousand dollars (\$50,000) or more, he or she shall notify the Manager, who will initiate the formal bidding process as provided in this chapter. If the cost is less than fifty thousand dollars (\$50,000), he or she shall recommend to the Manager that the Manager purchase from the supplier offering the lowest and best bid among the informal bidders. In the event multiple bids are not available, the Manager shall bring before Council, for approval, any purchase greater than fifty thousand dollars (\$50,000). All contracts shall have attached a certificate of availability of funds signed by the Director of Finance. (Ord. 17-97. Passed 10-20-97; Ord. 15-03. Passed 8-18-03; Ord. 3-13. Passed 3-18-13.)

210.09 PURCHASE ORDERS AND CONTRACTS.

(a) Whenever informal bidding is followed pursuant to this chapter, the Purchasing Agent shall prepare a purchase order addressed to the successful bidder, directing him or her to supply the goods or services required in accordance with the terms agreed upon. Such purchase order shall be submitted to the Director of Finance for encumbrance and certification and forwarded to the Manager for final approval. Upon final approval by the Manager, the Purchasing Agent shall distribute copies of the purchase order as follows:

- (1) The original shall be sent to the vendor.
- (2) One copy shall be sent to the department head.
- (3) One copy shall be sent to receiving.
- (4) One copy shall be filed.

(b) Every undertaking by the City involving an expenditure of over twenty-five dollars (\$25.00) shall be in writing, in the form of a purchase order or of a contract, as may be appropriate. No officer or employee of the City shall have the authority to enter into any oral agreement involving the expenditure of City funds in excess of twenty-five dollars (\$25.00). The Manager shall sign all contracts on behalf of the City, and he or she and the Director of Finance shall sign all purchase orders. The Director of Finance shall certify that the amount required to meet the contract, agreement, obligation, payment or expenditure for the above has been lawfully appropriated, authorized or directed for such purpose and is in the Treasury or in process of collection, free from any outstanding obligation or certification. In the case of a contract that is to continue beyond the current year and to involve expenditures of money in future years, the Director of Finance shall only certify those funds estimated to be paid by the City during the current year.

(c) Purchases under twenty-five dollars (\$25.00) may be made by any employee or officer of the City without benefit of a purchase order if approved by the department head. It shall be the responsibility of the department head to insure that sufficient funds are available in the account to which the purchase is to be charged. All receipts for such purchases shall be filed with the Finance Department through the Purchasing Agent. (Ord. 41-76. Passed 8-16-76.)

210.10 INSPECTIONS OF SUPPLIES, MATERIALS, EQUIPMENT OR CONTRACTUAL SERVICES.

The Purchasing Agent shall inspect or supervise the inspection of all deliveries of supplies, materials, equipment or contractual services to determine their conformance with the specifications set forth in or referred to in the order or contract. (Ord. 41-76. Passed 8-16-76.)

210.11 PURCHASE OF FEDERAL AND/OR STATE GOVERNMENT SURPLUS.

Upon authorization by the Manager and approval by the City Council, the Purchasing Agent shall be permitted to purchase surplus property from the Federal and/or State Government whenever such property is offered if he or she determines that such a purchase can be made at prices less than could be obtained by utilizing formal or informal bidding procedures to purchase similar commodities from private firms. While it shall not be required that the Purchasing Agent advertise for bids, all such purchases shall be made in conformance with the procedure and terms required by the Federal and/or State Government, irrespective of the purchase price. (Ord. 41-76. Passed 8-16-76.)

210.12 CERTIFICATION OF INVOICES; PAYMENT.

The Purchasing Agent shall require invoices to be submitted to the Director of Finance, with written certification thereon by the head of the department or division of the City concerned, to the effect that the goods or services for which the invoice is rendered have been delivered or performed in the manner, quantity and quality specified, prior to the issuance of the City's warrant in payment thereof, whereupon the City's warrant shall be promptly issued in payment.

(Ord. 41-76. Passed 8-16-76.)

210.13 CERTIFICATION OF CONTRACTS; PAYMENT.

Prior to making partial or final payments on contracts, the Manager shall certify that the conditions of the contract for which the payment is to be made have been complied with. In the case of partial payments, such payments shall be made in accordance with estimates of the amount and value of the work accomplished. The certificates or estimates shall include only the amount and value of the work accomplished and materials used since any preceding estimate. Such certificates or estimates shall further indicate that a greater portion of the contract has been performed by the contracting party than that which is represented by the requested partial payment, in addition to any preceding partial payments. Upon receiving such certificates, estimates or invoices, properly certified, the Director of Finance shall then issue warrants in payment. A percentage may be withheld by the Manager on any contract as a guarantee of proper performance of the contract.

(Ord. 41-76. Passed 8-16-76.)

210.14 PARTICIPATION IN CONTRACTS WITH THE OHIO DEPARTMENT OF ADMINISTRATIVE SERVICES.

(a) The Manager is hereby authorized to request authority, in the name of the City, to participate in State contracts which the Department of Administrative Services, Office of State Purchasing, has entered into for the purchase of supplies, services, equipment and certain materials pursuant to Ohio R.C. 125.04.

(b) The Manager is hereby authorized to agree, in the name of the City, to be bound by all contract terms and conditions as the Department of Administrative Services, Office of State Purchasing, prescribes. Such terms and conditions may include a reasonable fee to cover the administrative costs which the Department of Administrative Services incurs as a result of the City's participation in a contract. Further, the Manager shall agree to be bound by all such terms and conditions.

(c) The Manager is hereby authorized to agree, in the name of the City, to directly pay the vendor, under each such State contract in which it participates, for the items it receives pursuant to a contract, and the Manager shall agree to directly pay the vendor.

(Ord. 19-88. Passed 1-16-89.)

210.15 PARTICIPATION IN CONTRACTS WITH THE OHIO DEPARTMENT OF TRANSPORTATION.

(a) The Manager is hereby authorized to request, in the name of the City, authority to participate in contracts of the Ohio Department of Transportation, for the purchase of machinery, materials, supplies or other articles, which the Department has entered into pursuant to Ohio R.C. 5513.01(B).

(b) The Manager is hereby authorized to agree, in the name of the City, to be bound by all terms and conditions prescribed by the Ohio Director of Transportation.

(c) The Manager is hereby authorized to agree, in the name of the City, to directly pay the vendor, under each such contract of the Ohio Department of Transportation in which the City participates, for items it receives pursuant to the contract.

(d) The City hereby agrees to hold the Ohio Director of Transportation and the Ohio Department of Transportation harmless for any claim or dispute arising out of participation in a contract pursuant to Ohio R.C. 5513.01(B).

210.16 CONSTRUCTION MANAGEMENT CONTRACTS AND PROFESSIONAL DESIGN SERVICES.

All contracts for construction management and contracts for professional design services, in the amount of fifty thousand dollars (\$50,000) or more, shall be awarded on the basis of the qualifications of a potential contractor and the price, as determined by the City Manager or his or her designee. Prospective contractors shall submit proposals in accordance with the instructions and specifications of the City. The City may reject any and all proposals. The City Manager shall recommend to Council the lowest and best proposal, based on the qualifications of the contractor, the price and other relevant factors. These procedures are not intended to be formal bidding requirements, but, rather, are intended to be an informal procedure to determine the best contractor to whom a contract should be awarded.

(Ord. 4-96. Passed 5-6-96; Ord. 3-13. Passed 3-18-13.)

CHAPTER 211
Investment and Deposit Policy

211.01	Policy.	211.10	Derivatives.
211.02	Scope.	211.11	Security for the repayment of public deposits.
211.03	Objectives.	211.12	Swapping of government securities.
211.04	Standards of care.	211.13	Competitive quotes.
211.05	Maturity.	211.14	Safekeeping and custody.
211.06	Diversification.	211.15	Reporting.
211.07	Authorized financial institutions and dealers.	211.16	Policy considerations.
211.08	Central depository.		
211.09	Authorized investments.		

211.01 POLICY.

It is the policy of the City of Centerville (“City”) to invest public funds in a manner which will provide the highest investment return with maximum security while meeting all liquidity and operating demands of the City. All investment activities must conform with all applicable State and local statutes governing the investment of public funds. (Ord. 29-07. Passed 1-28-08.)

211.02 SCOPE.

(a) This Investment and Deposit Policy (“Policy”) applies to all financial assets of the City. The City funds subject to this policy are hereinafter referred to as the “Active Portfolio.”

(b) The Director of Finance is authorized to pool cash balances from all funds of the City for investment purposes. All interest earnings will be credited to the fund from which the cash balance was drawn. (Ord. 29-07. Passed 1-28-08.)

211.03 OBJECTIVES.

The primary objectives of investment activities, in order of priority, shall be safety, liquidity and yield:

- (a) Safety of Principal. Safety of principal is the foremost objective of the City. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. This is accomplished by:
- (1) Limiting investments to the securities authorized by this policy.
 - (2) Pre-qualifying the financial institutions, broker/dealers, and advisors with which the City will do business.

- (3) Diversifying the investment portfolio so that potential losses on individual securities will not significantly affect the safety of the portfolio.
 - (4) Structuring the investment portfolio so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity.
 - (5) Committing to a staggered-maturity (“laddered”) portfolio to provide an opportunity to regularly reinvest as well as to enhance liquidity.
- (b) Liquidity. The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated. This is accomplished by:
- (1) Structuring the portfolio so that securities mature concurrent with cash needs to meet anticipated demands.
 - (2) The portfolio should consist largely of securities with active secondary or resale markets.
 - (3) A portion of the portfolio should be placed in money market funds or local government pools (STAR Ohio) which offer same-day liquidity for short-term funds.
- (c) Return on Investments. The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the investment risk constraints and liquidity needs. Return on investment is of secondary importance compared to the safety and liquidity objectives described above.
(Ord. 29-07. Passed 1-28-08.)

211.04 STANDARDS OF CARE.

(a) Delegation of Authority. Authority to manage the City's investment program is derived from Chapter 234 of the Centerville Municipal Code. Management responsibility for the investment program is hereby delegated to the Director of Finance, who shall act in accordance with established written procedures and internal controls for the operation of the investment program, consistent with this investment policy. The Director of Finance shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Director of Finance.

(b) Prudence. The standard of prudence to be used by investment officials shall be the “prudent person” and/or “prudent investor” standard, and shall be applied in the context of managing an overall portfolio. Investment officers acting in accordance with written procedures and this investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in timely fashion and the actions of the investment officer are in accordance with this policy.

(c) Ethics and Conflicts of Interest. Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial investment decisions. Employees and investment officials shall disclose to the City Manager any material financial interests that could be related to the performance of the City's investments.

(Ord. 29-07. Passed 1-28-08.)

211.05 MATURITY.

To the extent possible, the City will attempt to match the term to maturity of its investments with the anticipated cash flow requirements. Unless matched to a specific cash flow requirement, the City will not directly invest in securities maturing more than five years from the date of settlement or having an average life or duration greater than five years.

(Ord. 29-07. Passed 1-28-08.)

211.06 DIVERSIFICATION.

(a) The investment portfolio shall be diversified by:

- (1) Avoiding over-concentration in securities from a specific issuer or business sector (excluding securities issued by the United States government or an agency or instrumentality thereof). The following maximum allocations are established:
 - A. Certificates of deposit: no more than 50% of the total market value of the portfolio;
 - B. Commercial paper and bankers acceptances: No more than 25% of the total market value of the portfolio may be committed to these two classifications combined;
 - C. Repurchase agreements, money market funds, STAR Ohio and NOW accounts: No more than 50% of the total market value of the portfolio may be committed to these classifications combined.
- (2) Investing in securities with varying maturities; and
- (3) Continuously investing a portion of the portfolio in readily available funds such as money market funds, overnight repurchase agreements or local government investment pools to ensure appropriate liquidity is maintained in order to meet ongoing obligations.

(b) No transaction needs to be executed when, through inadvertence or unusual circumstances, a maturity in the active portfolio causes the percentage of a type or category of investment to exceed the diversification limits set forth above. Any transactions after such infraction shall work toward returning to compliance.

(Ord. 29-07. Passed 1-28-08.)

211.07 AUTHORIZED FINANCIAL INSTITUTIONS AND DEALERS.

(a) Any financial institution, as defined by Ohio R.C. 135.03, is eligible to serve as an approved depository and/or investment provider. Eligible securities dealers and brokers must be members of the National Association of Securities Dealers (NASD), meet a minimum capital requirement of ten million dollars (\$10,000,000), and have been in operation for at least five years. These may include “primary” dealers or regional dealers that qualify under the Securities and Exchange Commission (SEC) Rule 15C3-1 (uniform net capital rule). An investment advisor must be an eligible financial institution as defined by Ohio R.C. 135.03, or an advisor that is registered with the Securities and Exchange Commission.

(b) All financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply the Director of Finance with the following when requested, if applicable:

- (1) Completed broker/dealer questionnaire;
- (2) Proof of National Association of Securities Dealers certification;
- (3) Proof of State registration;
- (4) Audited financial statements;
- (5) Certification of having received and understood the City's Investment Policy, and agreeing to comply with the policy;
- (6) Depository agreement;
- (7) Other relevant information as requested.

(c) The Director of Finance will conduct a review of the financial condition and registration of qualified bidders at least once every five years.

(d) The Director of Finance will maintain a list of authorized institutions and dealers. The Director of Finance:

- (1) May make additions to the authorized list when investment and deposit policy requirements are met;
- (2) Shall make deletions from the list: (i) if and as directed by ordinance of City Council; (ii) upon failure of the financial institution to meet the requirement of this policy; or (iii) upon request of the financial institution or dealer; and
- (3) May make deletions from the list based on the following:
 - A. Perceived financial difficulties of the financial institution or dealer;
 - B. Consistent lack of competitiveness by the financial institution or dealer;
 - C. Lack of experience or familiarity of the account representative in providing service to large institutional accounts; or
 - D. When deemed in the best interest of the City.
(Ord. 29-07. Passed 1-28-08.)

211.08 CENTRAL DEPOSITORY.

To ensure the City will receive the best service possible, and that financial institutions will have an equal opportunity to participate, the City will competitively seek quotes for a central depository bank(s) through a request for proposals at least every five years. The central depository bank(s) will have the same opportunity as other eligible financial institutions to provide quotes on the investment of the City's excess funds.

(Ord. 29-07. Passed 1-28-08.)

211.09 AUTHORIZED INVESTMENTS.

The Director of Finance may invest on behalf of and in the name of the City in the following instruments at a price not exceeding their fair market value:

- (a) Government Securities. U.S. government obligations, U.S. government agency obligations, and U.S. government instrumentality obligations, which have a liquid market with a readily determinable market value.
- (b) Non-Negotiable and Negotiable Interest-Bearing Time Certificates of Deposit.
 - (1) Non-negotiable interest-bearing certificates of deposit and negotiable interest-bearing certificates of deposit in Federally-insured banks, organized under the laws of the United States, and chartered in and located within the 50 United States, provided that such deposits are secured by collateral as prescribed herein.
 - (2) Minimum criteria for banks and savings and loan associations shall be as follows:
 - A. The asset size shall be at least fifty million dollars (\$50,000,000).
 - B. Current financial statements, issued within the last 12 months, are available.
 - C. The institution shall be profitable according to their latest financial statements.
- (c) Commercial Paper. Commercial paper which is rated at the time of purchase in the single highest classification by Moody's or Standard and Poor's.
- (d) Bankers Acceptances. Bankers acceptances which are eligible for purchase by the Federal Reserve System and which are issued by institutions which are ranked nationally as being in the top 50 in asset and deposit size within their industry.
- (e) Repurchase Agreements. Repurchase agreements of a bank or savings and loan association organized under the laws of the U.S. or State of Ohio for negotiable direct obligations of the United States or U.S. Federal agencies. If any repurchase agreement obligations do not have the backing of the full faith and credit of the United States, any such investments shall be secured by collateral as provided in Section 211.11.
- (f) Money Market Funds. Money market funds whose portfolios consist of the foregoing divisions (a) through (f) of this section.
- (g) State Treasury Asset Reserve of Ohio. The State Treasury Asset Reserve of Ohio ("STAR Ohio") is a statewide investment pool managed by the Treasurer of the

State of Ohio similar in concept to a money market fund. It is available exclusively to political subdivisions of Ohio.

- (h) Other Ohio Investment Pools. Any other investment pool operating in Ohio and available exclusively to public fund agencies of Ohio. The instruments of these pools must have the full faith and credit backing of the United States or be fully collateralized or insured.
- (i) NOW Accounts. NOW Accounts, Super-NOW Accounts, or any similar account authorized by the Federal Reserve's Depository Institutions' Deregulation Committee.
(Ord. 29-07. Passed 1-28-08.)

211.10 DERIVATIVES.

Investments in derivatives are strictly forbidden. A derivative is defined in Ohio R.C. Chapter 135 as a financial instrument, contract or obligation whose value is based upon or linked to another asset or index or both, separate from the financial instrument, contract or obligation itself.
(Ord. 29-07. Passed 1-28-08.)

211.11 SECURITY FOR THE REPAYMENT OF PUBLIC DEPOSITS.

All public depositories shall comply with the Ohio Revised Code, including Ohio R.C. 135.18 and 135.181, with respect to collateralized security for the deposits of the City. The City may waive the first one hundred thousand dollars (\$100,000) of collateral security for such deposits if the institution is insured pursuant to Federal law. Failure of an institution to abide by any of the provisions of this section is cause for immediate suspension of the institution as a qualified depository for any City funds.
(Ord. 29-07. Passed 1-28-08.)

211.12 COMPETITIVE QUOTES.

(a) The purpose of seeking competitive quotes is to strengthen the investment program in terms of the level and consistency of performance. To the extent practical, all investments will be placed with financial institutions yielding the highest returns to the City. The right is reserved to reject the quote yielding the highest return of interest on any investment if inconsistent with the City's investment strategy, i.e. maturity, risk, liquidity, etc.

(b) Price and rate quotations on all trades may be obtained from sources within and outside the City. In the case of the sale of securities or the purchase of securities where all other factors are considered by the Director of Finance to be equal, the financial institution selected for placement will be determined by the following criteria and order of priority: (1) the financial institution situated within the City; or (2) the financial institution with the lesser amount of City funds on deposit at the time of the purchase of the security.
(Ord. 29-07. Passed 1-28-08.)

211.13 SWAPPING OF GOVERNMENT SECURITIES.

A “swap” is a movement from one security to another and may be done for a variety of reasons, such as to increase yield, lengthen or shorten maturities, to take a profit, or to increase investment quality. Losses or gains on security swaps must be recorded as a completed sale and purchase. The Director of Finance will maintain details of every swap transaction.

(Ord. 29-07. Passed 1-28-08.)

211.14 SAFEKEEPING AND CUSTODY.

All security transactions, including collateral pledges, except for “pooled collateral” arrangements, shall be conducted on a delivery versus payment basis. Securities will be held by a third party custodian designated by the Director of Finance and evidenced by safekeeping receipts.

(Ord. 29-07. Passed 1-28-08.)

211.15 REPORTING.

The Director of Finance will be responsible to provide regular reports (at least quarterly) to the City Manager about the City's investment activities. The report should include, at a minimum, the market value of the portfolio, a description of each security on hand, the date of maturity and the financial institution from which it was purchased.

(Ord. 29-07. Passed 1-28-08.)

211.16 POLICY CONSIDERATIONS.

(a) Any investment currently held that does not meet the guidelines of this policy shall be exempted from the requirements of this policy. At maturity or liquidation, such monies shall be reinvested only as provided by this policy.

(b) An Investment Committee shall be established, consisting of the City Manager, the Municipal Attorney, the Director of Finance and three members of City Council. This Investment Committee will meet at least annually to review this policy and the active portfolio.

(c) The policies as stated herein may be changed only with the approval of City Council.

(Ord. 29-07. Passed 1-28-08.)

CHAPTER 212
Sale of City Property

- 212.01 In general.
 212.02 Public notice; City's right reserved.
 212.03 Sale to highest bidder; options when no bids received.
 212.035 Alternative procedure for disposal of surplus City property valued in excess of \$1,000.
 212.04 Procedure for the sale of personal property by various boards.
 212.05 Sales to other public bodies.

CROSS REFERENCES

- Sales of motor vehicles; certificates of title -
 see TRAF. 436.08
 Disposition of property by police - see GEN. OFF.
 606.24
 Receiving stolen property - see GEN. OFF. 622.22
 Possession of public property - see GEN. OFF.
 642.23

212.01 IN GENERAL.

Any item of personal property not needed for Municipal purposes, the estimated value of which is more than one thousand dollars (\$1,000), may be disposed of by sale by the department, division, board or officer having supervision or management thereof, which sale shall be made only in compliance with the provisions of this chapter. Any item of personal property having an estimated value of one thousand dollars (\$1,000) or less may be disposed of by sale by the department, division, board or officer having supervision or management thereof, which sale shall be made either upon compliance with the provisions of this chapter or upon a negotiated price basis without the necessity of advertising and bidding as set forth in this chapter, as may be determined by the Manager.
 (Ord. 26-75. Passed 3-17-75.)

212.02 PUBLIC NOTICE; CITY'S RIGHTS RESERVED.

Items of property described in Section 212.01 that have an estimated value of more than one thousand dollars (\$1,000) shall be offered for sale through notice published once each week for two consecutive weeks in a newspaper of general circulation within the City, such notice to require that potential purchasers submit written bids signed by the proposed purchaser. The City may reserve the right to reject any and all bids. (Ord. 26-75. Passed 3-17-75.)

212.03 SALE TO HIGHEST BIDDERS; OPTIONS WHEN NO BIDS RECEIVED.

Items of property described in Section 212.01 that have an estimated value of more than one thousand dollars (\$1,000) shall be sold to the highest and best bidder. In the event that no bids are received, the City shall have the option to retain the property, readvertise the property at a later date or dispose of the property by gift, contribution, transfer or any other manner deemed appropriate, the absence of bids being deemed sufficient proof that the items of property so advertised have no fair market value. (Ord. 26-75. Passed 3-17-75.)

212.035 ALTERNATIVE PROCEDURE FOR DISPOSAL OF SURPLUS CITY PROPERTY VALUED IN EXCESS OF \$1,000.

When the Manager, in his or her sole discretion, determines that circumstances exist which render the procedures set forth in Sections 212.02 and 212.03 to be contrary to the best interests of the City and its citizens, the Manager, with the consent of Council, may adopt alternative procedures for the disposal of surplus property having an estimated value of more than one thousand dollars (\$1,000), in which event the provisions of Sections 212.02 and 212.03 shall not apply. (Ord. 8-96. Passed 9-16-96.)

212.04 PROCEDURE FOR THE SALE OF PERSONAL PROPERTY BY VARIOUS BOARDS.

(a) No board established by the Council, the members of which board are appointed by and responsible to the Council, shall sell items of personal property in any manner or for any price except in accordance with the terms of this chapter.

(b) Any such board shall make its decisions as to whether or not it desires to sell items of personal property and as to the prices to be placed on such property in the event that said personal property has an estimated value of less than one thousand dollars (\$1,000). Such decisions shall be presented to the Manager, in writing, in the form of recommendations.

30A Sale of City Property 212.05

(c) The Manager shall have the authority to approve, reject or modify the recommendations of such board, and the Manager shall notify the board, in writing, of his or her decision as soon as is reasonably possible. The board may, by a majority vote, appeal the decision of the Manager, upon any such recommendation, to the Council for a final administrative decision by the Council.

(Ord. 26-75. Passed 3-17-75.)

212.05 SALES TO OTHER PUBLIC BODIES.

Items of property described in Section 212.01 may be sold to other units of government or public bodies on a negotiated price basis, without the necessity of following the advertising and bidding procedures set forth in Section 212.02.

(Ord. 26-75. Passed 3-17-75.)

CHAPTER 214
Civil Emergencies

EDITOR'S NOTE: Resolution 43-99, passed September 20, 1999, adopted and approved a Joint Emergency Operations Plan between the City and Washington Township to meet the demands of the City and the Township in the event of a major disaster. Copies of such Resolution and of the Plan may be obtained, at cost from the Clerk of Council.

- 214.01 Definitions.
- 214.02 Organization of Office of Civil Preparedness; Manager as Director.
- 214.03 Powers and duties of the Director.
- 214.04 Civil Preparedness Plan and programs.
- 214.05 Liability of City for damage to persons or property.
- 214.06 Violations.
- 214.07 Conflicts.
- 214.99 Penalty.

CROSS REFERENCES

- Local civil defense - see Ohio R.C. 5915.06
- Exceptions to competitive bids in case of civil emergencies - see ADM. 210.07
- Traffic direction during emergencies - see TRAF. 404.06
- Misconduct at emergencies - see GEN. OFF. 648.06
- Fire Safety requirements for emergency escapes - see B. & H. 1492.03(g)
- Emergency fire alarm systems - see B. & H. 1492.06(b)

214.01 DEFINITIONS.

As used in this chapter:

- (a) "Civil emergency" means an event that would require a significant diversion of routine Municipal resource and service scheduling for the purpose of eliminating or reducing any danger to persons or their property.
- (b) "Civil preparedness" means the ability to carry out the basic governmental functions of maintaining the public peace, health and safety during civil emergencies.
- (c) "Civil preparedness forces" means the employees, equipment and facilities of all City departments, boards, institutions and commissions. In addition, the term "civil preparedness forces" shall include all volunteer personnel, equipment and facilities contributed by, or obtained from, volunteer persons or agencies.

(d) "Civil preparedness volunteer" means any person duly registered, identified and appointed by the Director of the Office of Civil Preparedness and assigned to participate in the civil defense activity.

(e) "Director of the Office of Civil Preparedness" and "Director" mean the Manager or his or her designated alternate duly appointed in accordance with Section 6.02 of the City Charter.

(f) "Disaster" means, but is not limited to, an extraordinary fire, flood, storm, epidemic or other impending or actual calamity endangering or threatening to endanger health, life or property or constituted government.

(g) "Regulations" means plans, programs, rules, restrictions, requirements and other emergency procedures deemed essential to civil preparedness.

(h) "Volunteer" means one who contributes a service, equipment or facilities to the civil preparedness organization without remuneration.

(Ord. 4-80. Passed 2-18-80.)

214.02 ORGANIZATION OF OFFICE OF CIVIL PREPAREDNESS; MANAGER AS DIRECTOR.

The City is hereby authorized and directed to create an organization for civil preparedness, utilizing to the fullest extent the existing agencies within the City. The Manager, as executive head of the Municipal Government, shall be the Director of the civil preparedness forces of the City and shall be responsible for their organization, administration and operations. The organization shall consist of the following:

(a) An Office of Civil Preparedness within the executive department of the City Government and under the direction of the Manager, and such assistants and other employees as are deemed necessary for the proper functioning of the organization.

(b) The employees, equipment and facilities of all City departments, boards, institutions and commissions, who or which will participate in the civil preparedness activity. Duties assigned to a City department shall be the same or similar to the normal duties of the department.

(c) Volunteer persons and agencies offering services to, and accepted by, the City.

(Ord. 4-80. Passed 2-18-80.)

214.03 POWERS AND DUTIES OF THE DIRECTOR.

The Director of the Office of Civil Preparedness shall have the following powers and duties with regard to civil emergencies and disasters:

(a) During any time period when civil emergency or disaster threatens or exists in the City, and to the extent that the Director deems it necessary to act immediately, without the delay of waiting for action by the Council, to protect life, health, safety and property and to preserve critical resources and duly constituted government, the Director may promulgate such regulations as he or she deems necessary to assist such protection and preservation, including, but not limited to, the following:

(1) Regulations prohibiting or restricting the movement of vehicles in order to facilitate the work of civil preparedness forces or to facilitate the mass movement of persons to and from critical areas within or without the City.

(2) Regulations pertaining to the movement of persons to and from areas deemed to be hazardous or vulnerable to civil emergency or disaster.

(3) Such other regulations as the Director deems appropriate and necessary to protect life, health, safety and property and to preserve critical resources and duly constituted government.

(b) During the same time periods, under the same conditions and for the same purposes as are set forth in subsection (a) hereof, the Director shall have the power to:

(1) Direct resources to the aid of other communities, when and if required, in accordance with the statutes of the State, the ordinances of the City or mutual aid agreements entered into by the City, and request the State or any political subdivision of the State to send aid to this City in the event that the resources of this City do not appear to be adequate to cope with a civil emergency or disaster.

(2) Obtain vital supplies, equipment and other properties found lacking and needed for such protection or preservation and bind the City for the fair value thereof in accordance with the provisions for purchasing during times of public disaster as specified in Section 7.07 of the City Charter, which are hereby declared to include civil emergencies as defined in Section 214.01.

(3) Require emergency services of any City officers or employees, and if the Director deems such personnel services inadequate, he or she may require the services of such other persons as can be obtained. All such officers, employees and other persons whose services are so required shall be entitled to any and all privileges and immunities as are provided by State law, by the City Charter or by City ordinance and, upon demand, may receive appropriate compensation for their services rendered, as determined by the Council.

(4) Coordinate the recruitment of volunteer personnel and agencies to augment the personnel and facilities of the City for civil preparedness purposes.

(5) Negotiate and conclude agreements with owners or persons in control of buildings or other property for the use of such buildings or other property for civil preparedness purposes and designate suitable buildings as public shelters, in accordance with Section 7.07 of the City Charter.

(6) Coordinate the activity of all other public and private agencies engaged in any civil preparedness activity.

(Ord. 4-80. Passed 2-18-80.)

214.04 CIVIL PREPAREDNESS PLAN AND PROGRAMS.

The Director of the Office of Civil Preparedness shall cause a civil preparedness plan to be prepared and presented to Council for adoption, modification or rejection. Such plan shall provide for the use of all services, equipment, facilities and personnel of all existing departments and agencies of the City to the fullest extent for the purposes of the protection and preservation referred to in Section 214.03. It shall be the duty of all Municipal departments and agencies to perform the functions assigned by the Plan, as adopted or modified by Council, and to maintain their portion of the Plan in a current state of readiness at all times. The Director shall conduct civil preparedness programs, including, but not limited to, the following:

(a) Through public informational programs, educate the civilian population as to actions necessary and appropriate in the event of civil emergency or disaster.

(b) Conduct public practice alerts to insure the efficient operations of the civil preparedness forces and to familiarize residents with civil preparedness regulations, procedures and operations.

(Ord. 4-80. Passed 2-18-80.)

214.05 LIABILITY OF CITY FOR DAMAGES TO PERSONS OR PROPERTY.

This chapter is an exercise by the City of its governmental functions for the protection of the public peace, health and safety, and neither the City, its agents or employees, nor any individual, receiver, firm, partnership, corporation, association or trustee, or any employees or agents thereof, in good faith carrying out, complying with or attempting to comply with any order, rule or regulation promulgated pursuant to the provisions of this chapter, shall be liable for any damage sustained to persons or property as the result of said activity, to the extent that the City has the power to waive or eliminate such liability.

(Ord. 4-80. Passed 2-18-80.)

214.06 VIOLATIONS.

It shall be unlawful for any person to violate any of the provisions of this chapter or to willfully obstruct, hinder or delay any member of the civil preparedness organization as herein defined in the enforcement or application of the provisions of this chapter or of any regulations issued hereunder.

(Ord. 4-80. Passed 2-18-80.)

214.07 CONFLICTS.

At all times when the regulations made and promulgated pursuant to this chapter are in effect, they shall supersede all existing ordinances, orders, rules and regulations insofar as the latter may be inconsistent therewith.

(Ord. 4-80. Passed 2-18-80.)

214.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a minor misdemeanor and shall be fined not more than one hundred dollars (\$100.00).
(Ord. 4-80. Passed 2-18-80.)

CHAPTER 216
Health Services

EDITOR'S NOTE: At the time of the preparation of this Municipal Code, the City contracted with the General Health District for health services. Copies of the latest relevant legislation may be obtained, at cost, from the Clerk of Council.

There are no sections in Chapter 216. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

- Building inspection for sanitation - see Ohio R.C. 715.26, 715.29
- Employment of a physician - see Ohio R.C. 715.38, 715.39
- Jurisdiction outside Municipal limits - see Ohio R.C. 715.50, 743.25
- Boards of health - see Ohio R.C. Ch. 3707
- Health districts - see Ohio R.C. Ch. 3709
- Safety, sanitation and health - see GEN. OFF. Ch. 660
- Sanitation of premises - see B. & H. 1494.02

CHAPTER 218
Public Records Policy

218.01	Purpose.	218.05	Denial of a public records request.
218.02	Scope.	218.06	Compliance.
218.03	Inspection.	218.07	Failure to respond to a public records request.
218.04	Fees and payment.		

218.01 PURPOSE.

The City of Centerville maintains many records that are used in the administration and operation of the City. In accordance with State law and the City's Records Commission, the City has adopted schedules of records retention and disposition (RC-2) that identify these records. These schedules list records that are stored on a fixed medium (paper, computer, film, etc.) that are created, received, or sent under the jurisdiction of the City and document the organization, functions, policies, decisions, procedures, operations, or other activities of the City. The records maintained by the City and the ability to access them are means to provide trust between the public and the City.
(Ord. 15-07. Passed 10-15-07; Ord. 10-10. Passed 6-21-10.)

218.02 SCOPE.

(a) The Clerk of Council is the official Public Records Custodian of all records which are centrally maintained by the City. Department heads are the official custodians of all records maintained within their departments. However, with the exception of Police Department records, all public records requests must be directed to the Public Records Custodian. Requests for records from the Police Department may be made directly to the police records custodian.

(b) Public records requests will be accommodated during regular business hours between 8:00 a.m. and 4:30 p.m. on regular business days. Public records requests will not be accepted on weekends or holidays.
(Ord. 15-07. Passed 10-15-07; Ord. 10-10. Passed 6-21-10.)

218.03 INSPECTION.

(a) All public records maintained by the City shall be promptly prepared and made available for inspection to any person during regular business hours. Prompt inspection and copies of records within a reasonable amount of time contemplates the opportunity for legal review. The time for compliance with a request for public records will depend upon the availability of records, the manner in which they are kept, and the volume of records requested.

(b) A public records request may be written or verbal. The Public Records Custodian may ask the requester to put a verbal request in writing, may ask for the requester to give identifying information, or may inquire about the intended use of the information; but a written request is not mandatory, identifying information is not required and the intended use does not have to be disclosed. However, providing such information would benefit the requester by enhancing the ability of the Public Records Custodian to identify, locate and deliver the public records requested.

(c) Public records can be accessed by one of the following methods: a request to view public records in person; a request for copies of public records that the requester will personally pick up from the Public Records Custodian; or a request for copies of public records that the requester wants to have mailed or otherwise transmitted to the requester.

(d) Request to View Public Records. The requester may make a request to view public records. The Public Records Custodian shall prepare the public records for inspection promptly, as required by the Ohio Revised Code. The actual time required to comply with the request may depend on the circumstances, such as the location of the records, the manner kept or the volume of records requested.

(e) Copies of Public Records. The requester may make a request to the Public Records Custodian to have copies of public records made.

(f) Transmitting Copies of Public Records. A requester may request that copies of public records be transmitted to him or her by U.S. Mail or by any other means of transmission that is available and is conducive to transmitting the public records. The cost of transmission must be paid by the requester before the public records will be provided.

(g) The number of records requested by a person that the City will transmit by United States mail shall be limited to ten records per month, unless the person verifies to the City in writing that the person does not intend to use or forward the requested records or the information contained in them for commercial purposes as defined in Ohio R.C. 149.43(b)(7).

(h) While the City is under no obligation to provide records in electronic format, it is the policy of the City to provide information to the public in the most practical and convenient manner, considering all of the circumstances. Therefore, if the City receives a request for information to be made available in an electronic format, such request will be forwarded to the Public Records Custodian for a determination as to whether such information will be generated and released in an electronic format.
(Ord. 15-07. Passed 10-15-07; Ord. 10-10. Passed 6-21-10.)

218.04 FEES AND PAYMENT.

(a) Public records will be provided at the actual cost of copying or reproducing the records. The requester shall also pay the actual cost (postage) of delivery and other

supplies used in the mailing, delivery or transmission of the public record. Payment for public records requests must be made prior to the actual copying of the records.

(b) Copies made on letter or legal size paper are five cents (\$0.05) per page. If the Public Records Custodian uses an outside copying service to make the copies, the requester will be required to pay the cost of the entire copying job, as billed by the copying service. Copies that are requested in some format other than normal letter or legal paper will be “at cost,” without taking into account employee time spent preparing the copies. For example, public records in electronic format placed on a CD will be assessed the cost of the CD, plus the cost, if any, of creating the electronic copies.

(c) Public records will only be copied by the Public Records Custodian or other authorized officers, employees or representatives. The Public Records Custodian may use an outside copying service to make the copies, at the Public Records Custodian's discretion. Under no circumstances will the requester be permitted to make the copies himself or herself. The manner of copying is at the discretion of the Public Records Custodian. Requests to copy a certain number of public records on a given page, by reducing copy size or otherwise, may be met at the discretion of the Public Records Custodian.

(d) If fewer than 20 pages of copies are requested, no fee will be charged. If the request exceeds 20 pages, the fee will be five cents (\$0.05) per page for all pages copied. (Ord. 15-07. Passed 10-15-07; Ord. 10-10. Passed 6-21-10.)

218.05 DENIAL OF A PUBLIC RECORDS REQUEST.

(a) Under certain circumstances, records are not defined as “public records” under Ohio law. In these situations, the public record request will be denied on that basis. The Ohio Revised Code requires that any denial be supported by legal authority. A denial that is responding to a written public records request will also be given in writing. Written reasons for denial will not be required for verbal public records requests. Any denial of public records requested must include an explanation, including legal authority. If portions of a record are public and portions are exempt, the exempt portions are to be redacted and the rest released. If there are redactions, each redaction must be accompanied by a supporting explanation, including legal authority, unless Federal or State law authorized or requires the redaction.

(b) The Ohio Revised Code regards certain actions as being “denials” of public record requests. These situations are handled as follows:

(1) Redaction.

A. The Ohio Revised Code defines a “redaction” as “obscuring or deleting any information that is exempt from the duty to permit public inspection or copying from an item that otherwise meets the definition of a 'record' in Ohio R.C. 149.011.” Examples of redaction are “blacking out” or “whiting out” or “cutting out” portions of a document.

- B. When a public record contains information that is not within the definition of a public record as defined by law, the Public Records Custodian will make available that portion of the public record that does meet the definition of a public record. The Public Records Custodian shall make a copy of the public record, perform the redaction, then make a copy of that sheet and make the second copy available to the requester. The requester will not be charged for the first copy made. If practical, the first copy will be retained by the Public Records Custodian.
- (2) Requests that are ambiguous, overly broad, or are difficult to identify the public records requested. At times, a requester may make a public records request from which the Public Records Custodian cannot determine which the public records are being sought. In such circumstances, the Public Records Custodian will inform the requester that the public records request is denied but will give the requester an opportunity to more accurately describe the public records sought. If the requester is seeking public records organized in a certain way, but the public records are not organized in that way, the Public Records Custodian will inform the requester of the manner that the public records of the office under discussion are maintained and accessed. The requester may then submit a public records request that more accurately reflects the actual organization of the public records sought. (Ord. 15-07. Passed 10-15-07; Ord. 10-10. Passed 6-21-10.)

218.06 COMPLIANCE.

The Public Records Custodian reserves the right to consult with legal counsel prior to the release of any public records. This is to allow the City to comply with laws regarding the release of certain records.

(Ord. 15-07. Passed 10-15-07; Ord. 10-10. Passed 6-21-10.)

218.07 FAILURE TO RESPOND TO A PUBLIC RECORDS REQUEST,

The City recognizes the legal and non-legal consequences of failure to properly respond to a public records request. In addition to the distrust in government that failure to comply may cause, the City's failure to comply with a request may result in a court ordering the City to comply with the law and to pay the requester's attorney's fees, court costs and damages.

(Ord. 15-07. Passed 10-15-07; Ord. 10-10. Passed 6-21-10.)

TITLE FOUR - Legislation

Chap. 220. Council.

Chap. 222. Mayor and Deputy Mayor.

Chap. 224. Ordinances and Resolutions.

CHAPTER 220

Council

220.01 Designation of J.V. Stone Council Chambers.

220.02 Assistant to Clerk of Council.

CROSS REFERENCES

Generally - see CHTR. Secs. 4.01 et seq.

Authority re Capital Program - see CHTR. Sec. 8.02

Action on the budget - see CHTR. Sec. 8.05

Authority re complaints - see ADM. 208.03 et seq.

Recommendation of ordinances by Planning Commission to Council - see
P. & Z. 1202.03(b)

Approval of subdivisions prior to issuance of building permits -
see P. & Z. 1222.06

Appeals to Council under Property Maintenance Code - see B. & H.
1482.01(v)

220.01 DESIGNATION OF J.V. STONE COUNCIL CHAMBERS.

Now and henceforth, the Council Chambers in the Centerville Municipal Building shall be named the "J.V. Stone Council Chambers" as a tribute for the many years of service J.V. Stone has devoted to the benefit of all residents of the City, as well as in the Dayton Metropolitan Area.

(Res. 1-00. Passed 1-24-00.)

220.02 ASSISTANT TO CLERK OF COUNCIL.

There is hereby established the office of Assistant to the Clerk of Council. The Assistant to the Clerk of Council shall report to and be supervised by the Clerk of Council with such duties as are assigned at any time and from time to time by the Clerk of Council. The Assistant to the Clerk of Council is hereby authorized to perform the duties of the Clerk of Council as specified in Section 4.09 of the City Charter in the absence or disability of the Clerk of Council.

(Res. 69-99. Passed 12-20-99.)

CHAPTER 222
Mayor and Deputy-Mayor

EDITOR'S NOTE: There are no sections in Chapter 222. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

Generally - see CHTR. Sec. 4.03(b)
Disability of Mayor or Deputy-Mayor - see
CHTR. Sec. 4.05(c)
Executive power in statutory cities - see
Ohio R.C. 733.01 et seq.

CHAPTER 224
Ordinances and Resolutions

224.01 Posting places.

CROSS REFERENCES

Generally - see CHTR. Secs. 5.01 et seq.

Appropriation ordinances - see CHTR. Secs. 8.08 et seq.

Municipal Code - see ADM. Ch. 202

Conflicts of interest - see ADM. 206.02(b)

Recommendation of ordinances to Council by Planning Commission - see
P. & Z. 1202.03(b)

224.01 POSTING PLACES.

All ordinances and resolutions, and any statements, orders, proclamations, notices or reports required by law or ordinance, or by the City Charter, to be published, shall be published by posting copies thereof for the required period of time in each case in the following places, which are hereby determined to be five of the most public places in the Municipality:

US Bank, NA
360 North Main Street
Centerville, Ohio

The Siebenthaler Company
6000 Far Hills Avenue
Centerville, Ohio

Centerville Municipal Building
100 West Spring Valley Road
Centerville, Ohio

Centerville Public Works Building
7970 S. Suburban Road
Centerville, Ohio

Centerville Police Department
155 West Spring Valley Road
Centerville, Ohio 45458

Posting shall be made in a conspicuous place in such buildings and such places shall be readily accessible to all members of the public at reasonable hours.
(Ord. 5-09. Passed 10-19-09; Ord. 6-09. Passed 11-16-09; Ord. 09-11. Passed 5-16-11; Ord. 10-11. Passed 6-20-11.)

TITLE SIX - Administration

- Chap. 230. Administration Generally.
- Chap. 232. Manager.
- Chap. 234. Department of Finance.
- Chap. 236. Department of Safety.
- Chap. 238. Division of Police.
- Chap. 240. Division of Fire.
- Chap. 242. Department of Service.
- Chap. 244. Department of Development.
- Chap. 246. Department of Law.
- Chap. 248. Department of Parks and Recreation.
- Chap. 258. Employees Generally.

CHAPTER 230

Administration Generally

- 230.01 Purpose.
- 230.02 Authority of Manager.
- 230.03 Collective bargaining agreements.
- 230.04 General responsibilities of department heads.
- 230.05 Specific responsibilities of department heads.
- 230.06 Departmental rules and regulations.
- 230.07 Acting department heads.
- 230.08 Departmental divisions.
- 230.09 Responsibilities of division heads.
- 230.10 Acting division heads.

CROSS REFERENCES

- Administrative Code - see CHTR. Sec. 7.05
- Interference with Council administration - see CHTR. 4.04(c)
- Administration of Subdivision Regulations - see P. & Z. Ch. 1222
- Administration of Building Code - see B. & H. Ch. 1440
- Administration of Property Maintenance Code - see B. & H. Ch. 1482

230.01 PURPOSE.

The purpose of this Administration Code shall be to provide, in detail, the organization of the Municipal Government and to define the powers and duties of each organizational unit within the administrative structure.
(Ord. 41-76. Passed 8-16-76.)

230.02 AUTHORITY OF MANAGER.

The Manager shall be charged with the responsibility for the administration of City affairs in accordance with the provisions of the City Charter and this Administration Code.
(Ord. 41-76. Passed 8-16-76.)

230.03 COLLECTIVE BARGAINING AGREEMENTS.

City employees belonging to a collective bargaining unit recognized by the City shall be subject to the provisions of this Administration Code, except in those cases where such provisions conflict with the specific terms of the applicable union contracts.
(Ord. 41-76. Passed 8-16-76.)

230.04 GENERAL RESPONSIBILITIES OF DEPARTMENT HEADS.

Each department head shall be an officer of the City and shall perform all of the duties required of his or her office by the City Charter, this Administration Code, this Municipal Code and other ordinances of the City.
(Ord. 41-76. Passed 8-16-76.)

230.05 SPECIFIC RESPONSIBILITIES OF DEPARTMENT HEADS.

Each department head shall:

- (a) Be immediately responsible to the Manager for the effective administration of his or her department and all activities assigned thereto;
- (b) Keep informed as to the latest practices in his or her particular field and implement, with the approval of the Manager, those new practices that will be of benefit to the service and the public;
- (c) Submit reports of the activities of his or her department when and as required by the Manager;
- (d) Establish and maintain a system of records and reports in sufficient detail to furnish all information necessary for proper control of departmental activities and to form a basis for the reports required by the Manager;
- (e) Have power, when authorized by the Manager, to appoint and remove his or her subordinates; and
- (f) Be responsible for the proper custody and maintenance of all City property and equipment used in his or her department.

(Ord. 41-76. Passed 8-16-76.)

230.06 DEPARTMENTAL RULES AND REGULATIONS.

In addition to the organization and procedure set forth in this Administration Code, each department head shall develop specific rules and regulations to govern the operation of his or her particular department. Such rules and regulations shall be approved by the Manager and a copy shall be kept on file in his or her office. All amendments and revisions to departmental rules and regulations shall be subject to approval by the Manager.

(Ord. 41-76. Passed 8-16-76.)

230.07 ACTING DEPARTMENT HEADS.

If, for any reason, a department head is temporarily unable to perform his or her duties, the Manager may name a qualified member of the City staff to act as department head in the absence of such department head.

(Ord. 41-76. Passed 8-16-76.)

230.08 DEPARTMENTAL DIVISIONS.

In accordance with the provisions of the City Charter, the following departmental divisions are hereby established:

Department	Division	Division Head	
Finance	Taxation	Superintendent of Taxation	
	Streets	Director of Service	
Service	Waste Collection	Director of Service	
	Buildings and Grounds	Director of	
	Equipment Maintenance	Director of	
Development	Engineering	City Engineer	
		Planning and Zoning	City Planner
Safety	Police	Inspection	Chief Building Official
			Chief of Police

230.09 RESPONSIBILITIES OF DIVISION HEADS.

Each division shall:

- (a) Be immediately responsible to his or her respective department head for the effective administration of his or her division and all activities assigned thereto;
- (b) Keep informed as to the latest practices in his or her particular field and implement, with the approval of the department head and the Manager, new practices that will be of benefit to the City service and the public;
- (c) Submit reports of the activities of his or her division when requested by the department head and the Manager;
- (d) Establish and maintain a system of records and reports in sufficient detail to furnish all the information necessary for proper control of division activities and to form a basis for the reports required by the department head and the Manager; and
- (e) Be responsible for the proper custody and maintenance of all City property and equipment used in his or her division.

(Ord. 41-76. Passed 8-16-76.)

230.10 ACTING DIVISION HEADS.

If, for any reason, a division head is temporarily unable to perform his or her duties, the respective department head may, with the consent of the Manager, name a qualified employee within his or her department as acting division head until such time as the division head is able to assume full responsibility for the duties of his or her position.
(Ord. 41-76. Passed 8-16-76.)

CHAPTER 232

Manager

- 232.01 Bond.
- 232.02 Promulgation of rules and regulations by Manager and department heads.
- 232.03 Transfer of personnel.
- 232.04 Transfer of work.
- 232.05 Administrative Assistant.
- 232.06 Personnel Officer.
- 232.07 Designation of smoking areas.

CROSS REFERENCES

Generally - see CHTR. Secs. 6.01 et seq.
Acting Manager - see CHTR. Sec. 6.03
Authority re contracts and purchasing - see ADM. 210.01
As Director of Office of Preparedness - see ADM. 214.02, 214.03
General authority - see ADM. 230.02
Approval of payrolls - see ADM. 234.05
Promulgation of Personnel Rules and Regulations - see ADM. 258.01
Traffic control powers - see TRAF. 406.01 et seq.
Appointment of staff assistants for Centerville Property Review
Commission - see B. & H. 1482.01(u)

232.01 BOND.

The Manager shall furnish a corporate surety bond, as required by the City Charter, in the amount of ten thousand dollars (\$10,000), the premium of which shall be paid by the City.

(Ord. 41-76. Passed 8-16-76.)

232.02 PROMULGATION OF RULES AND REGULATIONS BY MANAGER AND DEPARTMENT HEADS.

Under the provisions of the City Charter, the Manager may prescribe general rules and regulations as he or she may deem necessary, desirable or expedient for the general conduct of the various departments of the City. Each department head shall, in like manner, prescribe such rules and regulations that he or she may deem necessary, desirable or expedient for the proper conduct of his or her department, but not inconsistent with the rules and regulations prescribed by the Manager.

(Ord. 41-76. Passed 8-16-76.)

232.03 TRANSFER OF PERSONNEL.

The Manager may, at his or her discretion and in accordance with the provisions of the City Personnel Rules and Regulations, temporarily transfer employees from one department to another department in order to expedite the work of a department or to meet increased demands of a seasonal or periodic nature which may occur within a department. (Ord. 41-76. Passed 8-16-76.)

232.04 TRANSFER OF WORK.

The Manager may, at his or her discretion, direct the transfer of work from one department to another, but may not transfer any function of one department to another unless such transfer is approved by Council and provided for under the City Charter. (Ord. 41-76. Passed 8-16-76.)

232.05 ADMINISTRATIVE ASSISTANT.

The Manager may, at his or her discretion, employ an Administrative Assistant, who shall generally assist the Manager in the performance of his or her duties in such a manner and to the extent that the Manager may deem necessary. (Ord. 41-76. Passed 8-16-76.)

232.06 PERSONNEL OFFICER.

In accordance with Section 10.03 of the City Charter, the Manager shall appoint a Personnel Officer, who shall administer the personnel system of the Municipality. The Personnel Officer shall be an assistant to the Manager and have the following responsibilities:

- (a) Develop, update and maintain the necessary Personnel Rules and Regulations as required by the merit system of the Municipality according to the provisions of Article XV, Section 10, of the Ohio Constitution;
- (b) Classify positions within the City service, establish job standards, provide for position reclassification and establish a probationary period for all positions within the City service;
- (c) Recruit qualified prospects for employment in the City service, conduct competitive examinations and establish and conduct in-service training programs to enhance employee performance and promotion;

CHAPTER 234
Department of Finance

234.01	General responsibilities of Finance Director and Manager; composition of Department.	234.03	Bond.
234.02	Specific responsibilities of Finance Director.	234.04	Investments.
		234.05	Payrolls; approval by Manager.
		234.06	Division of Taxation.

CROSS REFERENCES

Generally - see CHTR. Secs. 7.01, 7.08
 Finance, taxation and debt - see CHTR. Secs. 8.01 et seq.
 Submission of budget - see CHTR. Secs. 8.03 et seq.
 Personal financial interest of officers and employees - see CHTR. Sec. 12.06
 State law provisions re auditors and auditing - see Ohio R.C. 733.10 et seq.
 Investment and deposit policy - see ADM. Ch. 211
 Divisions of the Finance Department - see ADM. 230.08
 Fire Insurance Trust Fund; distribution of fire insurance proceeds -
 see ADM. 240.03
 Registration of tenants of rented property with Director of Finance -
 see B.R. & T. 880.21

234.01 GENERAL RESPONSIBILITIES OF FINANCE DIRECTOR AND MANAGER; COMPOSITION OF DEPARTMENT.

The functions of the Department of Finance shall be the responsibility of the Director of Finance, who shall be immediately responsible to the Manager. The Department of Finance shall be composed of the Division of Taxation and such other divisions as may hereafter be established.

(Ord. 41-76. Passed 8-16-76.)

234.02 SPECIFIC RESPONSIBILITIES OF FINANCE DIRECTOR.

The Director of Finance shall:

- (a) Keep, in proper books, a full and accurate record of all monies received and disbursed on behalf of the City and of all monies due to and from the City upon contracts and orders for which the City is obligated;

- (b) Receive and have custody of all monies paid to the City and disburse all City monies in accordance with the City Charter and City ordinances, signing all warrants upon the City Treasury in making such disbursements;
- (c) Render a report to the Manager reflecting the financial condition of the City, showing monthly receipts, outstanding balances of all funds and such other information as the Manager may require;
- (d) Certify that funds are available, according to law, to pay monies provided by all contracts, agreements or other obligations for the expenditure of City funds. No such contract, agreement or other obligation shall be valid until so certified.
- (e) Make payment of the interest and principal on the bonded debt when due, and keep accurate records of said debt and of payments thereon;
- (f) Prepare City payrolls;
- (g) Administer all employee pension and benefit funds, receive such funds, act as custodian thereof and make disbursements therefrom, signing warrants and checks for such purposes, according to law;
- (h) Enter into contracts with legal depositories for the deposit of all funds of the City, rent safety deposit boxes or otherwise provide for the safekeeping of securities and other documents and maintain custody of all documents evidencing investments by the City and of pension and benefit funds of City employees;
- (i) Prepare and submit such reports as may be required by law;
- (j) Assist the Manager in the preparation of the annual budget and Capital Improvement Program; and
- (k) Act as the Purchasing Agent for the City and, as directed by the Manager, make all purchases required by the various departments and sell unused, worn out, surplus or obsolete equipment and materials owned by the City.
(Ord. 41-76. Passed 8-16-76.)

234.03 BOND.

The Director of Finance shall furnish bond, as required by the City Charter, in the amount of one hundred thousand dollars (\$100,000), the premium of which shall be paid by the City.

234.04 INVESTMENTS.

Whenever there are monies in the City Treasury which are not required to be used for a period of six months or more, such monies may, in lieu of being deposited in a bank or banks, be invested in accordance with the provisions of Ohio R.C. 731.56 et seq. Investments so purchased shall be sold in accordance with Ohio R.C. 731.57.
(Ord. 40-71. Passed 6-7-71.)

234.01. PAYROLLS; APPROVAL BY MANAGER.

Payrolls shall be submitted to the Manager for approval as prepared by the Director of Finance. Upon the Manager's approval thereof, the Director shall issue warrants in payment thereof when due. It shall not be necessary for the Director to encumber in advance, or to certify the availability of, funds appropriated for personal services, except those obtained on a contractual basis, provided that upon issuance of such warrants, the Director shall immediately cause the appropriate funds to be encumbered to the extent of the warrants issued.

(Ord. 41-76. Passed 8-16-76.)

234.02. DIVISION OF TAXATION.

a. In General. The Division of Taxation shall be responsible for collecting the City Earned Income Tax in accordance with Chapter 880 of the Business Regulation and Taxation Code, maintaining records in accordance with ordinances of the City and laws of the State and preparing reports as required by the Director of Finance and the Manager.

b. Responsibilities of Superintendent. The functions of the Division of Taxation shall be the responsibility of the Superintendent of Taxation, who shall be immediately responsible to the Director of Finance.

The Superintendent of Taxation shall:

- i. Formulate and recommend to the Director of Finance policies, procedures, rules and regulations for the Division of Taxation and its personnel;
- ii. Be responsible for the performance by the Division of Taxation of the duties assigned to it by the City Charter, by law and by this Administration Code; and
- iii. Perform other duties as the Director of Finance may prescribe.

(Ord. 41-76. Passed 8-16-76.)

c. Bond of Superintendent. The Superintendent of Taxation shall furnish bond in the amount of one hundred thousand dollars (\$100,000), the premium of which shall be paid by the City.

CHAPTER 236

Department of Safety

236.01 General responsibilities of Safety Director and Manager; composition of Department.

CROSS REFERENCES

Generally - see CHTR. Secs. 7.01, 7.09

Departments of public safety in statutory cities - see Ohio
R.C. 737.01 et seq.

Divisions of the Department of Safety - see ADM. 230.08

Division of Police - see ADM. Ch. 238

Division of Fire - see ADM. Ch. 240

Safety, sanitation and health generally - see GEN. OFF.
Ch. 660

Fire Safety Bureau - see F.P. Ch. 1630

236.01 GENERAL RESPONSIBILITIES OF SAFETY DIRECTOR AND
MANAGER; COMPOSITION OF DEPARTMENT.

(a) The functions of the Department of Safety shall be the responsibility of the Director of Safety, who shall be immediately responsible to the Manager. The Department of Safety shall be composed of the Division of Police and such other divisions as may hereafter be established.

(b) The Director of Safety shall be responsible for the general safety and welfare of the community.

(Ord. 41-76. Passed 8-16-76.)

CHAPTER 238
Division of Police

EDITOR'S NOTE: The City enters into mutual aid agreements from time to time with the municipalities, townships and Boards of County Commissioners of Warren County and Green County. Copies of the latest relevant agreements may be obtained, at cost, from the Clerk of Council.

- 238.01 General responsibilities of Division.
- 238.02 General responsibilities of Chief of Police and Safety Director.
- 238.03 Specific responsibilities of Chief of Police.

CROSS REFERENCES

- Original appointment; probationary period and age - see Ohio R.C. 124.27, 124.30, 124.41
- Reductions, suspensions and removals - see Ohio R.C. 124.34 et seq., 737.12
- Composition and control - see Ohio R.C. 715.05, 737.05
- Hours and leave - see Ohio R.C. 737.07
- General duties - see Ohio R.C. 737.11
- Police Pension and Disability Fund - see Ohio R.C. Ch. 742
- Establishment - see ADM. 230.08
- Authority of police to remove ignition keys - see TRAF. 404.01
- Eluding a police officer - see GEN. OFF. 606.165
- Disposition of property - see GEN. OFF. 606.24
- Payment of costs of confinement - see GEN. OFF. 606.27
- Assaulting police dog or horse - see GEN. OFF. 642.08
- Assistance to Bureau of Fire Safety - see F.P. 1630.06

238.01 GENERAL RESPONSIBILITIES OF DIVISION.

The Division of Police shall have the following responsibilities: the preservation of public law and order; crime prevention and detection; apprehension of offenders; protection of persons and property; and the enforcement of the ordinances of the City and the criminal laws of the State and of the United States.
(Ord. 41-76. Passed 8-16-76.)

238.02 GENERAL RESPONSIBILITIES OF CHIEF OF POLICE AND SAFETY DIRECTOR.

The functions of the Division of Police shall be the responsibility of the Chief of Police, who shall be immediately responsible to the Director of Safety.
(Ord. 41-76. Passed 8-16-76.)

238.03 SPECIFIC RESPONSIBILITIES OF CHIEF OF POLICE.

The Chief of Police shall:

- (a) Formulate and recommend to the Director of Safety, policies, procedures, rules and regulations for the Police Division and its personnel;
- (b) Be responsible for the performance by the Police Division of the duties assigned to it by the City Charter, by law and by this Administration Code;
- (c) Be responsible for all police assignments;
- (d) Act as liaison officer on behalf of the City during cooperative undertakings with other law enforcement agencies; and
- (e) Perform other duties as the Director of Safety may prescribe.

(Ord. 41-76. Passed 8-16-76.)

CHAPTER 240
Division of Fire

EDITOR'S NOTE: The Fire Department of Washington Township provides fire-fighting and fire-prevention services to the City and acts as the Division of Fire of the City for property located in Montgomery County. The Fire Department of Sugarcreek Township provides fire-fighting and fire-prevention services to the City and acts as a Division of Fire of the City for property located in Greene County.

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|--------|--|--------|---|
| 240.01 | Appointment of Fire Chief of Washington Township as Fire Chief and Fire Prevention Officer in that section of the City located in Washington Township and appointment of Fire Chief of Sugarcreek Township as Fire Chief and Fire Prevention Officer in that section of the City located in Sugarcreek Township; duties. | 240.02 | Records of fires. |
| | | 240.03 | Fire Insurance Trust Fund; distribution of fire insurance proceeds. |

CROSS REFERENCES

Reductions, suspensions and removals - see Ohio R.C. 124.34 et seq., 737.12
 Volunteer Firemen's Dependents Fund - see Ohio R.C. Ch. 146
 Composition and control - see Ohio R.C. 715.05, 737.08, 737.21
 General duties - see Ohio R.C. 737.11
 Firemen's Pension and Disability Fund - see Ohio R.C. Ch. 742
 Fire safety requirements - see B. & H. Ch. 1492
 Unified Fire Code - see F.P. Ch. 1610
 Fire inspections and correction of violations - see F.P. Ch. 1620
 Bureau of Fire Safety - see F.P. Ch. 1630

240.01 APPOINTMENT OF FIRE CHIEF OF WASHINGTON TOWNSHIP AS FIRE CHIEF AND FIRE PREVENTION OFFICER IN THAT SECTION OF THE CITY LOCATED IN WASHINGTON TOWNSHIP AND APPOINTMENT OF FIRE CHIEF OF SUGARCREEK TOWNSHIP AS FIRE CHIEF AND FIRE PREVENTION OFFICER IN THAT SECTION OF THE CITY LOCATED IN SUGARCREEK TOWNSHIP; DUTIES.

(a) The Fire Chief of Washington Township shall serve as the Fire Chief and Fire Prevention Officer in that section of the City located in Washington Township and the Fire Chief of Sugar creek Township shall serve as the Fire Chief and Fire Prevention Officer in that section of the City located in Sugar creek Township.

(b) The duties of the Fire Chief and the Fire Prevention Officer shall be those outlined in Ohio R.C. 737.09, 737.21 and 737.22 and such other duties as may from time to time be prescribed by the Director of Safety.
(Ord. 41-76. Passed 8-16-76; Ord. 26-06. Passed 10-16-06; Ord. 27-06. Passed 11-20-06.)

240.02 RECORDS OF FIRES.

The Fire Chief shall keep in convenient form a complete record of all fires. The record shall include the time of the alarm, the location of the fire, the cause of the fire, if known, the type of building, the name of the owner and tenant thereof, the purpose for which such building is occupied, the value of the building and its contents, members of the Division responding to the alarm, and such other information as the Fire Chief may deem advisable or as may be required from time to time by Council.
(Ord. 16-59. Passed 11-30-59.)

240.03 FIRE INSURANCE TRUST FUND; DISTRIBUTION OF FIRE INSURANCE PROCEEDS.

(a) There is hereby created a Fire Insurance Trust Fund which shall be maintained separately from all other City funds as a Trust Fund for the purposes hereinafter set forth.

(b) For the purposes specified in Ohio R.C. 3929.86, the Director of Finance is hereby designated as the officer to administer said Fire Insurance Trust Fund.

(c) In the event of any loss by fire within the City occurring after the effective date of this section, when the amount of said loss agreed to between the named insured or insureds and the company or companies insuring said loss equals or exceeds sixty percent of the aggregate limits of liability on all fire policies covering the building or structure insured, the insurance company or companies, in accordance with Ohio R.C. 715.26(F), shall transfer from the insurance proceeds to the Director of Finance of the City, in the aggregate, one thousand dollars (\$1,000) for each twenty thousand dollars (\$20,000), and each fraction of that amount, of a claim, or if, at the time of a proof of loss agreed to between the named insured or insureds and the insurance company or companies, the

named insured or insureds have submitted a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure, the insurance company or companies shall transfer from the insurance proceeds the amount specified in the estimate.

Such transfer of proceeds shall be on a pro rata basis by all companies insuring the building or other structure.

The named insured or insureds may submit a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure after the transfer, and the Director of Finance shall return the amount of the fund in excess of the estimate to the named insured or insureds, provided that the City has not commenced to remove, repair or secure the building or other structure.

(d) Upon receipt of proceeds by the City, as authorized by this section and Ohio R.C. 3929.86, the Director of Finance shall place the proceeds in the Fire Insurance Trust Fund, which proceeds shall be used solely as security against the total cost of removing, repairing or securing the building or other structure incurred by the City pursuant to Ohio R.C. 715.261.

When transferring the funds as required by this section, an insurance company shall provide the Director of Finance with the name and address of the named insured or insureds, whereupon the Director of Finance or his or her designee shall contact the named insured or insureds, certify that the proceeds have been received by the City and notify them that the following procedures will be followed:

The funds shall be returned to the named insured or insureds when the removal, repair or securing of the building or other structure has been completed and the required proof received by the Director of Finance. If the City has incurred any costs for removal, repair or securing of the building or other structure, such costs shall be paid from the fund and if excess funds remain, the City shall transfer the remaining funds to the named insured or insureds. Nothing in this section shall be construed to limit the ability of the City to recover any deficiency under Ohio R.C. 715.261.

Nothing in this section shall be construed to prohibit the City and the named insured or insureds from entering into an agreement that permits the transfer of funds to the named insured or insureds if some other reasonable disposition of the damaged property has been negotiated.

(e) In accordance with the provisions of Ohio R.C. 3929.86, the Clerk of Council is hereby directed to file a certified copy of this section with the Superintendent of Insurance of the State of Ohio.

(Res. 14-81. Passed 5-18-81.)

CHAPTER 242
Department of Service

242.01	General responsibilities of Service Director and Manager; composition of Department.	242.04	Division of Waste Collection; responsibilities of Service Director.
242.02	Specific responsibilities of Service Director.	242.05	Division of Buildings and Grounds; responsibilities of Service Director.
242.03	Division of Streets; responsibilities of Service Director.	242.06	Division of Equipment Maintenance; responsibilities of Service Director.

CROSS REFERENCES

Generally - see CHTR. Secs. 7.01, 7.10

Departments of public service in statutory cities - see Ohio R.C. 735.01 et seq.

Divisions of the Department of Service - see ADM. 230.08

Streets generally - see S.U. & P.S. Ch. 1020

Water generally - see S.U. & P.S. Ch. 1040

Sewers generally - see S.U. & P.S. Ch. 1042

Garbage and rubbish collection and disposal - see S.U. & P.S. Ch. 1060

242.01 GENERAL RESPONSIBILITIES OF SERVICE DIRECTOR AND MANAGER; COMPOSITION OF DEPARTMENT.

The functions of the Department of Service shall be the responsibility of the Director of Service, who shall be immediately responsible to the Manager. The Department shall be composed of the Divisions of Streets, Waste Collection, Buildings and Grounds, Equipment Maintenance and such other divisions as may hereafter be established. (Ord. 41-76. Passed 8-16-76.)

242.02 SPECIFIC RESPONSIBILITIES OF SERVICE DIRECTOR.

The Director of Service shall be responsible for:

- (a) The maintenance, repair, construction, improvement and extension of public streets within the City;
- (b) The installation and maintenance of all traffic control markings;
- (c) The operation and maintenance of all automated traffic signals and control devices;
- (d) The maintenance and repair of all public buildings, parks and grounds owned and operated by the City;

- (e) The maintenance, repair, construction, improvement and extension of the City's storm drainage systems;
- (f) The removal and disposal of garbage, refuse and trash from residences within the City;
- (g) The maintenance and repair of vehicular equipment owned by the City; and
- (h) Other duties as required by the Manager.
(Ord. 41-76. Passed 8-16-76.)

242.03 DIVISION OF STREETS; RESPONSIBILITIES OF SERVICE DIRECTOR.

The functions of the Division of Streets shall be the responsibility of the Director of Service or his or her designee. The Director or his or her designee shall be responsible for the maintenance, repair, construction, improvement and extension of public streets; shall formulate and recommend policies and procedures for the Division and its personnel; shall be responsible for the duties assigned to the Division; and shall have control of personnel as provided by this Administration Code and the Personnel Rules and Regulations.

242.04 DIVISION OF WASTE COLLECTION; RESPONSIBILITIES OF SERVICE DIRECTOR.

The functions of the Division of Waste Collection shall be the responsibility of the Director of Service or his or her designee. The Director or his or her designee shall be responsible for the weekly collection, removal and disposal of garbage, refuse and trash from all single-family residential units within the City, in addition to any other establishments within the City requesting such service; shall formulate and recommend policies and procedures for the Division and its personnel; shall be responsible for the duties assigned to the Division; and shall have control of personnel as provided by this Administration Code and the Personnel Rules and Regulations.

CHAPTER 244
Department of Development

EDITOR'S NOTE: Resolution 45-00, passed November 20, 2000, authorized the City Manager to enter into an agreement with Montgomery County for participation in the Economic Development/Government Equity (ED/GE) Program established by Montgomery County. Resolution 51-10, passed December 20, 2010, repealed Resolution 45-00, and authorized participation in the ED/GE Program for an additional ten year period beginning January 1, 2011. Copies of this resolution and of the Agreement may be obtained, at cost, from the Clerk of Council.

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| 244.01 | General responsibilities of Director of Development and Manager; composition of Department. | 244.04 | Division of Planning and Zoning; responsibilities of City Planner. |
| 244.02 | Special responsibilities of Director of Development. | 244.05 | Division of Inspection; responsibilities of Chief Building Official. |
| 244.03 | Division of Engineering; responsibilities of City Engineer. | | |

CROSS REFERENCES

Generally - see CHTR. Secs. 7.01, 7.11
 Divisions of the Department of Development - see ADM. 230.08
 Comprehensive Development Plan - see P. & Z. Ch. 1208
 Thoroughfare Plan - see P. & Z. Ch. 1210
 Park and Public Open Space Plan - see P. & Z. Ch. 1212
 Site grading and drainage development plans - see B. & H. 1460.02

244.01 GENERAL RESPONSIBILITIES OF DIRECTOR OF DEVELOPMENT AND MANAGER; COMPOSITION OF DEPARTMENT.

The functions of the Department of Development shall be the responsibility of the Director of Development, who shall be immediately responsible to the Manager. The Department shall be composed of the Divisions of Engineering, Planning and Zoning, Inspection and such other divisions as may hereafter be established.
 (Ord. 41-76. Passed 8-16-76.)

244.02 SPECIFIC RESPONSIBILITIES OF DIRECTOR OF DEVELOPMENT.

The Director of Development shall be responsible for City engineering standards, the administration of the Zoning Code and Subdivision Regulations and other ordinances relating to zoning classifications and restrictions, and the enforcement of all applicable building codes within the City.

(Ord. 41-76. Passed 8-16-76.)

244.03 DIVISION OF ENGINEERING; RESPONSIBILITIES OF CITY ENGINEER.

The functions of the Division of Engineering shall be the responsibility of the City Engineer, who shall be immediately responsible to the Director of Development. This Division shall be responsible for preparing engineering plans and specifications for public improvements; reviewing development and subdivision plans; supervising the planning and construction of public improvements; traffic engineering; preparing engineering drafts, plans and drawings for use by other departments or divisions; rendering engineering assistance to other departments upon request; and performing other duties as required by the Director of Development. (Ord. 41-76. Passed 8-16-76.)

244.04 DIVISION OF PLANNING AND ZONING; RESPONSIBILITIES OF CITY PLANNER.

The functions of the Division of Planning and Zoning shall be the responsibility of the City Planner, who shall be immediately responsible to the Director of Development. This Division shall be responsible for enforcing the regulations pertaining to platting, zoning districts, the location of buildings and structures, the height and design of buildings and structures, the bulk and location of buildings and structures, the percentage of lot occupancy and setback lines; working with the Planning Commission; developing and implementing the Master Plan; performing studies and making recommendations for public facilities and capital improvements; assisting in the preservation of historical landmarks; and related matters that may be required by the Director of Development.

(Ord. 41-76. Passed 8-16-76.)

244.05 DIVISION OF INSPECTION; RESPONSIBILITIES OF CHIEF BUILDING OFFICIAL.

The functions of the Division of Inspection shall be the responsibility of the Chief Building Official or his or her designee, who shall be immediately responsible to the Director of Development. This Division shall be responsible for the inspection of buildings and premises; issuing permits for the construction, alteration and demolition of buildings pursuant to the Ohio Basic Building Code and the CABO One and Two Family Dwelling Code; receiving applications for permits; reviewing proposed plans for buildings; determining compliance of prepared plans with uses permitted under applicable ordinances and State law; making inspections of premises and buildings for the purpose of enforcing compliance with said ordinances and State law; and reporting violations thereof to the Director of Development.

CHAPTER 246
Department of Law

246.01	General responsibilities of Municipal Attorney and Manager.	246.04	Preparation of contracts and bonds.
246.02	Specific responsibilities of Municipal Attorney.	246.05	Bond.
246.03	Issuance of bonds or notes for public improvements.	246.06	Authority to engage outside counsel.

CROSS REFERENCES

Generally - see CHTR. Secs. 7.01, 7.12

City directors of law - see Ohio R.C. 733.49 et seq.

Mayor's Court - see ADM. Ch. 290

Authority of Municipal Attorney re fair housing - see GEN. OFF. 628.05

Assistance by Municipal Attorney to Bureau of Fire Safety - see F.P. 1630.06

246.01 GENERAL RESPONSIBILITIES OF MUNICIPAL ATTORNEY AND MANAGER.

The functions of the Department of Law shall be the responsibility of the Municipal Attorney, who shall be immediately responsible to the Manager.
(Ord. 41-76. Passed 8-16-76.)

246.02 SPECIFIC RESPONSIBILITIES OF MUNICIPAL ATTORNEY.

The Municipal Attorney shall:

- (a) Attend the regular meetings of Council and of other boards and commissions when requested;
- (b) Advise and render opinions to the Council, the Manager, City boards and commissions and the administrative staff on all matters of law involving the City;
- (c) Draft all ordinances, contracts, resolutions and other documents of a legal nature to be made and entered into by the City and approve the form thereof;
- (d) Represent the City before all courts sitting within the State in actions of law in which the City is a party;

- (e) Assist in the preparation of documents and transcripts for the issuance of bonds and notes of the City;
- (f) Prosecute in the Kettering Municipal Court all cases based on affidavits filed therein by the Division of Police and by other City officials, alleging violations of City ordinances and of State law, and prosecute such cases based upon affidavits filed in said Court by private parties if such affidavits are deemed to be of merit by the Municipal Attorney; and
- (g) Perform such other duties as may be assigned to the Department of Law, and as may be necessary and proper in the administration of the business of the City. (Ord. 41-76. Passed 8-16-76.)

246.03 ISSUANCE OF BONDS OR NOTES FOR PUBLIC IMPROVEMENTS.

Whenever the Council proposes to issue bonds or notes to finance public improvements, or for any other purpose authorized by the laws of the State, the Municipal Attorney may engage the services of any firm of recognized bond attorneys to assist the Municipal Attorney in causing said bonds and notes to be issued and to render approving opinions thereon to purchases of said bonds and notes. However, funds for such professional services shall not be encumbered without following the procedures provided in this Municipal Code.

(Ord. 41-76. Passed 8-16-76.)

246.04 PREPARATION OF CONTRACTS AND BONDS.

The Manager shall arrange and prepare contracts, franchises and agreements, in cooperation with the Municipal Attorney, but no such contracts, franchises or agreements shall be legal until ratified by ordinance or resolution of the Council and, with reference to public utilities, according to the provisions of Article XVIII of the Constitution of the State of Ohio.

(Ord. 41-76. Passed 8-16-76.)

246.05 BOND.

The Municipal Attorney may be required to furnish a corporate surety bond to the City in an amount determined from time to time by the Council.

246.06 AUTHORITY TO ENGAGE OUTSIDE COUNSEL.

The Municipal Attorney is hereby authorized, with the consent of the Manager, to engage other attorneys to carry out the functions of the Department of Law when, in the judgment of the Municipal Attorney, it is necessary or desirable to do so.

CHAPTER 248

Department of Parks and Recreation

- 248.01 General responsibilities of Parks and Recreation Director and Manager.
- 248.02 Specific responsibilities of Parks and Recreation Director.

CROSS REFERENCES

- City planners to consider parks - see Ohio R.C. 713.02
- Municipal powers re parks - see Ohio R.C. 715.21, 717.01, 719.01, 755.41
- Land appropriation for parks - see Ohio R.C. 715.21, 719.01
- Parks and playgrounds - see Ohio R.C. Ch. 755
- Parks and Recreation Commission - see ADM. 268.01
- Parks and recreation generally - see S.U. & P.S. Ch. 1062
- Benham's Grove - see S.U. & P.S. Ch. 1064
- Parklands - see P. & Z. Ch. 1204
- Adoption of park plan - see P. & Z. 1204.03
- Park and Public Open Space Plan - see P. & Z. Ch. 1212

248.01 GENERAL RESPONSIBILITIES OF PARKS AND RECREATION DIRECTOR AND MANAGER.

The functions of the Department of Parks and Recreation shall be the responsibility of the Director of Parks and Recreation, who shall be immediately responsible to the Manager.

(Ord. 41-76. Passed 8-16-76.)

248.02 SPECIFIC RESPONSIBILITIES OF PARKS AND RECREATION DIRECTOR.

The Director of Parks and Recreation shall be responsible for the overall administration, development and direction of a recreation program for groups of all ages and interest levels within the City and for developing and maintaining an adequate park and playground system and the necessary physical facilities to make the programs effective.

(Ord. 41-76. Passed 8-16-76.)

CHAPTER 258
Employees Generally

EDITOR'S NOTE: Because of the frequency of change, provisions relating to compensation and benefits are not codified. Copies of the latest relevant legislation may be obtained, at cost, from the Clerk of Council.

Ordinance 17-99, passed November 15, 1999, as amended by Ordinance 42-00, passed January 22, 2002, Ordinance 41-01, passed January 28, 2002, Ordinance 25-04, passed December 20, 2004, Ordinance 24-04, passed January 24, 2005, Ordinance 35-07, passed December 17, 2007, Ordinance 36-07, passed January 28, 2008, Ordinance 29-08, passed January 26, 2009, Ordinance 25-10, passed December 20, 2010 and Ordinance 26-10, passed January 24, 2011, adopted a Personnel Manual for employees of the City. Ordinance 26-13, passed December 16, 2013, as amended by Ordinance 27-13, passed January 27, 2014 adopted a Personnel Manual for employees of the City associated with Yankee Trace. Copies of these ordinances and of the Manuals may be obtained, at cost, from the Clerk of Council.

258.01	Promulgation of Personnel Rules and Regulations by Manager.	258.03	P.E.R.S. pick-up; exceptions. (Repealed)
258.02	Indemnification of employees and officials.	258.04	Bonds.
		258.05	Retirement.

CROSS REFERENCES

Oath of office - see CHTR. Sec. 12.01
 Personal financial interest of officers and employees - see CHTR. Sec. 12.06
 Public Employees Retirement System - see Ohio R.C. Ch. 145
 Strikes by public employees - see Ohio R.C. Ch. 4117
 Code of Ethics - see ADM. 206
 Transfer of personnel - see ADM. 232.03
 Transfer of work - see ADM. 232.04
 Personnel Officer - see ADM. 232.06
 Obstructing official business - see GEN. OFF. 606.14
 Unlawful interest in a public contract - see GEN. OFF. 606.17

258.01 PROMULGATION OF PERSONNEL RULES AND REGULATIONS BY MANAGER.

The Manager is hereby authorized, at any time or from time to time, to promulgate Personnel Rules and Regulations for the employees of the City, which, when promulgated pursuant to this section, shall have the full force of law.
(Ord. 7-86. Passed 4-21-86.)

258.02 INDEMNIFICATION OF EMPLOYEES AND OFFICIALS.

The City shall defend its employees and appointed and elected officials in and from any and all suits, claims, charges and demands based upon or arising from actions or services such persons have taken or performed within the scope of their responsibilities, including actions or services taken or performed as a member of a non-City board, commission or organization to the extent that the participation in such outside organizations results from such person's status as an employee or official of the City and is undertaken as a service for or a benefit to the City.
(Ord. 3-88. Passed 4-18-88.)

258.03 P.E.R.S. PICK-UP; EXCEPTIONS. (REPEALED)

(EDITOR'S NOTE: Section 258.03 was repealed by Ordinance 28-00, passed December 18, 2000. See Section 258.05 for provisions relating to pension contributions.)

258.04 BONDS.

(a) Except as otherwise provided in this Municipal Code, all employees and elected and appointed officers of the City shall be covered under the provisions of a public employees blanket bond in lieu of the execution of individual bonds.

(b) The public employees blanket bond shall be executed in favor of the City by a surety company authorized to issue surety and fidelity bonds in the State and shall be in the amount of ten thousand dollars (\$10,000) for each position or office held by an employee or officer of the City.

(c) The public employees blanket bond provided for herein shall be contingent on the faithful performance of the duties and offices of the individually covered employees or officers and on the accounting for and paying over to the proper officer of the City all monies or other property coming into the possession of the individually covered employee or officer and belonging to the City.

258.05 RETIREMENT.

(a) Public Employees Retirement System (P.E.R.S.).

- (1) Effective January 1, 2001, the full amount of the statutorily required contributions to the Public Employees Retirement System of Ohio PERS shall be withheld from the gross pay of each person within any of the classes established in paragraph (a)(3) hereof and shall be "picked-up" (assumed and paid to the Public Employees Retirement System of Ohio) by the City.

This “pick-up” by the City is, and shall be designated as, employee contributions and shall be in lieu of contributions to the Public Employees Retirement System by each person within any of the classes established in paragraph (a)(3) hereof. No person subject to this “pick-up” shall have the option of choosing to receive the statutorily required contribution to the Public Employees Retirement System directly instead of having it “picked-up” by the City or being excluded from the “pick-up”.

- (2) The City shall, in reporting and making remittance to the Public Employees Retirement System, report that the public employee's contribution for each person subject to this “pick-up” has been made as provided by statute.
- (3) The “pick-up” by the City provided by this section shall apply to all persons who are employees of the City who are or become contributing members of the Public Employees Retirement System.
- (4) The City's method of payment of salaries to employees who are participants in the Public Employees Retirement System is hereby modified as follows, in order to provide for a salary reduction method of “pick-up” of employee contributions to the Public Employees Retirement System:
 - A. The total salary for each employee shall be the salary otherwise payable under City policies. Such total salary of each employee shall be payable by the City in two parts: (a) deferred salary and (b) cash salary. An employee's deferred salary shall be equal to that percentage of that employee's total salary which is required from time to time by the Public Employees Retirement System to be paid as an employee contribution by that employee and shall be paid by the City to the Public Employees Retirement System on behalf of that employee as a “pick-up” and in lieu of the Public Employees Retirement System employee contribution otherwise payable by that employee.
 - B. An employee's cash salary shall be equal to the employee's total salary less the amount of the “pick-up” for that employee, and shall be payable, subject to applicable payroll deductions, to that employee. The City shall compute and remit its employer contributions to the Public Employees Retirement System based upon an employee's total salary. The total combined expenditures of the City for such employees' total salaries payable under applicable City policies and the “pick-up” provisions of this section shall not be greater than the amounts the City would have paid for these items had this provision not been in effect.
- (5) The Finance Director is hereby authorized and directed to implement the provisions of this section to institute the “pick-up” of the statutorily required contributions to the Public Employees Retirement System for those persons reflected in paragraph (a)(3) hereof so as to enable them to obtain the result of Federal and State tax deferments and other benefits.

(Ord. 28-00. Passed 12-18-00.)

(b) Ohio Police and Fire Pension Fund (O.P.F.P.F.).

- (1) Effective January 1, 2001, the full amount of the statutorily required contributions to the Ohio Police and Fire Pension Fund O.P.F.P.F. shall be withheld from the gross pay of each person within any of the classes established in paragraph (b)(3) hereof and shall be “picked-up” (assumed and paid to the Police and Fire Pension Fund) by the City. This “pick-up” by the City is, and shall be designated as, employee contributions and shall be in lieu of contributions to the Police and Fire Pension Fund by each person within any of the classes established in paragraph (b)(3) hereof. No person subject to this “pick-up” shall have the option of choosing to receive the statutorily required contribution to the Police and Fire Pension Fund directly instead of having it “picked-up” by the City or being excluded from the “pick-up”.
- (2) The City shall, in reporting and making remittance to the Police and Fire Pension Fund, report that the public employee's contribution for each person subject to this “pick-up” has been made as provided by statute.
- (3) The “pick-up” by the City provided by this section shall apply to all persons who are employees of the City who are or become contributing members of the Police and Fire Pension Fund.
- (4) The City's method of payment of salaries to employees who are participants in the Police and Fire Pension Fund is hereby modified as follows, in order to provide for a salary reduction method of “pick-up” of employee contributions to the Police and Fire Pension Fund:
 - A. The total salary for each employee shall be the salary otherwise payable under City policies. Such total salary of each employee shall be payable by the City in two parts: (a) deferred salary and (b) cash salary. An employee's deferred salary shall be equal to that percentage of that employee's total salary which is required from time to time by the Police and Fire Pension Fund to be paid as an employee contribution by that employee and shall be paid by the City to the Police and Fire Pension Fund on behalf of that employee as a “pick-up” and in lieu of the Police and Fire Pension Fund employee contribution otherwise payable by that employee.
 - B. An employee's cash salary shall be equal to the employee's total salary less the amount of the “pick-up” for that employee, and shall be payable, subject to applicable payroll deductions, to that employee. The City shall compute and remit its employer contributions to the Police and Fire Pension Fund based upon an employee's total salary. The total combined expenditures of the City for such employees' total salaries payable under applicable City policies and the “pick-up” provisions of this section shall not be greater than the amounts the City would have paid for these items had this provision not been in effect.

- (5) The Finance Director is hereby authorized and directed to implement the provisions of this section to institute the “pick-up” of the statutorily required contributions to the Police and Fire Pension Fund for those persons reflected in paragraph (b)(3) hereof so as to enable them to obtain the result of Federal and State tax deferments and other benefits.
(Ord. 30-00. Passed 12-18-00; Ord. 1-04. Passed 2-16-04; Ord. 2-04. Passed 3-15-04.)

- TITLE EIGHT - Boards, Commissions, Committees and Bureaus
- Chap. 260. Boards and Commissions Generally.
 - Chap. 262. Planning Commission.
 - Chap. 264. Board of Architectural Review.
 - Chap. 266. Centerville Property Review Commission.
 - Chap. 268. Parks and Recreation Commission.
 - Chap. 270. Centerville Historical Commission.
 - Chap. 272. Personnel Appeals Board.
 - Chap. 273. Centerville City School District Personnel Appeals Board.
 - Chap. 274. Board of Adjudication.
 - Chap. 276. Board of Tax Appeals.
 - Chap. 278. Records Commission.
 - Chap. 280. Arts Commission.
 - Chap. 282. City Beautiful Commission.
 - Chap. 284. Sister City Committee.
 - Chap. 286. Bureau of Fire Safety.
 - Chap. 288. Residential Board of Appeals.
 - Chap. 289. Community Reinvestment Area Housing Council.
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CHAPTER 260
Boards and Commissions Generally

260.01 Ex officio members; voting and quorum.

CROSS REFERENCES

- Creation - see CHTR. Sec. 9.01
 - Duties, powers and revision - see CHTR. Sec. 9.02
 - Code of Ethics - see ADM. Ch. 206
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260.01 EX OFFICIO MEMBERS; VOTING AND QUORUM.

Ex officio members of boards and commissions in the City shall not have the right to vote on matters coming before said boards and commissions and shall not be counted for purposes of determining a quorum.
(Ord. 68-78. Passed 1-8-79.)

CHAPTER 262
Planning Commission

EDITOR'S NOTE: Provisions relating to the Planning Commission are codified in Chapter 1202 of Part Twelve - the Planning and Zoning Code.

CHAPTER 264

Board of Architectural Review

EDITOR'S NOTE: There are no sections in Chapter 264. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

Boards and commissions generally - see ADM. Ch. 260

Planning Commission - see P. & Z. Ch. 1202

Duties and powers re landmarks - see P. & Z. 1206.03, 1206.04

Centerville Property Review Commission - see B. & H. 1482.01

Unsafe buildings - see B. & H. 1482.04

Maintenance of dwellings - see B. & H. 1484.04

CHAPTER 266
Centerville Property Review Commission

EDITOR'S NOTE: Provisions relating to the Centerville Property Review Commission are codified in Chapter 1482 of Part Fourteen - the Building and Housing Code.

CHAPTER 268

Parks and Recreation Commission

- 268.01 Establishment; composition; terms; dismissals; compensation.
 268.02 Purposes.
 268.03 Organization; rules and regulations.
 268.04 Powers and duties; open meetings.

CROSS REFERENCES

- City planners to consider parks - see Ohio R.C. 713.02
 Municipal powers re parks - see Ohio R.C. 715.21, 717.01, 719.01,
 755.41
 Land appropriation for parks - see Ohio R.C. 715.21, 719.01
 Parks and playgrounds - see Ohio R.C. Ch. 755
 Department of Parks and Recreation - see ADM. Ch. 248
 Parks and recreation generally - see S.U. & P.S. Ch. 1062
 Benham's Grove - see S.U. & P.S. Ch. 1064
 Parklands - see P. & Z. Ch. 1204
 Adoption of park plan - see P. & Z. 1204.03
 Park and Public Open Space Plan - see P. & Z. Ch. 1212

268.01 ESTABLISHMENT; COMPOSITION; TERMS; DISMISSALS;
 COMPENSATION.

(a) There is hereby established a Parks and Recreation Commission in and for the City. The Commission shall consist of eight members and a Chairperson to be appointed by the Council. Membership shall be open to any resident elector of the City.

(b) Each member shall serve a term of three years, except that members first appointed shall be appointed so that the terms of two members will expire after three years, the terms of three members shall expire after two years, and the terms of three members shall expire after one year. Any member who misses three consecutive meetings without being excused by the Chairperson may be declared inactive by the Council and replaced as provided in subsection (a) hereof.

(c) The Mayor, a Council liaison and the Manager, or their designees, shall be ex-officio members of the Commission without the right to vote.

(d) Membership on the Commission shall be honorary, and the Chairperson and members shall serve without compensation. (Ord. 50-80. Passed 12-15-80.)

268.02 PURPOSES.

The purposes of the Parks and Recreation Commission shall be as follows: to consider, plan and, when authorized by the Council, implement programs of recreation which will provide recreational opportunities for youths, seniors and adults, and to consider, advise and, when authorized by the Council, provide adequate area for recreational facilities while protecting the environment and reserving open space and the natural features of the community.

(Ord. 50-80. Passed 12-15-80.)

268.03 ORGANIZATION; RULES AND REGULATIONS.

The Parks and Recreation Commission shall organize and adopt such rules and regulations as may be necessary for the efficient and effective conduct of its business, provided that such rules and regulations shall not be in conflict with the ordinances and Charter of the City and the laws of the State.

(Ord. 50-80. Passed 12-15-80.)

268.04 POWERS AND DUTIES; OPEN MEETINGS.

(a) The Parks and Recreation Commission may perform and exercise the following powers and shall have the following duties:

- (1) Adopt rules and regulations for the conduct of the Commission;
- (2) Establish and appoint such subcommittees as may be deemed necessary;
- (3) Advise the Council and the Manager on such items as may be related to its purpose;
- (4) Cooperate with other boards and commissions, other governmental bodies and agencies and the Manager;
- (5) Furnish to the Council an annual report on or before October 1 of each year, which shall include a review of the past year's activities, the goals and objectives for the next year and a budget for the upcoming fiscal year; and
- (6) Keep official minutes of its meetings, which minutes shall be forwarded to the Clerk of Council for distribution to the Council.

(b) All meetings of the Commission shall be held in accordance with the open meetings rules and regulations as adopted by the Council.

(Ord. 50-80. Passed 12-15-80.)

CHAPTER 270
Centerville Historical Commission

- 270.01 Preamble; purpose.
 270.02 Establishment; composition; residency; terms; compensation; vacancies; removals.
 270.03 Rules of procedure.
 270.04 Powers and duties.
 270.05 Staff assistance.

CROSS REFERENCES

- Ohio Historical Society - see Ohio R.C. 149.30, 149.31
 Historical and prehistorical sites - see Ohio R.C. 149.301, 1743.07
 Registration of historic landmarks - see Ohio R.C. 149.55
 Board of Architectural Review - see ADM. Ch. 264
 Landmarks - see P. & Z. Ch. 1206
 Centerville Property Review Commission - see B. & H. 1482.01

270.01 PREAMBLE; PURPOSE.

(a) The City, recognizing its unique historical heritage which has evolved since its founding in 1796, hereby declares, as a matter of public policy, that the preservation of its historical landmarks and the perpetuation of its historical and cultural heritage promote the best interests of the general health, safety and welfare of the citizens of the City and Washington Township.

(b) In accordance with the foregoing preamble, the purposes of this chapter are to:

- (1) Provide for a commission which is especially interested in and qualified to undertake such programs as will promote the historical and cultural heritage of the City and Washington Township;
- (2) Protect existing historical landmarks in the City and Washington Township;
- (3) Promote the use of and protect historical sites within the City and Washington Township.

(Ord. 23-98. Passed 9-21-98.)

270.02 ESTABLISHMENT; COMPOSITION; RESIDENCY; TERMS; COMPENSATION; VACANCIES; REMOVALS.

(a) Establishment. In order to execute the purposes set forth in Section 270.01, there is hereby established a commission to be called the Centerville Washington Township Historical Commission (CWTHC).

(b) Membership. The CWTHC shall consist of eight members appointed as follows: four to be appointed by the Council and four to be appointed by the Board of Trustees of Washington Township, Montgomery County, Ohio (the Board).

(c) Composition. In considering appointments or re-appointments to the CWTHC, the Council and the Board shall attempt to achieve the following CWTHC composition:

- (1) Four members appointed by the Council.
- (2) Four members appointed by the Board.
- (3) The City Manager shall serve as an ex officio, non-voting member.

(d) Residency. Any resident of Washington Township shall be eligible for appointment to the CWTHC, whether or not he or she is a resident of the City.

(e) Terms. Members of the CWTHC shall serve four-year terms, provided, however, that initially a member appointed by the Board, and a member appointed by the Council, shall expire each year during the first four years of the existence of the Commission. Thereafter, members shall serve full four-year terms.

(f) Compensation. Members of the CWTHC shall serve without compensation.

(g) Vacancies. City Council or the Board shall appoint a new member to fill the unexpired term of any CWTHC member whose place has become vacant, depending upon which body made the original appointment to the then-vacant position.

(h) Removals. Removal from office shall be in accordance with the provisions of the Charter of the City with respect to City-appointed members, and in accordance with Township law with respect to appointments made by the Board.
(Ord. 23-98. Passed 9-21-98.)

270.03 RULES OF PROCEDURE.

(a) Officers. A Chairperson shall be appointed by the Council from the members of the CHC. A Vice-Chairperson and a Secretary shall be elected by the CHC from its own membership.

(b) Terms of Officers. The Chairperson, Vice-Chairperson and Secretary shall serve a one-year term of office.

(c) Meetings. The members of the CHC shall hold as many meetings as may be necessary to carry out their duties.

(d) Quorum. Four members of the CHC shall constitute a quorum for the transaction of business.

(e) Minutes. The Secretary of the CHC shall keep a record, which shall be open to the public, of its resolutions, proceedings, substantive arguments and actions.

(f) Public Meetings. All meetings of the CHC shall be open to the public. Persons attending a meeting of the CHC shall be given the opportunity to speak for or against any application before the CHC. In all respects, the CHC shall comply with the Sunshine Law of the State as may be modified from time to time by the Council.

(g) Conflicts of Interest. No member of the CHC shall vote or participate in the discussion of any question before the CHC in which he or she has a personal or pecuniary interest. All members of the CHC are subject to the City Code of Ethics as provided in Chapter 206.

(h) Additional Rules of Procedure. The CHC may adopt additional rules of procedure as it deems necessary to conduct its business. (Ord. 15-89. Passed 8-21-89.)

270.04 POWERS AND DUTIES.

(a) Education of the Community. The CHC shall have the power and duty to undertake programs to inform the citizenry about the historical heritage of the community and to achieve full utilization of the Walton House and other historical sites assigned to it by the Council.

(b) Walton House Management. The care, preservation and management of the Walton House shall be the duties of the CHC. The CHC may delegate any of said duties to the staff provided for in this chapter. The scheduling of events at the Walton House or any other historical site assigned to it by the Council shall be a duty of the CHC, provided, however, that the Centerville Historical Society shall have the paramount right to use the Walton House on dates it schedules for meetings of its membership and its Board of Trustees.

(c) Additional Powers. The CHC shall have all additional powers granted by the Council.
(Ord. 15-89. Passed 8-21-89.)

270.05 STAFF ASSISTANCE.

The Manager may designate staff members as necessary to assist the CHC, including, but not limited to, such staff members as may be required to assist in maintaining the Walton House and other historical sites assigned by the Council to the jurisdiction of CHC.
(Ord. 15-89. Passed 8-21-89.)

CHAPTER 272

Personnel Appeals Board

EDITOR'S NOTE: There are no sections in Chapter 272. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

Personnel Officer - see CHTR. Sec. 10.03; ADM. 232.06

Generally - see CHTR. Sec. 10.04

Transfer of personnel - see ADM. 232.03

Employees generally - see ADM. Ch. 258

Promulgation of Personnel Rules and Regulations - see
ADM. 258.01

CHAPTER 273
Centerville City School District Personnel Appeals Board

- 273.01 Establishment.
- 273.02 Terms; appointments.
- 273.03 Rules and Regulations.
- 273.04 Expenses.
- 273.05 Removal of members.

CROSS REFERENCES

- School districts - see Ohio R.C. Ch. 3311
- Boards of education - see Ohio R.C. Ch. 3313
- City Personnel Appeals Board - see ADM. Ch. 272
- School guards - see TRAF. 404.06
- School buses - see TRAF. 432.30

273.01 ESTABLISHMENT.

There is hereby established the Centerville City School District Personnel Appeals Board which shall consist of three members appointed by Council, all of whom shall be electors of the Centerville City School District.
(Ord. 11-94. Passed 4-18-94.)

273.02 TERMS; APPOINTMENTS.

All of the members of the Centerville City School District Personnel Appeals Board shall serve for terms of three years. However, the first such appointments shall be for terms of one year, two years and three years, and thereafter the terms of office shall be staggered with one member to be appointed to a three-year term each year. The members shall serve without compensation, but they may be reimbursed for their reasonable expenses incurred. The process of appointment shall be the same as that generally followed by Council in its appointments to other boards and commissions of the City.
(Ord. 11-94. Passed 4-18-94.)

273.03 RULES AND REGULATIONS.

Attached to original Ordinance 11-94, passed April 18, 1994, and incorporated therein as Exhibit A are the Rules and Regulations of the Centerville City School District Personnel Appeals Board which shall govern the procedure, powers, responsibilities and duties of the Board. Said Rules and Regulations may be amended, supplemented or modified, from time to time, by ordinance duly passed by Council.
(Ord. 11-94. Passed 4-18-94.)

273.04 EXPENSES.

The Centerville City School District Personnel Appeals Board may not incur any liability for the expenditure of money for its expenses without the prior written permission of the City Manager, who shall act in consultation with the Superintendent of the Centerville City School District prior to the approval of such expenses. The Centerville City School District shall, upon written request and documentation from the City, reimburse the City for any expenses incurred pursuant to this section.
(Ord. 11-94. Passed 4-18-94.)

273.05 REMOVAL OF MEMBERS.

Any member of the Centerville City School District Personnel Appeals Board may be removed for cause in accordance with Section 9.02 of the City Charter.
(Ord. 11-94. Passed 4-18-94.)

CHAPTER 274
Board of Adjudication

EDITOR'S NOTE: There are no sections in Chapter 274. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

Division of Taxation - see ADM. 230.08, 234.06

Superintendent of Taxation - see ADM. 234.06(b); B.R. & T. 880.11,
880.12

Income tax bond for circuses and carnivals - see B.R. & T. 808.05

Earned Income Tax - see B.R. & T. Ch. 880

Generally - see B.R. & T. 880.16(a)

Board of Tax Appeals - see B.R. & T. 880.16(b)

CHAPTER 276
Board of Tax Appeals

EDITOR'S NOTE: There are no sections in Chapter 276. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

Division of Taxation - see ADM. 230.08, 234.06

Superintendent of Taxation - see ADM. 234.06(b); B.R. & T.
880.11, 880.12

Income tax bond for circuses and carnivals - see B.R. & T.
808.05

Earned Income Tax - see B.R. & T. Ch. 880

Board of Adjudication - see B.R. & T. 880.16(a)

Generally - see B.R. & T. 880.16(b)

CHAPTER 278
Records Commission

EDITOR'S NOTE: There are no sections in Chapter 278. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

- Public records - see CHTR. Sec. 8.13
- Prohibition against destruction or damage of records - see
Ohio R.C. 149.351
- Municipal records commissions - see Ohio R.C. 149.39
- Availability of public records - see Ohio R.C. 149.43
- Records of fires - see ADM. 240.02
- Tampering with records - see GEN. OFF. 642.18

CHAPTER 280
Arts Commission

280.01	Establishment; composition; terms; residency.	280.03	Officers; rules of procedure; meetings.
280.02	Compensation.	280.04	Powers and duties.
		280.05	Dismissals; excused absences.

CROSS REFERENCES

Ohio Arts Council - see Ohio R.C. 3379.01 et seq.
 Arts and cultural affairs - see Ohio R.C. 3381.01 et seq.
 Arts Facilities Commission - see Ohio R.C. 3383.01 et seq.
 Boards and commissions generally - see ADM. Ch. 260
 Desecration of art - see GEN. OFF. 642.07
 Landmarks - see P. & Z. Ch. 1206

280.01 ESTABLISHMENT; COMPOSITION; TERMS; RESIDENCY.

There is hereby established the Centerville Arts Commission, which shall consist of at least seven and not more than fifteen members, all of whom shall be appointed by the Council. Of those persons initially appointed, one-third shall serve for one year, one-third shall serve for two years and one-third shall serve for three years, with all members thereafter serving terms of three years. At least a majority of those appointed shall reside within the corporate limits of the City.
 (Ord. 6-90. Passed 5-21-90.)

280.02 COMPENSATION.

Membership on the Arts Commission shall be honorary and members shall serve without compensation.
 (Ord. 9-73. Passed 3-5-73.)

280.03 OFFICERS; RULES OF PROCEDURE; MEETINGS.

The Council shall appoint a Chairperson from the membership of the Arts Commission, and the Arts Commission shall annually elect a Secretary from its membership, adopt rules of procedure and hold such meetings, either regular or special, as it may deem necessary to carry on its work.
 (Ord. 6-90. Passed 5-21-90; Ord. 5-06. Passed 3-20-06.)

280.04 POWERS AND DUTIES.

It shall be the duty of the Arts Commission to provide ideas and direction of activities of the Arts Commission, to review plans formulated by the Arts Coordinator and Chairperson, and to make recommendations for the arts program for the development and encouragement of enjoyment of all forms of art, including the fine arts and performing arts, within the City for the benefit of its residents. The Commission shall assist in implementing and actively participate in art exhibits, shows, concerts, performances, etc. (Ord. 9-73. Passed 3-5-73; Ord. 5-06. Passed 3-20-06.)

280.05 DISMISSALS; EXCUSED ABSENCES.

The Arts Commission may recommend to the Council that any member of the Commission who has had three consecutive unexcused absences from regular meetings of the Commission be dismissed. Members of the Commission may be excused from a regular meeting with the approval of a majority of the members of the Commission.

CHAPTER 282
City Beautiful Commission

- 282.01 Establishment; composition; residency; terms; dismissals; excused absences.
 282.02 Compensation.
 282.03 Officers; rules of procedure; meetings; professional and clerical assistance.
 282.04 Powers and duties.

CROSS REFERENCES

- Boards and commissions generally - see ADM. Ch. 260
 Parks and Recreation Commission - see ADM. Ch. 282
 Injuring vines, bushes, trees or crops - see GEN. OFF. 642.06
 Littering - see GEN. OFF. 660.03, 660.035
 Filthy accumulations - see GEN. OFF. 660.04, 660.07

282.01 ESTABLISHMENT; COMPOSITION; RESIDENCY; TERMS;
DISMISSALS; EXCUSED ABSENCES.

There is hereby established the Centerville City Beautiful Commission, which shall consist of such members as the Council may appoint, but not less than five nor more than fifteen, all of whom shall be residents of the City.

In addition to the membership of the Commission as provided in the preceding paragraph, the City Engineer, the Manager and the City Planner shall be ex-officio members who shall meet with and advise the Commission regarding matters being considered by the Commission, but without the right to vote.

The term of office of the members of the Commission shall be three years. However, of the members initially appointed, one-third shall be appointed for one year, one-third shall be appointed for two years and one-third shall be appointed for three years, with all terms thereafter being three years. The Commission may recommend to the Council that any member of the Commission who has had three consecutive unexcused absences from regular meetings of the Commission be dismissed. Members of the Commission may be excused from a regular meeting with the approval of a majority of the members of the Commission.

(Ord. 10-73. Passed 3-5-73.)

282.02 COMPENSATION.

Membership on the City Beautiful Commission shall be honorary and members shall serve without remuneration other than the regular City salary provided for City employees.

(Ord. 10-73. Passed 3-5-73.)

282.03 OFFICERS; RULES OF PROCEDURE; MEETINGS; PROFESSIONAL AND CLERICAL ASSISTANCE.

(a) The officers of the City Beautiful Commission shall be a President and a Secretary. A Chairperson shall be appointed by Council annually from the membership of the Commission. The term of the first Chairperson to be appointed by Council shall begin at the time heretofore established by the Commission. A Secretary shall be elected annually by the Commission from its membership.

(b) The Commission shall adopt rules of procedure and shall hold meetings, either regular or special, as it may deem necessary to carry on its work.

(c) The Commission may secure such professional, clerical and other assistance as may be necessary in order to properly carry on its duties only if it has first received prior approval by a majority vote of the Council.

(Ord. 10-73. Passed 3-5-73; Ord. 11-97. Passed 7-21-97.)

282.04 POWERS AND DUTIES.

It shall be the duty of the City Beautiful Commission to study, formulate and develop plans for the beautification of streets, highways, alleys, utility installations, parks, open spaces, streams, playgrounds, yards, lots and buildings; to encourage and recommend the placing, planting and preservation of trees, flowers, plants, shrubbery and other objects of ornamentation in the City; to collect, study and evaluate information on community improvements and to make recommendations thereon; to aid in the promotion and carrying out of the annual operation ordering the cleaning up of the City which occurs every May 10; and to otherwise promote public interest in the general improvement of the appearance of the City. However, the powers and duties of the Commission are of an advisory nature only, and nothing herein shall be construed to abridge, invade, supplant or change the powers or duties of the departments and boards of the City or of the Council.

(Ord. 10-73. Passed 3-5-73.)

CHAPTER 284
Sister City Committee

EDITOR'S NOTE: Pursuant to Section 284.04 of this chapter, the City has adopted two sister cities: Bad Zwischenahn, Germany, and Waterloo, Ontario, Canada.

- 284.01 Establishment; terms.
- 284.02 Compensation.
- 284.03 Organization.
- 284.04 Duties.

CROSS REFERENCES

Boards and commissions generally - see ADM. Ch. 260

284.01 ESTABLISHMENT; TERMS.

(a) There is hereby established in and for the City a committee to be known as the Sister City Committee, which shall consist of fifteen members to be appointed by Council, such members to serve for three-year terms. A member of Council shall be an ex-officio member without voting power.

(Res. 22-82. Passed 7-19-82; Res. 20-93. Passed 4-19-93.)

(b) The term of any City official or City employee appointed to the Committee shall continue only as long as such person remains an official or employee of the City.

(Res. 28-73. Passed 8-16-73.)

284.02 COMPENSATION.

Membership on the Sister City Committee shall be honorary, and the members thereof shall serve without compensation, other than the regular City salary or wage provided, should any City official or employee be appointed to the Committee.

(Res. 28-73. Passed 8-16-73.)

284.03 ORGANIZATION.

The Sister City Committee shall adopt rules of procedure and shall hold meetings, either regular or special, as it may deem necessary to carry out its work. The first Chairperson to serve under the provisions of this chapter shall be appointed by Council, and each Chairperson thereafter shall be appointed annually by Council to a term to begin at the time heretofore established by the Committee.
(Ord. 11-97. Passed 7-21-97.)

284.04 DUTIES.

It shall be the duty of the Sister City Committee to study, formulate and develop plans to set in motion a program for an active cultural exchange between the City and a foreign city to be adopted in carrying out a program with mutual interest in international friendship and understanding.
(Res. 28-73. Passed 8-16-73.)

CHAPTER 286
Bureau of Fire Safety

EDITOR'S NOTE: Provisions relating to the Bureau of Fire Safety are codified in Chapter 1630 of Part Sixteen - the Fire Prevention Code.

CHAPTER 288

Residential Board of Appeals

- 288.01 Establishment; powers re Ohio Residential Code and Unified Fire Code; appointments; jurisdiction.
- 288.02 Qualifications of members.
- 288.03 Designation of Chairperson and Secretary.
- 288.04 Conflicts of interest.
- 288.05 Meetings.
- 288.06 Hearings.
- 288.07 Applications for appeals or actions.
- 288.08 Fee for appeals; use of moneys.
- 288.09 Action by Board.
- 288.10 Quorum.
- 288.11 Hearings.

CROSS REFERENCES

- Ohio Residential Code - see B. & H. Ch. 1422
- Appeals to Council under Property Maintenance Code - see B. & H. 1482.01(v)
- Appeals under Property Maintenance Code to Code Appeals Board - see B. & H. 1482.09
- Unified Fire Code - see F.P. Ch. 1611

288.01 ESTABLISHMENT; POWERS RE OHIO RESIDENTIAL CODE AND UNIFIED FIRE CODE; APPOINTMENTS; JURISDICTION.

(a) There is hereby established in and for the City a Residential Board of Appeals, hereinafter referred to as the Board. The Board shall be established and administrated by the County. The Board shall have power to adopt and promulgate rules and regulations interpreting the provisions of the Ohio Residential Code, as adopted in Section 1422.01 of the Building and Housing Code, for all one, two or three-family dwellings, and the Unified Fire Code, as adopted in Section 1611.01 of the Fire Prevention Code, and implementing the administration and intent of such Codes. (Adopting Ordinance)

(b) The Board shall consist of five members. Each member shall be appointed for a term of five years, or until his or her successor is appointed, except that appointments to fill vacancies arising in mid-term shall be only for the unexpired portion of such terms. Original appointments shall be for terms of one, two, three, four and five years.

(c) The Board shall have jurisdiction within the geographical boundaries of the City. (Ord. 5-91. Passed 4-15-91.)

288.02 QUALIFICATIONS OF MEMBERS.

(a) The membership of the Board shall include:

- (1) One fire official;
- (2) One builder;
- (3) One architect or engineer, registered in Ohio;
- (4) One attorney, admitted to the Ohio Bar; and
- (5) One building official.

(b) The fire official shall be appointed to the Board by the Southwest Ohio Fire Safety Council. The builder shall be appointed to the Board by the Home Builders' Association. The architect or engineer shall be appointed to the Board by, in turn, the City of Dayton, the City of Kettering or Montgomery County, by alphabetical order. The attorney shall be appointed to the Board by other jurisdictions which have adopted this chapter, in turn, by alphabetical order. The building official shall be appointed to the Board by the Miami Valley Building Officials' Association. Members of the Board shall have a minimum of six years of building design, construction and inspection/code enforcement experience. The attorney shall have a minimum of six years of legal experience. (Ord. 5-91. Passed 4-15-91.)

288.03 DESIGNATION OF CHAIRPERSON AND SECRETARY.

The Board shall select one of its members to serve as its Chairperson and one as a Vice-Chairperson and shall appoint a person to act as Secretary for the Board and to keep a detailed record of all Board proceedings. (Ord. 5-91. Passed 4-15-91.)

288.04 CONFLICTS OF INTEREST.

No member of the Board shall pass on any questions involving work on which he or she or his or her employer is or has been engaged or involved in as a contractor or material dealer or superintendent, or for which he or she or his or her employer has prepared plans or specifications, or in which he or she has any personal or financial interest whatever. (Ord. 5-91. Passed 4-15-91.)

288.05 MEETINGS.

The Board shall meet within thirty days after the filing of any appeal or request for action with the Secretary of the Board, and also periodically if the volume of its work so warrants.

(Ord. 5-91. Passed 4-15-91.)

288.06 HEARINGS.

Each appellant or applicant and the Code Official as defined in Section 1610.02 of the Fire Prevention Code, and any other person whose interests may be affected by an appeal, shall be given a fair opportunity to be heard orally, in person or by counsel, and to present written arguments.

(Ord. 5-91. Passed 4-15-91.)

288.07 APPLICATIONS FOR APPEALS OR ACTIONS.

(a) Any person adversely affected by the following sections or articles of the Unified Fire Code, as adopted in Section 1611.01 of the Fire Prevention Code, may appeal a decision of the Code Official, as defined in Section 1620.02 of the Fire Prevention Code, refusing to grant a permit or to permit the use of a particular material and/or equipment or method of construction in a proposed structure, provided that such appeal is filed within fifteen days of the date of receipt of the written decision from the Code Official. The appeal must include proposed alternatives, modifications or substitutions, complete plans of the structure, other pertinent information and payment of fees: F-109.1, F-109.3.1, Article 2, F-301.4, F-304.0, F-305.0, F-306.0, F-307.2, F-307.3, F-308.1, F-308.3, F-309.0, F-312.2, F-312.6, F-313.0 (except for F-313.12), F-315.2, F-316.0, F-318.0, Article 4, F-501.3, F-501.4, F-501.4.1, F-502.2, F-502.2.1, F-502.2.2, F-502.3, F-510.0, F-516.4, F-517.2, F-602.2, F-603.2, Article 7, Article 8 (except for F-801.4, F-802.4, F-802.5, F-803.1.1 and F-803.2), Article 9 (except for F-901.2, F-902.5, F-902.7.5, F-902.9, F-902.10.2, F-903.6.1, F-903.6.2 and F-906.6.3), Article 10 (except for F-1001.2), Article 11 (except for F-1101.5 and F-1101.6), Article 12, Article 13 (except for F-1302.1), Article 14 (except for F-1401.2, F-1401.3 and F-1401.3.1), Article 15 (except for F-1501.3 and F-1501.4), Article 16 (except for F-1601.4, F-1601.5, F-1601.5.1, F-1601.5.2 and F-1603.2), Article 17 (except for F-1700.3, F-1700.4, F-1700.4.1, F-1701.1 and F-1703.0), Article 18 (except for F-1802.6, F-1802.8 and F-1806.2.3), Article 19 (except for F-1901.1 and F-1901.2), Article 20 (except for F-2001.3), Article 21 (except for F-2102.2, F-2102.4, F-2102.5, F-2103.10, F-2103.12, F-2103.16, F-2103.17 and F-2107.3.1), Article 22, Article 23, Article 24, Article 25 (except for F-2502.2), Article 26 (except for F-2602.5, F-2602.5.2, F-2602.5.3, F-2602.6, F-2603.13, F-2605.3, F-2606.4 and F-2606.6), Article 27 (except for F-2701.4), Article 28 (except for F-2801.4, F-2801.8, F-2804.2 and F-2808.2), Article 29 (except for F-2905.2), Article 30, Article 31, Article 32, Article 33 (except for F-3301.4, F-3301.5 and F-3303.7) and Article 34.

(Ord. 5-91. Passed 4-15-91; Ord. 16-97. Passed 9-15-97.)

(b) The appeal shall be based on one or both of the following grounds:

(1) That the interpretation, filing or order is erroneous or constitutes an erroneous application of the particular provisions of the Ohio Residential Code, as adopted in Section 1422.01 of the Building and Housing Code, or the Unified Fire Code, as adopted in Section 1611.01 of the Fire Prevention Code, or related laws and ordinances involved, or is otherwise contrary to law.

(2) That a modified application or alternative arrangement is available and feasible whereby the strict application of a particular provision or provisions may be modified with alternatives without defeating the public safety, health and general welfare and the purpose and intent of the provisions of the Ohio Residential Code, as adopted in Section 1422.01 of the Building and Housing Code, or the Unified Fire Code, as adopted in Section 1611.01 of the Fire Prevention Code.

(Adopting Ordinance)

(c) A hearing shall be held within a reasonable time, but not to exceed thirty days following receipt of the appeal by the Secretary of the Board. The Board shall provide the appellant with written notice of its determination within thirty days after the hearing.

(Ord. 5-91. Passed 4-15-91; Ord. 16-97. Passed 9-15-97.)

288.08 FEE FOR APPEALS; USE OF MONEYS.

Each applicant for an appeal to the Board from an action of the Code Official shall be accompanied by a fee of one hundred dollars (\$100.00). Fees shall be deposited in accordance with applicable laws and shall be used to defray the normal expenses of the Board, including payment for time of the Secretary, payment for the preparation of transcript hearings by a court reporter when deemed necessary and payment of similar expenses as the Board may authorize.

(Ord. 5-91. Passed 4-15-91.)

288.09 ACTION BY BOARD.

The Board shall review and decide appeals from rulings and actions of the Code Official, as defined in Section 1610.02 of the Fire Prevention Code, in administering the Ohio Residential Code, as adopted in Section 1422.01 of the Building and Housing Code, or the Unified Fire Code, as adopted in Section 1611.01 of the Fire Prevention Code, or related laws and ordinances involved, and shall hear and decide applications for modifications, deviations or approved rules.

288.10 QUORUM.

A majority of the members of the Board shall constitute a quorum. A majority of the quorum shall be necessary to make a decision on an appeal, modification, deviation or an approved rule.

(Ord. 5-91. Passed 4-15-91.)

288.11 RE-HEARINGS.

The Board shall, upon application of either the appellant or the Code Official, as defined in Section 1610.02 of the Fire Prevention Code, grant a re-hearing before the Board in any case where new evidence is presented which, in the opinion of the Chairperson, may justify such re-hearing. Such re-hearing shall not serve to stop execution of the previous decision of the Board pending the re-hearing, except by special action of the Board so directing.

(Ord. 5-91. Passed 4-15-91.)

TITLE TEN - Judiciary
Chap. 290. Mayor's Court.

CHAPTER 290
Mayor's Court

EDITOR'S NOTE: Ohio R.C. 1905.01 provides that the Mayor has jurisdiction to hear and determine any prosecution for the violation of an ordinance of the municipal corporation, to hear and determine any case involving a violation of a vehicle parking or standing ordinance of the municipal corporation unless the violation is required to be handled by a parking violations bureau or joint parking violations bureau pursuant to Ohio R.C. Chapter 4521, and to hear and determine all criminal cases involving any moving traffic violation occurring on a state highway located within the boundaries of the municipal corporation, subject to the limitations of Ohio R.C. 2937.08 and 2938.04.

Ohio R.C. 2945.17 provides that an accused has a right to be tried by a jury at any trial in any court for the violation of any Ohio statute or of any Municipal ordinance, except in cases in which the violation involves a minor misdemeanor, the potential penalty does not include the possibility of a prison or jail term, or the possible fine involved does not exceed one thousand dollars (\$1,000.00). Ohio R.C. 2937.08 and Criminal Rule 23(A) provide that if the court in which a defendant is charged with an offense is not a court of record (the Mayor's Court), and the charge is such that a right to a jury trial exists, such matter shall not be tried before him and shall be transferred to a court of record in the County if the defendant:

- (a) Does not waive his right to trial by jury in a serious offense case for which the penalty established by laws includes confinement for more than six months, or
- (b) Demands a jury trial in a petty offense case in which the penalty prescribed is a fine greater than one hundred dollars (\$100.00) and/or imprisonment for not more than six months. "Such demand must be in writing and filed with the clerk of court not less than ten days prior to the date set for trial, or on or before the third day following receipt of notice of the date set for trial, whichever is later. Failure to demand a jury trial as provided in this subdivision is a complete waiver of the right thereto."

In *Ward v. Village of Monroeville, Ohio*, 93 S. Ct. 80 (1972), the United States Supreme Court held that where the mayor before whom the defendant was compelled to stand trial was responsible for municipal finances and the

mayor's court provided a substantial portion of municipal revenues, defendant was denied a trial before a disinterested and impartial magistrate as guaranteed by the due process clause of the United States Constitution.

The Supreme Court of Ohio has adopted the "Ohio Traffic Rules" which prescribe the procedure to be followed in the Mayor's Court in traffic cases. Rule 9(A) thereof states the jury demand shall be made pursuant to Criminal Rule 23 referred to above. Rule 9(B) sets forth the conditions under which the Mayor may hear a traffic case incorporating therein the holding in *Ward v. Village of Monroeville* as further interpreted in *State, ex rel. Brockman v. Procter*, 35 Ohio St. 2d 79 (1973): "Where, in a mayor's court, a defendant is entitled to a jury trial and a jury demand is made pursuant to Criminal Rule 23, the Mayor shall transfer the case pursuant to subdivision (C). If a jury demand is not made pursuant to Criminal Rule 23, and the defendant waives his right to jury trial in writing, a mayor may try the case if (1) his compensation as a judge is not directly dependent upon criminal case convictions, or (2) he is not the chief executive and administrative officer of the municipality and as such responsible for the financial condition of the municipality. Guilty and no contest pleas may be taken by any mayor including mayors whose compensation as a judge is directly dependent upon criminal case convictions and mayors who as chief executive and administrative officer of the municipality are responsible for the financial condition of the municipality."

The procedure for transferring a case to a court of record is set forth in Rule 9(C): "Where a transfer is required, the mayor's court shall make a written order directing the defendant to appear at the transferee court, continuing the same bail, if any, and making appearance before the transferee court a condition of bail, if any. Upon transfer, the mayor's court shall transmit to the clerk of the transferee court the ticket and all other papers in the case, and any bail taken in the case. Upon receipt of such papers the clerk of the transferee court shall set the case for trial and shall notify the defendant by ordinary mail of his trial date. "Rule 13 provides that a court shall establish a traffic violation bureau and specifies certain restrictions as to the designated offenses and schedule of fines to be accepted as waiver payment in lieu of court appearance.

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|--------|---------------------------------|--------|---------------------------------|
| 290.01 | Clerk of Court. | 290.03 | Position of Magistrate created. |
| 290.02 | Mayor's Court Improvement Fund. | | |

CROSS REFERENCES

- Release of Court Clerk's liability for loss of funds - see Ohio R.C. 131.18 et seq.
 Power to establish schedule of fees and costs - see Ohio R.C. 1901.26
 Bond for Court Clerk required - see Ohio R.C. 1901.31(D)
 Bond for bailiff - see Ohio R.C. 1901.32(A)
 Juvenile Court jurisdiction; arrest of child - see Ohio R.C. 2151.01, 2151.23, 2151.25

Notification to Director of liquor law convictions - see Ohio R.C. 4301.991

Record of traffic violations - see Ohio R.C. 4513.37

Department of Law - see ADM. Ch. 246

Obstructing justice - see GEN. OFF. 606.15

Using sham legal process - see GEN. OFF. 606.28

290.01 CLERK OF COURT.

(a) There is hereby created an office of Clerk of Mayor's Court, who shall be empowered with the provisions of, and perform duties pursuant to, Ohio R.C. 1907.20.

(b) The Clerk, before entering upon the duties of office, shall give bond of not less than five thousand dollars (\$5,000), conditioned upon the faithful performance of such duties.

(Ord. 06-14. Passed 6-16-14.)

290.02 MAYOR'S COURT IMPROVEMENT FUND.

(a) There is hereby created a fund to be known as the Mayor's Court Improvement Fund. All applicable Mayor's Court costs received as Mayor's Court Improvement Fund costs, shall be paid into such separate fund.

(b) Expenditures shall be made from the Mayor's Court Improvement Fund to finance the computerization and/or the acquisition and/or maintenance of legal research services for the Mayor's Court including, but not limited to, computer space; computer electrical; computer air condition; computer furniture; computer printer; computer software; subscription to computer service(s); staff to operate the computer system, including fringes; supplies, i.e. computer paper, etc.; training expenses; maintenance of equipment; and computer needs studies.

(Ord. 06-14. Passed 6-16-14.)

290.03 POSITION OF MAGISTRATE CREATED.

The position of Magistrate is hereby created pursuant to Ohio R.C. 1905.05. Such Magistrate shall meet all the qualifications of Ohio R.C. 1905.05 and have such power and duties as is authorized by that section.

(Ord. 06-14. Passed 6-16-14.)

