

2. Impose a more restrictive community control sanction under division (E), (F), or (G) of this section, but the court is not required to impose any particular sanction or sanctions;

3. Impose a definite jail term from the range of jail terms authorized for the offense under division (C) of this section.

(2) If a court sentences an offender to any community control sanction or combination of community control sanctions pursuant to division (D)(1)(a)1. of this section, the sentencing court retains jurisdiction over the offender and the period of community control for the duration of the period of community control. Upon the motion of either party or on the court's own motion, the court, in the court's sole discretion and as the circumstances warrant, may modify the community control sanctions or conditions of release previously imposed, substitute a community control sanction or condition of release for another community control sanction or condition of release previously imposed, or impose an additional community control sanction or condition of release.

(3) (a) If a court sentences an offender to any community control sanction or combination of community control sanctions authorized under division (E), (F), or (G) of this section, the court shall place the offender under the general control and supervision of the court or of a department of probation in the jurisdiction that serves the court for purposes of reporting to the court a violation of any of the conditions of the sanctions imposed. If the offender resides in another jurisdiction and a department of probation has been established to serve the municipal court or county court in that jurisdiction, the sentencing court may request the municipal court or the county court to receive the offender into the general control and supervision of that department of probation for purposes of reporting to the sentencing court a violation of any of the conditions of the sanctions imposed. The sentencing court retains jurisdiction over any offender whom it sentences for the duration of the sanction or sanctions imposed.

(b) The sentencing court shall require as a condition of any community control sanction that the offender abide by the law and not leave the state without the permission of the court or the offender's probation officer. In the interests of doing justice, rehabilitating the offender, and ensuring the offender's good behavior, the court may impose additional requirements on the offender. The offender's compliance with the additional requirements also shall be a condition of the community control sanction imposed upon the offender.

(4) (a) If the court imposing sentence upon an offender sentences the offender to any community control sanction or combination of community control sanctions authorized under division (E), (F), or (G) of this section, and the offender violates any of the conditions of the sanctions, the public or private person or entity that supervises or administers the program or activity that comprises the sanction shall report the violation directly to the sentencing court or to the department of probation or probation officer with general control and supervision over the offender. If the public or private person or entity reports the violation to the department of probation or probation officer, the department or officer shall report the violation to the sentencing court.

(b) If an offender violates any condition of a community control sanction, the sentencing court may impose upon the violator one or more of the following penalties:

1. A longer time under the same community control sanction if the total time under all of the community control sanctions imposed on the violator does not exceed the five-year limit specified in division (D)(1)(b) of this section;

2. A more restrictive community control sanction;

3. A combination of community control sanctions, including a jail term.

(c) If an offender was acting pursuant to R.C. § 2925.11(B)(2)(b), or any substantially equivalent municipal ordinance, and in so doing violated the conditions of a community control sanction based on a minor drug possession offense, as defined in R.C. § 2925.11, the sentencing court may consider the offender's conduct in seeking or obtaining medical assistance for another in good faith or for self or may consider the offender being the subject of another person seeking or obtaining medical assistance in accordance with that division as a mitigating factor before imposing any of the penalties described in division (D)(4)(b) of this section.

(d) If the court imposes a jail term upon a violator pursuant to division (D)(4)(b) of this section, the total time spent in jail for the misdemeanor offense and the violation of a condition of the community control sanction shall not exceed the maximum jail term available for the offense for which the sanction that was violated was imposed. The court may reduce the longer period of time that the violator is required to spend under the longer sanction or the more restrictive sanction imposed under division (D)(4)(b) of this section by all or part of the time the violator successfully spent under the sanction that was initially imposed.

(5) Except as otherwise provided in this division, if an offender, for a significant period of time, fulfills the conditions of a community control sanction imposed pursuant to division (E), (F), or (G) of this section in an exemplary manner, the court may reduce the period of time under the community control sanction or impose a less restrictive community control sanction. Fulfilling the conditions of a community control sanction does not relieve the offender of a duty to make restitution under division (G) of this section.

(E) *Community residential sanction.*

(1) Except when a mandatory jail term is required by law, the court imposing a sentence for a misdemeanor, other than a minor misdemeanor, may impose upon the offender any community residential sanction or combination of community residential sanctions under this division (E). Community residential sanctions include, but are not limited to, the following:

(a) A term of up to 180 days in a halfway house or a term in a halfway house not to exceed the longest jail term available for the offense, whichever is shorter, if the political subdivision that would have responsibility for paying the costs of confining the offender in a jail has entered into a contract with the halfway house for use of the facility for misdemeanor offenders;

(b) If the offender is an eligible offender, as defined in R.C. § 307.932, a term in a community alternative sentencing center or district community alternative sentencing center established and operated in accordance with that section, in the circumstances specified in that section, with one of the conditions of the sanction being that the offender successfully complete the portion of the sentence to be served in the center.

(2) A sentence to a community residential sanction under division (E)(1)(b) of this section shall be in accordance with R.C. § 307.932. In all other cases, the court that sentences an offender to a community residential sanction under this division (E) may do either or both of the following:

(a) Permit the offender to serve the offender's sentence in intermittent confinement, overnight, on weekends or at any other time or times that will allow the offender to continue at the offender's occupation or care for the offender's family;

(b) Authorize the offender to be released so that the offender may seek or maintain employment, receive education or training, receive treatment, perform community service, or otherwise fulfill an obligation imposed by law or by the court. A release pursuant to this division shall be only for the duration of time that is needed to fulfill the purpose of the release and for travel that reasonably is necessary to fulfill the purposes of release.

(3) The court may order that a reasonable portion of the income earned by the offender upon a release pursuant to division (E)(2) of this section be applied to any financial sanction imposed under division (G) of this section.

(4) No court shall sentence any person to a prison term for a misdemeanor or minor misdemeanor or to a jail term for a minor misdemeanor.

(5) If a court sentences a person who has been convicted of or pleaded guilty to a misdemeanor to a community residential sanction as described in division (E)(1) of this section, at the time of reception and at other times the person in charge of the operation of the halfway house, community alternative sentencing center, district community alternative sentencing center, or other place at which the offender will serve the residential sanction determines to be appropriate, the person in charge of the operation of the halfway house, community alternative sentencing center, district community alternative sentencing center, or other place may cause the convicted offender to be examined and tested for tuberculosis, HIV infection, hepatitis, including, but not limited to, hepatitis A, B, and C, and other contagious diseases. The person in charge of the operation of the halfway house, community alternative sentencing center, district community alternative sentencing center, or other place at which the offender will serve the residential sanction may cause a convicted offender in the halfway house, community alternative sentencing center, district community alternative sentencing center, or other place who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including, but not limited to, hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.

(6) The municipality may enter into a contract with a halfway house for use of the halfway house to house misdemeanor offenders under a sanction imposed under division (E)(1)(a) of this section.

(R.C. § 2929.26)

(F) *Nonresidential sanction where jail term is not mandatory.*

(1) Except when a mandatory jail term is required by law, the court imposing a sentence for a misdemeanor, other than a minor misdemeanor, may impose upon the offender any nonresidential sanction or combination of nonresidential sanctions authorized under this division. Nonresidential sanctions include, but are not limited to, the following:

- (a) A term of day reporting;
- (b) A term of house arrest with electronic monitoring or continuous alcohol monitoring or both electronic monitoring and continuous alcohol monitoring, a term of electronic monitoring or continuous alcohol monitoring without house arrest, or a term of house arrest without electronic monitoring or continuous alcohol monitoring;
- (c) A term of community service of up to 500 hours for misdemeanor of the first degree or 200 hours for a misdemeanor of the second, third, or fourth degree;
- (d) A term in a drug treatment program with a level of security for the offender as determined necessary by the court;
- (e) A term of intensive probation supervision;
- (f) A term of basic probation supervision;
- (g) A term of monitored time;
- (h) A term of drug and alcohol use monitoring, including random drug testing;
- (i) A curfew term;
- (j) A requirement that the offender obtain employment;
- (k) A requirement that the offender obtain education or training;
- (l) Provided the court obtains the prior approval of the victim, a requirement that the offender participate in victim-offender mediation;
- (m) If authorized by law, suspension of the offender's privilege to operate a motor vehicle, immobilization or forfeiture of the offender's motor vehicle, a requirement that the offender obtain a valid motor vehicle operator's license, or any other related sanction;
- (n) A requirement that the offender obtain counseling if the offense is a violation of R.C. § 2919.25 or a substantially equivalent municipal ordinance or a violation of R.C. § 2903.13 or a substantially equivalent municipal ordinance involving a person who was a family or household member at the time of the violation, if the offender committed the offense in the vicinity of one or more children who are not victims of the offense, and if the offender or the victim of the offense is a parent, guardian, custodian, or person in loco parentis of one or more of those children. This division does not limit the court in requiring that the offender obtain counseling for any offense or in any circumstance not specified in this division.

(2) If the court imposes a term of community service pursuant to division (F)(1)(c) of this section, the offender may request that the court modify the sentence to authorize the offender to make a reasonable contribution, as determined by the court, to the general fund of the county, municipality, or other local entity that provides funding to the court. The court may grant the request if the offender demonstrates a change in circumstances from the date the court imposes the sentence or that the modification would otherwise be in the interests of justice. If the court grants the request, the offender shall make a reasonable contribution to the court, and the clerk of the court shall deposit that contribution into the general fund of the county, municipality, or other local entity that provides funding to the court. If more than one entity provides funding to the

court, the clerk shall deposit a percentage of the reasonable contribution equal to the percentage of funding the entity provides to the court in that entity's general fund.

(3) In addition to the sanctions authorized under division (F)(1) of this section, the court imposing a sentence for a misdemeanor, other than a minor misdemeanor, upon an offender who is not required to serve a mandatory jail term may impose any other sanction that is intended to discourage the offender or other persons from committing a similar offense if the sanction is reasonably related to the overriding purposes and principles of misdemeanor sentencing.

(4) The court imposing a sentence for a minor misdemeanor may impose a term of community service in lieu of all or part of a fine. The term of community service imposed for a minor misdemeanor shall not exceed 30 hours. After imposing a term of community service, the court may modify the sentence to authorize a reasonable contribution, as determined by the court, to the appropriate general fund as provided in division (F)(2) of this section.

(R.C. § 2929.27)

(G) *Financial sanctions.*

(1) In addition to imposing court costs pursuant to R.C. § 2947.23 and Subsection (I) of this codified ordinance, the court imposing a sentence upon an offender for a misdemeanor, including a minor misdemeanor, may sentence the offender to any financial sanction or combination of financial sanctions authorized under this division (G). If the court in its discretion imposes one or more financial sanctions, the financial sanctions that may be imposed pursuant to this section include, but are not limited to, the following:

(a) Restitution.

1. Unless the misdemeanor offense is a minor misdemeanor or could be disposed of by the Traffic Violations Bureau serving the court under Traffic Rule 13, restitution by the offender to the victim of the offender's crime or any survivor of the victim, in an amount based upon the victim's economic loss. The court may not impose restitution as a sanction pursuant to this division if the offense is a minor misdemeanor or could be disposed of by the Traffic Violations Bureau serving the court under Traffic Rule 13. If the court requires restitution, the court shall order that the restitution be made to the victim in open court or to the adult probation department that serves the jurisdiction or the clerk of the court on behalf of the victim.

2. If the court imposes restitution, the court shall determine the amount of restitution to be paid by the offender. If the court imposes restitution, the court may base the amount of restitution it orders on an amount recommended by the victim, the offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and other information, provided that the amount the court orders as restitution shall not exceed the amount of economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court imposes restitution for the cost of accounting or auditing done to determine the extent of economic loss, the court may order restitution for any amount of the victim's costs of accounting or auditing provided that the amount of restitution is reasonable and does not exceed the value of property or services stolen or damaged as a result of the offense. If the court decides to impose restitution, the court shall hold an evidentiary hearing on restitution if the offender, victim, or survivor disputes the amount of restitution. If the court holds

an evidentiary hearing, at the hearing the victim or survivor has the burden to prove by a preponderance of the evidence the amount of restitution sought from the offender.

3. All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or any survivor of the victim against the offender. No person may introduce evidence of an award of restitution under this section in a civil action for purposes of imposing liability against an insurer under R.C. § 3937.18.

4. If the court imposes restitution, the court may order that the offender pay a surcharge, of not more than 5% of the amount of the restitution otherwise ordered, to the entity responsible for collecting and processing restitution payments.

5. The victim or survivor of the victim may request that the prosecutor in the case file a motion, or the offender may file a motion, for modification of the payment terms of any restitution ordered. If the court grants the motion, it may modify the payment terms as it determines appropriate.

(b) *Fines.* A fine of the type described in divisions (G)(1)(b)1. and 2. of this section payable to the appropriate entity as required by law:

1. A fine in the following amount:
 - A. For a misdemeanor of the first degree, not more than \$1,000;
 - B. For a misdemeanor of the second degree, not more than \$750;
 - C. For a misdemeanor of the third degree, not more than \$500;
 - D. For a misdemeanor of the fourth degree, not more than \$250;
 - E. For a minor misdemeanor, not more than \$150.
2. A state fine or cost as defined in R.C. § 2949.111.

(c) *Reimbursement.*

1. Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including, but not limited to, the following:

A. All or part of the costs of implementing any community control sanction, including a supervision fee under R.C. § 2951.021;

B. All or part of the costs of confinement in a jail or other residential facility, including, but not limited to, a per diem fee for room and board, the costs of medical and dental treatment, and the costs of repairing property damaged by the offender while confined.

C. All or part of the cost of purchasing and using an immobilizing or disabling device, including a certified ignition interlock device, or a remote alcohol monitoring device that a court orders an offender to use under R.C. § 4510.13.

2. The amount of reimbursement under division (G)(1)(c)1. of this section shall not exceed the total amount of reimbursement the offender is able to pay and shall not exceed the actual cost of the sanctions. The court may collect any amount of reimbursement the offender is required to pay under that division. If the court does not order reimbursement under that division,

confinement costs may be assessed pursuant to a repayment policy adopted under R.C. § 2929.37. In addition, the offender may be required to pay the fees specified in R.C. § 2929.38 in accordance with that section.

(2) (a) If the court determines a hearing is necessary, the court may hold a hearing to determine whether the offender is able to pay the financial sanction imposed pursuant to this division (G) or court costs or is likely in the future to be able to pay the sanction or costs.

(b) If the court determines that the offender is indigent and unable to pay the financial sanction or court costs, the court shall consider imposing and may impose a term of community service under division (F)(1) of this section in lieu of imposing a financial sanction or court costs. If the court does not determine that the offender is indigent, the court may impose a term of community service under division (F)(1) of this section in lieu of or in addition to imposing a financial sanction under this division (G) and in addition to imposing court costs. The court may order community service for a minor misdemeanor pursuant to division (F)(4) of this section in lieu of or in addition to imposing a financial sanction under this section and in addition to imposing court costs. If a person fails to pay a financial sanction or court costs, the court may order community service in lieu of the financial sanction or court costs.

(3) (a) The offender shall pay reimbursements imposed upon the offender pursuant to division (G)(1)(c) of this section to pay the costs incurred by a county pursuant to any sanction imposed under division (E), (F), or (G) of this section or in operating a facility used to confine offenders pursuant to a sanction imposed under division (E) of this section to the county treasurer. The county treasurer shall deposit the reimbursements in the county's general fund. The county shall use the amounts deposited in the fund to pay the costs incurred by the county pursuant to any sanction imposed under division (E), (F), or (G) of this section or in operating a facility used to confine offenders pursuant to a sanction imposed under division (E) of this section.

(b) The offender shall pay reimbursements imposed upon the offender pursuant to division (G)(1)(c) of this section to pay the costs incurred by a municipal corporation pursuant to any sanction imposed under division (E), (F), or (G) of this section or in operating a facility used to confine offenders pursuant to a sanction imposed under division (E) of this section to the treasurer of the municipal corporation. The treasurer shall deposit the reimbursements in the municipal corporation's general fund. The municipal corporation shall use the amounts deposited in the fund to pay the costs incurred by the municipal corporation pursuant to any sanction imposed under division (E), (F), or (G) of this section or in operating a facility used to confine offenders pursuant to a sanction imposed under division (E) of this section.

(c) The offender shall pay reimbursements imposed pursuant to division (G)(1)(c) of this section for the costs incurred by a private provider pursuant to a sanction imposed under division (E), (F), or (G) of this section to the provider.

(4) In addition to any other fine that is or may be imposed under this division (G), the court imposing sentence upon an offender for misdemeanor domestic violence or menacing by stalking may impose a fine of not less than \$70 nor more than \$500, which shall be transmitted to the Treasurer of Ohio to be credited to the address confidentiality program fund created by R.C. § 111.48.

(5) (a) Except as otherwise provided in this division (G)(5), a financial sanction imposed under division (G)(1) of this section is a judgment in favor of the state or the political subdivision that operates the court that imposed the financial sanction, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed pursuant to division (G)(1)(c)1.a. of this section upon an offender is a judgment in favor of the entity administering the community control sanction, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed pursuant to division (G)(1)(c)1.b. of this section upon an offender confined in a jail or other residential facility is a judgment in favor of the entity operating the jail or other residential facility, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of restitution imposed pursuant to division (G)(1)(a) of this section is an order in favor of the victim of the offender's criminal act that can be collected through a certificate of judgment as described in division (G)(5)(b)1. of this section, through execution as described in division (G)(5)(b)2. of this section or through an order as described in division (G)(5)(b)3. of this section and the offender shall be considered for purposes of the collection as a judgment debtor.

(b) Once a financial sanction is imposed as a judgment or order under this division, the victim, private provider, state, or political subdivision may do any of the following:

1. Obtain from the clerk of the court in which the judgment was entered a certificate of judgment that shall be in the same manner and form as a certificate of judgment issued in a civil action;
2. Obtain execution of the judgment or order through any available procedure, including any of the procedures identified in R.C. § 2929.18(D)(1) and (D)(2) or a substantially equivalent municipal ordinance.
3. Obtain an order for the assignment of wages of the judgment debtor under R.C. § 1321.33 or a substantially equivalent municipal ordinance.

(6) The civil remedies authorized under division (G)(5) of this section for the collection of the financial sanction supplement, but do not preclude, enforcement of the criminal sentence.

(7) Each court imposing a financial sanction upon an offender under this division (G) may designate the clerk of the court or another person to collect the financial sanction. The clerk, or another person authorized by law or the court to collect the financial sanction may do the following:

(a) Enter into contracts with one or more public agencies or private vendors for the collection of amounts due under the sanction. Before entering into a contract for the collection of amounts due from an offender pursuant to any financial sanction imposed pursuant to this division (G), a court shall comply with R.C. §§ 307.86 to 307.92.

(b) Permit payment of all or any portion of the sanction in installments, by financial transaction device if the court is a county court or a municipal court operated by a county, or by any other reasonable method, in any time, and on any terms that the court considers just, except that the maximum time permitted for payment shall not exceed five years. If the court is a county court or a municipal court operated by a county, the acceptance of payments by any financial transaction device shall be governed by the policy adopted by the board of county commissioners of the county pursuant to R.C. § 301.28. If the court is a municipal court not operated by a

county, the clerk may pay any fee associated with processing an electronic transfer out of public money or may charge the fee to the offender.

(c) To defray administrative costs, charge a reasonable fee to an offender who elects a payment plan rather than a lump sum payment of any financial sanction.

(8) No financial sanction imposed under this division (G) shall preclude a victim from bringing a civil action against the offender.

(R.C. § 2929.28)

(H) *Organizational penalties.*

(1) Regardless of the other penalties provided in this section, an organization convicted of an offense pursuant to § 130.09 shall be fined by the court as follows:

- (a) For a misdemeanor of the first degree, not more than \$5,000;
- (b) For a misdemeanor of the second degree, not more than \$4,000;
- (c) For a misdemeanor of the third degree, not more than \$3,000;
- (d) For a misdemeanor of the fourth degree, not more than \$2,000;
- (e) For a minor misdemeanor, not more than \$1,000;
- (f) For a misdemeanor not specifically classified, not more than \$2,000;
- (g) For a minor misdemeanor not specifically classified, not more than \$1,000.

(2) When an organization is convicted of an offense not specifically classified, and the section defining the offense or penalty plainly indicates a purpose to impose the penalty provided for violation upon organizations, then such penalty shall be imposed in lieu of the penalty provided in this section.

(3) When an organization is convicted of an offense not specifically classified, and the penalty provided includes a higher fine than that provided in this section, then the penalty imposed shall be pursuant to the penalty provided for violation of the section defining the offense.

(4) This section does not prevent the imposition of available civil sanctions against an organization convicted of an offense pursuant to § 130.09, either in addition to or in lieu of a fine imposed pursuant to this section.

(R.C. § 2929.31)

(I) *Court Costs.* Costs assessed for payout of waiverable offenses and for court costs in Cheviot Mayor's Court shall be pursuant to Section 70.09 of the Cheviot Code of Ordinances.

CITY OF CHEVIOT
STATE OF OHIO

ORDINANCE NO. 23-~~21~~ 22

TO AMEND THE 2023 ANNUAL BUDGET APPROPRIATIONS; TO TRANSFER CERTAIN FUNDS; AND TO DECLARE AN EMERGENCY.

WHEREAS, it has become necessary to make adjustments to the appropriations of the 2023 annual budget by increasing and decreasing certain budget line items and transferring certain funds.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CHEVIOT, STATE OF OHIO, TWO-THIRDS OF ALL MEMBERS THEREOF, CONCURRING, THAT:

Section 1. The following budget line item shall be increased as follows:

<u>Line Item</u>	<u>Name</u>	<u>Increase</u>
101.103.231.1	STREETLIGHTING UTILITIES	8,500.00
101.301.231.1	FIELDHOUSE UTILITIES	2,000.00
101.302.231.1	HARVEST HOME UTILITIES	2,700.00
101.302.270.2	HARVEST HOME REFUNDS	1,400.00
101.701.239.3	MAYORS CONTRACT INCIDENTALS	600.00
101.709.231.1	CITY HALL UTILITIES	2,200.00
101.711.234.1	COUNTY AUDITOR AND TREASURER FEES	950.00
101.714.212.3	CITY PORTION SS/MEDICARE	1,100.00
707.111.262.1	JEDD III LONG TERM MAINTENANCE	4,000.00
708.111.251.1	JEDD IV HARR GREENE CHEVIOT SHARE	700.00
708.111.251.2	JEDD IV HARR GREENE GREEN TWP SHARE	6,000.00

Section 2. The following budget line items shall be decreased as follows:

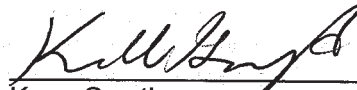
<u>Line Item</u>	<u>Name</u>	<u>Decrease</u>
101.701.237.1	MAYORS MAGISTRATE FEES	600.00
101.301.211.1	FIELDHOUSE SALARIES	2,000.00
101.302.235.3	HARVEST HOME BUILDING IMPROVEMENTS	1,000.00
101.709.232.1	CITY HALL COUNTY COMMUNICATION	1,100.00
101.709.235.1	CITY HALL MAINTENANCE/REPAIR	1,100.00
101.714.212.1	CITY PORTION PERS	1,100.00
101.715.270.1	TRANSFERS OUT	12,550.00
707.111.251.1	JEDD III CHEVIOT SHARE	400.00
707.111.251.2	JEDD III GREEN TOWNSHIP SHARE	3,600.00

Section 3. The sum of \$18,750.00 shall be transferred from the HAM CO PUBLIC HEALTH FUND (Fund No. 240) to the ARPA FUND (Fund No. 414).

Section 4. The sum of \$4,500.00 shall be transferred from the GENERAL FUND (Fund No. 101) to the POOL FUND (Fund No. 502).

Section 5. The sum of \$30,000.00 shall be transferred from the GENERAL FUND (Fund No. 101) to the POLICE AND FIRE PENSION FUND (Fund No. 701).

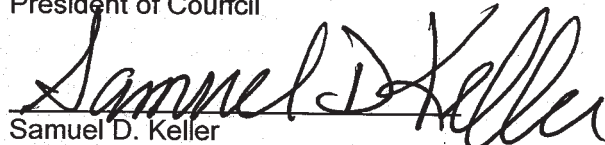
Section 6. This ordinance shall be an emergency measure for the health, safety, and welfare of the citizens of Cheviot and shall take effect immediately. The emergency is necessary in order to allow the City to meet its financial obligations in a timely manner.



Kerry Smyth
President of Council

12/5/23

Date passed



Samuel D. Keller
Mayor

12/5/23

Date approved

Attest:

Approved as to form:




Jenny M. Eilermann
Clerk of Council

Kimberlee Erdman Rohr
Law Director

CERTIFICATE OF PUBLICATION

I, Jenny M. Eilermann, Clerk of the Council of the City of Cheviot, Ohio, hereby certify that the foregoing ordinance, or a succinct summary, was published in the *Cincinnati Court Index*, a newspaper of general circulation in the City of Cheviot, Ohio, in accordance with Section 731.21 of the Ohio Revised Code, on the following dates:

- 1) 12/8, 2023, and
- 2) 12/15, 2023.



Jenny M. Eilermann
Clerk of Council

To:
All of Council
Law Director: Kim Rohr
Mayor: Sam Keller
SSD: Tom Braun

11/29/23

A meeting of LRO was held Tues. Nov. 21, at 9:48 PM in City Hall, Council Meeting Room, immediately following the Finance Committee Meeting.

TOPIC:

Councilman Smyth request for legislation, restricting what Flags may be flown on City of Cheviot Flag Poles.

IN ATTENDANCE:

Committee Members: Brian Smyth, John Hardig, and Chair: Kitty Zech.

Councilwoman Jones was excused and not in attendance.

Council Members: Stefanie Hawk, Amy Richter, Dave Voss, and Pres. of Council, Kerry Smyth

Citing concerns re: 1st Amendments Rights, Constitutionality and Federal Law, drain of City Resources and Taxpayer Dollars, the Chair, shared research furnished by Cheviot Law Director, Kim Rohr, American Legal Publishing, our City Codifier, and other reliable, informed Legal Sources. Neither the Chair, nor American Legal were successful in locating any similar Legislation in our local system. (Tri-State Area)

American Legal also furnished three samples of similar legislation found in other States they service. All were challenged in Court. Two of the three went all the way to the Supreme Court with disappointing outcomes. American Legal also provided a Legal Alerts Publication that referred to this type of Legislation as "Land Mine Legislation".

The Chair questioned the need for legislation for a problem we don't have, with a solution that could and historically has created legal and financial problems in Cities that have instituted them?

Councilman Smyth shared that he did have sample legislation from a city in Michigan that went to Court and was ultimately successful. (No info as to level of court it reached or other details). He stated he would provide the Chair and the Law Director with a copy.

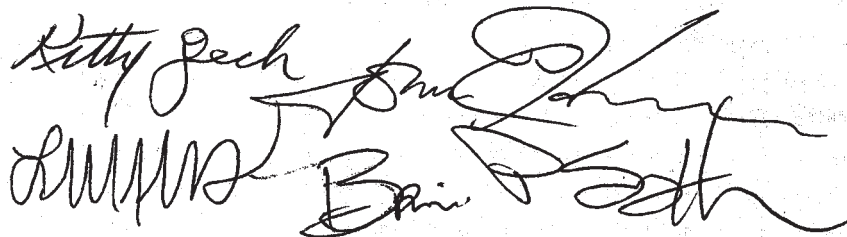
There was much discussion.

Despite the controversiality, vulnerability to challenges and other risks and expenses associated with legislation of this type, the consensus of the Committee Members present - by a 2 to 1 margin - recommend that we move forward and ask the Law Director to draft legislation to give Council the opportunity to vote on it.

Meeting adjourned: 10:10 PM

Respectfully submitted:

Chair: Kitty Zech: Chair
Brian Smyth
John Harding
Lindsey Jones



November 21, 2023
City Council, Cheviot, Ohio

Page 1 of 2

President Kerry Smyth called the meeting to order at 7:30PM with the Pledge of Allegiance, followed by a moment of silent prayer.

Roll was then called, and the following members were in attendance:

Mayor	Sam Keller
President of Council	Kerry Smyth
Law Director	Kimberlee Rohr
Safety Services Director	Tom Braun
Council Ward 1	David Voss
Council Ward 2	John Hardig
Council Ward 3	Brian Smyth
Council At Large	Kitty Zech
Council At Large	Stefanie Hawk
Council At Large	Amy Richter

Councilwoman Jones' absence was excused with a motion by Ms. Hawk, second by Mr. Smyth and unanimous voice vote.

Minutes from the October 17 council meeting were approved with a motion by Mrs. Zech, second by Mrs. Richter and unanimous voice vote.

Department Reports:

Police Chief Patton was on hand to answer questions about this third quarter report.

Committee Reports:

Mr. Hardig presented his report from the October 17 Building, Annexation & Zoning committee during which murals were discussed. The report was received and filed with a motion by Mr. Hardig, second by Mrs. Richter.

Legislation:

Ordinance 23-21 To Amend Sections 30.17, 70.09 & 130.99 Of The Cheviot Code Of Ordinances To Update The Court Costs For The Cheviot Mayor's Court. Presented for its second reading by Mr. Voss.

Administrative Reports:

Mayor Keller: The new Dairy Queen should be opening in March of 2024. Road diet is progressing. Mrs. Zech commented that she likes the stamped concrete. Mrs. Richter commented that since she's been using Walter Avenue during the construction on Harrison Ave, she's noticed the surface is in rough shape.

Page 2 of 2

Safety Service Director: Mr. Braun stated that the final paving for the road diet will take place next spring when the asphalt plants open back up. Grant money has been applied for Selby and Alex Avenues. The Harvest Home Park paving project has begun and should be finished by the end of the year. The Nativity lighting will take place this Sunday, November 26 at 6:30PM.

Law Director: Mrs. Rohr said that the ordinance requested by Ms. Jones amending the food truck ordinance should be ready by the next meeting. She suggests that it be adopted following three readings. Mrs. Rohr will be absent from the December 5 meeting. If you have anything that needs her attention, please let her know by Wednesday, November 29.

Other Business:

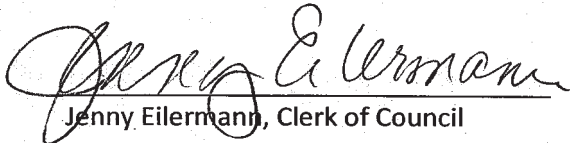
-Treasurer's Report from October as well as the 3rd Quarter Credit Card Report were received and filed with a motion by Mr. Smyth, second by Mrs. Zech.

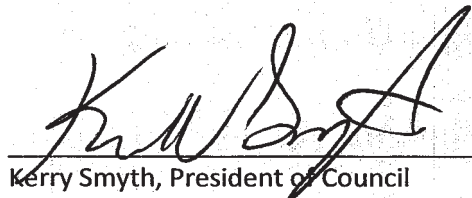
-Mayor's Court receipts for September and October were received and filed with a motion by Mr. Hardig, second by Ms. Hawk.

A motion was on the floor by Mr. Voss, second by Mr. Smyth, third by Mr. Hardig to move to executive session to discuss compensation for a public employee.

Council reconvened following Executive Session and adjournment was motioned by Mr. Smyth, second by Mr. Hardig. Meeting adjourned at 8:50.

Council President Smyth later texted the clerk to advise that council will be holding a special meeting on Monday, November 27 at 7PM . Council members will move into executive session for further discussion of the compensation of a public employee. Notice of the special meeting has been posted to the website.


Jenny Eilermann, Clerk of Council


Kerry Smyth, President of Council

November 27, 2023
City Council, Cheviot Ohio

A Special Council Meeting was held for the sole purpose of addressing Compensation of a Municipal Employee.

Meeting was called to order at 7:05 PM,
Dispensing with normal Council Procedure, President Kerry Smyth, called for an Executive Session.
Mr. Voss, made the Motion, 2nd Mr. Hardig, 3rd Mr. Smyth.

In attendance:

Mayor: Sam Keller
Council Ward 1: Dave Voss
Council Ward 2: John Hardig
Council Ward 3: Brian Smyth
Council Ward 4: Lindsey Jones
Council at Large: Kitty Zech
Council at Large: Amy Richter
Council at Large: Stefanie Hawk

Council went into Executive Session at 7:08 PM.
Councilwomen Richter and Hawk arrived as Executive Session was under way, and they were briefed.

Executive session concluded at 8:05 PM and Special Council Meeting resumed.
The Consensus of Council Members on this matter will be forwarded to the Law Director to draw up the necessary legislation for a vote at the Dec 5th Council meeting.

Motion to adjourn by Mr. Voss, 2nd Ms. Hawk

Special Council Meeting adjourned at 8:12

Kitty Zech (Acting Clerk)

Kerry Smith president of Council

Finance Committee Meeting Tuesday 11.21.2023

The meeting commenced at 2055 hrs.

Committee members in attendance: Chairman David W. Voss, John Hardig, and Brian Smyth. Lindsey Jones was excused due to being on vacation.

Other council members in attendance: Kathleen Zech, Amy Richter, and Stefanie Hawk.

City officials: Mayor Sam Keller and President of Council Kerry Smyth and Police Chief Jeff Patton.

Others: None

Agenda: To address a request from the police department to purchase body cameras for officers, replace tasers that are coming up on their guaranteed use by the manufacturer, and to purchase a drone. The bundle price for the three items is \$ 264,989.33. The police department proposed paying for the total purchase over a five-year period.

Discussion: Chief Patton made a thorough presentation relative the use of body worn cameras becoming a necessity for police officers. The current tasers are at the end of their useful life and require replacements. Drones are being requested to be used for major incidents, e.g., robberies, burglaries et cetera. Drones can also monitor the neighborhoods during the night season to cut down on thefts from vehicles.

The aforementioned items will be acquired through Axon Enterprises at a bundle price of \$264,989.33 to be paid over a five-year period. In addition, the bundle price includes replacement of the body worn cameras two times during the five-year purchase agreement. All taser duty cartridges and rechargeable internal batteries are covered in the bundle price. The drone includes the pilot licenses needed for officers to be certified, two batteries for each officer, and replacement parts when needed during the five-year period. The package includes all training material for all three items over the course of five years. There will be unlimited video storage in the cost for the body cameras and drones, with time stamps and logs over the course of five years.

Funding for the bundle package will be from the Criminal Acts Forfeiture Fund and any grants that become available. A grant application for \$93,000.00 has been submitted to the State of Ohio for the body worn cameras.

Payment dates are as follows.

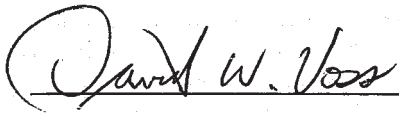
Tasers and cameras – Jan. 2024 @ \$54,293.77, Jan. 2025 @ \$37,842.21, Jan. 2026 @ \$39,355.89, Jan. 2027 @ \$40,930.13 and Jan 2028 @ \$42,567.33.

Drones – Jan 2024 @ \$16,694.00, Jan. 2025 @ \$8326.50, Jan. 2026 @ \$8326.50, Jan. 2027 @ \$8326.50, and Jan. 2028 @ \$8326.50.

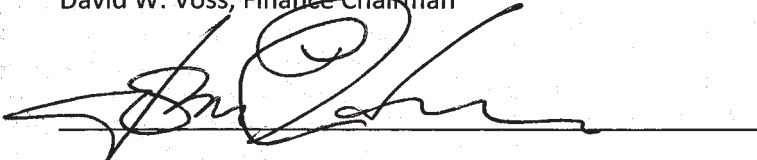
Grand Total \$264,989.33.

The meeting concluded at 2136 hrs.

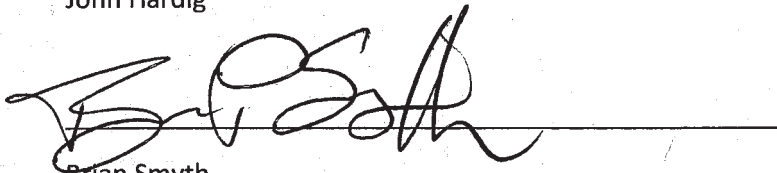
Respectfully submitted,



David W. Voss, Finance Chairman



John Hardig



Brian Smyth

**CITY OF CHEVIOT
STATE OF OHIO**

RESOLUTION NO. 23-19

TO AUTHORIZE THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE SAFETY-SERVICE DIRECTOR FOR RETIREMENT PACKAGE.

WHEREAS, the current Safety-Service Director has notified the Mayor of his intent to retire on or around January 1, 2024; and

WHEREAS, the Safety-Service Director has accumulated a significant amount of compensatory time and sick time during his employment; and

WHEREAS, due to the length of Safety-Service Director's tenure in this position, his level of expertise, and his experience with the City, the Mayor and this Council have made a request that the Safety-Service Director delay his retirement to allow proper training of his replacement; and

WHEREAS, this Council desires to clarify the amount of payment, if any, for certain benefits that have accrued but not been paid to the Safety-Service Director; and

WHEREAS, this Council approves the following terms for a retirement package offer to the Safety-Service Director, to be proposed by the Mayor and accepted by the Safety-Service Director in writing:

1. The current Safety-Service Director will retire effective February 16, 2024, and during that time, he shall be available for training and to ensure a smooth transition to the successor Safety-Service Director, including completing the 2024 First Quarter Appropriations and the 2024 Annual Appropriations;
2. Upon retirement, the current Safety-Service Director will receive payment for sick time accrued, up to 480 hours;
3. Upon retirement, the current Safety-Service Director will not receive payment for any compensatory time that was accrued but not exercised; and
4. The current Safety-Service Director shall not commence any legal action to attempt to collect payment for any additional sick time or compensatory time.

WHEREAS, it is Council's intent to adopt separate legislation that will clarify the payment of sick time and compensatory time to certain municipal employees in the future.

NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CHEVIOT, STATE OF OHIO THAT:

Section 1. The Mayor is hereby authorized to offer the following terms for a retirement package to the current Safety-Service Director:

1. The current Safety-Service Director will retire effective February 16, 2024, and during that time, he shall be available for training and to ensure a smooth transition to the successor Safety-Service Director, including completing the 2024 First Quarter Appropriations and the 2024 Annual Appropriations;
2. Upon retirement, the current Safety-Service Director will receive payment for sick time accrued, up to 480 hours;

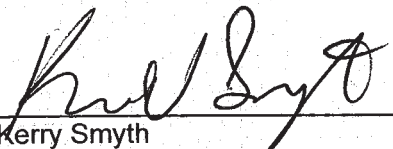
3. Upon retirement, the current Safety-Service Director will not receive payment for any compensatory time that was accrued but not exercised; and
4. The current Safety-Service Director shall not commence any legal action to attempt to collect payment for any additional sick time or compensatory time.

Section 2. Upon passage of this Resolution, the Mayor shall offer the terms set forth in Section 1.

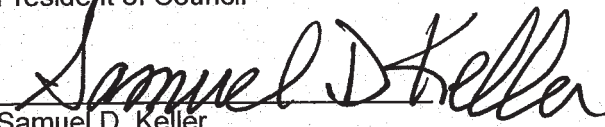
Section 3. If the current Safety-Service Director accepts the terms, he shall do so in writing signed by the Safety-Service Director and the Mayor.

Section 4. These terms only apply to the current Safety-Service Director, and shall not extend to any future Safety-Service Director unless separately approved by Council.

Section 5. This resolution shall take effect immediately.


Kerry Smyth
President of Council

12/5/23
Date passed



Samuel D. Keller
Mayor

12/5/23
Date approved

Attest:

Approved as to form:

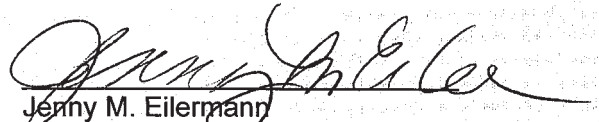

Jenny M. Eilermann
Clerk of Council


Kimberlee Erdman Rohr
Law Director

CERTIFICATE OF PUBLICATION

I, Jenny M. Eilermann, Clerk of the Council of the City of Cheviot, Ohio, hereby certify that the foregoing resolution, or a succinct summary, was published in the *Cincinnati Court Index*, a newspaper of general circulation in the City of Cheviot, Ohio, in accordance with Section 731.21 of the Ohio Revised Code, on the following dates:

- 1) 12/8, 2023, and
- 2) 12/15, 2023.


Jenny M. Eilermann
Clerk of Council