



AGENDA
ATHENS CITY COUNCIL
MONDAY, DECEMBER 18, 2023 AT 7:00 PM

e-mail: dwalker@ci.athens.oh.us

Streaming is available at www.ci.athens.oh.us/video

1. Establish Quorum

2. Disposition of Minutes:

- Regular Session held November 20, 2023

3. Communications

4. Reports and Communications from Other Elected Officials

5. Ordinances for Second Reading:

0-140-23

AN ORDINANCE AMENDING ATHENS CITY CODE, TITLE 11, BUSINESS REGULATIONS TO ENACT SECTION 11.13, TOBACCO RETAILER LICENSE (TRL), ADDING PROVISIONS REQUIRING RETAILERS TO OBTAIN A LICENSE FOR SELLING TOBACCO PRODUCTS.

Introduced by Council Member Grace

0-144-23

AN ORDINANCE AUTHORIZING THE ATHENS CITY SHADE TREE COMMISSION, IN COLLABORATION WITH OHIO UNIVERSITY, TO SUBMIT AN APPLICATION AND ENTER INTO AN AGREEMENT WITH THE OHIO DEPARTMENT OF NATURAL RESOURCES (ODNR), USDA FOREST SERVICE, FOR PARTICIPATION IN THE URBAN FORESTRY GRANT PROGRAM; AND DECLARING AN EMERGENCY.

Introduced by Council Member Ziff

6. Ordinance for First Reading:

- **0-145-23**

AN ORDINANCE AMENDING ORDINANCE 141-23; AUTHORIZING THE SERVICE-SAFETY DIRECTOR TO ENTER INTO CONTRACT FOR CONSTRUCTION OF THE NEW FIRE HEADQUARTERS, PROJECT #346; AND

DECLARING AN EMERGENCY.
Introduced by Council Member McCarey

7. Resolution for Third Reading:

- **R-11-23**
A RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR.
Introduced by Council Member Crawl

8. Announcements & Other Business:

- Motion to Remove from the Table:

0-93-23
AN ORDINANCE AMENDING ATHENS CITY CODE, TITLE 9, GENERAL REGULATIONS, CHAPTER 9.05, FIRE CONTROL; PETROLEUM LIQUIDS, SECTION 9.05.99, PENALTIES.
- Appointment to the Affordable Housing Commission
Motion to Accept November 2023 Financial Reports
Motion to Accept November 2023 Credit Card Transactions

9. Opportunity for Citizens to Speak on Legislative Items and City Services Not Covered on the Agenda

10. One-Reading Resolutions:

- **R-12-23**
A RESOLUTION EXPRESSING THE APPRECIATION OF THE CITY OF ATHENS, OHIO, TO COUNCIL MEMBER BEN ZIFF FOR HIS PUBLIC SERVICE.
Introduced by All Members of Council
- **R-13-23**
A RESOLUTION EXPRESSING THE APPRECIATION OF THE CITY OF ATHENS, OHIO, TO COUNCIL MEMBER SARAH GRACE FOR HER PUBLIC SERVICE.
Introduced by All Council Members
- **R-14-23**
A RESOLUTION EXPRESSING THE APPRECIATION OF THE CITY OF ATHENS, OHIO, TO COUNCIL PRESIDENT CHRISTINE KNISELY FOR HER PUBLIC SERVICE.
Introduced by All Council Members

11. Adjournment

Chris Knisely
President of Council

The City of Athens supports the Americans with Disabilities Act. Requests for reasonable accommodation may be made with the ADA Coordinator in the City Building or by calling 592-3367.

RECORD OF ORDINANCES

Government Forms and Supplies (844) 224-3338 FORM NO. SHTROR11

Ordinance No. **0-140-23** Passed _____, 20____

Introduced by Council Member Grace
Planning & Development Committee

AN ORDINANCE AMENDING ATHENS CITY CODE, TITLE 11, BUSINESS REGULATIONS TO ENACT SECTION 11.13, TOBACCO RETAILER LICENSE (TRL), ADDING PROVISIONS REQUIRING RETAILERS TO OBTAIN A LICENSE FOR SELLING TOBACCO PRODUCTS.

WHEREAS, tobacco use is the leading cause of preventable disease, disability, and death in America, causing more than 480,000 premature deaths annually, and another 16 million people have a serious illness caused by smoking or secondhand smoke exposure; and

WHEREAS, the City of Athens recognizes that young people are particularly susceptible to the addictive properties of nicotine, and that youth who begin using tobacco and nicotine products are more likely to become lifelong users, reversing previous progress in the reduction of overall tobacco use rate; and

WHEREAS, the City of Athens has the authority to protect life, health, and safety by requiring tobacco retailers within the city to obtain and maintain a tobacco retailer license (TRL) as a condition for engaging in the business of selling tobacco products; and

WHEREAS, TRL is an evidence-based strategy to reduce initiation to nicotine and tobacco through improved compliance with Minimum Legal Sales Age and other important tobacco sales regulations; and

WHEREAS, TRL is a regulatory tool that further enables the City of Athens to monitor for tobacco sales to underage purchasers, fund compliance efforts, and create effective penalty and suspension structures for repeated violations; and

WHEREAS, TRL laws in other communities have been effective in reducing the number of illegal tobacco sales to underage purchasers; now therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATHENS:

SECTION I: Chapter 11.13 of the Athens City Code is hereby enacted to read as attached hereto and incorporated herein as referenced.

RECORD OF ORDINANCES

Government Forms and Supplies (844) 224-3338 FORM NO. SHTOR11

Ordinance No. **0-140-23 Page 2** Passed _____, 20____

SECTION II: This Ordinance shall be in full force upon the earliest moment permitted by law upon its passage and approval by the Mayor.

President of Council

ATTEST:

APPROVED:

Clerk of Council

Mayor

11.13.01. - Definitions.

"Compliance Checks" the system that the Athens City-County Health Department uses to investigate and ensure that those authorized to sell tobacco products are following and complying with all the requirements of this Chapter. Compliance Checks involve the use of persons over the age of 18, but under the age of 21 who purchase or attempt to purchase tobacco products. Compliance checks may also be conducted by the City or other units of government for educational, research, and training purposes or for investigating or enforcing federal, state, or local laws and regulations relating to tobacco products.

"Delivery Sale" the sale of any tobacco product to any person for personal consumption and not for resale when the sale is conducted by any means other than an in-person, over-the-counter sales transaction in a licensed retail establishment. Delivery Sale includes but is not limited to the sale of any tobacco product when the sale is conducted by telephone, other voice transmission, mail, the internet, or app-based service. Delivery Sale includes delivery by licensees or third parties by any means, including curbside pick-up.

"Department" means the Athens City-County Health Department and its authorized designees, employees and agents.

"Electronic Smoking Device" any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic smoking device includes any component, part, accessory of, or substance used in the device, whether or not the substance contains nicotine. Electronic smoking device does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration for cessation purposes, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

"Health Commissioner" means the Health Commissioner of the Athens City-County Health Department or the Health Commissioner's authorized representative.

"Moveable Place of Business" means any form of business that is operated out of a kiosk, truck, van, automobile or other type of vehicle or transportable shelter and that is not a fixed address or other permanent type of structure licensed for over-the counter sales transactions.

"Purchaser" means any person who obtains or attempts to obtain a tobacco product.

"Sale" any transfer of goods for money, trade, barter, or other consideration, and each such transaction made by any person, whether as principal, proprietor, agent, servant or employee.

"Self-Service Display" any display from which customers may select a tobacco product without assistance from the tobacco retailer or the tobacco retailer's agent or employee and without a direct person-to-person transfer between the purchaser and the tobacco retailer or tobacco retailer's agent or employee. A vending machine is a form of self-service display.

"Tobacco product" (1) any product containing, made of, or derived from tobacco or nicotine or nicotine derivatives, regardless of source, and is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus; (2) any electronic smoking device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or (3) any component, part, or accessory of (1) or (2), whether or not any of them contain tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp wraps, and pipes. Tobacco product does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

"Tobacco Retail Establishment" any place of business where tobacco products are available for sale, whether or not the business is open to the general public, whether the business is a "movable place of business" defined under this section, or a business or entity that maintains a private membership-based point of sale. The term includes, but is not limited to grocery stores, tobacco product shops, "retail tobacco store" as defined under Sec 9.13.03(l) of the Athens Code of Ordinances; kiosks, convenience stores, gasoline service stations, bars, night clubs, and restaurants.

"Tobacco Retailer" means any person, partnership, joint venture, society, club, trustee, trust, association, organization, or corporation who owns, operates, or manages any tobacco retail establishment. Tobacco retailer does not mean the non-management employees of any tobacco retail establishment.

"Vending Machine" means any mechanical, electric or electronic, or other type of device that dispenses tobacco products upon the insertion of money, tokens, or other form of payment into or onto the device by the person seeking to purchase the tobacco product.

"Youth-Oriented Facility" means a licensed daycare, a preschool, an elementary school, a middle school, a high school, a public park, and any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors under the age of 21, or the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors.

11.13.02. - License Required; Application, Term, and Fees.

(A) As of September 1, 2024, each retailer engaging in the sale of tobacco products, at each location within the City of Athens, shall secure and display at all times, a tobacco retail license (TRL) from the City of Athens Office of Code Enforcement and Community Development (Code Enforcement) before engaging or continuing to engage in such business. No retailer may sell tobacco products without a valid TRL after September 1, 2024.

(B) The application for a TRL must be made on a form provided by Code Enforcement. The application must contain the full name of the applicant, the applicant's business address

and telephone number, the name of the business for which the license is sought, and any additional information Code Enforcement deems necessary.

(C) All tobacco retail licenses are valid only at the business address provided on the license application and only for the person and business to whom the license was issued. The transfer of any license to another location, person, or business is prohibited.

(D) The TRL shall be valid beginning the first day of September through the last day of August of the following year.

(E) TRL Applications must be received by Code Enforcement no later than 30 days before the first valid day of the license.

(F) The application fee, license fee, and subsequent license renewal fees, and other fees as applicable, shall be as provided by separate ordinance.

(G) The license fee remains the same regardless of the time of application. The license fee will not be prorated no matter the date an application is filed during the standard term period.

11.13.03. - License Approval, Renewal, Denial, and Revocation.

(A) The Director of The Athens Office of Code Enforcement and Community Development may approve or deny the application for a TRL, or it may delay action for a reasonable period of time to complete any investigation of the application or the applicant deemed necessary.

(B) Applications for Tobacco Retail Licenses may be denied or failed to be renewed and such licenses may be revoked, for any of the following:

- (1) The applicant is under 21 years of age;
- (2) The applicant has unpaid fines from violations of this chapter.
- (3) The applicant was convicted within the past 3 years of any violation of a federal, state, or local law, ordinance provision or other regulation relating to tobacco products;
- (4) An order by a court of competent jurisdiction that a retail tobacco sales location owned and/or operated by the licensee/applicant constitutes a public nuisance;
- (5) Information contained in the application is misleading, inaccurate, or false;
- (6) The business for which the license is requested operates within 500 feet of a youth-oriented facility, as measured to the nearest property line of a youth-oriented facility. This restriction does not apply to an existing tobacco retailer holding a current state tax license for the sale of tobacco products in that same location for at least one year before the date this section was enacted into law.
- (7) The business for which the license is requested operates within 500 feet of another licensed tobacco retail establishment, as measured by the shortest line from the property line of the space to be occupied by the applicant for a license to the nearest property line of the existing licensee. This restriction

does not apply to an applicant that holds a current state tax license to sell tobacco products in the same location for at least one year before the date this section was enacted into law.

(8) The business for which the license is requested operates under a vending, peddling or soliciting license and is not a fixed-location retail establishment;

(9) The licensee/applicant fails to comply with applicable U.S. Food and Drug Administration regulations, the Ohio Revised Code, and the Ohio Administrative Code including relating to building, health, or fire.

(10) The licensee/applicant fails to pay the annual license fee.

(C) A tobacco retailer operating lawfully on the date this ordinance is adopted that would otherwise be ineligible for a future tobacco retailer license due to geographic proximity to an existing youth oriented facility pursuant to (B)(6), may be considered for a new tobacco retail license for that location so long as all of the following conditions are met:

(1) The license is timely obtained and with appropriate application by the new tobacco retailer,

(2) The tobacco retail establishment is not closed for business or otherwise suspends tobacco sales, whether voluntarily or due to license suspension for more than thirty (30) consecutive days;

(3) The tobacco retailer does not substantially change the business premises or business operation. A substantial change to the business operation includes, but is not limited to, the sale or transfer or ownership of a tobacco retail location for which a significant purpose is avoiding the effect of violations of this ordinance; and

(4) The tobacco retailer retains the right to operate under all other applicable laws.

(5) If the City of Athens determines that a tobacco retailer has substantially changed their business premises or operation and the tobacco retailer disputes this determination, the tobacco retailer bears the burden of proving by a preponderance of evidence that such change(s) do not constitute a substantial change.

(D) Any tobacco retailer holding a valid TRL may apply for renewal of such license. Renewal applications must be received by Code Enforcement no later than 30 days prior to the expiration of the current license.

(E) Issuance is a privilege and not a right. The issuance of a license is a privilege and does not entitle the license holder to an automatic renewal of the license.

(F) If a license is mistakenly issued or renewed to an applicant, Code Enforcement, or its designee may revoke the license upon the discovery that the applicant was ineligible for the license under this ordinance. Code Enforcement, or its designee, will provide the tobacco retailer license holder with notice of the revocation, along with information on the right to appeal.

(G) If a tobacco retail license is suspended or revoked, whether due to applicant or licensee ineligibility, or determination of a violation under this ordinance, or any other federal, state, or local law or regulation, the license fee is forfeited and shall not be refunded to the applicant or licensee.

11.13.04. - Appeals.

Any person aggrieved by denial or nonrenewal of a tobacco retail license application, suspension or revocation of an existing tobacco retail license may, within thirty working days, submit to the clerk of council an appeal to be heard by the License Appeals Board.

The License Appeals Board shall consist of two members of city council, the service-safety director, and two Tobacco Retailers who are retail license holders. The Tobacco Retailers shall be appointed by the mayor.

The clerk of council shall notify all members of the Board of the time and place of the appeals hearing, not less than 48 hours in advance thereof. The appellant may appear and be heard in person or by counsel. If, after the hearing, a majority of the members at such hearing declare in favor of the appellant, the license must be approved or reinstated, as the case may be; otherwise, the order appealed from shall become final.

11.13.05. - Sign Distribution and Posting

(A) Upon approval of a license application, Code Enforcement will provide to the licensee the approved license.

(B) The Athens City-County Health Department shall provide to each licensed tobacco retailer a printed sign or signs stating that tobacco products shall not be sold to anyone under the age of twenty-one.

(C) The Tobacco Retailer shall prominently and conspicuously post the approved, current license and the printed signage provided by the Department at each point of sale prior to the sale of tobacco products. Notice of the legal sales age for the purchase of tobacco products, age verification requirements, and possible penalties for underage sales must be posted within 6 feet of each cash register or place where payment may be made in a place conspicuous to both employees and customers, and where the sign(s) are unobstructed in their entirety. The sign shall state, "THE SALE OR PROVISION OF TOBACCO PRODUCTS, INCLUDING E-CIGARETTES, TO AN INDIVIDUAL UNDER 21 YEARS OF AGE IS PROHIBITED BY LAW." The sign required shall be 5 ½ inches by 8 ½ inches and the statement required shall be printed in 36-point boldfaced type.

11.13.06. - Prohibited Sales

(A) No individual, tobacco retailer or their employee or agent shall sell, offer to sell, or furnish tobacco products:

- (1) Without a valid TRL.
- (2) To any person under the age of 21.
- (3) By means of a self-service display.

- (4) By means of delivery sales. All sales of tobacco products must be conducted in person, in a licensed retail establishment, in over-the-counter sales transactions.
- (5) Without prior age verification of purchaser. Licensees must verify by means of government-issued photographic identification containing the bearer's date of birth that the purchaser of any tobacco product is at least 21 years of age in accordance with this Chapter prior to any tobacco sales transaction.
- (6) Samples prohibited. No tobacco retailer, tobacco retail establishment, or person shall gift or distribute samples of any tobacco product free of charge or at a nominal cost, regardless of the age of the person acquiring the product. The distribution of a tobacco product as a sample, free donation, gift, or at otherwise nominal cost, is prohibited and shall subject the tobacco retailer or tobacco retail establishment to the penalties prescribed under this Chapter and those prescribed by other local, state or federal laws pertaining to samples, donation, or otherwise nominally priced tobacco products.
- (7) From a moveable place of business.
- (8) By any other means, to any other person, or in any manner or form prohibited by federal, state, or other local law, ordinance provision, or other regulation.

11.13.07. - Education and Compliance Checks

(A) The Athens City-County Health Department shall engage in a continuing public health education program to explain and clarify the purposes and requirements of this ordinance to persons affected by it, and to guide tobacco retailers and their agents or employees in their compliance. This may be conducted through distribution of a brochure for affected tobacco retailers explaining the provisions of this ordinance and signage mandated by this ordinance.

(B) All licensed premises must be open to inspection by the Athens City-County Health Department inspectors or other authorized designees during regular business hours.

(C) The Athens City-County Health Department shall conduct two unannounced compliance checks each year. Unannounced follow-up compliance checks of all non-compliant tobacco retailers are required within three months of any violation of this chapter. The results of all compliance checks shall be compiled by the Department at least annually and made available to the public upon request.

11.13.08. - Enforcement and Penalties

(A) The City shall have authority to implement and enforce all provisions of this chapter. The Athens Office of Code Enforcement and Community Development and the Athens City-County Health Department or its designees, shall have authority to conduct Compliance Checks and issue citations for violations. The Director of The Athens Office of Code Enforcement and Community Development, or its designees shall have the authority to conduct all licensing functions.

(B) Any tobacco retailer found to have violated this ordinance in person, by agent, representative, or employee or in any other way shall be subject to a citation.

(C) The city shall impose the following penalties for violations of this chapter.

- (1) For a first violation, an administrative fine of \$350.00;
- (2) For a second violation within a 36-month period, an administrative fine of \$500.00 and the TRL shall be suspended for 7 days;
- (3) For a third violation within a 36-month period, an administrative fine of \$750.00 and the TRL shall be suspended for 30 days;
- (4) For a fourth violation within a 36-month period, an administrative fine of \$1,000.00 and the TRL shall be revoked. The tobacco retail license holder shall be prohibited from selling tobacco products or applying for a tobacco retail license for a period of 3 years.
- (5) For a fifth and any subsequent violations within a 36-month period, an administrative fine of \$1,000 and the tobacco retail license holder shall be permanently ineligible to apply or acquire a tobacco retailer license in the City of Athens.
- (6) The penalties associated with a violation of this chapter are in addition to, not in lieu of, any other penalty applicable under Ohio law or any other legal remedy available to the City.

(D) Sale of multiple items in violation of Section 11.13.06, where the sales occur in a single transaction, shall constitute one violation. For example; sale of three packs of cigarettes and a vial of liquid nicotine to a 19-year old in one transaction shall constitute one violation. Sale of one pack of cigarettes to one 19-year old, one pack of cigarettes to the 18-year old next in line, in two transactions, shall constitute two violations.

(E) It is an affirmative defense for any tobacco retailer charged with a violation of this chapter that a purchaser or recipient exhibited to the tobacco retailer, or to the tobacco retailer's agent, employee, or representative, a valid driver's license or other form of federal or state identification showing that the purchaser was at least 21 years of age at the time of the alleged offense.

(F) Any person cited with a violation of this section who does not pay the required administrative fine within 30 days shall receive an unclassified misdemeanor citation into court. Any person cited with a violation of this section who wishes to contest the violation shall visit the Athens Police Department and receive an unclassified misdemeanor citation into court, providing notice and an opportunity to be heard, which shall serve as an appeals process. An unclassified misdemeanor is punishable with a fine of up to \$1,000 and up to 500 hours of community service.

(G) License Fees and Fines collected under this chapter are primarily to be used to fund tobacco retail licensure, compliance and enforcement measures. Any additional funds may be used to for other tobacco control, prevention, and education programs at the Department's discretion.

11.13.09. - Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this chapter, or any part thereof, is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this chapter or any part thereof. The city council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional or invalid.

SECTION II: This Ordinance shall be in full force upon the earliest moment permitted by law upon its passage and approval by the mayor.

0-144-23

Introduced by Ben Ziff, Member of Council

AN ORDINANCE AUTHORIZING THE ATHENS CITY SHADE TREE COMMISSION, IN COLLABORATION WITH OHIO UNIVERSITY, TO SUBMIT AN APPLICATION AND ENTER INTO AN AGREEMENT WITH THE OHIO DEPARTMENT OF NATURAL RESOURCES (ODNR), USDA FOREST SERVICE, FOR PARTICIPATION IN THE URBAN FORESTRY GRANT PROGRAM; AND DECLARING AN EMERGENCY.

WHEREAS, said grant is intended to:

- Contract with local governments or non-profits for the purchase and planting of trees for public benefits.
- Restore community tree canopy with large-stature trees and promote species diversity.
- Reduce stormwater runoff, maximize filtration of overland flow, and improve watershed health.
- Enhance the quality of life in participating cities, villages, and townships.
- Promote urban forestry benefits through the proper planting and care of trees.
- Strengthen and support existing comprehensive community tree care programs.
- Ensure that urban forests provide communities with clean air and water, increased property value, wildlife habitat, and reduced erosion, stormwater runoff, and energy demands.
- Promote Ohio's nursery, arboriculture, and landscape industries through tree purchase and installation contracts.
- Increase the capacity of Ohio communities to effectively manage and grow their urban forest canopy.
- Advance the mission of the Justice40 Initiative and support disadvantaged communities experiencing low tree canopy and environmental justice.
- Build sustainable urban forestry programs.
- Mitigate urban heat islands; and

WHEREAS, the City is partnering with Ohio University to pilot an urban forest planting initiative, planting native fruiting trees at the Ohio University Student Farm/West State Street Park, the Richland Avenue Park, the Athens County Public Library, and the Dairy Lane Park; and

WHEREAS, said trees will be planted in accordance with USDA Forest Service Planting Guidelines; and

WHEREAS, the City is contracting with local arborists, ecologists, and nonprofits to map, maintain, and plant trees on city property and in the city right-of-way; and

WHEREAS, the City is contracting with tree care professionals to provide training to municipal employees regarding proper tree care and planting; and

WHEREAS, the Grant does not require a funding match by the City of Athens;
and

WHEREAS, funding and reimbursement activities will be managed by the lead applicant, Ohio University;

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATHENS, OHIO:

SECTION I: The Athens City Shade Tree Commission is hereby authorized to submit an application, in collaboration with Ohio University, and enter in an agreement with the Ohio Department of Natural Resources (ODNR), USDA Forest Service, for participation in the Urban Forestry Program.

SECTION II: This Ordinance shall be an emergency measure necessary for the preservation of the health, welfare and safety of the residents of the City of Athens, Ohio, in order to meet the December 29, 2023 application deadline, and it shall be in full force and effect upon its passage and approval by the Mayor.

President of Council

ATTEST:

Clerk of Council

APPROVED:

Mayor

0-145-23

Introduced by Micah McCarey, Chair
City & Safety Services Committee

AN ORDINANCE AMENDING ORDINANCE 141-23; AUTHORIZING THE SERVICE-SAFETY DIRECTOR TO ENTER INTO CONTRACT FOR CONSTRUCTION OF THE NEW FIRE HEADQUARTERS, PROJECT #346; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATHENS, OHIO:

SECTION I: Section I of Ordinance 141-23 is hereby amended to read as follows:

Section I: The 2023 Appropriation Ordinance, 0-155-22, is hereby amended by appropriating from the unappropriated balance the following sums:

Three Million Dollars (\$3,000,000.00) to General Fund, Fire, 101.208, T.C. 500;

Eight Million Four Hundred Thousand Dollars (\$8,400,000.00) to Safety Services Fund, Fire, 206.208, T.C. 500; and

Seven Hundred Fifty Thousand Dollars (\$750,000.00) to ARPA Fund, 286, T.C. 500;
and

Four Million Dollars (\$4,000,000.00) to Fire Station Debt Fund, 430, T.C. 600, for transfer, and increasing the total appropriations by said amounts.

Section III: The Service-Safety Director is hereby authorized to expend up to Thirteen Million Four Hundred Twenty Thousand Dollars (\$13,420,000.00) as follows:

Three Million Six Hundred Seventy Thousand Dollars (\$3,670,000.00) from General Fund, Fire, 101.208, T.C. 500, that includes (\$70,000.00) authorized by Ordinance 18-22, for planning/preliminary engineering; and (\$600,000.00), authorized by Ordinance 84-22, for design and construction management services;

Nine Million Dollars (\$9,000,000.00) from Safety Services Fund, Fire, 206.208, T.C. 500, that includes (\$600,000.00) for land purchase and site preparation, authorized by Ordinance 121-22; and

Seven Hundred Fifty Thousand Dollars (\$750,000.00) from ARPA Fund, 286, T.C. 500, for said Project #346.

SECTION II: The Auditor is hereby authorized to make the following interfund transfer:

FROM	TO	AMOUNT
Fire Station Debt Fund, 430	Safety Services Fund, 206	\$4,000,000.00

SECTION III: Sections II and III of Ordinance 96-23 are hereby amended to read as follows:

Section II: The 2023 Appropriation Ordinance, 0-155-22, is hereby amended by appropriating from the unappropriated balance the following sums:

Eight Million Four Hundred Thousand Dollars (\$8,400,000.00) to Safety Services Fund, Fire, 206.208, T.C. 500; and

Four Million Dollars (\$4,000,000.00) to Safety Services Fund, Fire, 206.208, T.C. 500, and increasing the total appropriations by said amounts.

Section III: The Service-Safety Director is hereby authorized to expend up to Thirteen Million Six Hundred Seventy Thousand Dollars (\$13,670,000.00) as follows:

Six Hundred Seventy Thousand Dollars (\$670,000.00) from General Fund, Fire, 101.208, T.C. 500, that includes (\$70,000.00) authorized by Ordinance 18-22, for planning/preliminary engineering; and (\$600,000.00), authorized by Ordinance 84-22, for design and construction management services;

Thirteen Million Dollars (\$13,000,000.00) from Safety Services Fund, Fire, 206.208, T.C. 500, that includes (\$600,000.00) for land purchase and site preparation, authorized by Ordinance 121-22; for said Project #346.

SECTION IV: This Ordinance shall be an emergency measure necessary for the preservation of the health, welfare and safety of the residents of the City of Athens, Ohio, in order to maintain fiscal integrity, and it shall be in full force and effect upon its passage and approval by the Mayor.

President of Council

ATTEST:

APPROVED:

Clerk of Council

Mayor

**RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE
BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES
AND CERTIFYING THEM TO THE COUNTY AUDITOR**

(CITY COUNCIL)

Revised Code, Secs. 5705.34, - 35.

The Council of the **City of Athens**, Athens County, Ohio met in _____
(Regular or Special) session on the _____ day of _____, 2023
at the office of _____ with the following members present:

_____ moved the adoption of the following Resolution:

*WHEREAS, This Council in accordance with the provisions of law has previously adopted
a Tax Budget for the next succeeding fiscal year commencing January 1st, 2024; and*

*WHEREAS, The Budget Commission of Athens County, Ohio has certified its action thereon to
this Council together with an estimate by the County Auditor of the rate of each tax necessary to be
levied by this Council, and what part thereof is without, and what part is within, the ten mill
limitation; therefore, be it*

*RESOLVED, By the Council of the **City of Athens**, Athens County, Ohio that the amounts
and rates, as determined by the Budget Commission in its certification, be and the same are
hereby accepted; and be it further*

*RESOLVED, That there be and is hereby levied on the tax duplicate of said City
the rate of each tax necessary to be levied within and without the ten mill limitation as follows:*

SCHEDULE A SUMMARY OF AMOUNTS REQUIRED FROM GENERAL PROPERTY TAX APPROVED BY BUDGET COMMISSION, AND COUNTY AUDITOR'S ESTIMATED TAX RATES	
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FUND	Amount to Be Derived from Levies Outside 10 Mill Limitation	Amount Approved by Budget Commission Inside 10 Mill Limitation	County Auditor's Estimate of Tax Rate to Be Levied	
			Inside 10 Mill Limit	Outside 10 Mill Limit
100 - General Fund	100.00	100.00	1.0000	1.0000
200 - Capital Projects	0.00	0.00	0.0000	0.0000
300 - Debt Service	0.00	0.00	0.0000	0.0000
400 - Public Safety	0.00	0.00	0.0000	0.0000
500 - Health & Welfare	0.00	0.00	0.0000	0.0000
600 - Education	0.00	0.00	0.0000	0.0000
700 - Parks & Recreation	0.00	0.00	0.0000	0.0000
800 - Community Development	0.00	0.00	0.0000	0.0000
900 - Other	0.00	0.00	0.0000	0.0000
TOTAL	100.00	100.00	1.0000	1.0000

	Column II	Column IV	V	VI
General Fund				
Athens Township		1,042,870	2.60	
Canaan Township		55,440	2.40	
TOTAL	-	1,098,310	5.00	0.00

SCHEDULE B LEVIES OUTSIDE 10 MILL LIMITATION, EXCLUSIVE OF DEBT LEVIES		
Fund	Maximum Rate Authorized to Be Levied	County Auditor's Estimate of Yield of Levy (Carry to Schedule A, Column II)
General Fund:		
Total General Fund Outside 10 Mill Limitation		

and be it further

RESOLVED, That the Clerk of this Council be, and is hereby directed to certify a copy of this Resolution to the County Auditor of Athens County.

_____ *seconded the Resolution and the roll being called upon its adoption the vote resulted as follows:*

Adopted the _____ day of _____, 2023.

President of Council

Clerk of Council

CERTIFICATE OF COPY

ORIGINAL ON FILE

The State of Ohio, Athens County, ss.

*I, _____, Clerk of the Council of the **City of Athens**, within and for said County, and in whose custody the Files and Records of said Council are required by the Laws of the State of Ohio to be kept, do hereby certify that the foregoing is taken and copied from the original:*

now on file, that the foregoing has been compared by me with said original document, and that the same is a true and correct copy thereof.

Witness my signature, this _____ day of _____, 2023.

Clerk of Council

A copy of this Resolution must be certified to the County Auditor before the first day of October in each year, or at such later date as may be approved by the Board of Tax Appeals.

No. _____

COUNCIL OF THE CITY OF

ATHENS

Athens County, Ohio

RESOLUTION

**ACCEPTING THE AMOUNTS AND
RATES AS DETERMINED BY THE
BUDGET COMMISSION AND
AUTHORIZING THE NECESSARY TAX
LEVIES AND CERTIFYING THEM TO
THE COUNTY AUDITOR.
(City Council)**

Adopted _____, 2023

Clerk of Council

Filed _____, 2023

Jill A. Thompson

Athens County Auditor

By _____
Deputy

Athens City
Tax Revenue Estimates for 2024 (Tax Year 2023)

<u>Tax Rate</u>	<u>Type</u>	<u>Date Voted</u>	<u>Levied Years</u>
2.60 Mills GF - Athens Twp n/a	Inside	n/a	Continuing
2.40 Mills GF - Canaan Twp n/a	Inside	n/a	Continuing

<u>Athens City</u>	<u>Athens Township</u>	<u>Canaan Township</u>	<u>Total</u>
AGR-RES	224,343,220	586,030	224,929,250
OTHER	172,159,380	22,957,500	195,116,880
UTILITY REAL	-	-	-
UTILITY PERS	25,712,100	772,180	26,484,280
PERSONAL	-	-	-
TOTAL	422,214,700	24,315,710	446,530,410

<u>Levy</u>	<u>Eff. Rate A</u>	<u>Eff. Rate B</u>	<u>Full Rate</u>	<u>Estimated Revenue</u>
GF - Athens Twp	2.600000	2.600000	2.60 \$	1,042,870
GF - Canaan Twp	2.400000	2.400000	2.40 \$	55,440
Total Tax Levy Estimate:			\$	1,098,310

Estimates are calculated using tax year 2022 rates and valuation

Total Estimated Revenue does not include PU or PPT Reimbursements.

0-93-23

Introduced by Micah McCarey, Chair
City & Safety Services Committee

AN ORDINANCE AMENDING ATHENS CITY CODE, TITLE 9, GENERAL REGULATIONS, CHAPTER 9.05, FIRE CONTROL; PETROLEUM LIQUIDS, SECTION 9.05.99, PENALTIES.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATHENS, OHIO:

SECTION I: The Athens City Zoning Code, Title 9, General Regulations, Chapter 9.05, Fire Control; Petroleum Liquids, Section 9.05.99, Penalties, is hereby amended to read as follows:

9.05.99. – Penalties.

(A) Any person who shall violate any of the provisions of Sections 9.05.01 through 9.05.05, 9.05.07, and 9.05.09, 9.05.11, 9.05.13, and 9.05.14 of the Athens City Code shall ~~severally, for each and every such violation and noncompliance respectively,~~ be **deemed** guilty of a fourth degree misdemeanor, **punishable by not more than 30 days in jail and a fine of not more than \$250.00.** ~~as defined in Sections 2929.21 of the Ohio Revised Code.~~

(B) Any person who shall violate Section 9.05.08 of the Athens City Code, on a first offense, shall be deemed guilty of a minor misdemeanor and fined not more than \$150.00; a second offense within a two-year period shall be deemed a misdemeanor of the fourth degree, punishable by not more than 30 days in jail and a fine of not more than \$250.00; a third offense within a two year period shall be deemed a misdemeanor of the third degree, punishable by not more than sixty days in jail and a fine of not more than \$500.00; and a fourth offense within a two-year period shall be deemed a misdemeanor of the second degree, punishable by not more than 90 days in jail and a fine of not more than \$750.00. Each time a violation occurs shall constitute a separate and complete offense.

~~(B)~~(C) Whoever is convicted of or pleads guilty to a violation of 9.05.06 9.05.12 and 9.05.15 through 9.05.22 herein shall be **deemed** guilty of a minor misdemeanor as ~~defined in Section 2929.21 of the Ohio Revised Code.~~, **and fined not more than \$150.00.**

SECTION II: This Ordinance shall be in effect and full force upon its passage and approval by the Mayor.

President of Council

ATTEST:

APPROVED:

Clerk of Council

Mayor