

ORDINANCE NO. 01-23-01

AN ORDINANCE

ENACTING A NEW CHAPTER 107, OPEN MEETINGS, OF THE KIRTLAND HILLS CODIFIED ORDINANCES TO PROVIDE FOR THE GOVERNANCE OF THE MEETINGS OF MUNICIPAL BODIES WITHIN THE VILLAGE, AND DECLARING AN EMERGENCY.

WHEREAS, Article III, Section 3.9 of the Kirtland Hills Village Charter vests this Council with the authority to enact ordinances which establish how Council meetings will be scheduled and conducted; and

WHEREAS, this Council wishes to enact a chapter of the Codified Ordinances of the Village to exercise its authority under the Village Charter regarding Council meetings and to establish uniform procedures for all of the boards and commissions of the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF KIRTLAND HILLS, LAKE COUNTY, STATE OF OHIO:

SECTION 1. That new Chapter 107, Open Meetings, of the Codified Ordinances of Kirtland Hills, be and the same hereby is enacted which shall read and provide, in its entirety, as follows:

**“CHAPTER 107
OPEN MEETINGS**

107.01 DEFINITIONS.

As used in this chapter:

- (a) “Clerk” means the Clerk-Treasurer of the Village.
- (b) “Meeting” means any prearranged discussion of the public business of a Municipal Body by a majority of its members.
- (c) “Municipal Body” means each of the following:
 - (1) Council or any committee of Council;
 - (2) Planning and Zoning Commission;
 - (3) Board of Zoning Appeals; or
 - (4) Architectural Board of Review.
- (d) “Oral Notification” means notification given orally either in person or by telephone, directly to the person for whom such notification is intended, or by leaving an oral message for such person at the address, or if by telephone, at the telephone number of such person as shown on the records kept by the Clerk under this chapter.
- (e) “Post” means to post on the Village Hall bulletin board and the Village’s website.
- (f) “Special Meeting” means a meeting which is neither a regular meeting nor an adjournment of a regular or Special Meeting to another time or day to consider items specifically stated on the original agenda of such regular or Special Meeting.
- (g) “Written request” and “Written Notification” mean communications made in writing, which include communications sent via email.

107.02 NOTICE OF REGULAR AND ORGANIZATIONAL MEETINGS.

- (a) The Clerk shall post a statement of the time and place of regular meetings of each Municipal Body for each calendar year not later than the second day preceding the day of the first regular meeting, other than the organizational meeting, of the calendar year of that Municipal Body. The Clerk shall check at reasonable intervals to ensure that such statement remains so posted during such calendar year. If at any time during the calendar year the time or place of regular meetings or of any regular meeting is changed on a permanent or temporary basis, a statement of the time and place of such changed regular meetings shall be so posted by the Clerk at least twenty-four hours before the time of the first changed regular meeting. In the case of any Municipal Body which does not hold regularly scheduled meetings, the Clerk shall post a statement of the time and place of each meeting at least seven days before such meeting.
- (b) The Clerk shall post a statement of the time and place of any organizational meeting of a Municipal Body at least twenty-four hours before the time of such organizational meeting.
- (c) Upon the adjournment of any regular or Special Meetings to another day, the Clerk shall promptly post notice of the time and place of such adjourned meetings.

107.03 NOTICE OF SPECIAL MEETINGS.

- (a) Except in the case of a Special Meeting referred to in Section 107.04(e), the Clerk shall, no later than twenty-four hours before the time of a Special Meeting of a Municipal Body, Post a statement of the time, place and purpose of such Special Meeting.
- (b) The statement under subsection (a) hereof and the notifications under Section 107.04 shall state such specific or general purpose or purposes then known to the Clerk to be intended to be considered at such Special Meeting and may state, as an additional general purpose, that any other business as may properly come before such Municipal Body at such meeting may be considered and acted upon.

107.04 NOTICE OF SPECIAL MEETINGS OR SUBJECT MATTER.

- (a) Any person that desires to be given advance notification of Special Meetings of a Municipal Body or a specific subject matter to be deliberated shall file with the Clerk a written request therefor. Except in the event of an emergency requiring immediate official action, a Special Meeting shall not be held, nor shall the subject matter be deliberated, unless at least twenty-four hours advance notice of the time, place and purpose of such Special Meeting is given to the persons that have filed such written request.
- (b) Any such request shall be effective until the person requesting the notice terminates the request by Written Notification to the Clerk.
- (c) In the event of an emergency requiring immediate official action, a special meeting may be held and the topic of the emergency, only, deliberated

without giving twenty-four hours advance notification. The person(s) calling such meeting shall immediately give Oral Notification or Written Notification or both, as the person or persons giving such notification determine, of the time, place, and purposes of such Special Meeting to such persons that have requested notification. The notice and minutes of any such Special Meeting shall state the general nature of the emergency that required immediate official action.

107.06 GENERAL.

- (a) Any person may visit or telephone the office of the Clerk during that office's regular office hours to determine, based on information available at that office: the time and place of regular meetings; the time, place and purpose of any then known Special Meetings; and whether the available agenda of any such future meeting states that any specific type of public business, identified by such person, is to be discussed at such meeting.
- (b) Any notification provided herein to be given by the Clerk may be given by any person acting on behalf of or under the authority of the Clerk.
- (c) Notice via email shall constitute notification in compliance with this chapter.

107.07 NONCOMPLIANCE.

- (a) The failure of any Village official or employee or any Municipal Body to comply with the provisions of this chapter shall not invalidate any action by the Municipal, Body.
- (b) The failure of any Village official or employee or any Municipal Body to comply with the provisions of this chapter shall not subject such official or employee or Municipal Body to either civil or criminal liability on account of such failure.

107.08 PUBLIC MEETINGS OF MUNICIPAL BODIES.

- (a) Except for executive sessions, as authorized in subsection (b) hereof, all meetings of any Municipal Body are declared to be public meetings open to the public at all times. The minutes of a regular or Special Meeting of any such Municipal Body shall be promptly recorded and open to public inspection. The minutes need only reflect the general subject matter of discussions in executive sessions authorized under subsection (b) hereof.
- (b) The members of a Municipal Body may hold an executive session only after a majority of a quorum of the Municipal Body determines, by a roll call vote, to hold such a session and only at a regular or Special Meeting for the sole purpose of the consideration of any of the following matters:
 - (1) To consider the appointment, employment, dismissal, discipline, promotion, demotion or compensation of a public employee or official, or the investigation of charges or complaints against a public employee, official, licensee or regulated individual, unless the public employee, official, licensee or regulated individual requests a public hearing. Except as otherwise provided by law, no Municipal Body shall hold an executive session for the discipline

of an elected official for conduct related to the performance of his official duties or for his removal from office. If a Municipal Body holds an executive session pursuant to this subsection (b)(1), the motion and vote to hold that executive session shall state which one or more of the approved purposes listed in this subsection (b)(1) are the purposes for which the executive session is to be held but need not include the name of any person to be considered at the meeting.

- (2) To consider the purchase of property for public purposes, or for the sale of property at competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal, private interest is adverse to the general public interest. No member of a Municipal Body shall use this subsection as a subterfuge for providing covert information to prospective buyers or sellers. A purchase or sale of public property is void if the seller or buyer of the public property has received covert information from a member of a Municipal Body that has not been disclosed to the general public in sufficient time for other prospective buyers and sellers to prepare and submit offers. If the minutes of the Municipal Body show that all meetings and deliberations of the Municipal Body have been conducted in compliance with this section, any instruments executed by the Municipal Body purporting to convey, lease or otherwise dispose of any right, title or interest in any public property shall be conclusively presumed to have been executed in compliance with this section insofar as title or other interest of any bona fide purchasers, lessees or transferees of the property is concerned;
- (3) Conferences with an attorney for the Municipal Body concerning disputes involving the Municipal Body that are the subject of pending or imminent court action;
- (4) Preparing for, conduction or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment;
- (5) Matters required to be kept confidential by Federal law or rules or state statutes;
- (6) Details relative to the security arrangements and emergency response protocols for a public body or a public office, if disclosure of the matters discussed could reasonably be expected to jeopardize the security of the public body or public office;
- (7) To consider confidential information related to the marketing plans, specific business strategy, production techniques, trade secrets, or personal financial statements of an applicant for economic development assistance, or to negotiations with other political subdivisions respecting requests for economic development assistance, provided that both of the following conditions apply:

(a) The information is directly related to a request for economic development assistance that is to be provided or administered under any provision of Chapter 715., 725., 1724., or 1728. or sections 701.07, 3735.67 to 3735.70, 5709.40 to 5709.43, 5709.61 to 5709.69, 5709.73 to 5709.75, or 5709.77 to 5709.81 of the Ohio Revised Code, or that involves public infrastructure improvements or the extension of utility services that are directly related to an economic development project.

(b) A unanimous quorum of the Municipal Body determines, by a roll call vote, that the executive session is necessary to protect the interests of the applicant or the possible investment or expenditure of public funds to be made in connection with the economic development project.

If a Municipal Body holds an executive session to consider any of the matters listed in subsections (b)(2) through (7) hereof, the motion and vote to hold that executive session shall state which one or more of the approved matters listed in those subsections are to be considered at the executive session.

- (c) All resolutions, rules or formal actions of any kind shall be adopted in open meetings of Municipal Bodies.

107.09 VIRTUAL MEETINGS AND REMOTE ATTENDANCE.

At the discretion of the chair of the Municipal Body, members of a Municipal Body may hold and attend meetings and may conduct and attend hearings by means of teleconference, video conference, or any other similar electronic technology and the following shall apply:

- (a) Any resolution, rule, or formal action of any kind shall have the same effect as if it had occurred during an open meeting or hearing of the Municipal Body.
- (b) Notwithstanding division (C) of section 121.22 of the Ohio Revised Code, members of a Municipal Body who attend meetings or hearings by means of teleconference, video conference, or any other similar electronic technology, shall be considered "present" as if in person at the meeting or hearing, shall be permitted to vote, and shall be counted for purposes of determining whether a quorum is present at the meeting or hearing.
- (c) Municipal Bodies shall provide notification of meetings and hearings held under this section to the public, to the media that have requested notification of a meeting, and to the parties required to be notified of a hearing, at least twenty-four hours in advance of the meeting or hearing by reasonable methods by which any person may determine the time, location, and the manner by which the meeting or hearing will be conducted, except in the event of an emergency requiring immediate official action. In the event of an emergency, the Municipal Body shall immediately notify the news media that have requested notification, or the parties required to be notified of a hearing of the time, place, and purpose of the meeting or hearing.

- (d) The Municipal Body shall provide the public access to a meeting held under this section, and to any hearing held under this section that the public would otherwise be entitled to attend, commensurate with the method in which the meeting or hearing is being conducted, including, but not limited to, examples such as live-streaming by means of the internet, local radio, television, cable, or public access channels, call-in information for a teleconference, or by means of any other similar electronic technology. The Municipal Body shall ensure that the public can observe and hear the discussions and deliberations of all the members of the Municipal Body, whether the member is participating in person or electronically.
- (e) When members of a Municipal Body conduct a hearing by means of teleconference, video conference, or any other similar electronic technology, the Municipal Body must establish a means, through the use of electronic equipment that is widely available to the general public, to converse with witnesses, and to receive documentary testimony and physical evidence.
- (f) The authority granted in this section applies notwithstanding to any conflicting provision of the Ohio Revised Code.”

SECTION 2. That any ordinance or any part of any ordinance that conflicts with this ordinance is repealed to the extent of the conflict.

SECTION 3. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 4. That this Ordinance constitutes an emergency in that the same provides for the immediate preservation of the public peace, health, safety and welfare of the residents of the Village of Kirtland Hills and is further necessary to have clear and proper regulations regarding meetings of Municipal Bodies of the Village; therefore, this ordinance shall be in full force and effect immediately upon its passage.

PASSED: March 6, 2023

Burdshaw
CLERK/TREASURER

John F. Treaster
MAYOR