

ORDINANCE NO. 01-23-02

**AN ORDINANCE
ENACTING A NEW CHAPTER 111, LEGAL DEFENSE AND
INDEMNIFICATION OF PUBLIC OFFICIALS AND
EMPLOYEES, OF THE KIRTLAND HILLS CODIFIED
ORDINANCES TO PROVIDE FOR THE DEFENSE AND
INDEMNIFICATION OF THE VILLAGE'S PUBLIC OFFICIALS
AND EMPLOYEES.**

WHEREAS, this Council wishes to provide additional legal protections for the Village's public officials and employees.

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

SECTION 1. That new Chapter 111, Legal Defense and Indemnification of Public Officials and Employees, 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 111
LEGAL DEFENSE AND INDEMNIFICATION OF PUBLIC
OFFICIALS AND EMPLOYEES**

111.01 INDEMNIFICATION.

- (a) Any public official or employee of the Village, while acting for the Village shall not thereby render himself liable personally and such persons are hereby relieved from all personal liability, for any loss, damage, expense, and cost including court costs and reasonable and necessary attorney fees, arising from, growing out of, by reason of, or in any way connected with any acts or omissions of such officials, officers, agents, and employees in the performance of their official duties provided that such actions were taken in good faith and the course and scope of the course and scope of the role of the public official or employee. Further, all such indemnification shall extend to elected officials, officers, agents, and employees notwithstanding the fact that performance of their official duties may be professional in nature.
- (b) The indemnification provided herein shall pertain to any action arising under federal, state, or local law.
- (c) As used in this chapter the words "public official or employee" of the Village shall be construed to include any elected or appointed official, officer, agent, or employee presently in the employ of the Village and persons who were so employed by the Village at the time when a cause of action may have or is alleged to have accrued against them.

111.02 DUTY OF DEFENSE.

Subject to the conditions set forth in this chapter, the public officials or employees referred to in Section 111.01 shall be entitled to be represented by the Village Law Department and, in the event that it is determined that a conflict of interest would exist in the representation of the public official or public employee by the Village Law Department, then the public official or public employee is entitled to be represented by counsel of his choice, provided, that such counsel is approved by the Village Council to be employed at a rate comparable to the rate of compensation paid to the Village Law Director for similar or equivalent work.

111.03 CONDITIONS.

The duty to indemnify public officials and employees imposed by this chapter shall be conditioned upon:

- (a) Delivery by the public official or employee, to the Mayor, of a written request to provide for his or her defense together with the original or a copy of any summons, complaint, process, notice, demand or pleading within ten days after he or she is served with such documents.
- (b) The full cooperation of the public official or employee in the defense of such action or proceeding and in defense of any action or proceeding against the Village based upon the same act or omission and in the prosecution of any appeal.

111.04 CONSENT JUDGMENTS AND SETTLEMENTS.

The duty to indemnify public officials and employees imposed under this chapter in the event of a consent judgment or settlement shall not become effective unless such consent judgment or settlement is approved by Council.

111.05 LIABILITY.

Nothing in this chapter shall be construed to modify, alter, or amend the existing law of the State of Ohio or the United States of America regarding civil liability of the Village or its public officials and employees; nor shall this chapter be construed to create any rights in any person, firm or corporation other than public officials and employees of the Village.

111.06 EXCEPTION.

The Village shall not indemnify or defend a public official or employee of the Village to the extent that such public official or employee is covered by a policy of insurance for civil liability purchased by the Village.

111.07 WORKERS' COMPENSATION.

The benefits of this chapter shall not be construed to affect, alter, or repeal any section of the workers' compensation law.

111.08 IMMUNITY.

The provisions of this chapter shall not be construed so as to impair, alter, limit, modify, abrogate, or restrict any immunity from liability available to the

Village and/or its public officials or employees or any other benefit provided by the statutory or common, State or Federal law to the Village, public officials or public employees.

111.09 INSURANCE.

The provisions of this chapter shall not be construed so as to impair, alter, limit or modify the rights and obligations of the Village, public officials or public employees under any policies of insurance purchased by the Village, its public officials or employees.”

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 shall take effect at the earliest time permitted by law.

PASSED: March 6, 2023

Gene Scherke
CLERK/TREASURER

John L. Tucker
MAYOR