

(Mayor Potter)

**CITY OF KIRTLAND**

**RESOLUTION NUMBER 21-R-18**

**A RESOLUTION ACKNOWLEDGING THE RETIREMENT OF  
AND CONFIRMING THE APPOINTMENT OF ANTHONY P.  
HUTTON AS THE CHIEF OF THE DIVISION OF FIRE FOR THE  
CITY OF KIRTLAND PURSUANT TO CONTRACT, AND  
DECLARING AN EMERGENCY.**

**WHEREAS**, Anthony P. Hutton has has been employed by the City of Kirtland in the Division of Fire since 1989; and

**WHEREAS**, Anthony P. Hutton has served as the Chief of the Division of Fire since July 1, 2002 with the utmost distinction; and

**WHEREAS**, Chief Hutton has tendered to the City notice of his retirement on May 4, 2021 which is conditioned upon the approval of this legislation; and

**WHEREAS**, in connection with the Chief's notice of his retirement, pursuant to Article II-A, Section 2 of the City of Kirtland's Charter, Mayor Potter, serving as the Director of Public Safety, has re-appointed Anthony P. Hutton to serve as the Chief of the Division of Fire to commence May 5, 2021; and

**WHEREAS**, pursuant to said Charter provision, the appointment of the Chief of the Division of Fire must be confirmed by two-thirds of City Council; and

**WHEREAS**, the Mayor and Chief Hutton have agreed to certain terms of employment which have been memorialized in Exhibit A, attached hereto and made a part hereof, commencing and pursuant to the execution of the attached contract; and

**WHEREAS**, Anthony P. Hutton agrees to the terms of the aforesaid contract; and

**WHEREAS**, Kirtland Codified Ordinance 220.25 requires the posting of copies of enacted legislation for fifteen consecutive days in three places within the City, those being City Hall, the Kirtland Public Library, and the Kirtland Community Center; and

**WHEREAS**, due to the current state of emergency in Ohio stemming from the COVID-19 pandemic, at some point City Hall, the Kirtland Public Library, and the Kirtland Community Center have been closed in order to protect both the community and the staff from potential infection; and

**WHEREAS**, Kirtland Codified Ordinance 220.25 grants City Council the authority to modify the posting requirement.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Kirtland, County of Lake and State of Ohio, that:

**SECTION I:** In accordance with the Charter of the City of Kirtland, this City Council hereby confirms the Mayor's appointment of, and authorizes the Mayor to enter into an agreement with, Anthony P. Hutton as the Chief of the Division of Fire for the City of Kirtland pursuant to the terms of the Agreement attached hereto, marked Exhibit "A" and made a part hereof, whose re-employment shall be effective May 5, 2021.

**SECTION II:** Anthony P. Hutton shall be paid an annual salary of Eighty-Five Thousand Two Hundred Thirteen Dollars and Forty-Four Cents (\$85,213.44), amongst other benefits, for his employment as the Chief of the Division of Fire.

**SECTION III:** The Director of Finance is authorized and instructed to issue such vouchers and expend all funds necessary to pay said wages and salary.

**SECTION IV:** The City Council, pursuant to its authority in Kirtland Codified Ordinance, Section 220.25 and due to the COVID-19 pandemic, hereby modifies the requirement to post this enacted legislation in three places and instead requires the following:

1. If City Hall, the Kirtland Public Library, and/or the Kirtland Community Center are open on the effective date of this enacted legislation, then the Clerk of Council is hereby directed to post the enacted legislation for fifteen (15) consecutive days after its effective date in each facility; and
2. Should any of the facilities listed above be closed on the effective date of the enacted legislation, then the Clerk of Council is not required to post the enacted legislation in that facility; and
3. The Clerk of Council is hereby directed to post the enacted legislation on the City of Kirtland's website for fifteen (15) consecutive days after the effective date of this legislation.

**SECTION V:**

(a) It is found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were passed 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.

(b) This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that it is necessary to continue the services of the Chief of the Division of Fire to oversee and/ or otherwise manage the Fire Department, and it is further necessary to provide for the usual and customary operations of the City; wherefor, this Resolution shall be in full force and effect immediately upon its passage by the affirmative vote of five (5) members of Council and approval by the Mayor, otherwise this Resolution shall be in effect from and after its adoption at the earliest period allowed by law.

First Reading: \_\_\_\_\_  
Second Reading: \_\_\_\_\_  
Third Reading: \_\_\_\_\_

DATE PASSED: \_\_\_\_\_

\_\_\_\_\_  
President of Council

Submitted to the Mayor for his  
Approval on this \_\_\_\_\_ day of  
\_\_\_\_\_, 2021.

ATTEST:

Approved by the Mayor, this \_\_\_\_\_ day  
of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Clerk of Council  
Appt. of Fire Chief

\_\_\_\_\_  
Mayor Kevin F. Potter

**RETIREMENT/RE-EMPLOYMENT AGREEMENT**  
**BY AND BETWEEN THE CITY OF KIRTLAND**  
**AND ANTHONY P. HUTTON**

This Retirement/Re-Employment Agreement (this "Agreement") is entered into and made effective the \_\_\_ day of \_\_\_\_\_, 2021, by and between the City of Kirtland, Ohio, a municipal corporation ("City") and Anthony P. Hutton, an individual.

**RECITALS**

**WHEREAS**, Anthony P. Hutton as worked for the City of Kirtland Division of Fire since 1989; and

**WHEREAS**, Anthony P. Hutton has served as the Chief of the Division of Fire since July 1, 2002; and

**WHEREAS**, Anthony P. Hutton has entered the DROP program and must retire within the next two years; however, he has decided to retire early; and

**WHEREAS**, the City desires to maintain his employment and re-hire Anthony P. Hutton immediately after his retirement.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, City and Anthony P. Hutton, hereby agree as follows:

1. Anthony P. Hutton will retire on May 4, 2021.
2. Upon his retirement, Anthony P. Hutton will receive the payment of any accrued and unused sick time benefits pursuant to Kirtland Codified Ordinance, Section 254.13.
3. Upon his retirement, Anthony P. Hutton will receive the payment of any earned and unused vacation benefits.
4. The City will re-employ Anthony P. Hutton in the at-will position of the Chief of the Division of Fire on May 5, 2021, subject to confirmation by Kirtland City Council pursuant to Article II-A, Section 2 of the City's Charter.
5. Upon confirmation by Council, Anthony P. Hutton will be re-employed at an annual salary in the amount of Eighty-Five Thousand Two Hundred Thirteen Dollars and Forty-Four Cents (\$85,213.44), with the same benefits of all other full-time employees with the City of Kirtland except that he will no longer be eligible for longevity pay and qualified compensation.
6. Anthony P. Hutton will be entitled to an annual professional pay in the amount of \$3,000 so long as he maintains his paramedic certification.

7. Anthony P. Hutton will be entitled to sick time benefits which shall commence on his re-hire date and will also be entitled to paid holidays.
8. Anthony P. Hutton will be entitled to four (4) weeks of "personal time."
9. Anthony P. Hutton will be entitled to the use of a City vehicle.
10. Anthony P. Hutton will have no break in his health insurance coverage during the period between his retirement and re-employment.
11. If any provision or portion of this Agreement is construed to be illegal, invalid, or unenforceable, such provision or portion thereof shall be deemed stricken and deleted from this Agreement to the same extent and effect as if it were never incorporated herein, but all other provisions of this Agreement and the remaining portion or provision that is construed to be illegal, invalid, or unenforceable in part shall continue in full force and effect.
12. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter. Hereof and supersedes all prior or contemporaneous agreements and understandings, oral and written, between the parties with respect thereto.
13. This Agreement shall be governed by the laws of the State of Ohio without reference to its conflict of law principles.

**IN WITNESS WHEREOF**, the City of Kirtland has caused this Agreement to be signed and executed on its behalf by the Mayor and Anthony P. Hutton on the date herein above set forth.

**City of Kirtland, Ohio**

\_\_\_\_\_  
Kevin F. Potter, Mayor

\_\_\_\_\_  
Anthony P. Hutton

Approved as to form:

\_\_\_\_\_  
Matthew A. Lallo, Director of Law