



**TOWN OF KIRTLAND  
RESOLUTION 2022-12  
A RESOLUTION CONCERNING GOVERNING BODY MEETINGS  
AND PUBLIC NOTICE REQUIRED**

**WHEREAS**, the Kirtland Town Council met in regular session in the Council Chambers at 47 Road 6500, Kirtland, New Mexico on December 13, 2022, at 4:30 p.m. as required by law, and

**WHEREAS**, Section 10-15-1(B) of the Open Meetings Act (OMA) (NMSA 1978, Sections 10-15-1 to 4) states that, except as may be otherwise provided in the Constitution or the provisions of the of the Open Meetings Act, all meetings of a quorum of members of any board, council, commission, administrative adjudicatory body or other policy-making body of any state or local public agency, held for the purpose of formulating public policy, including development of personnel policy, rules, regulations or ordinances, discussing public business or for the purpose of taking any action within the authority of or the delegated authority of such body, are declared to be public meetings open to the public at all times; and,

**WHEREAS**, Section 10-15-1(D) requires that "Any meetings at which the discussion or adoption of any proposed resolution, rule, regulation, or formal action occurs, and at which a majority or quorum of the body is in attendance, and any closed meetings, shall be held only after reasonable notice to the public. The affected body shall determine at least annually in a public meeting what notice for a public meeting shall be reasonable when applied to that body."

**WHEREAS**, Section 10-15-3(A), NMSA 1978 provides that "No resolution, rule, regulation, ordinance or action of any board, commission, committee or other policymaking body shall be valid unless taken or made at a meeting held in accordance with the requirements of Section 10-15-1 NMSA 1978"; and,

**WHEREAS**, Section 10-15-4, NMSA 1978 provides that "Any person violating any of the provisions of Section 10-15-1 or 10-15-2 NMSA 1978 is guilty of a misdemeanor shall be punished by a fine of not more than five hundred dollars (\$500) for each offense"; and,

**NOW, THEREFORE, BE IT RESOLVED** by the governing body of the Town of Kirtland, New Mexico that:

1. All meetings shall be held at Kirtland Town Hall, 47 Road 6500 Kirtland, New Mexico at 4:30 p.m. or as indicated in the meeting notice.
2. Unless otherwise specified, regular meetings shall be held each month on the second Tuesday of the month. The agenda will be available at least seventy-two (72) hours prior to the meeting from the Town Clerk located at Kirtland Town Hall, 47 RD 6500 Kirtland, New Mexico 87417. Notice of any other regular meetings will be given ten days in

advance of the meeting date. The notice shall indicate how a copy of the agenda may be obtained.

3. Special meetings may be called by the Mayor or the Mayor Pro-Tem or a majority of the members of the Town Council upon three days' notice. The notice shall include an agenda for the meeting or information on how members of the public may obtain a copy of the agenda. The agenda shall be available to the public at least seventy-two hours before any special meeting.
4. Emergency meetings will be called only under unforeseen circumstances that demand immediate action to protect the health, safety, and property of citizens or to protect the public

body from substantial financial loss. The Town governing body will avoid emergency meetings whenever possible. Emergency meetings may be called by the Mayor or Mayor Pro-Tem on seventy-two hours' notice unless the threat of personal injury or property damage requires less notice. The notice for all emergency meetings shall include an agenda for the meeting or information on how the public may obtain a copy of the agenda.

5. Notice requirements for all meetings are met if notice of the date, time, place and agenda is posted in the following six locations:

- (a) Lower Valley Water Association, 4286 US HWY 64
- (b) Monsterslayer, 4187 US HWY 64
- (c) Kirtland Dairy Queen, 4216 US HWY 64
- (d) General Supply, 4345 US HWY 64
- (e) Kirtland Post Office, 4211 US HWY 64
- (f) Kirtland Town Hall, 47 Road 6500

Copies of the written notice shall also be mailed or e-mailed to those broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made a written request for notice of public meetings.

6. In addition to the information specified above, all notices shall include the following language;

*If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Town Clerk at Kirtland Town Hall, 47 RD 6500, Kirtland, New Mexico at least one (1) week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Town Clerk at Kirtland Town Hall, 47 RD 6500, Kirtland, New Mexico if a summary or other type of accessible format is needed.*

7. The Town of Kirtland governing body may close a meeting to the public only if the subject matter of such discussion or action is exempted from the open meeting requirement under Section 10-15-1(H) of the Open Meetings Act.

- (a) If any meeting is closed during an open meeting, such closure shall be approved by a majority vote of a quorum of the Town governing body taken during the open meeting. The authority for the closed meeting and the subjects to be discussed shall be stated with reasonable specificity in the motion to close and the vote of each individual member on the motion to close shall be recorded in the minutes. Only those subjects specified in the motion may be discussed in the closed meeting.
  - (b) If a closed meeting is conducted when the Town governing body is not in an open meeting, the closed meeting shall not be held until public notice, appropriate under the circumstances, stating the specific provision of law authorizing the closed meeting and the subjects to be discussed with reasonable specificity is given to the members and to the general public.
  - (c) Following the completion of any closed meeting, the minutes of the open meeting that was closed, or the minutes of the next open meeting if the closed meeting was separately scheduled, shall state whether the matters discussed in the closed meeting were limited only to those specified in the motion or notice for closure.
  - (d) Except as provided in section 10-15-1(H) of the Open Meetings Act, any action taken as a result of discussions in a closed meeting shall be made by vote of the Town governing body in an open public meeting.
8. A public body may recess and reconvene a meeting to a day subsequent to that stated in the meeting notice if, prior to recessing, the public body specifies the date, time and place for continuation of the meeting and, immediately following the recessed meeting, posts notice of the date, time and place for the reconvened meeting on or near the door of the place where the original meeting was held and in at least one other location appropriate to provide public notice of the continuation of the meeting. Only matters appearing on the agenda of the original meeting may be discussed at the reconvened meeting.
9. When it is otherwise difficult or impossible for a member of the Town Council to attend the meeting in person, such member may participate in the meeting by means of a conference telephone or other similar communications equipment. Such appearance shall be valid for the purpose of establishing a quorum, for voting on all matters, and for participation in any other matter.
10. The Office of the Attorney General's Open Government Division (OGD) advises all public entities subject to the OMA to first and foremost follow the guidance of the Department of Health and other health officials to ensure the health and safety of both members of the entity and the public. Accordingly, the most prudent thing to do to ensure compliance with OMA would be to postpone/cancel a public meeting. If, however, a board, council or commission has a time-sensitive matter to attend to it may proceed with a virtual meeting, provided its notice of meeting contains detailed information (password, phone number, etc.) about how members of the public may attend and listen via telephone, live streaming or other similar technologies. More specifically, if a public body decides to proceed with a virtual meeting it should:
  - ❖ At the start of the meeting, the chair should announce the names of those members of the public body participating remotely.

- ❖ All members of the public body participation remotely must identify themselves whenever they speak and must be clearly audible to the other members of the public body and to the public.
- ❖ Members of the public should be afforded remote access, via live stream or other similar technology, if possible, or call-in number for listening by phone.
- ❖ Chair should suspend discussion if the audio or video is interrupted.
- ❖ All votes of the public body must be by roll call vote.

Additionally, we are assuming the public body's staff also would be working remotely; otherwise, the staff at least theoretically would have the ability to set up a physical location for the public to listen in. In sum, we believe OMA would require that public bodies cancel or reschedule their meetings whenever possible and opt for a virtual format only as a matter of last resort during the pendency of the public health emergency.

**PASSED, ADOPTED AND APPROVED** by the governing body this 13<sup>th</sup> day of December 2022.

SEAL

**APPROVED:**

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Mark Duncan  
MAYOR-Town of Kirtland

KIRTLAND  
**ATTEST:**

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Lou Ann M. Davis, Town Clerk