

Washington, KS 66968  
Office (785) 325-2284  
Fax (785) 325-2678



Mayor — Harold H. Jones Jr.  
City Administrator — Timothy G. Schook  
City Clerk — Denise M. Powell  
City Treasurer — Colleen R. Hillyer

2/19/2008

Kansas Insurance Department  
420 SW 9<sup>th</sup> Street  
Topeka, Kansas 66612-1678

Dear Commissioner:

The City of Washington recently updated their ordinance in regard to liens created in the case of fire and/or wind damage. In doing so we realized that we had never filed our original one with the commissioner. Please add this to your files of record.

If you are in need of any other documentation please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Schook". The signature is fluid and cursive.

Tim Schook,  
Administrator

ORDINANCE NO. 719

AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WASHINGTON, KANSAS; CHAPTER VI FIRE PROTECTION, ARTICLE 4 STRUCTURES DAMAGED BY FIRE OR EXPLOSION.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WASHINGTON, KANSAS:

TITLE AND PURPOSE: This ordinance shall amend Chapter VI Fire Protection, Article 4 Structures Damaged by Fire or Explosion, shall be codified at 6-401 through 6-411 of the City Code of the City of Washington, and shall be named Structures Damaged by Fire, Explosion or Windstorm.

Section 1. SCOPE AND APPLICATION. The city is hereby authorized to utilize the procedures established by K.S.A. 40-3901 et seq., whereby no insurance company shall pay a claim of a named insured for loss or damage to any building or other structure located within the city, arising out of any fire, explosion, or windstorm where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of seventy-five percent (75%) of the face value of the policy covering such building or other insured structure, unless there is compliance with the procedures set out in this ordinance.

Section 2. LIEN CREATED. The governing body of the city hereby created a lien in favor of the city on the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure located within the city caused by or arising out of any fire, explosion, or windstorm where the amount recoverable for all the loss or damage to the building or other structure under all policies is in excess of seventy-five percent (75%) of the face value of the policy(s) covering such building or other insured structure. The lien arises upon any unpaid tax, special ad valorem levy, or any other charge imposed upon real property by or on behalf of the city which is an encumbrance on real property, whether or not evidenced by written instrument, or such tax levy, assessment, expense or other charge that has remained undischarged for at least one year prior to the filing of a proof of loss.

Section 3. SAME; ENCUMBRANCES. Prior to the final settlement on any claim covered by Section 2, the insurer or insurers shall contact the county treasurer, Washington County, Kansas, to determine whether any such encumbrances are presently in existence. If the same are found to exist, the insurer or insurers shall execute and transmit in an amount equal to that owing under the encumbrances a draft payable to the county treasurer, Washington County, Kansas.

Section 4. SAME; PRO RATA BASIS. Such transfer of proceeds shall be on a pro rata basis by all insurance companies insuring the building or other structure.

Section 5. PROCEDURE. (a) When final settlement on a covered claim has been agreed to or arrived at between the named insured or insureds and the company or companies, and the final settlement exceeds seventy-five percent (75%) of the face value of the policy covering any building or other insured structure, and when all amount due the holder of a first real estate mortgage against the building or other structure, pursuant to the terms of the policy and endorsements thereto, shall have been paid, the insurance company or companies shall execute a draft payable to the city treasurer in the amount equal to the sum of fifteen percent (15%) of the covered claim payment, unless the chief building inspector of the city has issued a certificate to the insurance company or companies that the insured has removed the damaged building or other structure, as well as associated debris, or repaired, re-

stated, whereupon the chief building inspector shall contact the name insured or insureds by registered mail, notifying them that said insurance proceeds have been received by the city and apprise them of the procedures to be followed under this ordinance.

Section 6. FUND CREATED; DEPOSIT OF MONEYS. The city treasurer is hereby authorized and shall create a fund to be known as the "Fire Insurance Proceeds Fund." All moneys received by the city treasurer as provided for by this ordinance shall be placed in said fund and deposited in an interest-bearing account.

Section 7. BUILDING INSPECTOR; INVESTIGATION; REMOVAL OF STRUCTURE.

(a) Upon receipt of moneys as provided for by this ordinance, the city treasurer shall immediately notify the chief building inspector of said receipt, and transmit all documentation received from the insurance company or companies to the chief building inspector.

(b) Within twenty (20) days of the receipt of said moneys, the chief building inspector shall determine, after prior investigation, whether the city shall instigate proceedings under the provisions of K.S.A. 12-1750 et seq., as amended.

(c) Prior to the expiration of the 20 days established by subsection (b) of this section, the chief building inspector shall notify the city treasurer whether he or she intends to initiate proceedings under K.S.A. 12-1750 et seq., as amended.

(d) If the chief building inspector has determined that proceedings under K.S.A. 12-1750 et seq., as amended shall be initiated, he or she will do so immediately but no later than thirty (30) days after receipt of the moneys by the city treasurer.

(e) Upon notification to the city treasurer by the chief building inspector that no proceedings shall be initiated under K.S.A. 12-1750 et seq., as amended, the city treasurer shall return all such moneys received, plus accrued interest, to the insured or insureds as identified in the communication from the insurance company or companies.

Section 8. REMOVAL OF STRUCTURE; EXCESS MONEYS. If the chief building inspector has proceeded under the provisions of K.S.A. 12-1750 et seq., as amended, all moneys in excess of that which is ultimately necessary to comply with the provisions for the removal of the building or structure, less salvage value, if any, shall be paid to the insured.

Section 9. SAME; DISPOSITION OF FUNDS. If the chief building inspector, with regard to a building or other structure damaged by fire, explosion, or windstorm determines that if necessary to act under K.S.A. 12-1756, any proceeds received by the city treasurer under the authority of section 5 (a) relating to that building or other structure shall be used to reimburse the city for any expenses incurred by the city in proceeding under K.S.A. 12-1756. Upon reimbursement for the insurance proceeds, the chief building inspector shall immediately effect the release of the lien resulting there from. Should the expenses incurred by the city exceed the insurance proceeds paid over to the city treasurer under section 5 (a) the chief building inspector shall publish a new lien as authorized by K.S.A. 12-1756, in an amount equal to such excess expenses incurred.

Section 10. EFFECT UPON INSURANCE POLICIES. This ordinance shall not make the city a party to any insurance contract, nor is the insurer liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.

Section 11. INSURERS; LIABILITY. Insurers complying with this ordinance or attempting in good faith to comply with this ordinance shall be immune from civil and criminal liability and such action shall not be deemed in violation of K.S.A. 40-2404 and any amendments thereto, including with-

OF THE CITY OF WASHINGTON, ARTICLE 4 STRUCTURES DAMAGED

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Section 5. PROCEDURE.

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(b) Such transfer of funds shall be on a pro rata basis by all companies insuring the building or other structure. Policy proceeds remaining after the transfer to the city shall be disbursed in accordance with the policy terms.

(c) Upon the transfer of funds as required by subsection (a) of this section, the insurance company shall provide the city with the name and address of the insured or insureds, the total amount of the final settlement agreed to or arrived at between the insurance company or companies and the insured or insureds, whereupon the chief building inspector shall contact the named insured or insureds by registered mail, notifying them that said insurance proceeds have been received by the city and apprise them of the procedures to be followed under this ordinance.

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(c) Prior to the expiration of the 20 days established by subsection (b) of this section, the chief building inspector shall notify the city treasurer whether he or she intends to initiate proceedings under K.S.A. 12-1750 et seq., as amended.

(d) If the chief building inspector has determined that proceedings under K.S.A. 12-1750 et seq., as amended shall be initiated, he or she will do so immediately but no later than thirty (30) days after receipt of the moneys by the city treasurer.

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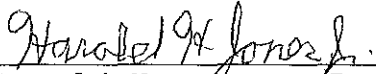
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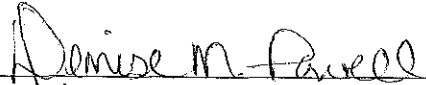
Section 10. EFFECT UPON INSURANCE POLICIES. This ordinance shall not make the city a party to any insurance contract, nor is the insurer liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.

Section 11. INSURERS; LIABILITY. Insurers complying with this ordinance or attempting in good faith to comply with this ordinance shall be immune from civil and criminal liability and such action shall not be deemed in violation of K.S.A. 40-2404 and any amendments thereto, including withholding payment of any insurance proceeds pursuant to this ordinance, or releasing or disclosing any information pursuant to this ordinance.

Section 12. EFFECTIVE DATE. This ordinance shall take effect and be in full force from and after its publication in the official city newspaper.

PASSED by the City Council this fourth day of February, 2008.

  
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Harold H. Jones, Jr., Mayor

ATTEST:   
\_\_\_\_\_  
Denise M. Powell, City Clerk

# The Washington County News

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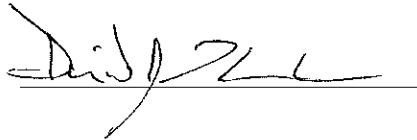
## Affidavit of Publication

**STATE OF KANSAS, WASHINGTON COUNTY, ss:**

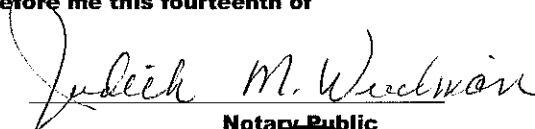
Daniel J. Thalmann, being first duly sworn, deposes and says: That He is Editor of THE WASHINGTON COUNTY NEWS, a weekly newspaper Printed in the State of Kansas and published in and of general circulation in Washington County, Kansas, with a general paid circulation on a yearly basis in Washington County, Kansas, and that said newspaper is not a trade, religious or fraternal publication.

Said newspaper is a weekly published at least weekly 50 times a year, has been so published continuously and uninterruptedly in said county and State for a period of more than five years prior to the first publication of said notice; and has been admitted at the post office of Washington in said County as a second class matter.

That the attached notice is a true copy thereof and was published in the regular and entire issue of said newspaper for one week, the publication thereof being made as aforesaid on the fourteenth of Febraury 2008.

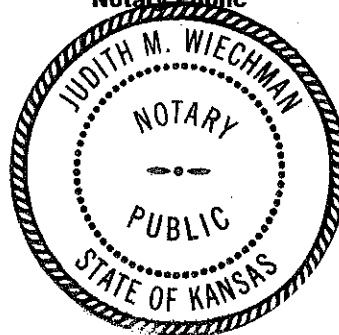


Subscribed and sworn to me before me this fourteenth of  
February 2008



Notary Public

My commission expires October 24, 2011



Re: Ordinance No. 719

Publication Fee: \$152.38