

# CITY OF SHAWNEE

**CITY HALL**  
11110 JOHNSON DRIVE  
SHAWNEE, KS 66203  
(913) 631-2500  
FAX (913) 631-7351

**CIVIC CENTRE**  
13817 JOHNSON DRIVE  
SHAWNEE, KS 66216  
(913) 631-5200  
FAX (913) 631-4651

**FIRE**  
6501 QUIVIRA ROAD  
SHAWNEE, KS 66216  
(913) 631-1080  
FAX (913) 631-1628

**POLICE**  
5850 RENNER ROAD  
SHAWNEE, KS 66217  
(913) 631-2155  
FAX (913) 631-6389

**MUNICIPAL COURT**  
5860 RENNER ROAD  
SHAWNEE, KS 66217  
(913) 742-6003  
FAX (913) 962-0983

June 26, 2018

Kansas Insurance Department  
Ken Selzer, CPA  
420 SW 9<sup>th</sup> Street  
Topeka, KS 66612

Dear Mr. Selzer:

Please allow this to serve as notice that the City of Shawnee, Kansas has adopted the enclosed ordinance in accordance with KSA 40-3902 to create a lien in favor of the City in proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or structure in the City.

Please let me know if you have any questions or need additional information. I can be reached at (913) 742-6243 or [spowell@cityofshawnee.org](mailto:spowell@cityofshawnee.org).

Sincerely,



Stephen E. Powell, CMC  
City Clerk

Cc: Ellis Rainey, City Attorney

Enclosure



**CITY OF SHAWNEE**  
**ORDINANCE NO. 3222**

**AN ORDINANCE AMENDING TITLE 3 OF THE SHAWNEE MUNICIPAL  
CODE ADDING A NEW CHAPTER 3.90 ESTABLISHING A PROPERTY  
DAMAGE INSURANCE PROCEEDS FUND**

**WHEREAS**, property damage to buildings or structures which is left unrepaired, may constitute a hazardous and unsightly nuisance to the citizens of the City of Shawnee; and

**WHEREAS**, state law authorizes cities to pass an ordinance to establish a procedure to assert a lien and collect a payment of not to exceed fifteen percent (15%) of the face value of the proceeds of any covered insurance policy claim payment made for damage or loss to any building or structure in the City, when such covered claim payment is in excess of seventy-five percent (75%) of the face value of the policy covering the building or structure; and

**WHEREAS**, the Governing Body finds that the establishment of said procedure will protect the health, safety, and welfare of the citizens of the City of Shawnee.

**NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE  
CITY OF SHAWNEE, KANSAS:**

**PARAGRAPH 1.** Title 3 of the Shawnee Municipal Code is hereby amended to add a new Chapter 3.90 to read as follows:

**CHAPTER 3.90**

**PROCEDURE FOR PAYMENT OF INSURANCE PROCEEDS PAID FOR  
DAMAGE OR LOSS TO PROPERTY  
ESTABLISHMENT OF LIEN**

**Sections:**

- 3.90.010 Scope and Application**
- 3.90.020 Lien Created**
- 3.90.030 Lien---Encumbrances**
- 3.90.040 Lien---Pro Rata Basis**
- 3.90.050 Procedure**
- 3.90.060 Find Created---Deposit of Monies**
- 3.90.070 Building Inspector---Investigation---Removal of Structure**
- 3.90.080 Removal of Structure---Excess Monies**
- 3.90.090 Removal of Structure---Disposition of Funds**
- 3.90.100 Effect Upon Insurance policies**

### **3.90.010 Scope and Application**

The City is hereby authorized to utilize the procedures established by K.S.A. 40-3901 et seq., to assert a lien in insurance covered claim proceeds payable for loss or damage to any building or other structure located within the City and provide a process for the payment to the City of a sum not to exceed fifteen percent (15%) of such proceeds. This Chapter and procedure shall apply only to a covered claim payment which exceeds seventy-five percent (75%) of the face value of the policy covering such building or other insured structure.

### **3.90.020 Lien Created**

The Governing Body of the City hereby creates 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, where the amount paid 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 (1) year prior to the filing of a proof of loss.

### **3.90.030 Lien---Encumbrances**

Prior to final settlement on any claim covered by Section 3.90.020, the insurer or insurers shall contact the County Treasurer, Johnson 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, Johnson County, Kansas.

### **3.90.040 Lien---Pro Rata Basis**

Such transfer of proceeds shall be on a pro rata basis by all insurance companies insuring the building or other structure.

### **3.90.050 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 amounts 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 Finance Director in an amount equal to the sum of fifteen percent (15%) of the covered claim payment, unless the Chief Building Official 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 all associated debris, or repaired, rebuilt, or otherwise made the premises safe and secure.
- B. Such transfer of funds shall be on a pro rata basis by all companies insuring the building or other structure.
  - C. Upon the transfer of the funds as required by subsection A of this Section, the insurance company shall provide the City with the name and address of the named insured or insureds, the total insurance coverage applicable to said building or other structure, and the 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 Official 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 Chapter.

#### **3.90.060 Fund Created---Deposit of Monies**

The City Finance Director is hereby authorized and shall create a fund to be known as the "Property Damage Insurance Proceeds Fund". All monies received by the City Finance Director as provided for by this Chapter shall be placed in said fund and deposited in an interest-bearing account.

#### **3.90.070 Building Inspector---Investigation---Removal Of Structure**

- A. Upon receipt of moneys as provided for by this Chapter, the City Finance Director shall immediately notify the Chief Building Official of said receipt, and transmit all documentation received from the insurance company or companies to the Chief Building Official.
- B. Within 20 calendar days of the receipt of said moneys, the Chief Building Official shall determine 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 calendar days established by subsection B of this Section, the Chief Building Official shall notify the City Finance Director whether he or she intends to initiate proceedings under K.S.A. 12-1750 et seq., as amended.
- D. If the Chief Building Official 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 30 calendar days after receipt of the moneys by the City Finance Director.
- E. Upon notification to the City Finance Director by the Chief Building Official that no proceedings shall be initiated under K.S.A. 12-1750 et seq., as amended, the City Finance Director 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. Such return shall be accomplished within 45 days of the receipt of the moneys from the insurance company or companies.

#### **3.90.080 Removal of Structure---Excess Monies**

If the Chief Building Official 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.

**3.90.90 Removal of Structure---Disposition of Funds**

If the Chief Building Official, with regard to a damaged building or other structure, determines that it is necessary to act under K.S.A. 12-1756, any proceeds received by the City Finance Director under the authority of Section 3.90.050(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 from the insurance proceeds, the Chief Building Official shall immediately effect the release of the lien resulting therefrom. Should the expenses incurred by the City exceed the insurance proceeds paid over to the City Finance Director under Section 3.90.050(A), the Chief Building Official shall publish a new lien as authorized by K.S.A. 12-1756, in an amount equal to such excess expenses incurred.

**3.90.100 Effect Upon Insurance Policies**

This Chapter 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.

**PARAGRAPH 2.** Upon the effective date of this Ordinance, the previously existing provisions of Section 15.52.200 shall be hereby repealed.

**PARAGRAPH 3.** If any part or parts of this Ordinance shall be held to be invalid, such invalidity shall not affect the validity of the remaining parts of this Ordinance. The Governing Body hereby declares that it would have passed the remaining parts of this Ordinance if it would have known that such part or parts thereof would be declared invalid.

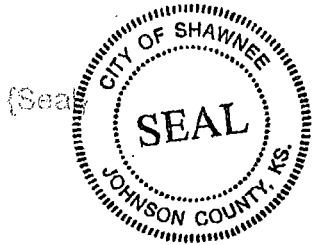
**PARAGRAPH 4.** This Ordinance shall take effect and be in force from and after its passage and publication as required by law.

**PASSED** by the Governing Body this 14th day of May, 2018.

**APPROVED AND SIGNED** by the Mayor this 14th day of May, 2018.

**CITY OF SHAWNEE, KANSAS**

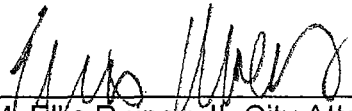
By:   
Michelle Distler, Mayor



ATTEST:

By:   
Stephen Powell, City Clerk

APPROVED AS TO FORM:

By:   
M. Ellis Rainey, II, City Attorney

I hereby certify that the foregoing is the original Ordinance No. 3222; that said Ordinance was passed on the 14 day of May, 2018; that the record of the final vote on its passage is found in Journal No. 77, Volume No. 10-2018, and Page No. 4; and that the Ordinance was published in The Legal Record, the official City newspaper on the 22 day of May, 2018.

  
\_\_\_\_\_  
Stephen Powell, City Clerk



# The Legal Record

P.O. Box 273  
Olathe, KS 66051-0273  
(913) 780-5790

CITY OF SHAWNEE - CITY CLERK  
11110 JOHNSON DR  
SHAWNEE KS 66203-2750

## Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;  
Pam Kruse, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Billing Clerk for The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

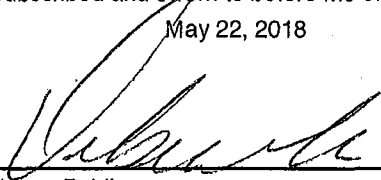
ORDINANCE #3222 SUMMARY  
5/22/18



Legal Notices Billing Clerk

Subscribed and sworn to before me on this date:

May 22, 2018



Notary Public

DEBRA VALENTI  
Notary Public-State of Kansas  
My Appt. Expires Aug 21, 2019

ORDINANCE NO. 3222  
First published in The Legal Record, Tuesday, May 22, 2018  
CITY OF SHAWNEE  
Summary of Ordinance No. 3222  
On the 14th day of May, 2018, the Governing Body of the City of Shawnee, Kansas passed Ordinance No. 3222, amending Title 3 of the Shawnee Municipal Code adding a new Chapter 3.90 establishing a Property Damage Insurance Proceeds Fund.  
A complete text of the Ordinance may be obtained or viewed free of charge at the office of the City Clerk or at [www.cityofshawnee.org](http://www.cityofshawnee.org).  
The undersigned hereby certifies as prescribed by KSA 12-3007 that the foregoing Summary of Ordinance No. 3222 is legally accurate and sufficient.  
Dated: 05/14/2018  
/s/ M. Ellis Rainey, II, City Attorney  
5/22

L73650

Publication Fees: \$7.02