

ORDINANCE NO. 2884-88

AN ORDINANCE IMPLEMENTING THE NOTICE OF CLAIM PROVISION IN THE KANSAS TORT CLAIMS ACT - K.S.A. 12-105b(d) (LAWS 1987, CHAPTER 353, SEC. 9(d)). PROVIDING THAT ANY PERSON HAVING A CLAIM AGAINST THE CITY OF OTTAWA WHICH COULD GIVE RISE TO AN ACTION BROUGHT UNDER THE KANSAS TORT CLAIMS ACT SHALL FILE A WRITTEN NOTICE AS PROVIDED HEREIN BELOW WITH THE CITY CLERK OF THE CITY OF OTTAWA, KANSAS.

WHEREAS, the governing body of the City of Ottawa, Kansas, believes it is beneficial to the City of Ottawa to implement the recently enacted changes to K.S.A. 12-105b. The governing body of the City of Ottawa believes that requiring a person who seeks a cause of action under the Kansas Tort Claims Act to file a notice of a claim with the City Clerk, and allow the city adequate time to respond to this notice will provide a number of benefits to the citizens of Ottawa. It is the commission's belief that the purpose behind a notice of claim requirement is to permit the municipality to adequately investigate the claim while the matter is still fresh and witnesses are still available, to allow for prompt settlement of meritorious claims, thus avoiding needless litigation, and to defend against groundless or fraudulent claims. The commission also believes that advance notice of possible liability will aid the public in determining their future taxes in planning the city's fiscal budget.

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

Section 1. The Ottawa Municipal Code Chapter 2, Section 1201 is hereby created and shall appear in the Ottawa Municipal Code as follows:

2-1201 NOTICE OF CLAIM. It shall be the duty of the City Clerk of the City of Ottawa to provide the form of notice required by this ordinance. A notice required by this ordinance shall be filed with the City Clerk of Ottawa. A notice form shall be compiled by the City Clerk of Ottawa and shall comply with K.S.A. 12-105b(d) and be approved by the City Attorney of Ottawa. Further, the notice must state: (a) the name and address of the claimant and the claimant's attorney; (b) statements of the factual basis of the claim, including date, time, place and circumstances of the event; (c) name and address of any involved public employee or official known to the claimant; (d) statement of nature and extent of injuries suffered; and (e) the amount of monetary damages sought. Once the claim is filed with the City Clerk of Ottawa, the City, through the City Manager, shall have 120 days to approve, in whole or in part, the claim presented to the City. If the City does not act within 120 days, then the claim shall be deemed denied.

Section 2. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official newspaper of the City of Ottawa, according to law.

Section 3. This ordinance shall become a part of the Municipal Code of the City of Ottawa, Kansas, 1982, and shall hereinafter be designated as Municipal Code Section 2-1201.

PASSED AND ADOPTED BY THE GOVERNING BODY of the City of Ottawa, Kansas, this 17th day of February, 1988.


Fred J. Heathman, Mayor

ATTEST:


Orlin W. Smith, City Clerk

Name(s) and Address(es) of City Employee(s) continued:

Name

Street and/or Mailing Address

City

State

Zip

Phone

Alternate Phone Number

- 5. Location of Incident (if specific address is not known, give directions from nearest intersection or known address):**

- 6. Day, Date, and time of Incident:**

Day/Date of Incident

Time: AM / PM

- 7. Amount of Claim:**

Property Damage: \$ _____ ACTUAL / ESTIMATE

Personal Injury: \$ _____ ACTUAL / ESTIMATE

Total: \$ _____ ACTUAL / ESTIMATE

Attach any/all documentation if available.

- 8. Description of Incident: (State below in detail, all known facts and circumstances relating to the damage or injury to persons or property involved and the cause thereof)**

9. Property Damage: (Describe kind and location of property and nature and extent of damage)

10. Personal Injury:

A. State nature and extent of injury which forms the basis of this claim:

B. If medical treatment was obtained as a result of the incident, provide the names of physician and medical treatment facility:

11. Witnesses to Incident: (Provide all names and addresses of any eyewitnesses, if applicable)

Name

Street and/or Mailing Address

City

State

Zip

Phone

Alternate Phone Number

Witnesses to Incident continued:

Name

Street and/or Mailing Address

City

State

Zip

Phone

Alternate Phone Number

12. Claimant's Certification:

I certify that the amount of claims covers only damages and injuries caused by the incident above and agree to accept said amount in full satisfaction and final settlement of this claim.

Claimant's Signature

Date

13. City Clerk's Certification:

Please print, sign, and submit form to the
City Clerk at the address shown on page 1.

Received in the Office of the City Clerk of Ottawa, Kansas:

City Clerk's Signature

Date Received

Comments: _____

Official Use Only:

Received in HR by: _____

Date: _____

File Started: _____

Recorded in Log: _____

Submitted to City Attorney: _____

Documentation attached:

Site Photos

Eye Witness Reports

Estimates / Invoices

Other _____

Claimant Notified: _____

File Closed: _____