



CITY COUNCIL
Work Session – Tuesday, February 22, 2022 5:00 p.m.
Council Chambers

1368 Research Park Dr
Beavercreek, Ohio

- I. CALL TO ORDER
- II. ROLL CALL
- III. APPROVAL OF AGENDA
- IV. DISCUSSION ITEMS
 - A. Shared Mobility Devices
 - B. MOU CLEPP College to Law Enforcement Pathway Program
 - C. Fireworks
 - D. Flock Safety Cameras
 - E. Fire Damage Insurance Deposits
- V. COUNCIL COMMITTEE/EVENT UPDATES
- VI. ADJOURNMENT

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**CITY OF BEAVERCREEK
CITY COUNCIL
AGENDA ITEM REPORT**

Meeting Date: 2-21-2022	Reference Topic: Fire Insurance Trust Fund
Agenda Reference No.:	

ACTION REQUESTED		
<input type="checkbox"/> Adopt Ordinance	<input type="checkbox"/> Adopt Resolution	<input checked="" type="checkbox"/> Review and Comment
<input type="checkbox"/> No Action Requested	<input type="checkbox"/> Accept Staff Recommendation	<input type="checkbox"/> Other _____

RESPONSIBLE DEPARTMENT OR AGENCY		
<input checked="" type="checkbox"/> Finance	<input type="checkbox"/> City Council	<input type="checkbox"/> Law
<input type="checkbox"/> Parks & Recreation	<input type="checkbox"/> Engineering	<input checked="" type="checkbox"/> Planning & Development
<input type="checkbox"/> Police	<input type="checkbox"/> Public Service	<input type="checkbox"/> City Manager
<input type="checkbox"/> Clerk of Council	<input type="checkbox"/> Human Resources	<input type="checkbox"/> Other: Tree Advisory Committee _____

DISCUSSION

As set forth in ORC 3929.86, Section 35.37 of the City of Beavercreek Code of Ordinances, which was last passed in 1983, provides that in the event of any loss by fire within the City, when the amount of such loss agreed to between the named insureds and the company insuring such loss equals or exceeds 60 percent of the aggregate limits of liability on all fire policies covering the building or structure insured, the insurance company, in accordance with ORC 715.26F, shall transfer from the insurance proceeds in the amount of \$1,000 for each \$20,000 to the City. The intent is to ensure that burned or destroyed structures either get repaired to workmanship standards, or be completely removed and the lot returned to community standards. However, ORC 3929.86 has since been amended since 1983, and has increased the statutory amounts to \$2,000 for each \$15,000 of proceeds. Therefore, the City desires to amend section 35.37 of the Code of Ordinances to be consistent with the amount stated in 3929.86.

In addition to matching the financial language of 3929.86, the attached strikethrough version of 35.37 further outlines the mechanism by which the proceeds transferred to the City will be released to the owners, as required by, and consistent with ORC 3929.86 (C) and (D).

The attached strike through version highlights deletions in red ~~deletions~~, additions in blue (additions) and section location changes in green, double underlined (location changes).

35.37 FIRE INSURANCE TRUST FUND.

(A) There is created a Fire Insurance Trust Fund which shall be maintained separately from all other city funds as a trust fund for the purposes hereinafter enumerated.

(B) For the purposes specified in R.C. § 3929.86, the fiscal officer of the city is designated as the officer to administer the Fire Insurance Trust Fund.

(C) In the event of any loss by fire within the city occurring after the effective date of this section when the amount of the loss agreed to between the named insured or insureds and the company or companies insuring the loss equals or exceeds ~~60%~~sixty percent of the aggregate limits of liability on all fire policies covering the building or structure insured, the insurance company or companies, in accordance with R.C. § 715.26 (F), shall transfer from the insurance proceeds to the fiscal officer of the city in the aggregate ~~\$1,000~~two thousand dollars for each ~~\$20,000~~fifteen thousand dollars, and each fraction of that amount, of a claim, or, if, at the time of a proof of loss agreed to between the named insured or insureds and the insurance company or companies, the named insured or insureds have submitted a contractor's signed estimate of the costs of removing, repairing, or securing the building or other structure, shall transfer from the insurance proceeds the amount specified in the estimate.

(1) Such transfer of proceeds 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.

(2) The named insured or insureds may submit a contractor's signed estimate of the costs of removing, repairing, or securing the building or other structure after the transfer, and the fiscal officer of the city shall return the amount of the fund in excess of the estimate to the named insured or insureds, provided that the city has not commenced to remove, repair, or secure the building or other structure.

~~(E)3~~ In accordance with the provision of R.C. § 3929.86, the Clerk of Council is directed to file a certified copy of this section with the Superintendent of Insurance of the state.

(D) Upon receipt of proceeds by the city as authorized by this section and R.C. § 3929.86, the fiscal officer of the city shall place the proceeds in the Fire Insurance Trust Fund to be used solely as security against the total cost of removing, repairing, or securing incurred by the city pursuant to R.C. § 715.261. When transferring the funds as required by this section an insurance company shall provide the fiscal officer of the city with the name and address of the named insured or insureds, whereupon the fiscal officer of the city or his designee shall contact the named insured or insureds, certify that the proceeds have been received by the city and notify them that the following procedures will be followed:

(1) The fund shall be returned to the named insured or insureds when repairs or, removal, or securing of the building or other structure have been completed and the required proof has been received by the fiscal officer of the city, if the city has not incurred any costs for repairs, removal or securing of the buildings or other structure. However, the fund shall be returned to the named insured or insureds no later than sixty days after the designated officer receives the required proof. If the city has incurred any costs for repairs, removal, or securing of the building or other structure, such costs shall be paid from the fund, and if excess funds remain, the city shall transfer, no later than sixty days after all such costs have been paid, the remaining funds to the named insured or insureds. Nothing in this section shall be construed to limit the ability of the city to recover any deficiency under R.C. § 715.261.

(2) Nothing in this section shall be construed to prohibit the city and the named insured or insureds from entering into an agreement that permits the transfer of funds to the named insured or insureds if some other reasonable disposition of the damaged property has been negotiated.

~~(E)~~ In accordance with the provision of R.C. § 3929.86, the Clerk of Council is directed to file a certified copy of this section with the Superintendent of Insurance of the state.

(E) Proof of payment by the company or companies of proceeds under a policy in accordance with this section is conclusive evidence of the discharge of its obligation to the insured under the policy to the extent of the payment and of compliance by the company or companies with this section.

(F) Nothing in this section shall be construed to make an insurance company liable for any amount in excess of proceeds payable under its insurance policy or for any other act performed pursuant to this section, or to make the city an insured under a policy of insurance, or to create an obligation to pay delinquent property taxes or unpaid removal liens or expenses other than as provided in this section.

(G) An insurance company making payment of policy proceeds under this section for delinquent taxes or structure removal liens or removal expenses incurred by the city shall have the full benefit of such payment including all rights of subrogation and of assignment.

(H) As used in this section, "insurance company" or "insurer" includes the Ohio fair plan underwriting association as established in section 3929.43 of the Ohio Revised Code.

(I) This section shall be liberally construed to accomplish its purpose to deter the commission of arson and related crimes, to discourage the abandonment of property, and to prevent urban blight and deterioration.