

ORDINANCE NO. 1753

**AN ORDINANCE RELATING TO THE INSURANCE PROCEEDS FUND; AMENDING THE TITLE OF CHAPTER 11, ARTICLE V AND SECTIONS 11-119, 11-121, AND 11-124 OF THE CODE OF ORDINANCES OF THE CITY OF MERRIAM, KANSAS; AND REPEALING THE SECTIONS HEREBY AMENDED.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MERRIAM, KANSAS THAT:**

**SECTION 1.** The Title of Chapter 11, Article V of the Code of the City of Merriam, Kansas is hereby amended to read as follows:

**ARTICLE V. - INSURANCE PROCEEDS FUND**

**SECTION 2.** Section 11-119 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

**Sec. 11-119. - Scope and application.**

There is hereby created an insurance proceeds fund. 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, where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of 75 percent 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 article.

**State Law reference** – Payment of proceeds of insurance policies. K.S.A. 40-3901.

**SECTION 3.** Section 11-121 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

**Sec. 11-121. - Fund created; deposit of moneys.**

The city treasurer is hereby authorized and shall create a fund to be known as the "Insurance Proceeds Fund." All moneys received by the city treasurer as provided for by this article shall be placed in the fund and deposited in an interest-bearing account.

**SECTION 4.** Section 11-124 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

**Sec. 11-124. - Same—Lien created.**

If the community development director, with regard to the loss or damage of a building or other structure, determines that it is necessary to act under K.S.A. 12-1756, any proceeds received by the city treasurer under the authority of section 11-120(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 community development director 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 treasurer under section 11-120(a), the community development director shall publish a new lien as authorized by K.S.A. 12-1756, in an amount equal to such excess expenses incurred.

**SECTION 5. Existing Sections.** Those sections of Chapter 11, Article V of the Code of Ordinances of the City of Merriam, Kansas not heretofore repealed shall remain in full force and effect.

**SECTION 6. Severability.** If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be invalid, such invalidity shall not affect the validity of the remaining portions of this Ordinance and the Governing Body hereby declares that it would have passed the remaining portions of this Ordinance if it would have known that such part or parts thereof would be declared invalid.

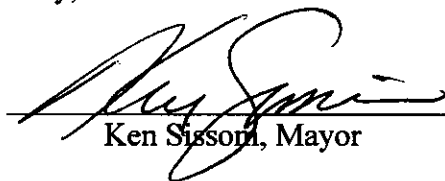
**SECTION 7. Repeal.** That Sections 11-119, 11-121, and 11-124 of the Code of Ordinances of the City of Merriam, Kansas as they existed prior to the above amendments are hereby repealed.

**SECTION 8. Take Effect.** That this ordinance shall be in full force and effect from and after its passage, approval, and publication in the official city newspaper, all as provided by law.

PASSED BY THE City Council the 11<sup>th</sup> day of July, 2016.

APPROVED BY THE Mayor the 11<sup>th</sup> day of July, 2016.

(Seal)

  
Ken Sisson, Mayor

ATTEST:

  
Juliana Pinnick, City Clerk

APPROVED AS TO FORM:

  
Nicole Proulx Aiken, City Attorney

