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AN ORDINANCE ESTABLISHING A FIRE INSURANCE PROCEEDS FUND FOR THE CITY OF ALTAMONT, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ALTAMONT, KANSAS.

Section 1. SCOPE AND APPLICATION.

The City of Altamont is hereby authorized to utilize the procedures established by K.S.A. 40-3901 et. seq., whereby no insurance company shall pay any claim of a named insured for any loss or damage to any building or structure located within the City limits of the City of Altamont, Kansas, arising out of any fire or explosion, where the amount recoverable for the loss or damage to the building or structure under all policies is in excess of 75% per cent of the face value of said policy covering such building or other insured structure, unless the property owner complies with the procedures set out in this ordinance.

Section 2. CREATION OF A LIEN.

The governing body of the City of Altamont, Kansas hereby, through this ordinance, creates a lien in favor of the City of Altamont to the proceeds of any insurance policy based upon any covered claim payment made for damage or loss to a building or other structure situated within the City of Altamont, Kansas, caused by or arising out of any fire or explosion, where the amount recoverable for all the loss or damage to the building or other structure under all policies is greater than 75% percent of the face value of said policies covering said buildings or other insured structures. 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 of Altamont, Kansas which is an encumbrance on real property, whether or not evidenced by a written instrument or such tax levy, assessment expense other other charge that has remained undischarged for a least one (1) year prior to the filing of a proof of loss by the insured.

Section 3. ENCUMBRANCES.

Before making any final settlement on any claim covered by Section 2 of this Ordinance, the insurer or insurers shall contact the County Treasurer of Labette County, Kansas, to ascertain whether any such encumbrances exist. If such encumbrances are found to exist, the insurer or insurers shall execute and transmit to the Treasurer of Labette County, Kansas, a bank draft payable to said Treasurer in a sum equal to the amount determined to be owing pursuant to said encumbrance at that time.

Section 4. PRO RATA BASIS.

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

PROCEDURES.

(A) When final settlement on a covered claim has been agreed upon or arrived at between the named insured or insureds and the insurance company or companies, and the final settlement exceeds 75% per cent of the face value of the policy covering any building or other insured structure, and when all amounts due to the holder of the 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 bank draft payable to the Treasurer of the City of Altamont, Kansas, in an amount equal to the sum of \$5,000.00 or 10% per cent of the covered claim payment, whichever is less, unless the chief building inspector of the City of Altamont, Kansas 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) Any 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 of Altamont, Kansas, shall be disbursed in accordance pursuant to the terms of said policy.

(C) Upon the transfer of funds as required by subsection A of this section, the insurance company shall provide the City of Altamont, Kansas 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 upon or arrived at between the insurance company or companies and the insured or insureds, whereupon the chief building inspector of the City of Altamont, Kansas, shall contact the named insured or insureds by register mail, notifying them that said insurance proceeds have been received by the City and advise them of the procedures to be followed pursuant to this ordinance.

Section 6. FUND CREATED; DEPOSIT OF MONIES.

The Altamont City Treasurer is hereby authorized and shall create a fund to be known as the "FIRE ORDINANCE PROCEEDS FUND". All monies received by said Treasurer pursuant to 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 the receipt of monies pursuant to this Ordinance, the Altamont City Treasurer shall immediately notify the chief building inspector of said receipt and then transmit all documentation received from the insurance company or companies to the chief building inspector.

(B) Within 30 days of the receipt of said documentation, the chief building inspector of Altamont, Kansas shall commence proceedings pursuant to K.S.A. 12-1750 et. seq., as amended.

(C) Prior to the expiration of 30 days established by subsection (B) of this section, the chief building inspector shall notify the Altamont City Treasurer whether he or she intends to initiate proceedings pursuant to 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 not later than 30 days after receipt of the moneys by the Altamont City Treasurer.

(E) Upon the Altamont City Treasurer being notified by the chief building inspector for the City of Altamont that no proceedings shall be commenced pursuant to K.S.A. 12-1750 et. seq. as amended, said Treasurer shall refund all moneys previously received to the insured or insureds as identified in the communications from the insurance company or companies. Such refund shall be completed within 30 days of the receipt of said moneys from the insurance company or companies.

Section 8. REMOVAL OF STRUCTURE; EXCESS MONEYS.

If the chief building inspector of the City of Altamont has proceeded pursuant to 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. DISPOSITION OF FUNDS.

If the chief building inspector of the City of Altamont determines, with regard to a building or other structure damaged by fire or explosion, that it is necessary to act pursuant to K.S.A. 12-1756, any proceeds received by the Altamont City Treasurer under the authority of Section 5(a) relating to that building or other structure shall be used to reimburse the city of Altamont for any expenses incurred by the City in proceeding under K.S.A. 12-1756. Upon reimbursement from the insurance proceeds, the chief building inspector shall immediately effect the release of the lien resulting therefrom. If the expenses incurred by the City exceed the insurance proceeds paid over to the Altamont 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 of Altamont 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.

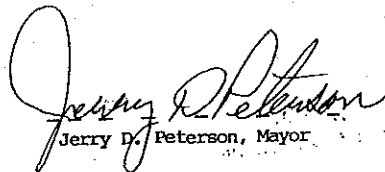
Section 11. INSURERS; LIABILITY.

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.

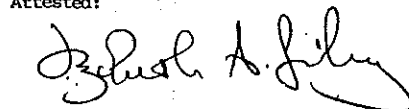
Section 12. TAKING EFFECT.

This ordinance shall take effect and be in force from and after its passage, approval and publication once in the official City newspaper.

Passed and Approved by the Governing Body of the City of Altamont, Kansas on this 12th day of August, 1996.


Jerry D. Peterson, Mayor

Attested:



Lizabeth A. Finley
Altamont City Clerk