



6-28
called Phil. Sent
for copies of sample
of other city ord.

7/14
called Jean to
followup.

June 24, 2005

Ms. Sandy Praeger
Kansas Commissioner of Insurance
420 SW 9th Street
Topeka, KS 66612-1678

RE: Ordinance Establishing an Insurance Proceed Fund
City of Derby, Kansas

Dear Ms. Praeger:

Enclosed please find a copy of Ordinance No. 1821 adopted by the governing body of the City of Derby on March 22, 2005. This ordinance was published in the official publication of the City, the Derby Weekly Informer on March 30, 2005. An affidavit of publication is enclosed as well.

Ordinance No. 1821 establishes procedures for payment of a portion of the proceeds of certain insurance claim payments to the City, to be used to repair or remove structures damaged by fire, explosion or windstorm; and creating a lien on such proceeds for satisfaction of unpaid taxes, levies, special assessments, expenses and other charges. It is my understanding that your office distributes a list of cities having lien ordinances to insurance companies that write the applicable policies in Kansas. If my assumption is incorrect, please advise of the proper procedure.

Thank you for your assistance.

Yours truly,

Jean Epperson
City Clerk/Director of Finance

KSA

40-3901 →

Cc: Mark F. Schroeder, City Manager
Brad Smith, Fire Chief

**City of Derby
Finance Office**

611 N. Mulberry · Derby, Ks 67037-3533 · 316/788-1519 · Fax 316/788-6067
Homepage: www.derbyweb.com E-mail: Finance@derbyweb.com

Phil Alexander
(city attorney)

ORDINANCE NO. 1821

AN ORDINANCE ESTABLISHING PROCEDURES FOR PAYMENT OF A PORTION OF THE PROCEEDS OF CERTAIN INSURANCE CLAIM PAYMENTS TO THE CITY, TO BE USED TO REPAIR OR REMOVE STRUCTURES DAMAGED BY FIRE, EXPLOSION OR WINDSTORM; AND CREATING A LIEN ON SUCH PROCEEDS FOR SATISFACTION OF UNPAID TAXES, LEVIES, SPECIAL ASSESSMENTS, EXPENSES AND OTHER CHARGES.

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

Section 1. Withholding and payment of insurance proceeds to City. a. Whenever an insured building or other structure located within the City is damaged or destroyed by fire, explosion or windstorm, and there is payable to owner thereof or to another interested party a claim payment in excess of 75% of the face value of the policy covering a building or other insured structure and when all amounts due the holder of a first real estate mortgage against such building or other structure pursuant to the terms of the policy and endorsements thereto have been paid, the insurer shall execute a draft equal to 15 per cent (15%) of the covered claim payment unless the building official of the City has issued a certificate to such insurer or insurers, certifying that the insured has removed the damaged building or other structure as well as all associated debris, or has repaired, rebuilt or otherwise make the premises safe and secure. In the event of multiple insurers, such transfer of funds shall be on a pro rata basis by all insurers of the building or structure.

b. Upon the transfer of funds hereinabove provided, the insurer shall provide the City with the name and address of the named insured or insureds, the total insurance coverage applicable to such building or structure, and the amount of the final settlement agreed to or arrived at between the insurer or insurers and the insured or insureds, whereupon the building official shall notify the named insured or insureds by registered mail, advising them that such insurance proceeds have been received by the City and describing the procedure established by this ordinance.

Section 2. The city shall release the insured's proceeds and any interest that has accrued on such proceeds received under subsection (b) within 30 days after receipt of such moneys, unless the city has instituted legal proceedings under the provisions of K.S.A. 12-1752, and amendments thereto. If the city has proceeded under the provisions of K.S.A. 12-1752, and amendments thereto, all moneys in excess of that necessary to comply with the provisions of K.S.A. 12-1750 *et seq.*, and amendments thereto, for the removal of the building or structure, less salvage value, shall be paid to the insured.

Section 3. Fund created; deposit of moneys. The city treasurer shall create a fund to be known as the "Insurance Proceeds Fund." All moneys received by the city treasurer as

provided for in this ordinance, other than moneys received in satisfaction of encumbrances as provided in section ___ hereof, shall be placed in said fund and deposited in an interest-bearing account.

Section 4. Proceedings to demolish or otherwise make property safe. a. Upon receipt of moneys as provided in section 1 hereof, the city treasurer shall immediately notify the building official and transmit all documentation received from the insurer or insurers to the building official.

b. Within 20 days of receipt of such moneys, the building official shall determine whether the City will initiate proceedings under K.S.A. 12-1750 *et seq.*, and shall notify the city treasurer whether such proceedings will be initiated. If warranted, such proceedings shall be initiated within 30 days after receipt of such moneys by the city treasurer pursuant to section 1 hereof.

c. If proceedings pursuant to K.S.A. 12-1750 *et seq.*, will not be initiated, the building official shall so notify the city treasurer, who shall forthwith return all moneys received pursuant to section 1 of this ordinance, together with accrued interest, to the insured or insureds as identified in the notice from the insurer or insurers.

d. Any moneys remaining after a building or structure has been made safe or demolished pursuant to proceedings under K.S.A. 12-1750 *et seq.*, shall be paid to the insured or insureds.

Section 5. Procedure for immediate hazard. In the event the building official determines it necessary to proceed pursuant to K.S.A. 12-1756 to demolish or otherwise make safe a building or structure damaged by fire, explosion or windstorm, any proceeds received by the city treasurer pursuant to section 1 of this ordinance shall be used to reimburse the City for any expenses incurred in connection therewith. Upon reimbursement of such expenses, the building official shall forthwith release the lien resulting therefrom. In the event such expenses exceed the moneys on deposit with the city treasurer therefore, the building official shall publish a new lien pursuant to K.S.A. 12-1756, in an amount equal to such excess.

Section 6. Lien for unpaid taxes, levies, assessments, expenses and other charges. a. There is hereby created a lien in favor of the City in the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure, caused by or arising out of any fire, explosion or windstorms. The lien shall arise upon any unpaid tax, special *ad valorem* levy, special assessment or 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 year prior to the filing of a proof of loss.

b. Prior to final settlement on any claim covered by this ordinance, the insurer or insurers shall contact the county treasurer of Sedgwick County, Kansas, to determine whether any such encumbrances exist. If such encumbrances exist, the insurer or insurers shall execute and transmit a draft payable to the county treasurer of Sedgwick County, Kansas, in an amount

equal to the total of such encumbrances. When there is more than one insurer liable to make such payment, they shall transfer a *pro rata* portion of the total proceeds payable by all such insurers.

Section 7. EFFECTIVE DATE. This ordinance shall be effective from and after its publication once in the official City newspaper.

ADOPTED BY THE GOVERNING BODY this 22nd day of March, 2005.



Dion P. Avello, Mayor

ATTEST:



Jean Epperson, City Clerk

Affidavit of Legal Publication

STATE OF KANSAS)

ss.

County of Sedgwick)

Rhonda R. Cott, being first duly sworn, deposes and says: That he/she is Legal Manager of

The Derby Weekly Informer

a weekly newspaper printed in the State of Kansas, and published in and of general circulation in Sedgwick County, Kansas, with a general paid circulation on a weekly basis in Sedgwick County, Kansas, and that said newspaper is not a trade, religious or fraternal publication.

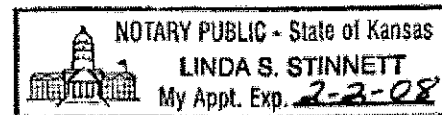
Said newspaper is a weekly published on Wednesdays, and has been so published continuously and uninterrupted in said county and state for a period of more than one year prior to the first publication of said notice, and has been admitted at the post office of Derby, Kansas, in said county as second class matter.

That the attached notice is a true copy thereof and was published in the regular and entire issue of said newspaper for 1 week the first publication thereof being made as aforesaid on the 30th day of March, 2005, with subsequent publications being made on the following dates:

Handwritten signature of Rhonda R. Cott

Subscribed and sworn to before me this 31 day of MARCH, 2005.

Handwritten signature of Linda S. Stinnett, Notary Public



Printer's Fee: \$104.00

Additional copies: \$

Legal Publication

(Published in The Derby Weekly Informer on March 30, 2005)

ORDINANCE NO. 1821 AN ORDINANCE ESTABLISHING PROCEDURES FOR PAYMENT OF A PORTION OF THE PROCEEDS OF CERTAIN INSURANCE CLAIM PAYMENTS TO THE CITY, TO BE USED TO REPAIR OR REMOVE STRUCTURES DAMAGED BY FIRE, EXPLOSION OR WINDSTORM; AND CREATING A LIEN ON SUCH PROCEEDS FOR SATISFACTION OF UNPAID TAXES, LEVIES, SPECIAL ASSESSMENTS, EXPENSES AND OTHER CHARGES.

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

Section 1. Withholding and payment of insurance proceeds to City. a. Whenever an insured building or other structure located within the City is damaged or destroyed by fire, explosion or windstorm, and there is payable to owner thereof or to another interested party a claim payment in excess of 75% of the face value of the policy covering a building or other insured structure and when all amounts due the holder of a first real estate mortgage against such building or other structure pursuant to the terms of the policy and endorsements thereto have been paid, the insurer shall execute a draft equal to 15 per cent (15%) of the covered claim payment unless the building official of the City has issued a certificate to such insurer or insurers, certifying that the insured has removed the damaged building or other structure as well as all associated debris, or has repaired, rebuilt or otherwise make the premises safe and secure. In the event of multiple insurers, such transfer of funds shall be on a pro rata basis by all

insurers of the building or structure.

b. Upon the transfer of funds hereinabove provided, the insurer shall provide the City with the name and address of the named insured or insureds, the total insurance coverage applicable to such building or structure, and the amount of the final settlement agreed to or arrived at between the insurer or insurers and the insured or insureds, whereupon the building official shall notify the named insured or insureds by registered mail, advising them that such insurance proceeds have been received by the City and describing the procedure established by this ordinance.

Section 2. The city shall release the insured's proceeds and any interest that has accrued on such proceeds received under subsection (b) within 30 days after receipt of such moneys, unless the city has instituted legal proceedings under the provisions of K.S.A. 12-1752, and amendments thereto. If the city has proceeded under the provisions of K.S.A. 12-1752, and amendments thereto, all moneys in excess of that necessary to comply with the provisions of K.S.A. 12-1750 et seq., and amendments thereto, for the removal of the building or structure, less salvage value, shall be paid to the insured.

Section 3. Fund created; deposit of moneys. The city treasurer shall create a fund to be known as the "Insurance Proceeds Fund." All moneys received by the city treasurer as provided for in this ordinance, other than moneys received in satisfaction of encumbrances as provided in section hereof, shall be placed in said fund and deposited in an interest-bearing account.

Section 4. Proceedings to demolish or otherwise make property safe. a. Upon receipt of moneys as provided in section 1 hereof, the city treasurer shall immediately notify the

building official and transmit all documentation received from the insurer or insurers to the building official.

b. Within 20 days of receipt of such moneys, the building official shall determine whether the City will initiate proceedings under K.S.A. 12-1750 et seq., and shall notify the city treasurer whether such proceedings will be initiated. If warranted, such proceedings shall be initiated within 30 days after receipt of such moneys by the city treasurer pursuant to section 1 hereof.

c. If proceedings pursuant to K.S.A. 12-1750 et seq., will not be initiated, the building official shall so notify the city treasurer, who shall forthwith return all moneys received pursuant to section 1 of this ordinance, together with accrued interest, to the insured or insureds as identified in the notice from the insurer or insurers.

d. Any moneys remaining after a building or structure has been made safe or demolished pursuant to proceedings under K.S.A. 12-1750 et seq., shall be paid to the insured or insureds.

Section 5. Procedure for immediate hazard. In the event the building official determines it necessary to proceed pursuant to K.S.A. 12-1756 to demolish or other wise make safe a building or structure damages by fire, explosion or windstorm, any proceeds received by the city treasurer pursuant to section 1 of this ordinance shall be used to reimburse the City for any expenses incurred in connection therewith. Upon reimbursement of such expenses, the building official shall forthwith release the lien resulting therefrom. In the event such expenses exceed the moneys on deposit with the city treasurer therefore, the building official shall publish a new lien pursuant to K.S.A. 12-1756, in an amount equal to such excess.

Section 6. Lien for unpaid taxes, levies, assessments, expenses and other charges. a. There is hereby created a lien in favor of the City in the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure, caused by or arising out of any fire, explosion or windstorms. The lien shall arise upon any unpaid tax, special ad valorem levy, special assessment or 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 year prior to the filing of a proof of loss.

b. Prior to final settlement on any claim covered by this ordinance, the insurer or insurers shall contact the county treasurer of Sedgwick County, Kansas, to determine whether any such encumbrances exist. If such encumbrances exist, the insurer or insurers shall execute and transmit a draft payable to the county treasurer of Sedgwick County, Kansas, in an amount equal to the total of such encumbrances. When there is more than one insurer liable to make such payment, they shall transfer a pro rata portion of the total proceeds payable by all such insurers.

Section 7. EFFECTIVE DATE. This ordinance shall be effective from and after its publication once in the official City newspaper.

ADOPTED BY THE GOVERNING BODY this 22nd day of March, 2005.

Dion P. Avello, Mayor ATTEST: Jean Epperson, City Clerk

TRANSMISSION VERIFICATION REPORT

TIME : 06/28/2005 09:22
NAME : KANSAS INSURANCE
FAX : 7852913673
TEL : 7852913673
SER. # : BROL4J144661

DATE, TIME	06/28 09:20
FAX NO./NAME	#83167886067
DURATION	00:01:52
PAGE(S)	07
RESULT	OK
MODE	STANDARD ECM



K a n s a s I n s u r a n c e D e p a r t m e n t

Sandy Praeger

COMMISSIONER OF INSURANCE

FAX

To:	Phil Alexander	From:	Mel Scott Kansas Ins Dept
Fax:	316 788-6067	Pages:	7 (including this page)
Phone:	316 788-1519	Date:	Tuesday, June 28, 2005
Re:		CC:	

Urgent For Review Please Comment Please Reply Please Recycle

Record of Ordinances

Ordinance No. _____

ORDINANCE NO. 756

AN ORDINANCE RELATING TO THE ESTABLISHMENT AND IMPLEMENTATION OF AN INSURANCE PROCEEDS FUND PURSUANT TO K.S.A. 40-3901 *ET SEQ.*

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TRIBUNE, KANSAS;

SECTION 1. SCOPE AND APPLICATION. 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, arising out of any fire, explosion, or windstorm, 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 ordinance.

SECTION 2. 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, caused by or arising out of any fire, explosion, or windstorm, where the amount recoverable for all 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(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 year prior to the filing of a proof of loss.

SECTION 3. SAME; ENCUMBRANCES. Prior to final settlement on any claim covered by Section 2, the insurer or insurers shall contact the county treasurer, Greeley 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, Greeley County, Kansas.

SECTION 4. SAME; PRO RATA BASIS. Such transfer of proceeds shall be on a pro rata basis by all insurance companies insuring the building or other structure.

SECTION 5. 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 75 percent 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 treasurer in an amount equal to the sum of 15 percent of the covered claim payment, unless the chief building inspector of the city has issued a certificate to the insurance company or companies that the insured has

Record of Ordinances

Ordinance No. _____

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. Policy proceeds remaining after the transfer to the city shall be disbursed in accordance with the policy terms.

(c) Upon the transfer of the funds as required by subsection (a) of this ordinance, 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 inspector shall contact the named insured or insureds by certified mail, return receipt requested, notifying them that said insurance proceeds have been received by the city and apprise them of the procedures to be followed under this ordinance.

SECTION 6. 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 ordinance shall be placed in said fund and deposited in an interest-bearing account.

SECTION 7. BUILDING INSPECTOR; INVESTIGATION, REMOVAL OF STRUCTURE.

(a) Upon receipt of moneys as provided for by this ordinance, the city treasurer shall immediately notify the chief building inspector of said receipt, and transmit all documentation received from the insurance company or companies to the chief building inspector.

(b) Within 20 days of the receipt of said moneys, the chief building inspector shall determine, after prior investigation, 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 days established by subsection (b) of this ordinance, the chief building inspector shall notify the city treasurer whether he or she intends to initiate proceedings under 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 no later than 30 days after receipt of the moneys by the city treasurer.

(e) Upon notification to the city treasurer by the chief building inspector that no proceedings shall be initiated under K.S.A. 12-1750 *et seq.*, as amended, the city treasurer shall return all such moneys received, plus

Record of Ordinances

Ordinance No. _____

accrued interest, to the insured or insureds as identified in the communication from the insurance company or companies. Such return shall be accomplished within 30 days of the receipt of the moneys from the insurance company or companies.

SECTION 8. REMOVAL OF STRUCTURE; EXCESS MONEYS. If the chief building inspector 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.

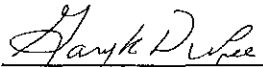
SECTION 9. SAME; DISPOSITION OF FUNDS. If the chief building inspector, with regard to a building or other structure damaged by fire, explosion, or windstorm, determines that it is necessary to act under K.S.A. 12-1756, any proceeds received by the city treasurer under the authority of Section 5 (a) 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 inspector 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 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 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.

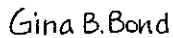
SECTION 12. EFFECTIVE DATE. This ordinance shall take effect and be in force from and after its publication in the official city newspaper.

Passed and approved by the Governing Body of the City of Tribune, Kansas, this 14th day of July, 2003.



Gary K. DuPree, Mayor

ATTEST:



Gina B. Bond, City Clerk

ORDINANCE NO. 388

AN ORDINANCE RELATING TO THE ESTABLISHMENT AND IMPLEMENTATION OF AN INSURANCE PROCEEDS FUND PURSUANT TO K.S.A. 40-3901 ET SEQ.; AND REPEALING ORDINANCE NO. 291

Be it Ordained by the Governing Body of the City of Carbondale:

Section 1. SCOPE AND APPLICATION. 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, arising out of any fire, explosion or windstorm, 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 ordinance.

Section 2. 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, caused by or arising out of any fire, explosion, or windstorm, where the amount recoverable for all 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(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 year prior to the filing of a proof of loss.

Section 3. SAME: ENCUMBRANCES. Prior to the final settlement on any claim covered by Section 2, the insurer or insurers shall contact the county treasurer, Osage 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, Osage County, Kansas.

Section 4. SAME: PRO RATA BASIS. Such transfer of proceeds shall be on a pro rata basis by all insurance companies insuring the building or other structure.

Section 5. 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 75 percent 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 treasurer in an amount equal to the sum of 15 percent of the covered claim payment, unless the zoning administrator 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. Policy proceeds remaining after the transfer to the city shall be disbursed in accordance with the policy terms.
- (C) Upon the transfer of the funds as required by subsection (A) of this ordinance, 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 zoning administrator shall contact the named insured or insureds by certified mail, return receipt requested, notifying them that said insurance proceeds have been received by the city and apprise them of the procedures to be followed under this ordinance.

Section 6. 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 ordinance shall be placed in said fund and deposited in an interest-bearing account.

Section 7. ZONING ADMINISTRATOR; INVESTIGATION, REMOVAL OF STRUCTURE.

- (A) Upon receipt of moneys as provided for by this ordinance, the city treasurer shall immediately notify the zoning administrator of said receipt, and transmit all documentation received from the insurance company or companies to the chief building inspector.
- (B) Within 20 days of the receipt of said moneys, the zoning administrator shall determine, after prior investigation, whether the city shall instigate proceedings under the provisions of Ordinance No. 304, (K.S.A. 12-1750 et seq., as amended).
- (C) Prior to the expiration of the 20 days established by subsection (b) of this ordinance, the zoning administrator shall notify the city treasurer whether he or she intends to initiate proceedings under Ordinance No. 304.
- (D) If the zoning administrator has determined that proceeding under Ordinance 304 shall be initiated, he or she will do so immediately but not later than 30 days after receipt of the moneys by the city treasurer.
- (E) Upon notification to the city treasurer by the zoning administrator that no proceedings shall be initiated under Ordinance No. 304, the city treasurer 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 30 days of the receipt of the moneys from the insurance company or companies.

Section 8. REMOVAL OF STRUCTURE; EXCESS MONEYS. If the zoning administrator has proceeded under the provisions of Ordinance No. 304, 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. SAME; DISPOSITION OF FUNDS. If the zoning administrator, with regard to a building or other structure damaged by fire, explosion, or windstorm, determines that it is necessary to act under Ordinance No. 304, any proceeds received by the city treasurer under the authority of Section 5(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 Ordinance No. 304. Upon reimbursement from the insurance proceeds, the zoning administrator shall immediately

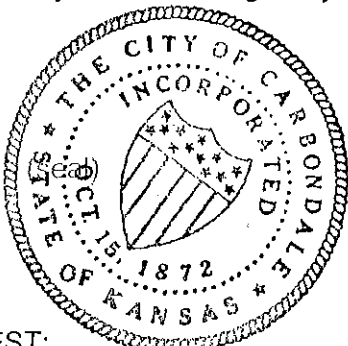
Effect the release of the lien resulting therefrom. Should the expenses incurred by the city exceed the insurance proceeds paid over to the city treasurer under Section 5(a), the zoning administrator shall publish a new lien as authorized by K. S. A. 12-1756, in an amount equal to such excess expenses incurred.

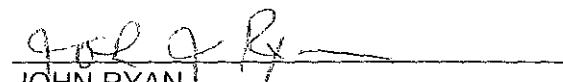
Section 10. EFFECT UPON INSURANCE POLICIES. This ordinance shall not make the city a party to any insurance contract, nor is the insurer liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.

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.

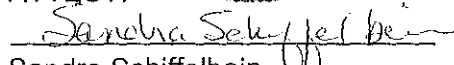
Section 12. EFFECTIVE DATE. This ordinance shall take effect and be in force from and after its publication in the official city newspaper.

Passed by the Governing Body of the City of Carbondale, Kansas, this October 6, 2003.




JOHN RYAN,
Mayor

ATTEST:


Sandra Schiffelbein
City Clerk