

November 29, 2011

Insurance Department
420 SW 9th Street
Topeka, Kansas 66612-1678

Gentlemen:

Enclosed please find a new ordinance that was adopted by the Governing Body of the City of Garnett. This ordinance covers wind and fire damage to structures that are in our city limits.

Sincerely,

Joyce E. Martin, City Manager

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Enclosure

KANSAS
INSURANCE DEPARTMENT
2011 NOV 30 AM 9:35

ORDINANCE NO. 3891

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AN ORDINANCE AMENDING TITLE 8, CHAPTER 6, SECTIONS 1 THROUGH 10,
INCLUSIVE; EXTENDING PROVISIONS THEREOF TO WINDSTORM LOSSES AND
ESTABLISHING OR REVISING PROCEDURES GOVERNING THE PAYMENT OF
INSURANCE LOSS CLAIMS ON COVERED BUILDINGS AND OTHER STRUCTURES
WITHIN THE CITY OF GARNETT, KANSAS; REPEALING EXISTING SECTION OF
SAID TITLE AND CHAPTER.
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BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GARNETT,
KANSAS:

Section 1: Title 8, Chapter 6, Sections 1 through 10
inclusive of the Municipal Code are hereby amended to read as
follows, to-wit:

8-6-1: SCOPE AND APPLICATION OF THIS CHAPTER: The
City is hereby authorized to establish and does by this
Title and Chapter enact the procedures set forth in
Kansas Statutes Annotated, 40-3901, et seq., whereby no
insurance company shall pay a claim under any policy
covering any building or other structure located within
the City arising out of any fire, explosion, or
windstorm and for which the amount recoverable for such
loss or damage to the building or other structure under
all policies is in excess of seventy-five percent (75%)
of the face value of the policy covering such building
or other insured structure, unless there is compliance
with the procedures set forth in this Title and
Chapter.

8-6-2: LIEN CREATED; ENCUMBRANCES; PAYMENT ON PRO-RATA
BASIS:

(A) There is hereby created and established a lien in
favor of the City in and to 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 for which the
amount recoverable for all such loss or damage to the
building or other structure under all policies is in
excess of seventy-five percent (75%) of the face value
of the policy or policies covering such building or
other insured structure. Such lien shall arise upon
any unpaid tax, special ad valorem levy, or other other
charge imposed upon real property by or on behalf of
said 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 of any claim covered by this Section, the insurer or insurers shall contact the County Treasurer of Anderson 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 amount owing under said encumbrances, a draft payable to the County Treasurer of Anderson County, Kansas.

(C) Such transfer of proceeds shall be on a pro rata basis by all insurance companies insuring the building or other structure.

8-6-3: PROCEDURE:

(A) When final settlement on a covered claim has been agreed to between the named insured or insureds and the company or companies, and said final settlement exceeds seventy-five percent (75%) of the face value of the policy or policies covering a 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 fifteen percent (15%) of the covered claim payment, unless the City Manager has determined and the City's Building Official 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 proceeds shall be on a pro rata basis by all companies insuring the building or other structure. Proceeds under the policy or policies remaining after the transfer to the City shall be disbursed in accordance with policy terms.

(C) Upon transfer of the funds as required in Subsection (A) of this Section, every 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 between the

insurance company or companies and the insured or insureds, whereupon the City of Garnett shall contact the named insured or insureds by certified mail, return receipt requested, to notify them and each of them that said insurance proceeds have been received by the City, and apprise them of the procedures to be followed under this Title and Chapter.

8-6-4: FUND CREATED; DEPOSIT OF MONEYS: The City Treasurer of the City 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 Title and Chapter, shall be deposited into this fund, in an interest bearing account.

8-6-5: DUTIES OF CITY UPON RECEIPT OF INSURANCE PROCEEDS:

(A) Upon receipt of said moneys, the City Treasurer shall immediately notify the City Manager and the City Building Official of said receipt and transmit to each of them all documentation received from the insurance company or companies.

(B) Within twenty (20) days of the receipt of said moneys, the City Building Official shall after prior investigation report his or her findings to the City Manager, who will then determine whether the City shall initiate proceedings under the provisions of Kansas Statutes Annotated 12-1750 et seq., as amended.

(C) Prior to the expiration of the aforesaid twenty (20) days, the City Manager shall notify the City Treasurer whether the City intends to initiate proceedings under Kansas Statutes Annotated 12-1750 et seq., as amended.

(D) If the City Manager, after receiving the report of the City Building Official, has determined that proceedings under Kansas Statutes Annotated 12-1750 et seq., as amended, shall be initiated, such procedures shall be initiated immediately, but in any event no later than thirty (30) days after receipt of said moneys by the City Treasurer.

(E) Upon notification to the City Treasurer by the City Manager that no proceedings shall be initiated under Kansas Statutes Annotated 12-1750 et seq., as amended, the City Treasurer shall refund said moneys, plus accrued interest, to the insured or insureds as identified in the

communication from the insurance company or companies. Such refund shall be accomplished within thirty (30) days of the receipt of said moneys from the insurance company or companies.

8-6-6: REMOVAL OF STRUCTURE; APPLICATION OF FUNDS TO COST OF REMOVAL; EXCESS MONEYS: If the City has proceeded to remove the building or other structure and related debris, under the provisions of Kansas Statutes Annotated 12-1750 et seq., as amended:

(A) Proceeds received from the insurance company or companies by the City Treasurer under authority of this Title and Chapter relating to that building or other structure shall be used to reimburse the City for any expenses thereby incurred by the City. Upon reimbursement therefrom, the City shall immediately release of any lien resulting therefrom.

(B) Should the expenses incurred by the City exceed the insurance proceeds paid over to the City Treasurer, the City shall establish a new lien as authorized by Kansas Statutes Annotated 12-1756 in an amount equal to such expenses incurred in excess of such reimbursement.

(C) All moneys in excess of that which is ultimately necessary to comply with provisions for the removal of the building or structure and related debris, less salvage value if any, shall be paid to the insured or insureds.

8-6-6: HOW APPLIED; CITY MANAGER TO ADOPT REGULATIONS: This Title and Chapter shall apply to fire, explosion and windstorm claims arising on all buildings or structures situated within the City and which are covered by one or more policies of insurance covering such risks. The City Manager is hereby authorized to promulgate reasonable regulations to carry out the provisions hereof.

8-6-7: EFFECT UPON INSURANCE POLICIES: The provision of this Title and Chapter 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.

8-6-8: IMMUNITY GRANTED INSURERS; WHEN: Insurers complying with the provisions of this Title and Chapter, or attempting in good faith to comply therewith, shall be immune from civil and criminal

liability, and such action shall not be deemed in violation of Kansas Statutes Annotated 40-2404 and any amendments thereto, including withholding payment of any insurance proceeds, or releasing or disclosing any information, pursuant to this to this Title and Chapter.

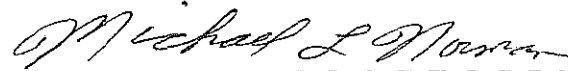
8-6-9: CITY CLERK, DUTY TO NOTIFY: The City Clerk is hereby authorized and directed to notify the Commissioner of Insurance of Kansas of the adoption hereof, within fourteen (14) days of such adoption.

8-6-10 (RESERVED FOR FUTURE USE.)

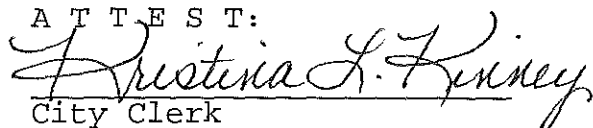
Section 2: Title 8, Chapter 6, Sections 1 through 10, inclusive, as the same presently exist, are hereby repealed.

Section 3: This ordinance shall take effect and be in force from and after its passage and its publication in an official newspaper of the city of Garnett.

PASSED this 22nd day of November, 2011.



Mayor

A T T E S T:


City Clerk