

CITY OF GAS

228 N. Taylor – PO Box 190
Gas, KS 66742

Phone: 620-365-3034

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March 28, 2013

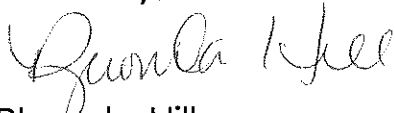
Sandy Praeger
420 S. W. 9th Street
Topeka, KS 66612

Dear Ms. Praeger,

Enclosed is a copy of the Ordinance and proof of publication passed by the Governing Body of the City of Gas relating to the removal of damaged structures, creating an insurance proceeds fund and establishing procedures.

If there is anything else you need, please let me know.

Sincerely,



Rhonda Hill
City Clerk
City of Gas

ORDINANCE NO. 462-2013

AN ORDINANCE RELATING TO THE REMOVAL OF FIRE, EXPLOSION OR WINDSTORM DAMAGED STRUCTURES; CREATING A FIRE INSURANCE PROCEEDS FUND; AND ESTABLISHING CERTAIN PROCEDURES.

Be it Ordained by the Governing Body of the City of Gas, 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 of Gas 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 of Allen 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 of Allen 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 of Gas in an amount equal to the sum of 10 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 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 is hereby authorized and shall create a fund to be known as the "Insurance Proceeds Fund." All moneys received by the city 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 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 or under the Gas City Code.

(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 or under the Gas City Code.

(d) If the chief building inspector has determined that proceedings under K.S.A. 12-1750 et seq., as amended or under the Gas City Code 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 or under the Gas City Code, 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 chief building inspector has proceeded under the provisions of K.S.A. 12-1750 et seq., as amended or under the Gas City Code, 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 or under the Gas City Code, 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 or under the Gas City Code. 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 or under the Gas City Code, 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.

Passed by the city council this 12th day of March, 2013, and signed by the mayor on the 12th day of March, 2013.


Darrel Catron, Mayor

ATTEST:


Rhonda Hill, City Clerk

AFFIDAVIT OF PUBLICATION

STATE OF KANSAS, ALLEN COUNTY, ss: Steven Schwartz, being first duly sworn,

deposes and says: That he is Legal Editor of The Iola Register, a daily newspaper printed in the state of Kansas, and published in and of general circulation in Allen County, Kansas, with a general paid circulation on a daily basis in Allen County, Kansas, and that said newspaper is not a trade, religious or fraternal publication.

Said newspaper is a daily published at least weekly 50 times a year; has been so published continuously and uninterruptedly in said county and state for a period of more than five years prior to the first publication of said notice; and has been admitted at the post office of Iola, 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 consecutive weeks, the first publication thereof being made as aforesaid on the 23rd day of March, 2013 with subsequent publications made on _____, 20____.

[Signature]
 Subscribed and sworn before me this 25 day of March, 2013.

NOTARY PUBLIC STATE OF KANSAS	GLENDA F. AIKINS-HILL My Appt. Exp. <u>6/24/16</u>
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[Signature]
 Notary Public

Printer's fee \$ 259.50
 Additional copies \$ _____
 Affidavits \$ 20.00
 Tax \$ _____
TOTAL \$ 279.50

This service by publication examined and approved this _____ day of _____, 20____
 _____ Judge

on, windstorm, determines that it is necessary to act under K.S.A. 12-1756 or under the Gas City Code, 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 or under the Gas City Code.
 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 or under the Gas City Code, 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.
 Passed by the city council this 12th day of March 2013, and signed by the mayor on the 12th day of March 2013.
 Darrel Catron, Mayor
 ATTEST:
 Rhonda Hill, City Clerk
 (3) 23

CERTIFICATE

STATE OF KANSAS)

)SS.

COUNTY OF ALLEN)

I, Rhonda J. Hill, the duly appointed, qualified and acting City Clerk of the City of Gas, County of Allen, State of Kansas, do hereby certify that the foregoing is an official copy of Ordinance Number 462-2013 of said City, duly passed and approved by the Governing Body of said City on the 12th day of March, 2013; that the record of the final vote on it's passage is found on page 2 of journal #2013-3; was published in the official City newspaper, The Iola Register, on March 23, 2013, and becomes effective on the 23rd day of March, 2013.

Witness my hand and the seal of the City of Gas, Kansas, this 28th day of March, 2013.

(SEAL)


Rhonda J. Hill, City Clerk