

City of Great Bend

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Monday, November 10, 2008

Kansas Insurance Commissioner
Property & Casualty Division
ATTN: Beth Gray
420 Southwest Ninth Street
Topeka, Kansas 66612-1678

RE: Fire liens

Dear Ms. Gray:

Enclosed is a certified copy of Great Bend City Ordinance number 3859. The ordinance has now been re-codified into sections 15.60.010 to 15.60.110. If you need any further information to publish this on your website please let me know.

I appreciate your assistance and cooperation in this matter.

Very truly yours:



Robert G. Suelter
City Attorney

ORDINANCE NO. 3859 ~~X~~

AN ORDINANCE AMENDING CHAPTER 12 OF THE CODE OF ORDINANCES OF THE CITY OF GREAT BEND, KANSAS, 1975 REVISION, BY ADDING ARTICLE XI, RELATING TO STRUCTURES DAMAGED BY FIRE OR EXPLOSION; CREATING A LIEN UPON INSURANCE PROCEEDS WITH RELATION TO SAID STRUCTURE; PROVIDING DISBURSEMENT OF SAID INSURANCE PROCEEDS; CREATING A FIRE INSURANCE PROCEEDS FUND; AND PROVIDING FOR A LIEN FOR CERTAIN TAXES DUE ON STRUCTURES DAMAGED BY FIRE OR EXPLOSION.

BE IT THEREFORE ORDAINED BY THE GOVERNING BODY OF THE CITY OF GREAT BEND, KANSAS:

SECTION 1. That the Code of Ordinances of the City of Great Bend, Kansas, 1975 Revision, be hereby amended by adding Article XI to Chapter 12, Sections 12-151 through 12-161;, which Article shall read as follows:

"ARTICLE XI
FIRE OR EXPLOSION DAMAGED STRUCTURES

SEC. 12-151. 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 or explosion, where the amount recoverable for the 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 out in this ordinance.

SEC. 12-152. 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 or explosion, where the amount recoverable for all the 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(s) covering such building or other insured structure. The lien arises upon an 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 any other charge that remained undischarged for at least one year prior to the filing of a proof of loss.

SEC. 12-153. Same, Encumbrances.

Prior to final settlement on any claim covered by Section 12-152, the insurer or insurers shall contact the County Treasurer, Barton 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, Barton County, Kansas.

SEC. 12-154. 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.

SEC. 12-155. Procedure.

For the purposes of this Article, the following procedures must be complied with.

Sec. 12-155(a). When final settlement on a covered claim has been agreed to or arrived at between the named insured and the company or companies, and the final settlement exceeds seventy-five percent

(75%) 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 \$5,000 or ten percent (10%) of the covered claim payment, whichever is less, 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.

Sec. 12-155(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.

Sec. 12-155(c). Upon the transfer of the funds as required by Sec. 12-155(a) of this section, the insurance company shall provide the City with the name and address of the named insured or insureds, the total 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 registered mail, notifying them that said insurance proceeds have been received by the City and apprise them of the procedures to be followed under this ordinance.

SEC. 12-156. Fund Created; Deposit of Monies.

The City Clerk is hereby authorized and shall create a fund to be known as the "Fire Insurance Proceeds Fund." All monies received by the City Clerk as provided for by this ordinance shall be placed in said fund and deposited in an interest-bearing account.

SEC. 12-157. Building Inspector; Investigation; Removal of Structure.

For the purposes of this Article, the following procedures shall apply to the investigation and/or removal of the structure or building.

Sec. 12-157(a). Upon receipt of monies as provided for by this ordinance, the City Clerk 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.

Sec. 12-157(b). Within twenty (20) days of the receipt of said monies, 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.

Sec. 12-157(c). Prior to the expiration of the twenty (20) days established by Sec. 12-157(b) of this section, the chief Building Inspector shall notify the City Clerk whether he or she intends to initiate proceedings under K.S.A. 12-1750 et seq., as amended.

Sec. 12-157(c). 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 thirty (30) days after receipt of the monies by the City Clerk.

Sec. 12-157(d). Upon notification to the City Clerk by the chief Building Inspector that no proceedings shall be initiated under K.S.A. 12-1750 et seq., as amended, the City Clerk shall return all such monies received, plus accrued interest, to the insured or insureds as identified in the communication from the insurance company or

Sec. 12-157(d). Upon notification to the City Clerk by the chief Building Inspector that no proceedings shall be initiated under K.S.A. 12-1750 et seq., as amended, the City Clerk shall return all such monies 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 thirty (30) days of the receipt of the monies from the insurance company or companies.

SEC. 12-158. Removal of Structure; Excess Monies.

If the chief Building Inspector has proceeded under the provisions of K.S.A. 12-1750 et seq., as amended, all monies 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.

If the chief Building Inspector, with regard to a building or other structure damaged by fire or explosion, determines that it is necessary to act under K.S.A. 12-1756, any proceeds received by the City Clerk under the authority of Section 12-155(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 Clerk under Section 12-155(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.

SEC. 12-160. 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.

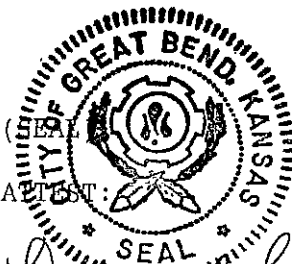
SEC. 12-161. Insurers; Liability.

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 proceeds pursuant to this ordinance, or releasing or disclosing any information pursuant to this ordinance.

SECTION 2. That this ordinance shall be in full force upon passage by the Governing Body of the City of Great Bend, Kansas, and publication in the official City newspaper.

ADOPTED AND PASSED by the Governing Body of the City of Great Bend, Kansas, this 4th day of May, 1992.

GEORGE F. DRAKE MAYOR


DEBORAH S. DURLER CITY CLERK

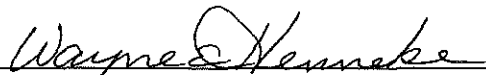
D. Partington
Administrator
Mark Gregory
Assistant City Administrator
Robert G. Suelter
City Attorney



Charles A. Bartlett
City Engineer
Terry Hoff
Human Resources Director
Wayne E. Henneke
City Clerk / Finance Director
Judy Manning
Deputy Clerk

November 10, 2008

I, Wayne E. Henneke, the duly appointed Clerk of the City of Great Bend, Kansas, do hereby certify that the attached is a true and exact copy of Ordinance No. 3859 adopted by a 8 - 0 vote of the City Council at the May 4, 1992 City Council Meeting.



Wayne E. Henneke, City Clerk

