

## **CITY OF HAVEN**

120 S. Kansas Ave., P.O. Box 356

Haven, Kansas 67543

Phone (620)465-3618

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Insurance Commissioner Sandy Praeger  
420 SW 9th Street  
Topeka, KS 66612-1678

04/29/2008

RE: Insurance Proceeds Ordinance

Dear Ms. Praeger,

Please be advised that the City of Haven has adopted an ordinance creating a lien in favor of the City of Haven, Kansas on insurance proceeds from claims on structures destroyed by fire, explosion, or windstorm, in accordance with K.S.A. 40-3901 et seq. I have enclosed a copy of Ordinance No. 575 and of the affidavit of publication. If you have any questions please contact me. Thank you.

Sincerely,



Allen C. Blake, City Administrator

(First Published in the Mt. Hope Clarion on March 6, 2008.)

ORDINANCE NO. 575

AN ORDINANCE CREATING A LIEN IN FAVOR OF THE CITY OF HAVEN, KANSAS ON INSURANCE PROCEEDS FROM CLAIMS ON STRUCTURES DESTROYED BY FIRE, EXPLOSION OR WINDSTORM TO PROMOTE REPAIR OR REMOVAL BY THE INSURED AND FUND DEMOLITION AND CLEANUP BY THE CITY AND DISCHARGE DELINQUENT TAX LIABILITY.

SECTION 1. SCOPE AND APPLICATION. The City of Haven, Kansas (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, Reno 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, Reno 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 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 section, 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 article.

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 article 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 article, 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 section, the chief building inspector shall notify the City Treas-

deposeth and saith that

CLARION

City of Mount Hope, County of general paid circulation which newspaper has been matter in said county, that trade, religious or fraternal continuously and uninterruptedly the period of fifty-two (52) or to the first publication of and that the notice, of a true ed in 1 consecutive issues ation being in the issue of second publication being in \_\_\_\_\_, 20\_\_\_\_; and the last \_\_\_\_\_, 20\_\_\_\_\_.

Publisher

the this 8th day

08.

M. Schmitz

County, Kansas

or 11, 20 11.

MARGARET L. SCHMITZ Notary Public - State of Kansas pt. Expires 10-11-2011

their regular season match-ups, and Saturday night they were the only thing standing

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and the remaining portions remain in full force and effect.

SECTION 12. PUBLICATION. This Ordinance shall be in force and effect from and

AFFIDAVIT OF PUBLICATION

STATE OF KANSAS,  
SEDGWICK COUNTY, ss:

*Nancy Stuebel*

of lawful age, being first duly sworn, deposes and saith that she is editor of

THE MOUNT HOPE CLARION

a weekly newspaper published in the City of Mount Hope, County of Sedgwick, State of Kansas, and of general paid circulation in Sedgwick and Reno Counties, and which newspaper has been admitted to the mails as second-class matter in said county, that the Mount Hope Clarion is not a trade, religious or fraternal publication, and has been continuously and uninterruptedly published in said counties during the period of fifty-two (52) consecutive weeks immediately prior to the first publication of the notice hereinafter mentioned, and that the notice, of a true copy is hereto attached, was published in 1 consecutive issues of said newspaper, the first publication being in the issue of March 6, 2008; the second publication being in the issue of \_\_\_\_\_, 20\_\_\_\_; and the last publication is the issue of \_\_\_\_\_, 20\_\_\_\_.

*Nancy Stuebel*

Publisher

Subscribed and sworn to before me this 8th day of March, 2008.

*Margaret L. Schmitz*

Notary Public, Sedgwick County, Kansas

My commission expires October 11, 2011.

Printer's Fee \$ \_\_\_\_\_

