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(1908 - 2000)

June 12, 2007

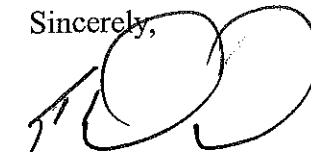
Insurance Commissioner  
420 SW 9<sup>th</sup> Street  
Topeka, KS 66612

Dear Insurance Commissioner :

Pursuant to your request, please find enclosed herein a copy of Ordinance Number 613 for the City of Hoxie, Kansas pertaining to the establishment of an Insurance Proceeds Fund.

If you have any questions regarding this matter, please feel free to contact me at your convenience.

Sincerely,



Ken Eland  
of SLOAN & ELAND

KE/ez  
Enclosure

**ORDINANCE NO. 613**

COPY

AN ORDINANCE ESTABLISHING AN INSURANCE PROCEEDS FUND BY THE CITY OF HOXIE, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HOXIE, KANSAS:

SECTION 1. SCOPE AND APPLICATION. The City of Hoxie 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 of Hoxie, 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 Hoxie hereby creates a lien in favor of the City of Hoxie 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 of Hoxie, 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.

SECTION 3. 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 4. 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 City Clerk the City of Hoxie 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 of Hoxie shall be disbursed in accordance with the policy terms.

(c) Upon the transfer of the funds as required by subsection (a) of this Section to the City of Hoxie 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, the City Clerk 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 of Hoxie and apprise them of the procedures to be followed under this Ordinance.

SECTION 5. 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 6. BUILDING INSPECTOR; INVESTIGATION, REMOVAL OF STRUCTURE.

(a) Upon receipt of moneys as provided for by this Ordinance, the City Treasurer shall immediately notify the City Superintendent of said receipt, and transmit all documentation received from the insurance company or companies to the City Superintendent.

(b) Within 20 days of the receipt of said moneys, the City Attorney shall determine, after 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 City Attorney 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 City Attorney 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 City Attorney 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 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 7. REMOVAL OF STRUCTURE; EXCESS MONEYS. If the City Attorney 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.

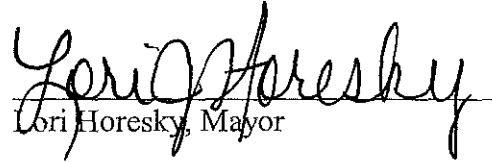
SECTION 8. SAME; DISPOSITION OF FUNDS. If the City Attorney, with regard to a building or other structure damaged by fire, explosion, or windstorm, determines that it is necessary to act under K.S.A. 12-1756, any proceeds received by the City Treasurer shall be used for any expenses incurred by the City of Hoxie in proceeding under K.S.A. 12-1756. Upon reimbursement from the insurance proceeds, the City Attorney shall immediately effect the release of the lien resulting therefrom. Should the expenses incurred by the City of Hoxie exceed the insurance proceeds paid over to the City Treasurer under Section 4(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 9. EFFECT UPON INSURANCE POLICIES. This Ordinance shall not make the City of Hoxie 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 10. 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 11. This Ordinance shall take effect and be in force from and after its publication in the official city newspaper, the Hoxie Sentinel.

Passed by the Governing Body this 11<sup>th</sup> day of June, 2007.

  
Lori Horesky, Mayor

ATTEST:

  
Jessica Spresser, City Clerk