

ORDINANCE NO. 1547

AN ORDINANCE AUTHORIZING THE RECODIFICATION OF THE ORDINANCES OF THE CITY OF NEODESHA; PROVIDING FOR WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE.

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

Section 1. Recodification of the ordinances of the City of Neodesha, Kansas is hereby authorized.

Section 2. This Ordinance shall be in force and take effect from and after its adoption and publication once in the official newspaper of the City.

Passed by the Governing Body of the City of Neodesha, Kansas, and signed by the Mayor this 12th day of August, 2009.

ATTEST:

/s/Casey A. Lair

Casey A. Lair, Mayor

/s/Bobby Busch

Bobby Busch, City Clerk

PUBLISHED IN THE AUGUST 20, 2009 EDITION OF THE NEODESHA DERRICK.

Beth Gray - RE: Fire Insurance Proceeds

From: "Bobby Busch" <bbusch@ci.neodesha.ks.us>
To: "Beth Gray" <BGray@ksinsurance.org>
Date: 3/30/2010 4:06 PM
Subject: RE: Fire Insurance Proceeds
Attachments: ORDINANCE NO 1547.doc

Beth,

I did some research and it appears that the City of Neodesha changed the percentage established in Ord. 1265 when they adopted the 1997 Codification. No separate ordinance was created. This, in turn, was carried over when we adopted the 2009 codification in August 2009.

Below is the verbiage taken from our code book. Attached is the ordinance adopting the 2009 code.

Let me know if you have any questions or need anything further.

Thanks again for your help.

Bobby Busch, CMC

Finance Director/City Clerk
City of Neodesha
PH: 620-325-2828 ext. 200
FX: 620-325-2481

DIVISION 3. LIEN ON FIRE INSURANCE PROCEEDS*

***State law references:** Fire insurance lien, K.S.A. 40-3901 et seq.

Sec. 8-393. 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 article.

(Code 1997, § 8-501)

Sec. 8-394. Lien created.

The governing body 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 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.

(Code 1997, § 8-502)

Sec. 8-395. Encumbrances.

Prior to final settlement on any claim covered by section 8-394, the insurer shall contact the county treasurer to determine whether any such encumbrances are presently in existence. If the same are found to exist, the insurer shall execute and transmit in an amount equal to that owing under the encumbrances a draft payable to the county treasurer.

(Code 1997, § 8-503)

Sec. 8-396. Pro rata basis.

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

(Code 1997, § 8-504)

Sec. 8-397. Procedure.

(a) When final settlement on a covered claim has been agreed to or arrived at between the named insured and the company, 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 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 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) The 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, 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 and the insured, whereupon the chief building inspector shall contact the named by registered mail, notifying him that said insurance proceeds have been received by the city and apprise them of the procedures to be

followed under this article.

(Code 1997, § 8-505)

Sec. 8-398. 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.

(Code 1997, § 8-506)

Sec. 8-399. 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 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.

(c) Prior to the expiration of the 20 days established by subsection (b) of this section, the chief building inspector shall notify the city treasurer whether he intends to initiate proceedings under K.S.A. 12-1750 et seq.

(d) If the chief building inspector has determined that proceedings under K.S.A. 12-1750 et seq., as amended shall be initiated, he 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., the city treasurer shall return all such moneys received, plus accrued interest, to the insured as identified in the communication from the insurance company. Such return shall be accomplished within 30 days of the receipt of the moneys from the insurance company.

(Code 1997, § 8-507)

Sec. 8-400. 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, 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.

(Code 1997, § 8-508)

Sec. 8-401. 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, any proceeds received by the city treasurer under the authority of section 8-397(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 treasurer under section 8-397(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.

(Code 1997, § 8-509)

Sec. 8-402. Effect upon insurance policies.

This article 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.

(Code 1997, § 8-510)

State law references: Similar provisions, K.S.A. 40-3908.

Sec. 8-403. Insurers; liability.

Insurers complying with this article or attempting in good faith to comply with this article shall be immune from civil and criminal liability and such action shall not be deemed in violation of K.S.A. 40-2404, including withholding payment of any insurance proceeds pursuant to this article, or releasing or disclosing any information pursuant to this article.

(Code 1997, § 8-511)

State law references: Similar provisions, K.S.A. 40-3909.

Secs. 8-404--8-434. Reserved.

From: Beth Gray [mailto:BGGray@ksinsurance.org]

Sent: Tuesday, March 30, 2010 1:07 PM

To: Bobby Busch

Subject: Fire Insurance Proceeds

The last Fire Lien we had for Neodesha is April 10, 1985. You just need to submit the current Fire Lien to us.

If you have any questions concerning this, you can contact me at 785-2967844.

Thank you,
Beth Gray
Administrative Specialist
Property & Casualty Division