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August 27, 2007

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

Re: City of Spring Hill - Notification of Adoption of Ordinance Relating to Payment of Proceeds of Fire Insurance Policies Pursuant to K.S.A. 40-3901 et seq.

Enclosed is a certified copy of Ordinance No. 2006-06 adopted by the City of Spring Hill pursuant to the provisions of K.S.A. 40-3901, et seq.

Pursuant to K.S.A. 40-3905, the City would appreciate being added to the Commissioner's distribution list to all cities and counties that have adopted the ordinance.

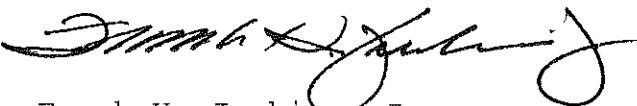
I would appreciate written confirmation from the Insurance Commissioner that the City of Spring Hill has been placed on that distribution list.

Thank you.

Yours truly,

LOWE, FARMER, BACON & ROE

By:

  
Frank H. Jenkins, Jr.

FHJ:can

Enclosure

cc: Mel Scott, Office of Kansas Insurance Commissioner  
Beverly Hayden, City Clerk

**CITY OF SPRING HILL, KANSAS**

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**CLERK'S CERTIFICATE**

I, Beverly A. Hayden, City Clerk for the City of Spring Hill, Kansas, do hereby certify that the attached Ordinance 2006-06 is a true and correct copy of the ordinance establishing and implementing an insurance proceeds fund pursuant to K.S.A. 40-3901 and adding article 8A, Chapter 1 to the Spring Hill Municipal Code. This Ordinance is recorded in the minutes of the February 23, 2006 Council meeting. Affix my hand and seal this 23rd day of August, 2007.

*Beverly A. Hayden*

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Beverly A. Hayden, City Clerk, City of Spring Hill



ORDINANCE NO. 2006- 06

AN ORDINANCE RELATING TO THE ESTABLISHMENT AND IMPLEMENTATION OF AN INSURANCE PROCEEDS FUND PURSUANT TO K.S.A. 40-3901 ET SEQ.; AND ADDING ARTICLE 8A, CHAPTER 1 TO THE SPRING HILL MUNICIPAL CODE.

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

**SECTION ONE:** Section 8A-101 is hereby added to the Spring Hill Municipal Code ("SHMC"):

"Section 8A-101. 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 by 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 TWO:** Section 8A-102 is hereby added to the SHMC:

"Section 8A-102. 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 THREE:** Section 8A-103 is hereby added to the SHMC:

**"Section 8A-103. SAME; ENCUMBRANCES.** Prior to final settlement on any claim covered by Section 8A-102, the insurer or insurers shall contact the county treasurer of the county where the real property is located, 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 the county where the real estate is located."

**SECTION FOUR:** Section 8A-104 is hereby added to the SHMC:

**"Section 8A-104. 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 FIVE:** Section 8A-105 is hereby added to the SHMC:

**"Section 8A-105. 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 finance director/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 of the city shall be disbursed in accordance with the policy terms.

- (c) Upon the transfer of the funds as required by subsection (a) of Section 8-105, 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 name insured or insured 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 SIX:** Section 8A-106 is hereby added to the SHMC:

**"Section 8A-106. FUND CREATED; DEPOSIT OF MONEYS.** The finance director/city treasurer is hereby authorized and shall create a fund to be known as the "Insurance Proceeds Fund." All moneys received by the finance director/city treasurer as provided for by this ordinance shall be placed in said fund and deposited in an interest-bearing account."

**SECTION SEVEN:** Section 8A-107 is hereby added to the SHMC:

**"Section 8A-107. BUILDING INSPECTOR; INVESTIGATION, REMOVAL OF STRUCTURE.**

- (a) Upon receipt of moneys as provided for by this ordinance, the finance director/city treasurer shall immediately notify the chief building inspector of said receipt, and transmit all documents received from the insurance company or companies to the chief building inspector.
- (b) Within twenty (20) days of the receipt of said moneys, the chief building inspector shall determine, after prior investigation, whether the city has or shall instigate proceedings under the provisions of K.S.A. 12-1750 *et seq.*, as amended.

- (c) Prior to the expiration of the twenty (20) days established by subsection (b) of Section 8A-107, the chief building inspector shall notify the finance director/city treasurer whether he or she has or intends to initiate proceedings under K.S.A. 12-1750 *et seq.*, as amended.
- (d) If the chief building inspector has determined that proceedings under K.S.A. 12-1750 *et seq.*, as amended has or shall be initiated, he or she will do so immediately, but no later than thirty (30) days after receipt of the moneys by the finance director/city treasurer.
- (e) Upon notification to the finance director/city treasurer by the chief building inspector that no proceedings have or shall be initiated under K.S.A. 12-1750 *et seq.*, as amended, the finance director/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 thirty (30) days of the receipt of the moneys from the insurance company or companies."

**SECTION EIGHT:** Section 8A-108 is hereby added to the SHMC:

**"Section 8A-108. 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."

**SECTION NINE:** Section 8A-109 is hereby added to the SHMC:

**"Section 8A-109. 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. 12-175, *et seq.*, any proceeds received by the finance director/city treasurer under the authority of Section 8A-105 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-

175, et seq. 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 finance director/city treasurer under Section 8A-105, the chief building inspector shall publish a new lien as authorized by K.S.A. 12-175 et seq., in an amount equal to such excess expenses incurred."

**SECTION TEN:** Section 8A-110 is hereby added to the SHMC:

"**Section 8A-110. 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 ELEVEN:** Section 8A-111 is hereby added to the SHMC:

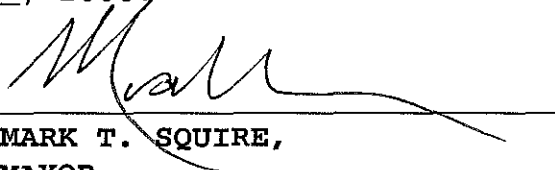
"**Section 8A-111. INSURERS; LIABILITY.** Insurers complying with this ordinance or attempting in good faith to comply with this ordinance shall be immune from civil and criminal liability and such action shall not be deemed a violation of K.S.A. 40-2404 and any amendments thereto, including withholding payment of any insurance proceeds pursuant to this ordinance, or releasing or disclosing any information pursuant to this ordinance."

**SECTION TWELVE:** **EFFECTIVE DATE.** This Ordinance shall take effect and be in force from and after its publication in the official city newspaper.

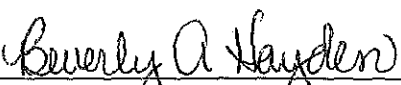
**PASSED** by the Governing Body of the City of Spring Hill, Kansas, on this 23<sup>rd</sup> day of Feb., 2006.

**APPROVED** by the Mayor of the City of Spring Hill, Kansas, on this 1<sup>st</sup> day of March, 2006.




  
**MARK T. SQUIRE,**  
**MAYOR**

ATTEST:

  
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BEVERLY A. HAYDEN,  
CITY CLERK

APPROVED AS TO FORM:

  
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FRANK H. JENKINS, JR.,  
CITY ATTORNEY