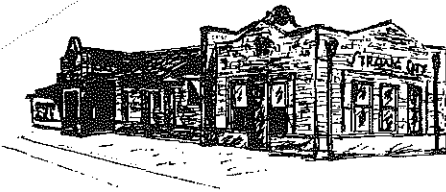


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CITY OF STRONG CITY

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June 20, 2003

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

RE: Ordinance No. 1439 Fire Insurance Proceeds Fund for the City of Strong City

Dear Ms. Praeger:

Enclosed is a copy of Ordinance No. 1439 amending Ordinance No. 1202 of the City of Strong City, Kansas relating to Lien Creation and Procedure of the Fire Insurance Proceeds Fund.

This Ordinance amends Section 2, adding windstorm to causes of damage and section 5A, changing the amount to be paid to the city from 10% to 15% of the covered claim payment.

I request confirmation from your office that you have received notification on this matter.

Thank you.

Sincerely,

Shari L. DeWitt
City Clerk

Encl.

ORDINANCE NO. 1439

AN ORDINANCE TO AMEND SECTION 2 AND 5A OF ORDINANCE NO. 1202 OF THE CITY OF STRONG CITY, KANSAS RELATING TO LIEN CREATION AND PROCEDURE OF FIRE INSURANCE PROCEEDS FUND.

BE IT ORDAINED by the Governing Body of the City of Strong City, Kansas:

SECTION 1. Section two(2) and five a 5(a) of Ordinance No. 1202 is amended as follows:

“SECTION 2. 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 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.”

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed or are appropriately amended.


SECTION 3. This ordinance shall take effect upon publication in the official city newspaper.

Passed by the Council and approved by the Mayor, this 10th day of June 2003.

ATTEST

MAYOR


Shari L. DeWitt, City Clerk


Michael W. Cahoon, Mayor

ORDINANCE NO. 1202

AN ORDINANCE RELATING TO STRUCTURES DAMAGED BY FIRE OR EXPLOSION CREATING A LIEN UPON INSURANCE PROCEEDS WITH RELATION TO SAID STRUCTURE, PROVIDING FOR THE 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; AND REPEALING ORDINANCE NUMBER 1158.

Be it ordained by the governing body of the City of Strong, Kansas:

Section 1. 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 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 or explosion, where the amount recoverable for all the loss or damage to the building or other structure under all policies 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. ENCUMBRANCES. Prior to final settlement on any claim covered by section 2, the insurer or insurers shall contact the county treasurer, Chase 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, Chase 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 insured and the company or companies, and final settlement exceeds 75 percent of the face value of the policy covering any building or other insured structure, and when all amounts due to 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 10 percent of the covered claim payment, whichever is less, unless

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 registered mail, notifying them that the insurance proceeds have been received by the city and apprise them of the procedures to be followed under this ordinance.

Section 6. FUND CREATED; DEPOSIT OF MONEYS. The city treasurer is hereby directed to create a fund to be known as the "Fire Insurance Proceeds Fund." All moneys received by the city treasurer as provided for by this ordinance shall be placed in that 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 ordinance, the city treasurer shall immediately notify the chief building inspector of the 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 the 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 treasurer whether he or she 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, shall be initiated, he or she will do so immediately but no longer 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., as amended, the city treasurer shall pay 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 8. 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 9. SAME; LIEN CREATED. 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 treasurer

publish a new lien as authorized by K.S.A. 12-1756, in an amount equal to the excess expenses incurred.

Section 10. 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 11. 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.


Passed by the governing body of the City of Strong, Kansas, this 13th day of November, 1990.

APPROVED:


LAWRENCE BAYER, MAYOR

ATTEST:


DONNA RETTINGER, CITY CLERK


Shari L. DeWitt
City Clerk

Encl.