

Added Computer
6-17-03

CITY OF UNIONTOWN
P. O. BOX 51
UNIONTOWN, KANSAS 66779

June 12, 2003

Insurance Commissioner
420 S.W. 9th Street
Topeka, Kansas 66612

Re: Insurance Proceeds Ordinance

Dear Sir:

Enclosed please find a copy of our Ordinance #120 to amend Ordinance #119 concerning insurance proceeds in Uniontown. Please let me know if more information is needed.

Sincerely,

Linda E. Gier

Linda E. Gier,
City Clerk

*Mel. Is this OK -
amounts, etc.?*

Enclosures

Roberta

*620 223 2910
756 ~~3110~~
4742*

FILE MEMORANDUM

CALENDAR YEAR **2003**

Office Conference

Telephone Conversation

File Notes

1. DATE 4-22-03

2. NAME OF COMPANY, BUREAU, COMPLAINT, ETC. Uniontown KS

3. CITY AND STATE CALLED OR CALLED FROM _____

4. TITLE OF FILING, COMPLAINT OR SUBJECT DISCUSSED _____

5. TELEPHONE NUMBER CALLED OR CALLED FROM _____

6. ESTIMATE OF TIME ELAPSED ON PHONE _____

7. NAME OF PERSON(S) _____

8. COMMENTS: Called Alvin Beerbaum

(mayor). Told him a
prohibition.

3 day will reply

SIGNATURE 4

Ordinance No. 120

**AN ORDINANCE AMENDING SECTION 1 OF ORDINANCE NO. 119 OF THE
THE CITY OF UNIONTOWN, KANSAS.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF
UNIONTOWN, BOURBON COUNTY, KANSAS THAT SECTION 1
OF ORDINANCE NO. 119 SHALL BE AMENDED TO READ AS
FOLLOWS:**

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 fire, explosion, or windstorm, where the amount recoverable for the loss or damage to the building or other structure under the 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. This ordinance shall be published and become effective after its passage and publication in the official City newspaper.

INTRODUCED, PASSED AND APPROVED by the Governing Body of the City of Uniontown, Kansas this 13th day of May, 2003.

THE CITY OF UNIONTOWN, KANSAS

BY: Al B. Barber
MAYOR

(SEAL)

ATTEST:

Linda Gier
LINDA GIER, CITY CLERK

Proof of Publication

STATE OF KANSAS, BOURBON COUNTY, ss.

Janice Cagle being, list duly sworn on oath, deposes and says: That she is the Circulation Manager of the Fort Scott Tribune, a daily newspaper printed and published in the City of Fort Scott, County of Bourbon, State of Kansas, which said newspaper has been published for more than five years prior to this date at least fifty times a year during said period, and is and has been entered in the Post Office of Fort Scott, Kansas as second mail matter, and has a general paid circulation on a monthly basis in Bourbon County, Kansas and is not a trade, religious or fraternal publication; and she further states that the annexed copy was published in said newspaper once a week for ~~three~~ one consecutive weeks, the first publication there of being on the 15 day of May, 2002.

Janice Cagle

Subscribed and sworn to before me this 20 day of May, 2002.



Teresa A. Cooper
Notary Public

My Commission expires March 22, 2006
Publisher's Fee \$ 29.79

IN THE _____ COURT OF
BOURBON COUNTY, KANSAS

The above and foregoing publication notice and proof thereof approved by me this _____ day of _____, 2002.

Judge of the _____
Court of Bourbon County, Kansas

(Published in The Fort Scott, Kansas, Daily Tribune-Monitor, Friday, May 16, 2003)

Ordinance No. 120

AN ORDINANCE AMENDING SECTION 1 OF ORDINANCE NO. 119 OF THE CITY OF UNIONTOWN, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF UNIONTOWN, BOURBON COUNTY, KANSAS THAT SECTION 1 OF ORDINANCE NO. 119 SHALL BE AMENDED TO READ AS FOLLOWS:

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 fire, explosion, or windstorm, where the amount recoverable for the loss or damage to the building or other structure under the 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. This ordinance shall be published and become effective after its passage and publication in the official City newspaper.

INTRODUCED, PASSED AND APPROVED by the Governing Body of the City of Uniontown, Kansas this 13th day of May, 2003.

THE CITY OF UNIONTOWN, KANSAS

BY: /s/ Alvin Beerbower
Alvin Beerbower, MAYOR

(SEAL)

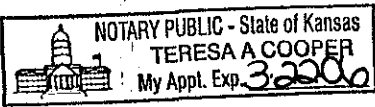
ATTEST:
/s/ Linda Gier
LINDA GIER, CITY CLERK

Proof of Publication

STATE OF KANSAS, BOURBON COUNTY, ss.

Kenneth Lyon being, list duly sworn on oath, deposes and says: That she is the Circulation Manager of the Fort Scott Tribune, a daily newspaper printed and published in the City of Fort Scott, County of Bourbon, State of Kansas, which said newspaper has been published for more than five years prior to this date at least fifty times a year during said period, and is and has been entered in the Post Office of Fort Scott, Kansas as second mail matter, and has a general paid circulation on a monthly basis in Bourbon County, Kansas and is not a trade, religious or fraternal publication; and she further states that the annexed copy was published in said newspaper once a week for ~~two~~ two consecutive weeks, the first publication there of being on the 11 day of April, 2003.

Subscribed and sworn to before me this 15 day of April, 2003.



Teresa A. Cooper

Notary Public

My Commission expires March 22 2006
Publisher's Fee \$ 152.52

IN THE _____ COURT OF
BOURBON COUNTY, KANSAS

The above and foregoing publication notice and proof thereof approved by me this _____ day of _____, 2003.

Judge of the _____
Court of Bourbon County, Kansas

(Published In The Fort Scott, Kansas, Daily Tribune-Monitor, Friday, April 11, 2003)

ORDINANCE NO. 119

AN ORDINANCE FOR ESTABLISHMENT OF AN INSURANCE PROCEEDS FUND FOR DAMAGED BUILDINGS FOR THE CITY OF UNIONTOWN, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF UNIONTOWN, BOURBON COUNTY, KANSAS.

SECTION 1. SCOPE AND APPLICATION. The City is hereby authorized to utilize the procedures established by K.S.A. 49-3901, *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 fire, explosion, or windstorm, where the amount recoverable for the loss or damage to the building or other structure under the 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 Treasurer for the City of Uniontown, Bourbon 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

CITY of UNIONTOWN
P. O. Box 51
Uniontown, Kansas 66779

Treasurer for the City of Uniontown, Bourbon County, Kansas.

SECTION 4. SAME; PRO RATA BASIS. Such transfer of proceeds shall be on a pro rata basis by all insurance companies measuring 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 ordinance, 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 ordinance.

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 ordinance 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 ordinance, 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 ordinance, 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 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.*, 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 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 or insureds.

SECTION 9. 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. 12-1756, any proceeds received by the City treasurer under the authority of Section 5(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 5(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 10. EFFECT UPON INSURANCE PROCEEDS. 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 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 12. This ordinance shall be published and become effective after its passage and publication in the official City newspaper.

INTRODUCED, PASSED AND APPROVED by the Governing Body of the City of Uniontown, Kansas this 8th day of April, 2003.

THE CITY OF UNIONTOWN, KANSAS

BY: s/Alvin Beerbower
ALVIN BEERBOWER, MAYOR

(SEAL)

ATTEST:

s/Linda E. Gier
LINDA GIER, CITY CLERK

Ordinance No. 119

AN ORDINANCE FOR ESTABLISHMENT OF AN INSURANCE PROCEEDS FUND FOR DAMAGED BUILDINGS FOR THE CITY OF UNIONTOWN, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF UNIONTOWN, BOURBON COUNTY, KANSAS.

SECTION 1. SCOPE AND APPLICATION. The City is hereby authorized to utilize the procedures established by K.S.A. 49-3901 *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 fire, explosion, or windstorm, where the amount recoverable for the loss or damage to the building or other structure under the 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. 40-3901

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 Treasurer for the City of Uniontown, Bourbon 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 Treasurer for the City of Uniontown, Bourbon 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 rate 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 ordinance, 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 ordinance.

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 ordinance shall be placed in said fund and deposited in an interest-bearing account.

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- (a) Upon receipt of moneys as provided for by this ordinance, 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 ordinance, 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 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.*, 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 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 or insureds.

SECTION 9. 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. 12-1756, any proceeds received by the City treasurer under the authority of Section 5(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 5(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 10. EFFECT UPON INSURANCE PROCEEDS. 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 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 12. This ordinance shall be published and become effective after its passage and publication in the official City newspaper.

INTRODUCED, PASSED AND APPROVED by the Governing Body of the City of Uniontown, Kansas this 8th day of April, 2003.

THE CITY OF UNIONTOWN, KANSAS

BY: Alv Bulwer
MAYOR

(SEAL)

ATTEST:

Linda E. Gier
LINDA GIER, CITY CLERK

RLF:vm/C-ord-un#3

CITY of UNIONTOWN
P. O. Box 51
Uniontown, Kansas 66779