

OF WAMEGO



Old Dutch Mill

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OFFICE OF:

October 17, 2007

Ms. Beth Gray
Administration Specialist
Property and Casualty Division
Kansas Insurance Department
420 SW 9th Street
Topeka, KS 66612

Dear Ms. Gray:

Please find enclosed the City of Wamego's Ordinance No. 1508 which adopts the Insurance Proceeds Fund and Procedures for our city. As per your conversation with Ken Stein, Administrative Assistant of this office, we would request that you file this certified original copy.

Please send a confirmation to my attention to the City of Wamego for our records.

Thanking you in advance for your attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Elizabeth L. Kern".

Elizabeth L. Kern
City Clerk

ORDINANCE NO. 1508

AN ORDINANCE OF THE GOVERNING BODY OF THE CITY OF WAMEGO, KANSAS, AMENDING CHAPTER IV. BUILDINGS AND CONSTRUCTION, OF THE CODE OF THE CITY OF WAMEGO, KANSAS, ESTABLISHING AN INSURANCE PROCEEDS FUND AND PROCEDURES FOR IMPLEMENTING THE SAME, PURSUANT TO K.S.A. 40-3901 ET SEQ.; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WAMEGO, KANSAS:

Section 1. That Chapter IV. Buildings and Construction, of the Code of the City of Wamego, Kansas, be and the same is hereby amended by addition of Article 14, to read as follows:

"ARTICLE 14. INSURANCE PROCEEDS FUND

4-1401 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 seventy five percent (75%) 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.

4-1402 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 seventy five percent (75%) 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.

4-1403 SAME; ENCUMBRANCES. Prior to final settlement on any claim covered by Paragraph 4-1402, the insurer or insurers shall contact the County Treasurer of Pottawatomie 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 of Pottawatomie County, Kansas.

4-1404 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.

4-1405 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 seventy five percent (75%) 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 fifteen percent (15%) of the covered claim payment, unless the Building Official 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 Paragraph, 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 Building Official 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 Article.

4-1406 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.

4-1407 BUILDING OFFICIAL; INVESTIGATION, REMOVAL OF STRUCTURE. (a) Upon receipt of moneys as provided for by this Article,

the City Treasurer shall immediately notify the Building Official of said receipt, and transmit all documentation received from the insurance company or companies to the Building Official.

(b) Within twenty (20) days of the receipt of said moneys, the Building Official shall determine, after prior investigation, whether the City shall initiate 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 this Paragraph, the Building Official 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 Building Official 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 thirty (30) days of the receipt of the moneys by the City Treasurer.

(e) Upon notification to the City Treasurer by the Building Official 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 thirty (30) days of the receipt of the moneys from the insurance company or companies.

4-1408 REMOVAL OF STRUCTURE; EXCESS MONEYS. If the Building Official 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.

4-1409 SAME; DISPOSITION OF FUNDS. If the Building Official, 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 Subparagraph 4-1405(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 Building Official 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 Subparagraph 4-1405(a), the Building Official shall publish a new lien as authorized by K.S.A. 12-1756, in an amount equal to such excess expenses incurred.

4-1410 EFFECT UPON INSURANCE POLICIES. This Article shall not make the City a party to any insurance contract, nor is the insurer liable to

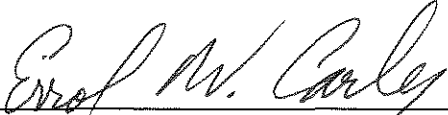
any party for any amount in excess of the proceeds otherwise payable under its insurance policy.

4-1411 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 and any amendments thereto, including withholding payment of any insurance proceeds pursuant to this Article, or releasing or disclosing any information pursuant to this Article.”

Section 2. That all Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Section 3. That this Ordinance shall take effect and be in force from and after its passage and publication in the City’s official paper, The Wamego Times.

The above and foregoing Ordinance passed and adopted by the Governing Body of the City of Wamego, Kansas, this seventh day of August, 2007.


Errol W. Carley, Mayor

ATTEST:


Elizabeth L. Kern, City Clerk



August 17, 2007

"I, Elizabeth L. Kern, the duly appointed, qualified and acting City Clerk of the City of Wamego, Kansas, do hereby certify that Ordinance No. 1508 was passed on the 7th day of August, 2007, that the record on the final vote on it's passage is on Page 972 of Journal #18 of the official minutes of City of Wamego and that it was published in THE WAMEGO TIMES on the 16th day of August, 2007, and I do further certify that this same Ordinance No. 1508 adopted at said meeting and is on file and of record."

The Governing Body discussed and approved Ordinance No. 1508:

AN ORDINANCE OF THE GOVERNING BODY OF THE CITY OF WAMEGO, KANSAS, AMENDING CHAPTER IV. BUILDINGS AND CONSTRUCTION, OF THE CODE OF THE CITY OF WAMEGO, KANSAS, ESTABLISHING AN INSURANCE PROCEEDS FUND AND PROCEDURES FOR IMPLEMENTING THE SAME, PURSUANT TO K.S.A. 40-3901 ET SEQ.; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

IN TESTIMONY WHEREOF, I have thereunto set my hand and seal of the City of Wamego, Kansas, this the 17th day of August, 2007.



Elizabeth L. Kern, City Clerk