

(First published in The Ark Valley News on July 7, 2016.)

ORDINANCE NO: 596

AN ORDINANCE CONCERNING THE ADOPTION OF CHAPTER 2, ARTICLE 10, OF THE MUNICIPAL CODE OF BEL AIRE, KANSAS, IN CONNECTION WITH THE COLLECTION OF INSURANCE PROCEEDS, ALL WITHIN THE CITY OF BEL AIRE, SEDGWICK COUNTY, KANSAS.

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

SECTION 1. ESTABLISHING CHAPTER TWO, ARTICLE TEN OF THE MUNICIPAL CODE, ENTITLED "INSURANCE PROCEEDS".

2-1001. Scope and Application.

The city is hereby authorized to utilize the procedures established by K.S.A. 40-3901 et seq., and amendments thereto, 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, 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.

2-1002. Lien Created.

The Governing Body of the City hereby creates a lien in favor of the City on the proceeds of any policy based upon a covered claim payment made for damage or loss to a building or other structure located within the City, where the amount recoverable for all of the loss or damage to the building or 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 behalf of City which is an encumbrance upon such real property, whether or not evidenced by written instrument, or such tax, levy, assessment, expense or other charge that is remained undischarged for at least one (1) year prior to the filing of a proof of loss.

2-1003. Encumbrance; Transfer of Proceeds.

(a) Prior to final settlement on any claim covered by Section 2-1002, the insurer or insurers shall contact the County Treasurer, Sedgwick 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, Sedgwick County, Kansas.

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

2-1004. Final Settlement; Procedure.

(a) When final settlement on any 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 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 Director of Finance in an amount equal to the sum of fifteen percent (15%) of the covered claim payment, unless the City building inspector 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 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 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 Director of Finance shall contact the named insured or insureds, by certified mail, return receipt requested, to notify them that said insurance proceeds have been received by the City and to apprise them of the procedures to be followed under this Article.

2-1005. Insurance Proceeds Fund.

The Director of Finance is authorized and shall create a fund to be known as the "Insurance Proceeds Fund." All moneys received by the Director of Finance as provided by this Article shall be placed in said fund and deposited in an interest-bearing account.

2-1006. Receipt of Money.

(a) Upon receipt of moneys as provided by this Article, the Director of Finance shall immediately notify the City Building Inspector, or his/her designee of said receipt, and transmit all documentation received from the insurance company or companies to him or her.

(b) Within thirty (30) days of the receipt of said moneys, the City Building Inspector, or his/her designee, shall determine, after prior investigation, whether the city shall instigate proceedings under the provisions of K.S.A. 12-1750 et. seq., and amendments thereto.

(c) Prior to the expiration of the thirty (30) days established by subsection (b) of this section, the City Building Inspector, or his/her designee, shall notify the Director of Finance whether he or she intends to initiate proceedings under K.S.A. 12-1750 et. seq., and amendments thereto.

(d) If the City Building Inspector, or his/her designee, has determined that proceeds under K.S.A. 12-1750 et seq., and amendments thereto, shall be initiated, he or she will do so immediately but not later than forty-five (45) days after the receipt of the moneys by the Director of Finance.

(e) Upon notification of the director of Finance by the City Building Inspector, or his/her designee, that no proceedings shall be initiated under K.S.A. 12-1750 et. seq., and amendments thereto, the Director of Finance shall return all such moneys received, plus accrued interest, to the insured or insureds as identified in the communications from the insurance company or companies. Such return shall be accompanied within forty-five (45) days of the receipt of the moneys from the insurance company or companies.

2-1007. Removal of Structure; Excess Moneys.

If the City Building Inspector, or his/her designee, has proceeded under the provisions of K.S.A. 12-1750 et seq., and amendments thereto, 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.

2-1008. Same; Disposition of Funds.

If the City Building Inspector, or his/her designee, with regard to a building or other structure damaged, determines that it is necessary to act under K.S.A. 12-1756 and amendments thereto, any proceeds received by the Director of Finance under the authority of this Article 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, and amendments thereto. The City Building Inspector, or his/her designee, shall be responsible for notifying the Director of Finance of the amount of these expenses incurred by the City. Upon reimbursement from the insurance proceeds, the Director of Finance 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 Director of Finance under this Article, he or she shall publish a new lien as authorized by K.S.A. 12-1756, and amendments thereto, in an amount equal to such excess expenses incurred.

2-1009. 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 his or her insurance policy.

2-1010. Insurers Immune from Criminal and Civil 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.

2-1011. Repeal.

All ordinances or municipal code provisions in conflict with this Ordinance are hereby repealed.

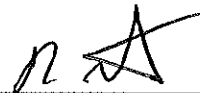
2-1012. Severability.

If any section, subsection, sentence, clause, phrase, or portion of the Article set forth within this ordinance is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION 2. This Ordinance shall take effect and be in force from and after publication of its summary in the Ark Valley News, an official city newspaper.

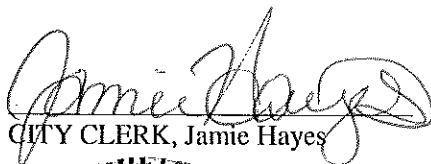
Passed by the City Council this 5th day of July, 2016.

Approved by the Mayor this 5th day of July, 2016.



MAYOR David Austin

ATTEST:



CITY CLERK, Jamie Hayes

