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August 11, 2016

Ken Selzer, CPA  
Kansas Insurance Commissioner  
Kansas Insurance Department  
420 S. W. 9th Street  
Topeka, Kansas 66612

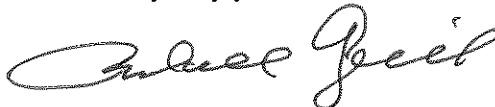
Re: City of Lakin, Kansas  
Ordinance – Insurance Proceeds Fund  
and Procedures

Dear Mr. Selzer:

I am City Attorney for the City of Lakin, Kansas (City). In that capacity, I am enclosing Ordinance No. 882, recently passed by the Governing Body of the City on July 13, 2016, in regard to the establishment of an Insurance Proceeds Fund and Procedures.

If you have any questions, please contact me.

Very truly yours,



Randall D. Grisell  
City Attorney

RDG:pbb  
Enclosure  
pc: Michael K. Heinitz, City Administrator  
Amanda R. Riedl, City Clerk  
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**AN ORDINANCE ESTABLISHING AN INSURANCE PROCEEDS FUND AND PROCEDURES; AMENDING CURRENT CODE SECTIONS 8-801, 8-802, 8-803, 8-805, 8-806.A (NUMBER CHANGED TO 8-806), 8-807, 8-808, AND 8-809; REPEALING IN THEIR ENTIRETY CURRENT CODE SECTIONS 8-801, 8-802, 8-803, 8-806.A, 8-807, 8-808, AND 8-809; ALL TO THE CODE OF ORDINANCES OF THE CITY OF LAKIN, KANSAS.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LAKIN, KANSAS:**

**SECTION 1.** Section 8-801 of the code of the City of Lakin is hereby amended to read as follows:

**Sec. 8-801. 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, 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 section.

**SECTION 2.** Section 8-802 of the code of the City of Lakin is hereby amended to read as follows:

**Sec. 8-802. 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, 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.

**SECTION 3.** Section 8-803 of the code of the City of Lakin is hereby amended to read as follows:

**Sec. 8-803. ENCUMBRANCES.**

Prior to final settlement on any claim covered by section 8-802, the insurer or insurers shall contact the County Treasurer of Kearny County, Kansas, to determine whether any encumbrances on real property 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 Kearny County, Kansas.

**SECTION 4.** Section 8-805 of the code of the City of Lakin is hereby amended to read as follows:

**Sec. 8-805. 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 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 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 the 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 city building inspector shall contact the named insured or insureds by certified mail, return receipt requested, notifying them that insurance proceeds have been received by the city and apprise them of the procedures to be followed under this section.

**SECTION 5.** Section 8-806.A of the code of the City of Lakin is hereby amended to read as follows:

**Sec. 8-806. FUND CREATED; DEPOSIT OF MONEYS**

The city is hereby authorized and shall create a fund to be known as the "Insurance Proceeds Fund." All moneys received by the city shall be placed in said fund and deposited in an interest-bearing account.

**SECTION 6.** Section 8-807 of the code of the City of Lakin is hereby amended to read as follows:

**Sec. 8-807. INVESTIGATION, REMOVAL OF STRUCTURE**

- (a) Upon receipt of moneys as provided by this section, the city shall immediately notify the city building inspector of said receipt, and transmit all documentation received from the insurance company or companies to the city building inspector.
- (b) Within thirty (30) days of the receipt of said moneys, the city 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 thirty (30) days established by subsection (b) of this section, the city building inspector shall notify the city whether he or she intends to initiate proceedings under K.S.A. 12-1750 et seq., as amended.

- (d) If the city 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 forty-five (45) days after receipt of the moneys by the city.
- (e) Upon notification to the city by the city building inspector that no proceedings shall be initiated under K.S.A. 12-1750 et seq., as amended, the city 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 forty-five (45) days of the receipt of the moneys from the insurance company or companies.

**SECTION 7.** Section 8-808 of the code of the City of Lakin is hereby amended to read as follows:

**Sec. 8-808. REMOVAL OF STRUCTURE; EXCESS MONEYS**

If the city 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 8.** Section 8-809 of the code of the City of Lakin is hereby amended to read as follows:

**Sec. 8-809. SAME; DISPOSITION OF FUNDS.**

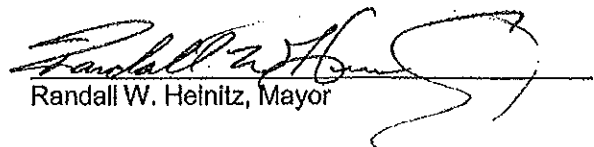
If the city building inspector, with regard to a damaged building or other structure determines that it is necessary to act under K.S.A. 12-1750 et seq., or similar section, any proceeds received by the city under the authority of section 8-805(a), relating to that building or other structure shall be used to reimburse the city for any expenses incurred by the city in proceeding under K.S.A. 12-1750 et seq., or similar section. Upon reimbursement from the insurance proceeds, the city 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 under section 8-805(a), the city 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 9.** Sections 8-801, 8-802, 8-803, 8-805, 8-806.A, 8-807, 8-808, and 8-809 of the code of the City of Lakin, as previously existing, are hereby repealed, to be replaced as specified in this ordinance.

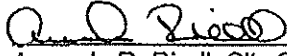
**SECTION 10.** If any section, clause, sentence or phrase of this ordinance is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance.

**SECTION 11.** This ordinance shall be in full force and effect from and after August 1, 2016, and following its publication, or a publication of a summary, in The Lakin Independent, the official city newspaper.

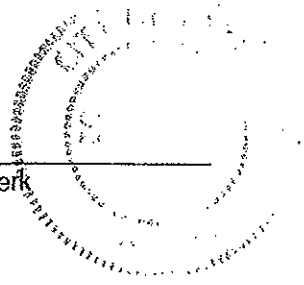
APPROVED AND PASSED by the Governing Body of the City of Lakin, Kansas, this 13<sup>th</sup> day of JULY, 2016.

  
Randall W. Heinitz, Mayor

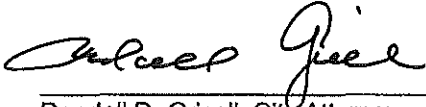
ATTEST:



Amanda R. Riedl, City Clerk



APPROVED AS TO FORM:



Randall D. Grisell, City Attorney