



City of New Strawn

215 N. Main Street, New Strawn, KS 66839

Phone (620) 364-8283 FAX (620) 364-5110

December 3, 2019

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


Dear Commissioner Schmidt:

Please find enclosed notification that the City of New Strawn has established an Insurance Proceeds Fund.

Copies of Article 7 and Ordinance No. 2019-07 that was adopted November 26, 2019 are included.

Please contact me if you need further information.

Sincerely,


Jori Hernandez
City Clerk

Enclosures

DEC 10 2019
CITY OF NEW STRAWN

Important:

Notify the Insurance Commissioner That Your City Has Established An Insurance Proceeds Fund

What Is This?

The fund is created and codified in Chapter VIII, Article 7 of your new City Code. K.S.A. 40-3901 *et seq.* authorizes a city to establish this fund in order to collect 15% of the insurance proceeds received whenever any building or other structure is damaged as a result of fire, explosion, or windstorm where the amount recoverable is in excess of 75% of the face value of the policy covering the building or structure.

Why Do This?

In the event that the structure is not properly repaired, the money in the fund may be used to make the necessary repairs. If the damaged structure is repaired to the satisfaction of the city, the money is returned to the insured party. To make sure that all insurance companies are aware of a city's fund, state law requires cities to notify the commissioner of insurance after adoption of the ordinance.

How To Notify The Insurance Commissioner:

After the City Code has been adopted and the adopting ordinance published, simply mail (1) a copy of the ordinance adopting the Code and (2) a copy of the Insurance Proceeds Fund article (found at Article 7 of Chapter VIII of the City Code) to:

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

If you have any questions, contact the LKM Legal Department at (785) 354-9565.



ARTICLE 7: INSURANCE PROCEEDS FUND

Section

- 8-701 Scope and application
- 8-702 Lien created
- 8-703 Same; encumbrances
- 8-704 Same; pro rata basis
- 8-705 Procedure
- 8-706 Fund created; deposit of monies
- 8-707 Building inspector; investigation, removal of structure
- 8-708 Removal of structure; excess monies
- 8-709 Same; disposition of funds
- 8-710 Effect upon insurance policies
- 8-711 Insurers; liability

§ 8-701 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 % 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.

§ 8-702 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 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.

§ 8-703 SAME; ENCUMBRANCES.

Prior to final settlement on any claim covered by § 8-702, the insurer or insurers shall contact the County Treasurer, Coffey 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, Coffey County, Kansas.

§ 8-704 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.

§ 8-705 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% 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% 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 division (a) above, 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 article.

§ 8-706 FUND CREATED; DEPOSIT OF MONIES.

The City Treasurer is hereby authorized and shall create a fund to be known as the Insurance Proceeds Fund. All monies received by the City Treasurer as provided for by this article shall be placed in said fund and deposited in an interest-bearing account.

§ 8-707 BUILDING INSPECTOR; INVESTIGATION, REMOVAL OF STRUCTURE.

(a) Upon receipt of monies as provided for by this article, 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 30 days of the receipt of said monies, 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 30 days established by division (b) above, 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 45 days after receipt of the monies 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 monies 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 45 days of the receipt of the monies from the insurance company or companies.

§ 8-708 REMOVAL OF STRUCTURE; EXCESS MONIES.

If the Chief Building Inspector has proceeded under the provisions of K.S.A. 12-1750 et seq., as amended, all monies 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.

§ 8-709 SAME; DISPOSITION OF FUNDS.

If the Chief Building Inspector, with regard to a building or other structure damaged determines that it is necessary to act under K.S.A. 12-1756, any proceeds received by the City Treasurer under the authority of § 8-705(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 § 8-705(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.

§ 8-710 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.

§ 8-711 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.

ORDINANCE NO. 2019-07

AN ORDINANCE ADOPTING THE CODIFICATION OF ORDINANCES OF THE CITY OF NEW STRAWN, KANSAS, AUTHORIZED BY UNANIMOUS VOTE OF THE GOVERNING BODY OF THE CITY OF NEW STRAWN, KANSAS ON NOVEMBER 26, 2019; AND PROVIDING FOR THE REPEAL OF CERTAIN OTHER ORDINANCES NOT INCLUDED THEREIN, EXCEPTING CERTAIN ORDINANCES FROM REPEAL AND SAVING CERTAIN ACCRUED RIGHTS AND LIABILITIES.

Be it Ordained by the Governing Body of the City of NEW STRAWN, Kansas:

Section 1. The codification of ordinances of the City of NEW STRAWN, Kansas, authorized by Ordinance 851 and K.S.A. 12-3014 and 12-3015, as set out in the following chapters, Chapters I to XVI and Appendices A and B, all inclusive, and entitled the "Code of the City of NEW STRAWN, Kansas, 2017," is hereby adopted and ordained as the "Code of the City of NEW STRAWN, Kansas, 2019," and said codification shall become effective upon publication of no fewer than 10 copies of said code in book form and publication in the city's official newspaper.

Section 2: All ordinances and parts of ordinances of a general nature passed before January 18, 2019, in force and effect at the date of the publication of no fewer than 10 copies of the "Code of the City of NEW STRAWN, Kansas, 2019" and this ordinance, are hereby repealed as of the date of publication of said code except as hereinafter provided.

Section 3: In construing this ordinance, the following ordinances shall not be considered or held to be ordinances of a general nature;

- (a) Ordinances pertaining to the acquisition of property or interests in property by gift, purchase, devise, bequest, appropriation or condemnation;
- (b) Ordinances opening, dedicating, widening, vacating or narrowing streets, avenues, alleys and boulevards;
- (c) Ordinances establishing and changing grades of streets, avenues, alleys and boulevards;
- (d) Ordinances naming or changing the names of streets, avenues and boulevards;
- (e) Ordinances authorizing or directing public improvements to be made;
- (f) Ordinances creating districts for public improvements of whatsoever kind or nature;
- (g) Ordinances levying general taxes;
- (h) Ordinances levying special assessments or taxes;
- (i) Ordinances granting any rights, privileges, easements or franchises therein mentioned to any person, firm or corporation;
- (j) Ordinances authorizing the issuance of bonds and other instruments of indebtedness by the city;
- (k) Ordinances authorizing contracts;
- (l) Ordinances establishing the limits of the city or pertaining to annexation or exclusion of territory;
- (m) Ordinances relating to compensation of officials, officers and employees of the city;
- (n) Ordinances of a temporary nature;

Provided, That the above enumeration of exceptions shall not be held or deemed to be exclusive, it being the purpose and intention to exempt from repeal any and all ordinances not of a general nature and general ordinances specifically excepted by this section.

Section 4: The arrangement and classification of the several chapters, articles, and sections of the code adopted by Section 1 of this ordinance and the headnotes and footnotes of the ends of the sections are made for the purpose of convenience and orderly arrangement, and do not constitute a part of the ordinances, and therefore, no implication or presumption of legislative intent or construction is to be drawn therefrom.

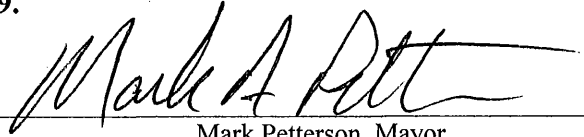
Section 5: The repeal of ordinances as provided in Section 2 hereof, shall not affect any rights acquired, fines, penalties, forfeitures or liabilities incurred thereunder, or actions involving any of the provisions of said ordinances or parts thereof. Said ordinances above repealed are hereby continued in force and effect after the passage, approval and publication of this ordinance for the purpose of such rights, fines, penalties, forfeitures, liabilities and actions therefor.

Section 6: If for any reason any chapter, article, section, subsection, sentence, portion of part of the "Code of the City of NEW STRAWN, Kansas, 2019," or the application thereof to any person or circumstances is declared to be unconstitutional or invalid, such decision will not affect the validity of the remaining portions of this code.

Section 7: This ordinance shall take effect and be in force from and after the publication of the "Code of the City of NEW STRAWN, Kansas, 2019," as provided in K.S.A. 12-3015.

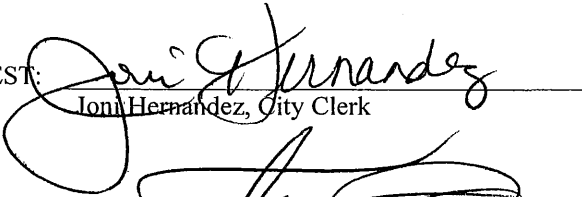
Ordinance No. 2019-07 is hereby adopted by the Governing Body of the City of NEW STRAWN, Kansas, this 26th day of November, 2019.

(SEAL)



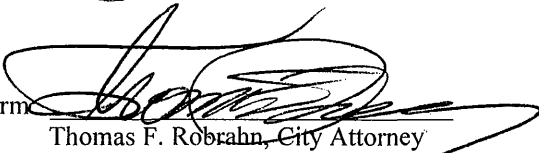
Mark Petterson, Mayor

ATTEST:

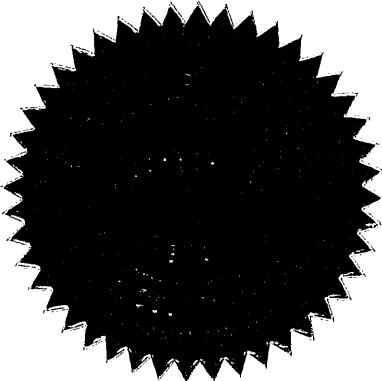


Ioni Hernandez, City Clerk

Approved as to Form



Thomas F. Robrahn, City Attorney

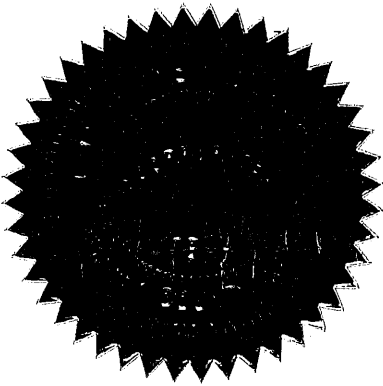


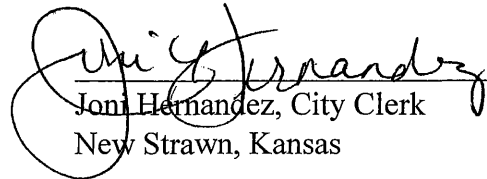
CITY CLERK'S CERTIFICATION OF ORDINANCE 2019-07

I, Joni Hernandez, City Clerk of the City of New Strawn, Coffey County, Kansas, do hereby certify that said city is a city of the third class of the mayor-council form of government under the statutes of Kansas; that this codification of the general ordinances of said city and publication thereof in loose-leaf book form, were ordered and authorized by approval of motion by unanimous vote of the Governing Body of the City of New Strawn, Kansas on November 26, 2019; and in accordance therewith is entitled the "Code of the City of New Strawn, Kansas 2019" by the Governing Body by Ordinance 2019-07 adopted this 26th day of November, 2019, as authorized by Section 12-3015 of the Kansas Statutes Annotated; that Ordinance 2019-07 and said codification of general ordinances as contained in this volume will take effect upon publication of 10 or more copies; that the publication of 10 copies of this Code and adoptive Ordinance 851 constitute due passage of this Code and all general ordinances contained therein; that the codification and adoptive Ordinance 2019-07 as contained herein are true and correct copies; and that said publication imports absolute verity and it to be received in evidence in all courts and places without further proof as provided by 12-3015 of the Kansas Statutes Annotated.

I further certify that the "Code of the City of New Strawn, Kansas 2019" and the matter therein contained will take effect upon publication in the City's official newspaper and be of force from and after December 3, 2019.

Witness my hand and the seal of the City of New Strawn, Kansas, at my office in New Strawn, Kansas, this 26th day of November, 2019.





Joni Hernandez, City Clerk
New Strawn, Kansas