Published in the Andover Journal Advocate on September 6, 2007

ORDINANCE NO: 1358

AN ORDINANCE AMENDING THE CODE OF THE CITY OF ANDOVER, KANSAS, CHAPTER IV BUILDING AND CONSTRUCTION, ADDING ARTICLE 13, CREATING THE INSURANCE PROCEEDS FUND, AND ESTABLISHING THE ADMINISTRATION AND PROCEDURES REGARDING THE NEWLY CREATED FUND.

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

Section 1. SCOPE AND APPLICATION. The City of Andover 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 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. Chapter 4 of the Code of City of Andover shall henceforth read as follows:

4-1301. LIEN CREATED. The governing body of the City of Andover hereby creates a lien in favor of the City on 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.

4-1302. SAME; ENCUMBRANCES. Prior to final settlement on any claim covered by Section 1301, the insurer or insurers shall contact the county treasurer of Butler 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, Butler County, Kansas.

4-1303. 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.

4-1304. PROCEDURE.

A. When final settlement on a covered claim has been agreed to or arrived at between the named insured or insured's 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 Building Official 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 Building Official shall contact the named insured or insureds by certified mail, return receipts 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.

4-1305. 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.

4-1306. BUILDING OFFICIAL; INVESTIGATIONS, REMOVAL OF STRUCTURE.

A. Upon receipt of moneys as provided for by this ordinance, 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 20 days of the receipt of said moneys, the Building Official shall determine, after prior investigation, whether the City shall instigate proceedings to repair or remove unsafe structures as authorized by K.S.A. 12 – 1750 et seq., as amended.

C. Prior to the expiration of the 20 days established by subsection (B) of Section 4-1306 of the Code of the City of Andover as established by this ordinance, the Building Official shall notify the City Treasurer whether he or she intends to initiate proceedings to repair or remove unsafe structures.

D. If the Building Official has determined that proceedings 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 Building Official that no proceedings shall be initiated, 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.

4-1307. REMOVAL OF STRUCTURE; EXCESS MONEYS. If the Building Official has initiated proceedings to repair or remove an unsafe structure, all moneys in excess of that which is ultimately necessary to comply with the provisions for removal or repair of the building or structure, less salvage value, if any, shall be paid to the insured.

4-1308. 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 initiate proceedings for repair or removal of the damaged structure, any proceeds received by the City Treasurer under the authority of Section 4-1304 (A.) relating to that building or other structure shall be used to reimburse the City for any expenses incurred by the City in initiating the repair or removal of the damaged building or other structure. 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, 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.

4-13010 EFFECT UPON INSURANCE POLICIES. This ordinance shall not make the City of Andover 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.

4-13010 INSURER; 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 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 ordinance, or releasing or disclosing any information pursuant to this ordinance.

Section 5. Effective Date: This Ordinance shall take effect and be in force from and after its passage, approval and publication once in the official city newspaper.

PASSED AND APPROVED ON 28 day of August, 2007

Ben Lawrence, Mayor

ATTEST:

Jeffrey K. Bridges Jr, City Clerk / Administrator

CITY OF ANDOVER CORPORATE SEAL ANDOVER, KANSAS

I hereby certify that the foregoing is the original ordinance; that said ordinance was passed on the 28 day of August, 2007; that the record of the final vote on its passage is found on page 3 of the minutes from August 28, 2007; that it was published in the Andover Journal on the 6 day of September 2007.

City Clerk

From: "Sasha Stiles" <sstiles@andoverks.com>
To: <bgray@ksinsurance.org>
CC: "Jeffrey K. Bridges Jr." <jbridges@andoverks.com>
Date: 10/25/2007 11:10 AM
Subject: insurance proceed ordinance for Andover
Attachments: Ord 1358 signed (insurance proceeds).pdf

Ms. Gray,

Per our conversation this morning, attached please find a signed copy of the original Ordinance passed by our City Council August 28, 2007. Please let me know if you need any other documentation or information. Thank you for your assistance.

10/29 Called on need letter. Sub copy. mail ...

Best regards,

Sasha Stiles, Management Assistant

City of Andover

PO Box 295

909 N. Andover Rd.

Andover, KS 67002

316/733-1303 ext 229

316/733-4634 fax

sstiles@andoverks.com

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4-1302. SAME: ENCUMBRANCES. Prior to final settlement on any claim covered by Section 1301, the insurer or insurers shall contact the county treasurer of Butler 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, Butler County, Kansas.

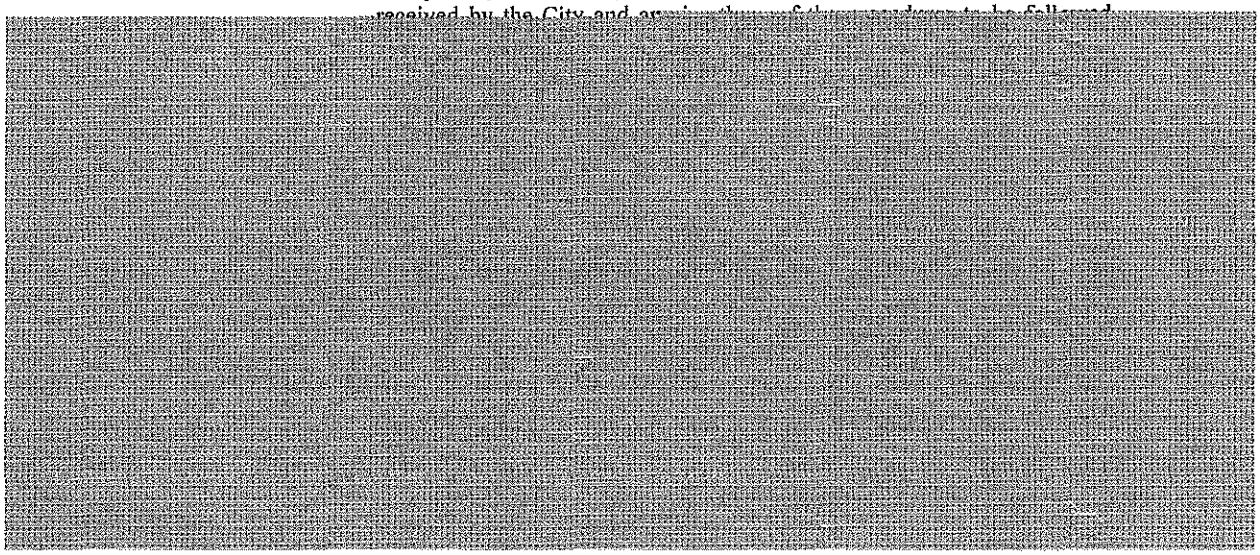
4-1303. SAME; PRO RATA BASIS. Such transfer of proceeds shall be on a pro rata basis by all insurance companies insuring the building or other structure.

4-1304. PROCEDURE.

A. When final settlement on a covered claim has been agreed to or arrived at between the named insured or insured's 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 Building Official 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 Building Official shall contact the named insured or insureds by certified mail, return receipts requested, notifying them that said insurance proceeds have been received by the City and are [illegible] to be followed



and transmit all documentation received from the insurance company or companies to the Building Official.

B. Within 20 days of the receipt of said moneys, the Building Official shall determine, after prior investigation, whether the City shall instigate proceedings to repair or remove unsafe structures as authorized by K.S.A. 12 – 1750 et seq., as amended.

C. Prior to the expiration of the 20 days established by subsection (B) of Section 4-1306 of the Code of the City of Andover as established by this ordinance, the Building Official shall notify the City Treasurer whether he or she intends to initiate proceedings to repair or remove unsafe structures.

D. If the Building Official has determined that proceedings 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 Building Official that no proceedings shall be initiated, 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.

4-1307. REMOVAL OF STRUCTURE; EXCESS MONEYS. If the Building Official has initiated proceedings to repair or remove an unsafe structure, all moneys in excess of that which is ultimately necessary to comply with the provisions for removal or repair of the building or structure, less salvage value, if any, shall be paid to the insured.

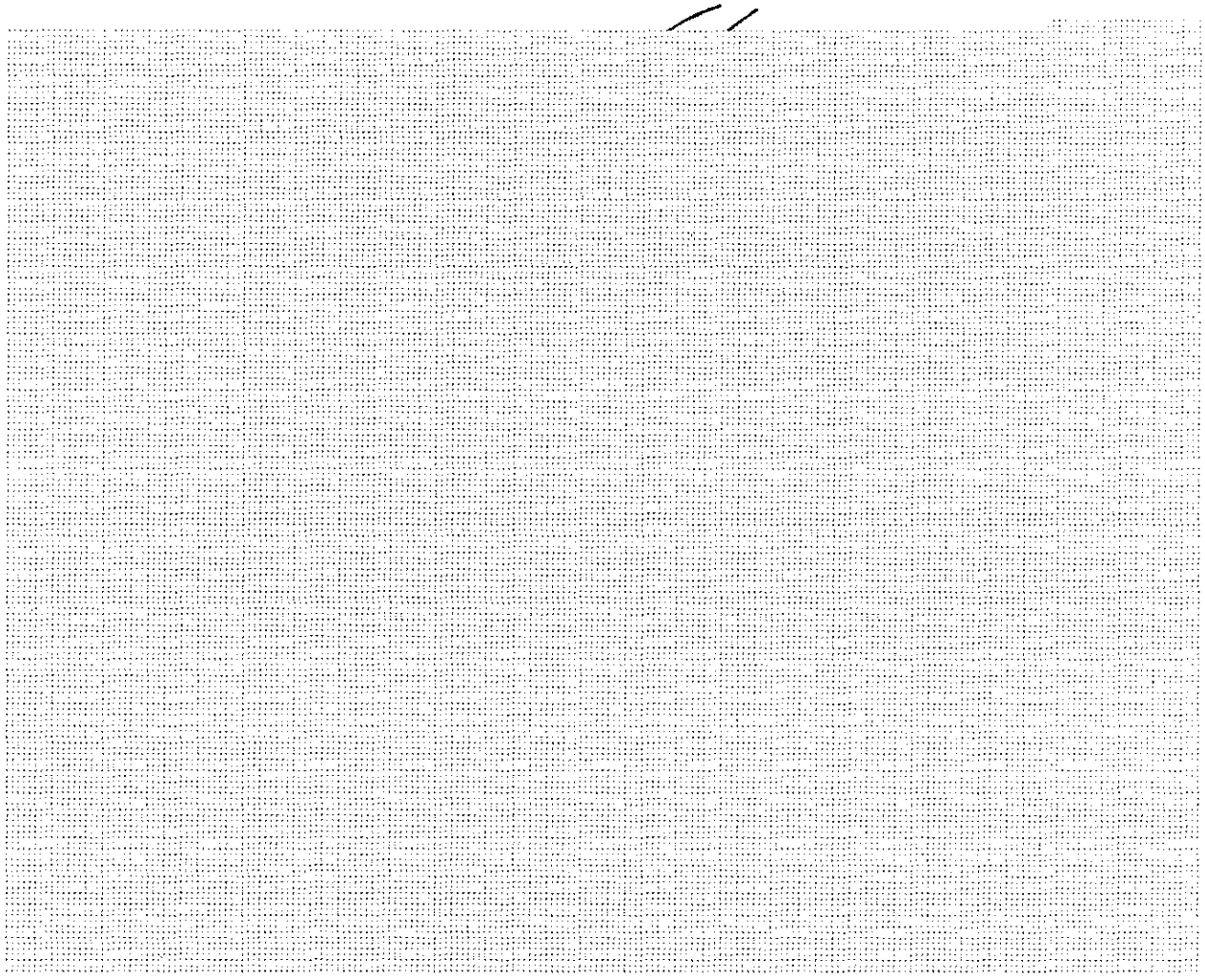
4-1308. SAME; DISPOSITION OF FUNDS. If the Building Official, with regard to a building or other structure damaged by fire, explosion, or windstorm, determines that it is necessary to initiate proceedings for repair or removal of the damaged structure, any proceeds received by the City Treasurer under the authority of

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

4-13010 INSURER; 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 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 ordinance, or releasing or disclosing any information pursuant to this ordinance.

Section 5. Effective Date: This Ordinance shall take effect and be in force from and after its passage, approval and publication once in the official city newspaper.

PASSED AND APPROVED ON 28 day of August, 2007



ADOPTED AND APPROVED by the governing body of the City of Andover, Kansas on August 28, 2007.

CITY OF ANDOVER, KANSAS

[seal]

By_____
Ben Lawrence, Mayor

ATTEST:

By_____
Jeffrey K. Bridges, Jr., City Administrator/City Clerk

I hereby certify that the foregoing is the original ordinance; that said ordinance was passed on the 28 day of August, 2007; that the record of the final vote on its passage is found on page 4 of the minutes from August 28, 2007; that it was published in the Andover Journal on the 6 day of September, 2007.

City Clerk

TWG REF: 284864
Bond Ordinance