(Summary First Published in the Times Sentinel Newspaper
on the ____ day of _____, 2019.)

THE CITY OF CHENEY, KANSAS

ORDINANCE NO. 914

AN ORDINANCE GOVERNING CLAIMS ON AND PAYMENTS OF BUILDING INSURANCE PROCEEDS BY THE CITY OF CHENEY, KANSAS, IN ACCORDANCE WITH K.S.A. 40-3901 ET SEQ., BY AMENDING SECTIONS 701, 702, 707, AND 709 OF ARTICLE 7 OF CHAPTER 8 OF THE CHENEY MUNICIPAL CODE AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES OF THE CITY OF CHENEY, KANSAS IN CONFLICT HEREWITH.

WHEREAS, the Governing Body of the City of Cheney, Kansas has determined it advisable to establish procedures, in accordance with the provisions of K.S.A. 40-3901 *et seq.*, for insurance companies to follow before paying a claim of a named insured for loss or damage to any building or other structure located within the City of Cheney, 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.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CHENEY, KANSAS.

SECTION 1. AMENDMENT. Sections 701, 702, 707 and 709 of Article 7 of Chapter 8 of the Cheney Municipal Code is hereby changed and amended to read as follows:

"ARTICLE 7. INSURANCE PROCEEDS FUND"

Section 8-701 – Scope and Application.

The City of Cheney 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 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.

Section 8-702 – Lien Created.

The governing body of the City of Cheney 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 8-707 – Building Inspector; Investigation; Removal of Structure.

A. Upon receipt of moneys 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 thirty (30) days of the receipt of said moneys, the chief building inspector 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 thirty (30) days established by Subsection B. of this Section, 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 forty-five (45) days after receipt of the moneys 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 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 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 Section 8-705 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. 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 Section 8-705, 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."

SECTION 2. REPEAL. All ordinances or parts of ordinances in conflict herewith are hereby repealed. However, any section of an existing ordinance not in conflict herewith is not repealed and remains in full force and effect.

SECTION 3. EFFECTIVE DATE. This ordinance shall be in force and effect after publication of its summary in the official City newspaper.

Adopted by the City Council this 14th day of February, 2019.

Approved by the Mayor this 14th day of February, 2019.

MAYOR, Linda Ball

SEAL

CHENEY, SEDGWICK COUNTY, KANSAS
CITY CLERK

ATTEST:

CITY CLERK, Danielle Young