

## CHAPTER IV. BUILDINGS AND CONSTRUCTION

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### ARTICLE 1. MOVING BUILDINGS

- 4-101 BUILDING OFFICIAL; AUTHORITY. The enforcement officer his or her authorized designee shall be responsible for the administration and enforcement of this article and appointment of an inspector in accordance with sections 4-204 through 4-209 of this chapter, which apply in a like manner to this article. (Code 2004)
- 4-102 PERMIT REQUIRED. No person, firm or corporation shall move, haul, or transport any house, building, derrick, or other structure of the height when loaded for movement of 16 feet or more from the surface of the highway, road, street or alley, or a width of eight (8) feet or more or which cannot be moved at a speed of four (4) miles per hour or faster, upon, across or over any street, alley or sidewalk in this city without first obtaining a permit therefor. (K.S.A. 17-1914; Code 2004)
- 4-103 SAME: APPLICATION FOR PERMIT. All applications for permits required under the provisions of this article shall be made in writing to the city clerk specifying the day and hour said moving is to commence and the route through the city's streets over which the house, building, derrick or other structure shall be moved and stating whether it will be necessary to cut and move, raise, or in any way interfere with any wires, cables or other aerial equipment of any public or municipally-owned utility, and if so, the application shall also state the name of the public or municipally-owned utility, and the time and location that the applicant's moving operations shall necessitate the cutting, moving, raising or otherwise interfering with such aerial facilities. (K.S.A. 17-1915; Code 2004)
- 4-104 SAME; BOND INSURANCE REQUIRED. (a) It shall be the duty of any person at the time of making application for a permit as provided in this article to give a good and sufficient surety bond to the city, to be approved by the governing body, indemnifying the city against any loss or damage resulting from the failure of any such person to comply with the provisions of this article or for any damage or injury caused in moving any such house or structure. The bond herein shall be in the sum of \$5,000, or cash may be deposited in lieu of such surety bond.

(b) A public liability insurance policy issued by an insurance company authorized to do business in the State of Kansas, in the amount of \$100,000 per person, \$300,000 per accident as to personal injury, and \$50,000 property damage may be permitted in lieu of bond. (Code 2004)

4-105 SAME; FEE. Before any permit to move any house or structure is given under the provisions of this article, the applicant shall pay a fee of not less than \$5 to the city clerk; plus monies shall be deposited with the City in an amount equal to the anticipated cost to the City of facilitating such move, including, but not limited to, the cost the time for any city personnel and equipment involved in such moving. (Code 2004)

4-106 CONTRACTOR; LICENSE REQUIRED; FEE. The provisions of sections 4-219 through 4-225 of this chapter shall apply in a like manner to this article. (Code 2004)

4-107 ROUTE; DUTIES OF BUILDING OFFICIAL. The city clerk shall, upon filing of the above application, refer the same to the enforcement officer, or his or her authorized designee to check the proposed route and determine if it is practical to move such house or other structure over the route proposed. If it shall appear that such route is not practical and another route may be used equally well with less danger to street and travel, then he or she may designate such other route as the one (1) to be used and shall notify the applicant of the same. The enforcement officer may also require the planking of any street, bridge or culvert or any part thereof to prevent damage thereto. It shall also be the duty of the enforcement officer or his or her authorized designee to inspect the progress of moving any house or other structure to see that the same is being moved in accordance with the provisions of this article. (Code 2004)

4-108 NOTICE TO OWNERS. (a) Upon issuance of a moving permit the holder of such permit shall give not less than 15 days written notice to any person owning or operating any wires, cables or other aerial equipment (Owner) along the proposed route of the intent to move the structure, giving the time and location that the applicant's moving operation shall necessitate the cutting, moving, raising or interfering of any wires, cables or other aerial equipment.

(b) The notice provision of subsection (a) shall not apply where the Owner has waived their right to advance notice.

(c) Should the moving operation be delayed, the applicant shall give the Owner or his or her agent not less than 24 hours advance notice of the actual operation. (K.S.A. 17-1916; Code 2004)

4-109 DUTY OF OWNERS. (a) It shall be the duty of the person or the city owning or operating such poles or wires after service of notice as provided in 4-108, to furnish competent lineman or workmen to remove such poles, or raise or cut such wires as will be necessary to facilitate the moving of such house or structure. The necessary expense which is incurred thereby shall be paid by the holder of the moving permit in accordance with the policies of

such Owner. The public or municipally owned utility may require the applicant to furnish the public or municipally owned utility with appropriate bond or other surety agreement insuring the payment of all expenses incurred as a result of applicant's moving operations. Failure of such Owner to provide such service may result in action in accordance with K.S.A. 17-1917. (K.S.A. 17-1917; Code 2004)

4-110 INTERFERING WITH POLES; WIRES. It shall be unlawful for any person engaged in moving any house or other structure to raise, cut or in any way interfere with any wires or poles bearing wires or any other aerial equipment. (K.S.A. 17-1918; Code 2004)

4-111 DISPLAY OF LANTERNS. It shall be the duty of any person moving any part of the structures mentioned in this article upon or across any street, alley or sidewalk or other public place, in this city, to display lighting equipment in conformance with the Standard Traffic Ordinance as mandated for vehicles over 80 inches in overall width. (Code 2004)

## **ARTICLE 2. DANGEROUS AND UNFIT STRUCTURES**

4-201 PURPOSE. The governing body has found that there exist within the corporate limits of the city structures which are unfit for human use or habitation because of dilapidation, defects increasing the hazards of fire or accidents, structural defects or other conditions which render such structures unsafe, unsanitary or otherwise inimical to the general welfare of the city, or conditions which provide a general blight upon the neighborhood or surrounding properties. It is hereby deemed necessary by the governing body to require or cause the repair, closing or demolition or removal of such structures as provided in this article. (K.S.A. 12-1751; Code 2004)

4-201a DUTY OF OWNER. Whenever any structure within the city shall be found to be dangerous, unsafe or unfit for human use or habitation, it shall be the duty and obligation of the owner of the property to render the same secure and safe or to remove the same. (Code 2004)

4-202 DEFINITIONS. For the purpose of this article, the following words and terms shall have the following meanings:

(a) Enforcement Officer means the enforcement officer or his or her authorized representative.

(b) Structure shall include any building, wall, superstructure or other structure which requires location on the ground, or is attached to something having a location on the ground. (K.S.A. 12-1750; Code 2004)

4-203 ENFORCEMENT OFFICER; DUTIES. The enforcement officer is hereby authorized to exercise such powers as may be necessary to carry out the purposes of this article, including the following:

(a) Inspect any structure which appears to be unsafe, dangerous or unfit for human habitation;

(b) Have authority to enter upon premises at reasonable hours for the purpose of making such inspections. Entry shall be made so as to cause the least possible inconvenience to any person in possession of the structure. If entry is denied, the enforcement officer may seek an order for this purpose from a court of competent jurisdiction;

(c) Report all structures which he or she believes to be dangerous, unsafe or unfit for human habitation to the governing body;

(d) Receive petitions as provided in this article. (Code 2004)

4-204

PROCEDURE; PETITION. Whenever a petition is filed with the enforcement officer by at least five (5) residents charging that any structure is dangerous, unsafe or unfit for human habitation, or whenever it appears to the Public Works Director on his or her own motion that any structure is dangerous, unsafe or unfit for human habitation, he or she shall, if his or her preliminary investigation discloses a basis for such charges:

(a) report such findings to the governing body, and

(b) cause notice to be served by certified mail, return receipt requested, or by personal service or, in the event the property or premises is unoccupied and the owner thereof does not reside within the corporate limits of the city by mailing such notice by certified mail, return receipt requested, to the owner's last known address and publication within the official newspaper of the City. (Code 2004)

4-204a.

SAME; CONTENTS OF NOTICE. The notice shall describe in writing the conditions constituting a violation of this article. The notice shall also inform the person or entity receiving such notice that: (a) Such person or entity shall have such time, to be specified in the notice and not to exceed ten (10) days from the date specified in the notice, to remove and abate the violation from the property or premises;

(b) Such person or entity may, within the time specified in the notice and not to exceed the date specified therein within which said removal and abatement is required, request a hearing before the governing body as provided by section 4-204b of this article.

(c) Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the enforcing officer before the governing body; and

(d) Failure to remove and abate the violation or to request a hearing as provided herein, within the time allowed may result in prosecution as provided by this Article and/or removal and/or abatement of the violation by the city as provided by this article.

4-204b.

HEARING. If a hearing is requested in a writing received by the governing body within the time period prescribed by section 4-204a of this article, the governing body shall conduct a hearing as soon as may be practicable and the person or entity receiving notice shall be advised by the city clerk of the time and place of the hearing at least five (5) days in advance thereof. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the enforcing officer before the governing body.

(a) On the date fixed for hearing or any adjournment or continuation thereof, the governing body shall hear all evidence submitted by the person to whom

notice of the violation was issued, and all evidence submitted by the city. Upon hearing such evidence, the governing body shall make findings by resolution. The hearing provided for in this section need not be conducted according to formal rules of evidence.

(b) If, after notice and hearing as provided for in this article, and upon hearing the evidence provided for in subsection a of this section, the governing body determines that a violation exists, it shall set forth in writing in the form of a resolution its findings of facts supporting such determination. The resolution shall also fix a reasonable period of time, to be determined by the governing body, within which the abatement of the violation shall be concluded, and a statement that if the person upon whom notice of the violation was served fails to conclude said removal and abatement within the time period established by the resolution, or fails to diligently prosecute and pursue the same until the work is completed, the governing body shall cause the violation to be abated. The resolution provided for in this section shall be published once in the official city newspaper and the city clerk shall mail a copy of the resolution to the person or entity, and owner, in the same manner as provided for in 4-204.

4-205 SAME; NOTICE. When the Notice provided for in 4-204(b) is returned unclaimed and the parties notified have taken no action to comply with the requirements of the Notice, the governing body upon receiving a report as provided in section 4-204 may by resolution fix a time and place at which the owner, the owner's agent, any lienholder of records and any occupant of the structure may appear and show cause why the structure should not be condemned and ordered repaired or demolished. (K.S.A. 12-1752; Code 2004)

4-206 SAME; PUBLICATION. (a) The resolution shall be published once each week for two (2) consecutive weeks on the same day of each week. At least 30 days shall elapse between the last publication and the date set for the hearing.

(b) A copy of the resolution shall be mailed by certified mail within three (3) days after its first publication to each owner, agent, lienholder and occupant at the last known place of residence and shall be marked "deliver to addressee only." (K.S.A. 12-1752; Code 2004)

4-207 SAME; HEARING, ORDER. If, after notice and hearing, the governing body determines that the structure under consideration is dangerous, unsafe or unfit for human use or habitation, it shall state in writing its findings of fact in support of such determination and shall cause the resolution to be published once in the official city newspaper and a copy mailed to the owners, agents, lienholders of record and occupants in the same manner provided for the notice of hearing. The resolution shall fix a reasonable time within which the repair or removal of such structure shall be commenced and a statement that if the owner of such structure fails to diligently prosecute the same until the work is completed, the governing body will cause the structure to be razed and removed. (Code 2004)

4-208 RESERVED.

- 4-209                    SAME; FAILURE TO COMPLY. (a) If, within the time specified in the order, the owner fails to comply with the order to repair, alter, improve or vacate the structure, the enforcement officer may cause the structure to be repaired, altered, improved, or to be vacated and closed.  
(b) If, within the time specified in the order, the owner fails to comply with the order to remove or demolish the structure, the Public Works Director may cause the structure to be removed and demolished. (Code 2004)
- 4-210                    SAME; MAKE SITE SAFE. Upon removal of any structure, the owner shall fill any basement or other excavation located upon the premises and take any other action necessary to leave the premises in a safe condition. If the owner fails to take such action, the Public Works Director may proceed to make the site safe. (Code 2004)
- 4-211                    ASSESSMENT OF COSTS. (a) The cost to the city of any repairs, alterations, improvements, vacating, removal or demolition by the Public Works Director including all legal costs associated with enforcing the provisions of this Article and the costs of making the site safe, shall be reported to the city clerk.  
(b) The city shall give notice to the owner of the structure by certified mail of the cost of removing the structure, legal costs to the City, and making the premises safe and secure, and the duty of the owner to pay all such costs. The notice shall also state that payment of the costs is due and payable within 30 days following receipt of the notice.  
(c) If the costs remain unpaid after 30 days following receipt of notice, the city clerk may sell any salvage from the structure and apply the proceeds or any necessary portion thereof to pay the cost of removing the structure and making the site safe. Any proceeds in excess of that required to recover the costs shall be paid to the owner of the premises upon which the structure was located.  
(d) If the proceeds of the sale of salvage is insufficient to recover the costs, or if there is no salvage, the balance shall be collected in the manner provided by K.S.A. 12-1, 115, and amendments thereto, or shall be assessed as special assessments against the lot or parcel of land on which the structure was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1, 115, and amendments thereto, but only until the full cost and applicable interest has been paid in full. (K.S.A. 12-1755; Code 2004)
- 4-212                    IMMEDIATE HAZARD. When in the opinion of the Mayor any structure is in such condition as to constitute an immediate hazard requiring immediate action to protect the public, the Mayor may direct the Public Works Director to erect barricades or cause the property to be vacated, taken down, repaired, shored or otherwise made safe without delay. Such action may be

taken without prior notice to or hearing of the owners, agents, lienholders and occupants. The cost of any action under this section shall be assessed against the property as provided in section 4-211. (K.S.A. 12-1756; Code 2004)

4-213 APPEALS FROM ORDER. Any person affected by an order issued by the governing body under this article may, within 30 days following service of the order petition the district court of the county in which the structure is located for an injunction restraining the Public Works Director from carrying out the provisions of the order pending final disposition of the case. (Code 2004)

4-214 SCOPE OF ARTICLE. Nothing in this article shall be construed to abrogate or impair the powers of the courts or of any department of the city to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof; and the powers conferred by this article shall be in addition to and supplemental to the powers conferred by the constitution, any other law or ordinance. Nothing in this article shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise, or to exercise those powers granted specifically by K.S.A. 12-1750 through 12-1756. (Code 2004)

### **ARTICLE 3. THE COMMERCIAL BUILDING CODE**

4-301 COMMERCIAL BUILDING STANDARDS. No person, firm or corporation shall hereafter design, construct, erect, remodel, alter, demolish, locate, relocate or remove any building or structure, or place or install service equipment therein in the city except in accordance with this Article relating to such buildings or structures and without a permit authorizing the same.

4-302 INSPECTION AND ENFORCEMENT. Sedgwick County, through the Metropolitan Area Building and Construction Department (MABCD) shall provide code inspection and enforcement services to the City, based upon the current Wichita-Sedgwick County unified building, electrical, plumbing, and mechanical codes, as adopted by the City and agreed to by separate interlocal agreement,

4-303 ADOPTION OF THE INTERNATIONAL BUILDING CODE, 2008 EDITION, AS THE COMMERCIAL BUILDING CODE, WITH CERTAIN ADDITIONS AND DELETIONS. There is hereby adopted by reference by the City of Colwich, Kansas, for the purpose of establishing standards for the safety, health, and public welfare, the International Building Code, 2008 Edition, as the Commercial Building Code, as published by the International Code Council, 5203 Leesburg Pike, Suite 708 Falls Church, Virginia, 22041, and such amendments as set forth in Resolution 263-07 of the Sedgwick County Board of Commissioners adopted on December 5, 2007.

4-304 AMENDMENTS. The International Building Code is hereby amended by

adopting those changes, deletions, and additions contained in Resolution No. 263-07 of the Board of County Commissioners of Sedgwick County, Kansas, adopted by that body on December 5, 2007, including all fee schedules, and such document is incorporated by reference herein, as was previously published in the official newspaper of the City of Colwich.

- 4-305            AVAILABILITY OF COPIES. One (1) copy of the Code designated with 4-303, along with the amendments described in 4-304, have been and are now filed in the office of the City Clerk and the said code is hereby adopted and incorporated as if fully set out herein at length as authorized in the manner provided by K.S.A. 12-3009, et seq.
- 4-306            VIOLATIONS AND PENALTIES. Any person who shall violate the provision of this code or shall fail to comply with any of the requirements thereof, or who shall act in violation of the approved plan or directive of an official or of a permit or certificate issued under the provisions of this code shall be prosecuted as set forth in Section 113.4 et seq. of the International Building Code as amended. Each day of violation shall be a separate violation. Furthermore, such person may be required to repair or correct any violation and pay all costs associated therewith.
- 4-307            PENALTY CLAUSE NOT EXCLUSIVE. The imposition of the penalties herein prescribed shall not preclude the City from instituting an appropriate action to restrain, correct, or abate a violation of this ordinance, and specific authority for such is hereby granted to take any action or imposing any penalty allowed by State law, the Code of this City, or this Article.
- 4-308            ENFORCEMENT. Enforcement of this code within the boundaries of the City shall be by the Code Enforcement Official(s) designated by the City, which may be through Sedgwick County Court through separate interlocal agreement, and such citations shall rely on the citation numbers set forth within the Wichita-Sedgwick County Code. If Sedgwick County and the City of Colwich choose not to be bound by such interlocal agreement, prosecution of any violations of this code shall be in the Colwich Municipal Court.
- 4-309            LIABILITY. Requirements of this code and ordinance shall not be construed as imposing on the City, its officers, agents, or employees, any liability or responsibility for any damages to any property or any injury to any person due to defective installation or any other reason.
- 4-310            SEVERABILITY. If any part or parts of this ordinance shall be held to be invalid such invalidity shall not affect the validity of the remaining part of this ordinance.
- 4-311            PROCEDURE FOR GRANTING A VARIANCE FROM THE COLWICH COMMERCIAL BUILDING CODE. (a) An application for a variance from the Colwich Commercial Building Code (“CBC”) shall be made in writing to the code enforcement official. The application for a variance shall be evaluated by the code enforcement official to ensure the proposed design, use, or operation satisfactorily complies with the intent of the CBC as adopted by the



City. Additionally, the alternative means, method, or operation that is being proposed will be evaluated to determine whether it is equivalent to that prescribed in the CBC in quality, strength, effectiveness, durability and safety. The property owner or property owner's representative making the request for variance shall have the burden of proving such equivalency. Upon the consideration of each application, the code enforcement official shall make a recommendation to the City Council stating whether the application should be approved or denied.

(b) Submittal Requirements. All applications for a variance from a requirement in the CBC shall contain the following information:

(1) The application shall be made in writing, with complete and adequate copies of the appropriate plans & documents necessary to clearly evaluate the project:

A. Identify relevant project information:

- 1) The project name, project number, contact person and phone number;
- 2) The relevant persons' names and phone numbers.
- 3) Other specific information identifying the project will be required (e.g., specific location, floor number, room number, plan page with gridlines, copies of applicable drawings and construction documents, copies of inspection reports, etc.)

B. Identify the code section numbers or reference the specific requirement for which the modification or installation is requested.

C. Provide a background statement to identify, explain or otherwise detail the situation causing the request for a variance.

D. Detail the alternative measures as part of the variance proposal and how they establish equivalency to those prescribed in the code.

(2) *Engineering Evaluation.* If the code enforcement official determines that an engineering evaluation is necessary, it shall be performed and reported by a licensed professional engineer certifying that the variance requested from the CBC constitutes an alternative or modification from CBC standards that is equivalent to that prescribed in the CBC in quality, strength, effectiveness, durability and safety. All submittals prepared by a professional engineer shall be stamped, signed and shall include their appropriate license number(s).

(c) *Evaluation of Application.* Each application for a variance will be evaluated by the City Council, upon the recommendation of the code enforcement official, together with any other application materials. All such requests are evaluated on a case by case basis. Approval of the request is based upon several factors, including, but not limited to:

(1) The level of equivalency achieved, that is, whether granting the requested variance will result in additional threats to public safety, extraordinary public expense, or create nuisances.

(2) The effect of the variance and other related conditions or issues that will be beneficial or not beneficial in the best interests of the City.

(3) All evaluations will be performed in the context of the specific project being reviewed.

If the variance proposal provides an equivalent level of protection considering all related conditions and issues pertaining to the project, the City Council will issue a response letter granting approval. Such approval may be conditional upon implementation of additional requirements listed in the variance response letter that were not part of the original variance proposal. Approval is granted only for the specific project under review and the conditions for approval shall not be construed as applicable to any other project nor should any approval be considered to establish any precedent for future variance approvals.

(d) *Costs and Expenses of Application.* The applicant is responsible for all costs and expenses associated with the preparation and submittal of the variance application and any evaluation, research or other outside consultation, whether requested by the applicant or the city.

#### **ARTICLE 4. THE INTERNATIONAL MECHANICAL CODE**

4-401           MECHANICAL STANDARDS. No person, firm or corporation shall hereafter design, construct, erect, remodel, alter, demolish, locate, relocate or remove any building or structure, or place or install service equipment therein if the same is not done in accordance with the mechanical regulations of this Article as hereafter set forth, and shall not perform work relating to mechanical installation and/or repair without a permit authorizing the same.

4-402           INSPECTION AND ENFORCEMENT. Sedgwick County, through the MABCD shall provide code inspection and enforcement services to the City, based upon the current Wichita-Sedgwick County unified building, electrical, plumbing, and mechanical codes, as adopted by the City and agreed to by separate interlocal agreement,

4-403           ADOPTION OF THE INTERNATIONAL MECHANICAL CODE, 2012 EDITION. There is hereby adopted by reference by the City of Colwich, Kansas, for the purpose of establishing standards for the safety, health, and public welfare, the International Mechanical Code, 2006 Edition, as published by the

International Code Council, 5203 Leesburg Pike, Suite 708 Falls Church, Virginia, 22041, as such Mechanical Code was adopted and amended by Resolution 158-2014 of the Sedgwick County Board of Commissioners on November 19, 2014 taking effect 1-1-15. This standard code shall include all amendments and codified supplements to the International Mechanical Code, 2012 Edition; The International Residential Code, 2012 Edition.

4-404 AVAILABILITY OF COPIES. One (1) copy of said code along with the amendments set forth in Sedgwick County Resolution 261-07, have been and are now filed in the office of the City Clerk and the said codes are hereby adopted and incorporated as if fully set out herein at length as authorized in the manner provided by K.S.A. 12-3009, et seq. While the Standard Codes are stand alone books they shall be known as part of Chapter 4, Article 4 of the Colwich Municipal Code. All Amendments as set forth within Resolution 261-07 of the Sedgwick County Board of Commissioners shall henceforth be.

4-405 AMENDMENTS. The International Mechanical Code, 2006 Edition; The International Residential Code, 2006 Edition, Chapters 12-24 Inclusive; and the International Fuel Gas Code, 2006 Edition, are hereby amended by adopting those changes, deletions, and additions contained in Resolution No. 261-07 of the Board of County Commissioners of Sedgwick County, Kansas, adopted December 5, 2007, including all fee schedules, and such document is incorporated by reference herein, as was previously published in the official newspaper of the City of Colwich.

4-406 VIOLATIONS AND PENALTIES. Any person who shall violate the provision of this code or shall fail to comply with any of the requirements thereof, or who shall act in violation of the approved plan or directive of an official or of a permit or certificate issued under the provisions of this code shall be prosecuted as set forth in Section 108 et seq. of the International Mechanical Code as amended. Each day of violation shall be a separate violation. Furthermore, such person may be required to repair or correct any violation and pay all costs associated therewith.

4-407 PENALTY CLAUSE NOT EXCLUSIVE. The imposition of the penalties herein prescribed shall not preclude the City from instituting an appropriate action to restrain, correct, or abate a violation of this ordinance, and specific authority for such is hereby granted to take any action or imposing any penalty allowed by State law, this code, or this ordinance.

4-408 ENFORCEMENT. Enforcement of this code within the boundaries of the City shall be by the Code Enforcement Official(s) designated by the City, which may be through Sedgwick County Court through separate interlocal agreement, and such citations shall rely on the citation numbers set forth within the Sedgwick County Code. If Sedgwick County and the City of Colwich choose not to be bound by such interlocal agreement, prosecution of any violations of this code shall be in the Colwich Municipal Court.

4-409 LIABILITY. Requirements of this code and ordinance shall not be construed as imposing on the City, its officers, agents, or employees, any liability

or responsibility for any damages to any property or any injury to any person due to defective installation or any other reason.

4-410 SEVERABILITY. If any part or parts of this ordinance shall be held to be invalid such invalidity shall not affect the validity of the remaining part of this ordinance.

#### **ARTICLE 5. THE INTERNATIONAL RESIDENTIAL CODE**

4-501 RESIDENTIAL BUILDING STANDARDS. No person, firm or corporation shall hereafter design, construct, erect, remodel, alter, demolish, locate, relocate or remove any residential building or structure, or place or install service equipment therein if the same is not done in accordance with the residential code regulations of this Article as hereafter set forth, and shall not design, construct, erect, remodel, alter, demolish, locate, relocate or remove any residential building or structure, or place or install service equipment therein without a permit authorizing the same.

4-502 INSPECTION AND ENFORCEMENT. Sedgwick County, through the MABCD shall provide code inspection and enforcement services to the City, based upon the current Wichita-Sedgwick County unified building, electrical, plumbing, and mechanical codes, as adopted by the City and agreed to by separate interlocal agreement,

4-503 ADOPTION OF THE INTERNATIONAL RESIDENTIAL CODE. The International Residential Code, as published by the International Codes Council, Inc., 2019 Edition is hereby adopted and incorporated herein by reference, subject to Section 4 of the Wichita-Sedgwick County Unified Building and Trade Code to the International Residential Code shall apply to the aforementioned version of the International Residential Code. All provisions within Article 2, Section 4 of the Wichita-Sedgwick County Unified Building and Trade Code prior to the passage of the resolution and ordinance adopting the 2018 International Residential Code shall remain unchanged, unless otherwise indicated within such resolution and ordinance. (Ord. No. 692 Sec. 1; Ord. No. 722, Section 1)

4-504 AVAILABILITY OF COPIES. One copy of said code along with the amendments set forth in Sedgwick County Resolution 120-2018, have been and are now filed in the office of the City Clerk and the said code is hereby adopted and incorporated as if fully set out herein at length as authorized in the manner provided by K.S.A. 12-3009, et seq. This Code and all amendments shall hereafter be known as Chapter 4, Articles 5 and 7 of the Colwich Municipal Code. (Ord. NO. 692 Sec. 1; Ord. No. 722, Sec. 2;)

4-505 AMENDMENTS. The International Residential Code, is hereby amended by adopting those changes, deletions, and additions contained in Resolution No. 120-2018 of the Board of County Commissioners of Sedgwick County, Kansas, adopted August 15, 2018 including all fee schedules, and incorporated by reference herein. (Ord. No. 692 Sec. 1; Ord. No. 722, Sec. 3)

4-506 VIOLATIONS AND PENALTIES. Any person who shall violate the provision of these codes or shall fail to comply with any of the requirements thereof, or who shall act in violation of the approved plan or directive of an official or of a permit or certificate issued under the provisions of these codes shall be prosecuted as set forth in Section 113.4 et seq. of the International Residential Code as amended. Each day of violation shall be a separate violation. Furthermore, such person may be required to repair or correct any violation and pay all costs associated therewith. (Ord. No. 692 Sec. 1)

4-507 PENALTY CLAUSE NOT EXCLUSIVE. The imposition of the penalties herein prescribed shall not preclude the City from instituting an appropriate action to restrain, correct, or abate a violation of this ordinance, and specific authority for such is hereby granted to take any action or imposing any penalty allowed by State law, this code, or this ordinance.

4-508 ENFORCEMENT. Enforcement of this code within the boundaries of the City shall be by the Code Enforcement Official(s) designated by the City, which may be through Sedgwick County Court through separate interlocal agreement, and such citations shall rely on the citation numbers set forth within the Sedgwick County Code. If Sedgwick County and the City of Colwich choose not to be bound by such interlocal agreement, prosecution of any violations of this code shall be in the Colwich Municipal Court.

4-509 LIABILITY. Requirements of this code and ordinance shall not be construed as imposing on the City, its officers, agents, or employees, any liability or responsibility for any damages to any property or any injury to any person due to defective installation or any other reason.

4-510 SEVERABILITY. If any part or parts of this ordinance shall be held to be invalid such invalidity shall not affect the validity of the remaining part of this ordinance.

## **ARTICLE 6. THE NATIONAL ELECTRICAL CODE**

4-601 ELECTRICAL STANDARDS. No person, firm or corporation shall hereafter design, construct, erect, remodel, alter, demolish, locate, relocate or remove any building or structure, or place or install service equipment therein if the same is not done in accordance with the electrical code regulations of this Article as hereafter set forth, and shall not perform any work governed by this electrical code without a permit authorizing the same.

4-602 INSPECTION AND ENFORCEMENT. Sedgwick County, through the MABCD shall provide code inspection and enforcement services to the City, based upon the current Wichita-Sedgwick County unified building, electrical, plumbing, and mechanical codes, as adopted by the City and agreed to by separate interlocal agreement,

4-603 ADOPTION OF THE NFPA 70, NATIONAL ELECTRICAL CODE, 2014 EDITION, AS THE ELECTRICAL CODE, WITH CERTAIN ADDITIONS AND

DELETIONS. There is hereby adopted by reference by the City of Colwich, Kansas, for the purpose of establishing standards for the safety, health, and public welfare, the National Electrical Code, 2017 Edition with certain provisions declared to be omitted, changed, or added to as set forth in Sedgwick County Resolution 185-2017; which is referred to within the Sedgwick County Resolution and herein as the Standard Code; all of which does provide for penalties and prosecutions for violations thereof; and regulation and control of the installation, construction, enlargement, alteration, repair, removal, maintenance, and use of electrical systems, conductors and equipment within or on private or public buildings or other structures and other premises, that connect to the supply of electricity; provides for the issuance of permits and fees therefor; establishes the Board of Electrical Examiners and Appeals; establishes the Electrical Contractors License requirements and penalties for violations thereof, and establishes for Master and Journeyman Electrician and Residential Wireman Certificates, the requirements and exceptions thereto, and for the process of suspension or revocation thereof; creates the office of electrical inspector; and establishes truth in advertising requirements. (Ord. No. 723, Sec. 1)

4-604 AVAILABILITY OF COPIES. One (1) copy of said code along with the amendments set forth in Sedgwick County Resolution 185-2017 have been and are now filed in the office of the City Clerk and the said code is hereby adopted and incorporated as if fully set out herein at length as authorized in the manner provided by K.S.A. 12-3009, et seq. This Code and all amendments shall hereafter be known as Chapter 4, Article 6 of the Colwich Municipal Code. (Ord. No. 723, Sec. 2)

4-605 AMENDMENTS. The NFPA 70, National Electrical Code, 2012 Edition, as the Electrical Code of the City, is hereby amended by adopting those changes, deletions, and additions contained in Resolution No. 185-2017 of the Board of County Commissioners of Sedgwick County, Kansas, adopted November 8, 2017 including all fee schedules, and incorporated by reference herein, as previously published in the official newspaper of the City. (Ord. No. 723, Sec. 3)

4-606 VIOLATIONS AND PENALTIES. Any person who shall violate the provision of this code or shall fail to comply with any of the requirements thereof, or who shall act in violation of the approved plan or directive of an official or of a permit or certificate issued under the provisions of this code shall be prosecuted as set forth in the National Electrical Code, 2017 Edition, as the Electrical Code of the City. Each day of violation shall be a separate violation. Furthermore, such person may be required to repair or correct any violation and pay all costs associated therewith. (Ord. No. 723, Sec. 4)

4-607 PENALTY CLAUSE NOT EXCLUSIVE. The imposition of the penalties herein prescribed shall not preclude the City from instituting an appropriate action to restrain, correct, or abate a violation of this ordinance, and specific authority for such is hereby granted to take any action or imposing any penalty allowed by State law, this code, or this ordinance.

4-608 ENFORCEMENT. Enforcement of this code within the boundaries of the City shall be by the Code Enforcement Official(s) designated by the City, and prosecution of violations may be through Sedgwick County Court through

separate interlocal agreement, and such citations shall rely on the citation numbers set forth within the Sedgwick County Code. If Sedgwick County and the City of Colwich choose not to be bound by such interlocal agreement, prosecution of any violations of this code shall be in the Colwich Municipal Court. The City hereby authorizes the building official to enforce such rules and regulations as are necessary to carry out the purpose(s) of this Code, after such are approved by the Board of County Commissioners of Sedgwick County, Kansas.

4-609               LIABILITY. Requirements of this code and ordinance shall not be construed as imposing on the City, its officers, agents, or employees, any liability or responsibility for any damages to any property or any injury to any person due to defective installation or any other reason.

4-610               SEVERABILITY. If any part or parts of this ordinance shall be held to be invalid such invalidity shall not affect the validity of the remaining part of this ordinance.

#### **ARTICLE 7. THE INTERNATIONAL PLUMBING CODE**

4-701               PLUMBING STANDARDS. No person, firm or corporation shall hereafter design, construct, erect, remodel, alter, demolish, locate, relocate or remove any building or structure, or place or install service equipment therein if the same is not done in accordance with the plumbing code regulations of this Article as hereafter set forth, and shall not place or install equipment therein governed by this Article without a permit authorizing the same.

4-702               INSPECTION AND ENFORCEMENT. Sedgwick County, through the MABCD shall provide code inspection and enforcement services to the City, based upon the current Wichita-Sedgwick County unified building, electrical, plumbing, and mechanical codes, as adopted by the City and agreed to by separate interlocal agreement,

4-703               ADOPTION OF THE UNIFORM PLUMBING CODE, 2015 EDITION, AS THE PLUMBING CODE, WITH CERTAIN ADDITIONS AND DELETIONS. The Uniform Plumbing Code, 2015 Edition, as published by the International Code Council, 5203 Leesburg Pike, Ste 708 Falls Church, Virginia 22041 and such amendments as set forth in Resolution 144-2016.

4-704               AVAILABILITY OF COPIES. One copy of said code along with the amendments set forth in Sedgwick County Resolution 144-2016, have been and are now filed in the office of the City Clerk and the said code is hereby adopted and incorporated as if fully set out herein at length as authorized in the manner provided by K.S.A. 12-3009, et seq. This Code and all amendments shall hereafter be known as Chapter 4, Articles 5 and 7 of the Colwich Municipal Code.

4-705               AMENDMENTS. The International Plumbing Code and the International Residential Code is hereby amended by adopting those changes, deletions, and additions contained in Resolution No. 144-2016 of the Board of County

Commissioners of Sedgwick County, Kansas, adopted October 5, 2016, including all fee schedules, and incorporated by reference herein.

4-706 VIOLATIONS AND PENALTIES. The imposition of the penalties herein prescribed shall not preclude the City from instituting an appropriate action to restrain, correct, or abate a violation of this ordinance, and specific authority for such is hereby granted to take any action or imposing any penalty allowed by State law, this code, or this ordinance.

4-707 PENALTY CLAUSE NOT EXCLUSIVE. The imposition of the penalties herein prescribed shall not preclude the City from instituting an appropriate action to restrain, correct, or abate a violation of this ordinance, and specific authority for such is hereby granted to take any action or imposing any penalty allowed by State law, this code, or this ordinance.

4-708 ENFORCEMENT. Enforcement of this code within the boundaries of the City shall be by the Code Enforcement Official(s) designated by the City, which may be through Sedgwick County Court through separate interlocal agreement, and such citations shall rely on the citation numbers set forth within the Sedgwick County Code. If Sedgwick County and the City of Colwich choose not to be bound by such interlocal agreement, prosecution of any violations of this code shall be in the Colwich Municipal Court.

4-709 LIABILITY. Requirements of this code and ordinance shall not be construed as imposing on the City, its officers, agents, or employees, any liability or responsibility for any damages to any property or any injury to any person due to defective installation or any other reason.

4-710 SEVERABILITY. If any part or parts of this ordinance shall be held to be invalid such invalidity shall not affect the validity of the remaining part of this ordinance.

**ARTICLE 8. INSURANCE PROCEEDS**

4-801. CITY'S AUTHORIZATION. 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, 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 seventy-five 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 article.

4-802. CREATING A LIEN; CITY'S FAVOR. 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, 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 structure under all policies is in excess of seventy-five 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, 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.

4-803. TRANSFER OF PROCEEDS. (a) Prior to final settlement on any claim covered by section 4-302, 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.

4-804. FINAL SETTLEMENT. (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 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 city in an amount equal to the sum of fifteen percent (15%) of the covered claim payment, unless the enforcement officer or his/her designee 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 city clerk shall contact the named insured or insureds, by required mail, notify them that said insurance proceeds have been received by the city and apprise them of the procedures to be followed under this article.

4-805. FIRE INSURANCE PROCEEDS FUND. The city clerk is authorized and shall create a fund to be known as the "fire insurance proceeds fund." All moneys received by the city clerk as provided by this article shall be placed in said fund and deposited in an interest-bearing account.

4-806. RECEIPT OF MONEY. (a) Upon receipt of moneys as provided by this article, the city clerk shall immediately notify the enforcement officer or his/her designee of said receipt, and transmit all documentation received from the insurance company or companies to him or her.

(b) Within twenty (20) days of the receipt of said moneys, the enforcement officer 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 twenty (20) days established by subsection (b) of this section, the enforcement officer or his/her designee shall notify the city clerk whether he or she intends to initiate proceedings under K.S.A. 12-1750 et. seq., and amendments thereto.

(d) If the enforcement officer or his/her designee has determined that proceeds under K.S.A. 12-750 et seq. and amendments thereto, shall be initiated, he or she will do so immediately but not later than thirty (30) days after the receipt of the moneys by the city clerk.

(e) Upon notification of the city clerk by the enforcement officer or his/her designee that no proceedings shall be initiated under K.S.A. 12-1750 et. seq., and amendments thereto, the city clerk 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 thirty (30) days of the receipt of the moneys from the insurance company or companies.

4-807. MONEY IN EXCESS. If the enforcement officer 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.

4-808. NECESSARY TO ACT UNDER THE PROVISIONS OF THIS ARTICLE. If the enforcement officer or his/her designee, with regard to a building or other structure damaged by fire, explosion or windstorm, determines that it is necessary to act under K.S.A. 12-1756 and amendments thereto, any proceeds received by the city clerk under the authority of section 4-804(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, and amendments thereto. The Public Works Director or his/her designee shall be responsible for notifying the city clerk of the amount of these expenses incurred by the city. Upon reimbursement from the insurance proceeds, the city clerk shall immediately affect the release of the lien resulting therefrom. Should the expenses incurred by the city exceed the insurance proceeds paid over to the city clerk under section 4-804(a), 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.

4-809. EXCEPTIONS. 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.

4-810. 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.

