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THE CITY OF COLWICH, KANSAS

ORDINANCE NO. 714

AN ORDINANCE CONCERNING THE AMENDMENT OF CHAPTER IV, BUILDINGS ARTICLE 3 BY CREATING SECTION 4-311 IN CONNECTION WITH APPLICATION FOR A VARRIANCE FROM THE COLWICH COMMERCIAL BUILDING CODE WITHIN THE CITY OF COLWICH, SEDGWICK COUNTY, KANSAS.

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

Section 1. The modifications to Chapter IV; Article 3 of the City Code of Ordinances is hereby adopted by the Governing Body of the City of Colwich, to wit the creation of Section 4-311.

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.

Section 2. This Ordinance shall take effect and be in force from and after its publication in the official city newspaper.

Passed by the City Council this 17<sup>TH</sup> day of September, 2018

Approved by the Mayor this 17<sup>TH</sup> day of September, 2018.

/s/Terrence D. Spexarth  
MAYOR, TERRENCE SPEXARTH

ATTEST:

/s/Diana K. Brooks  
CITY CLERK, DIANA BROOKS

SEAL