

## **Article XXXIII**

### **Contractor Licensing Code**

- **101.1 – Intent.** The purpose of this Article is to protect the public health and safety by assuring that the persons responsible for the construction, alteration, repair, or demolition of structures in Marion County are qualified to perform such services. It is further the intent that owners of single-family residential properties be permitted without special qualification to perform any work on residential structures that they personally occupy. A personal occupancy contractor license exemption for any homeowner shall be limited as specified in Section 101.4 (c).
  
- **101.2 – Title.** This article shall hereafter be referred to as the “Marion County Contractor Licensing Code.”
  
- **101.3 – Licensing authority.** The Marion County Code Official shall issue contractor licenses for the classes of contractors specified by Section 101.11 upon verification of credentials of applicants required by Section 101.11, and the payment of fees as prescribed by Table 101.12 for each class of license being requested.
  
- **101.4 – Defined.** A “contractor,” within the meaning of this Article, is any individual person, corporation, limited liability company, joint venture or other legal entity or enterprise that undertakes with or for another, with or without compensation, to construct, alter, repair or demolish any structure or any portion thereof. A licensed contractor, under this code, shall be responsible for supervising all employees and for the proper and competent performance of all employees working under his or her supervision. Unless otherwise provided by this code, no building permit shall be issued to any person who is not a licensed contractor.  
**Exclusions.** The following persons are not contractors within the meaning of this Article:
  - a) An employee, or agents working for and under the supervision of a contractor licensed under this Article;
  - b) An electrician, plumber, mechanical installer or other specialized trades-person for whom another license is required under provisions of this Article;
  - c) A homeowner that owns and personally occupies property, who undertakes the construction, alteration, repair or maintenance of such homeowner’s single-family residence or accessory structure thereto. Notwithstanding the foregoing, for purposes of this Article, any person who undertakes the construction of a new residence that they will own and occupy more than one (1) time in any five (5) year period or substantial improvement to existing residences more than three (3) times in any five (5) year period shall be deemed to be a “contractor” under this Article.
  - d) A homeowner may demolish a residential structure, agricultural building or detached accessory building when the building or structure being demolished is setback from any property line or right-of-way a minimum distance of 25 feet. The term “demolition” for the purposes of this article, shall mean safe removal of a structure to a predetermined and approved disposal site. The various options and requirements for demolition shall be determined on a site by site basis at the discretion of the code official.

- **101.5 – License required.** No building permit shall be issued to any contractor who has not first obtained a license or who is delinquent in payment of his annual license fee, or whose Certificate of Insurance has expired, or whose license has been suspended or revoked by action of the Marion County Planning Commission (hereinafter referred to as “the Board”).
- **101.6 – Contractor Insurance.** Every contractor shall keep in force a policy of commercial general liability insurance including completed operations/products coverage. Such insurance policy shall be written with an insurance company licensed as an admitted insurance company in the State of Kansas. Contractors shall maintain general liability coverage in an amount not less than \$1,000,000 per occurrence combined single limit for bodily injury and property damage unless otherwise stated in this code. In addition, every such contractor shall procure and maintain workers compensation insurance as required by law. A contractor, at the time of licensing under this Section, shall provide Marion County with an original certificate of insurance verifying the insurance coverage required by this Section. Marion County shall be added as a “Certificate Holder” to the insurance policy by the insurance company issuing the certificate of insurance, requiring the insurance company to notify Marion County in writing of any change in coverage or cancellation of such policy at least ten (10) days prior thereto.
- **101.7 – Established place of business required.** Every contractor who has obtained a license as set forth in this Section shall have and maintain an established place of business at a definite address and telephone number to be kept current and on file at the Marion County Planning, Zoning and Environmental Health office (hereinafter referred to as “the Department”). If said place of business is located in Marion County, the place of business shall comply with all rules and regulations of Marion County. Contractors holding an unexpired license shall be responsible for notifying the Department of any changes of address or phone contact information.
- **101.8 – Contractor responsible for all work.** No person shall perform any work as a contractor in Marion County without first obtaining a Contractors License from the Department. No building permit shall be issued to any person who does not have a current license as required by this Section. Upon issuance of a building permit to a contractor, such contractor shall be responsible for all work undertaken pursuant to such building permit, including receiving and passing all inspections required by Marion County Building Codes as adopted as well as all work done by the contractor’s employees, agents, and subcontractors. Licensed contractors shall be responsible for all funds or property received by him for prosecution or completion of a specific contract or for a specific purpose.
- **101.9 – Licenses authorized.** There shall be separate classes of licenses authorized for contractors as provided in Subsections 101.11.1 through 101.11.5
- **101.9.1 – Multiple classes.** A contractor may become licensed in any classification by submitting to the examination as set forth in Subsection 101.11 for the particular class involved and paying the fee required for the classification as set forth in Table 101.12.

- **101.9.2 – Business entities.** A corporation, limited liability company, partnership, joint venture or other legal entity or enterprise may obtain, in the entity’s name, a building permit provided that such entity has, in its regular employ, a person who is licensed as a contractor under this Article and such individual is the signatory on the building permit on the entity’s behalf. Only a contractor licensed under provisions of this Article may obtain a building permit on behalf of a corporation, partnership, limited liability company, joint venture or other business entity or enterprise. Every contractor by obtaining a building permit in the name of such corporation, partnership, limited liability company, joint venture or other business entity or enterprise, shall certify that such contractor is the employee or principal of such business entity or enterprise.
  
- **101.10 – Examinations, license approval and issuance.** Unless otherwise provided by this code, every contractor shall, prior to making application for a contractor’s license under this code, possess a certificate of competency from a nationally-recognized testing institution as contemplated by K.S.A. 12-1556 (Supp. 1998) or as otherwise set forth in this Article for Limited Contractors. The Board will accept a contractor license of an equivalent class issued by the any city within Marion County.
  
- **101.10.1- Continuing education.** The Board may establish continuing education requirements, rules and regulations for contractors licensed under this Section. Every contractor shall demonstrate compliance with such continuing education requirements prior to license renewal.
  
- **101.11 – Classifications of Contractor Licenses.**
- **101.11.1 – General Contractor.**

**Class A, General Contractor.** A Class A license shall entitle the holder thereof to build, remodel, repair, move or demolish any structure without limitation of use, type of construction, height or area. An applicant shall submit proof of successfully completing the General Contractor Certification Examination by Block and Associates, Gainesville, Florida (pursuant to K.S.A. 12-1556).

**Class B, General Contractor.** A Class B license shall entitle the holder thereof to build, remodel, repair, move or demolish any structure not exceeding three (3) stories in height. An applicant shall submit proof of successfully completing the Building Contractor Certification Examination by Block and Associates, Gainesville, Florida (pursuant to K.S.A. 12-1556).

**Class C, Residential General Contractor.** A Class C license shall entitle the holder thereof to build, remodel, repair, move or demolish single family or duplex residences and buildings accessory thereto. An applicant shall submit proof of successfully completing the Residential Contractor Certification Examination by Block and Associates, Gainesville, Florida (pursuant to K.S.A. 12-1556).
- **101.11.2 – Electrical Contractor.** An applicant for an Electricians License shall submit proof of successfully completing the Master Electrician Certification Examination by Block and Associates, Gainesville, Florida (pursuant to K.S.A. 12-1525).

- **101.11.3 – Plumbing Contractor.** An applicant for a Plumbing Contractor License shall submit proof of successfully completing the Master Plumbing Contractors Examination by Block and Associates, Gainesville, Florida (pursuant to K.S.A. 12-1508).
- **101.11.4 – Mechanical Contractor.** An applicant for a Mechanical Contractor License shall submit proof of successfully completing the Master Mechanical Contractor Examination by Block and Associates, Gainesville, Florida (pursuant to K.S.A. 12-1541).
- **101.11.5 – Contractor Licenses which fall under the Marion County Sanitation Codes.** All applicants for Wastewater Contractor Licenses, Water Well Contractor Licenses, Wastewater Haulers Licenses, and any and all other licenses required under the Marion County Sanitation Regulations shall maintain the proper licenses and meet all requirements as specified in the Sanitation Codes.
- **101.11.6 – Limited Contractor.** An applicant may apply for a Limited Contractor License when the applicant chooses to specialize in only one aspect of construction. Limited Contractor Licenses are available for the following specialized trades:
  - a) **Foundation Contractor:** A foundation contractor license shall entitle the holder thereof to contract for and to install, repair and replace building foundations. License shall be issued upon successful completion of local testing requirements as may be approved by the Board.
  - b) **Roofing Contractor:** A roofing contractor license shall entitle the holder thereof to contract for and to install, repair and replace roof coverings. Work may include roof deck and roof deck insulation, roof coating, painting, covering and may include use of sheet metal and insulation of other sheet metal products incidental to roofing work or other material in connection therewith, or any combination thereof. License shall be issued upon successful completion of local testing requirements as may be approved by the Marion County Planning & Zoning Board.
  - c) **Site Utility Installer:** A site utility installers contractor license shall entitle the holder thereof to contract for and to install, repair and replace water service piping, conduit and conductors for electrical service laterals and underground gas piping on residential or agricultural property. License shall be issued upon successful completion of local testing requirements as may be approved by the Board.
  - d) **Siding and Window Contractor:** A siding and window contractor license shall entitle the holder thereof to contract for and to install, repair and replace siding and windows on residential or agricultural structures. License shall be issued upon successful completion of local testing requirements as may be approved by the Board.
  - e) **Elevator Contractor Class 1:** An elevator contractor class 1 shall be authorized to perform work for the installation, alteration, modernization, maintenance, service or repair of any electrically or electro-hydraulically powered passenger and freight elevators, escalators or moving walks. License shall be issued upon presentation of valid licensure through the State of Kansas.
  - f) **Elevator Contractor Class 2:** An elevator contractor class 2 is authorized to perform work for the installation, alteration, modernization, maintenance, service or repair of any hand-powered freight elevator, electric or hand-powered dumb-waiter, man-lift, private residence elevator, chairlift, workmen's hoist, material hoist, conveyor and related

equipment. A class 2 license is also required for any person, firm or corporation engaged only in the maintenance, service or minor alteration of equipment. License shall be issued upon presentation of valid licensure through the State of Kansas.

- g) **Fire Protection Contractor Class 1:** A fire protection contractor class 1 license shall entitle the holder thereof to install, alter, modernize, maintain, service, repair, test and inspect automatic sprinkler systems and standpipe systems for any and all types of occupancies, inclusive of all related underground fire lines and fire services and inclusive of, but not limited to, all appurtenances such as fire pumps, water storage tanks, fire control systems, automatic and manual water-spray and deluge systems, and special extinguishing systems using carbon dioxide, foam, dry chemical or inert gas, and other such systems used for the control or extinguishment of fire. Backflow prevention devices are permitted to be installed, but they must be tested in accordance with county and state regulations. License shall be issued upon presentation of valid licensure through the Kansas State Fire Marshal's Office.
  - h) **Fire Protection Contractor Class 2:** A fire protection contractor class 2 license shall entitle the holder thereof to install, maintain, test or repair only dry, wet or combination standpipe systems, and install fire hydrant lines. License shall be issued upon presentation of valid licensure through the Kansas State Fire Marshal's Office.
  - i) **Fire Protection Contractor Class 3:** A fire protection contractor class 3 license shall entitle the holder thereof to install, maintain test or repair only special systems using carbon dioxide, foam, dry chemical or inert gas for the control or extinguishment of fire. License shall be issued upon presentation of valid licensure through the Kansas State Fire Marshal's Office.
  - j) **Demolition Contractor:** A demolition contractor license shall entitle the holder thereof to demolish structures according to the conditions set forth by the building inspector. The term "demolition" for the purposes of this article, shall mean the safe removal of a structure to a predetermined and approved disposal site, including but not limited to removal by burial at an approved site or removal by fire as permitted by the Marion County Fire Chief or his designee and in accordance with State of Kansas Burn Regulations. Removal by fire shall require the contractor to remove and dispose of any hazardous materials including but not limited to asbestos, shingles, electrical wiring or any other materials as requested by the Code Official in a manner that is acceptable by the State Fire Marshal's Office and the Kansas Department of Health and Environment prior to ignition of the structure. In addition, removal by fire shall require that any and all burning be scheduled with the Code Official and KDHE so as to enable the Fire Department to respond to the location for a standby during the entire burning process or as the Code Official deems necessary.
- **101.11.7 – Manufactured Housing Installation Contractor:** A manufactured housing installation contractor license shall entitle the holder thereof to contract for and to install manufactured homes, modular homes and other non-site built homes. Contractors of this class shall, in the course of installation, be entitled to contract for and to install water and sewer connections above ground so long as the installation thereof meets the requirements of the Marion County Manufactured Housing Installation Codes as they may be adopted or amended, as well as to include but not be limited to the requirements as specified by the currently adopted versions of the building, housing, mechanical or plumbing codes at the

time of installation. All electrical and gas lines and all below ground work must be contracted for with a contractor holding the appropriate license. Applicants shall furnish written evidence of a *minimum* of six (6) months of installation experience, be at least 21 years of age, pass a written examination as administered by the Board and maintain insurance coverage as specified in Section 101.6 of this code.

- **101.12 – Contractor License Application**
- **101.12.1 – Application form.** The Department shall receive and process contractor license applications. An application fee as set forth in Section 101.12 and Table 101.12 shall accompany each original application. An application fee shall not be required in connection with a license renewal.
- **101.12.2 – Application and license fees.** Application for contractor’s license, name change, organizational change or change of the qualified person shall include information as the Board may prescribe and shall accompany the application fee required by Table 101.12. Each application must list a qualified person. The qualified person shall be the applicant for a license, and must have the ability to sign contracts that legally bind the individual, partnership or corporation. The qualified person shall be the individual, for an individual license; one of the partners, for a partnership license; an officer or active member in the corporation for a corporate license. It shall be a violation for the qualified person to leave the licensed contractor entity. Penalty for departure of the qualified person or disassociation with the entity shall result in all licenses and permits to be rendered null and void 30 days after official notice from the department of Planning and Zoning unless another person associated with the entity becomes qualified within that period of time. Upon approval of the application and verification of qualifications in accordance with Section 101.11 and insurance requirements in accordance with Section 101.6, the Code Official shall issue the requested license upon payment of the annual fee required by Table 101.12. Application and license fees shall not be prorated because part of the year has elapsed.
- **101.12.3 – Renewal or Reinstatement of Licenses.** Every contractor license shall be issued on a calendar year basis to expire on December 31<sup>st</sup> of each year. License renewal fees shall be due on the first day of January. A license renewal application may be submitted to the county beginning on December 1<sup>st</sup> through and including the last day of January without a late fee being assessed. Thereafter, a late fee equal to \$25.00, in addition to the License Fee shall be collected to offset administrative costs incurred resulting from late renewal. When insurance coverage expires, the license shall expire by limitation and notice will be sent to the license holder. The license shall not be reinstated until an original certificate of insurance as required by Section 101.6 of this code has been submitted and a reinstatement fee equal to \$25.00 for the class of license is paid. Any construction permits that the license holder possesses shall be null and void when the holder of the license or one of the designated contractors on the construction project authorized by a construction permit has expired or when insurance coverage has lapsed.

**TABLE 101.12  
LICENSE AND REGISTRATION FEES**

<b>Application Fee</b>	<b>\$50.00</b>
<b>Class A General Contractor</b>	<b>\$100.00</b>
<b>Class B General Contractor</b>	<b>\$100.00</b>
<b>Class C Residential General Contractor</b>	<b>\$100.00</b>
<b>Electrical Contractor</b>	<b>\$100.00</b>
<b>Plumbing Contractor</b>	<b>\$100.00</b>
<b>Mechanical Contractor</b>	<b>\$100.00</b>
<b>Limited Contractor License</b>	<b>\$60.00</b>
<b>Manufactured Housing Contractor</b>	<b>\$60.00</b>
<b>Late Renewal Fee</b>	<b>\$25.00</b>
<b>Reinstatement Fee</b>	<b>\$25.00</b>

- **101.13 – Contractor Discipline.** The Board shall have the authority to discipline any contractor subject to the requirements of this Section including suspension or revocation of the contractor’s license issued under the provisions of this Section. Before any contractor’s license is suspended or revoked, a hearing shall be held by the Board upon not less than ten (10) days notice to the affected contractor. Although this is an informal hearing outside the procedures of the Kansas Administrative Procedure Act, said contractor may be represented by counsel and may question any and all witnesses. The Board may suspend or revoke a contractor’s license if it concludes, following a hearing, that the contractor’s action or inaction is:

  - a) A violation of the provisions of this code, any applicable building safety code, or any lawful order of the Code Official;
  - b) A misrepresentation of a material fact made in connection with obtaining a contractor’s license or building permit;
  - c) A fraudulent or deceitful use of a contractor’s license to obtain or to allow an unlicensed contractor to obtain a building permit;
  - d) A failure to obtain a building permit or a timely inspection as required by any applicable building safety code;
  - e) A failure to exercise regular, routine control and supervision over a construction project for which the contractor has obtained a building permit or has established responsibility for a specific trade thereof;
  - f) A failure to timely obtain a Certificate of Occupancy for a structure as required by applicable building safety codes;
  - g) A failure to prevent any unlicensed contractors or unsupervised employees of a licensed contractor to work when licenses are required by this code to perform work on a job site for which the contractor obtained a building permit;
  - h) A failure to pay any required application or licensing fees, building permit fees, inspection fees or other fees required by the Marion County Building Code; or
  - i) A failure to maintain insurance as required by Section 101.6.
  
- **101.14 – Board Action.** Upon finding by a majority of the members present at the hearing that a contractor has violated one or more of the provisions of Section 101.13 (a) through (i)

of this code, the Board may admonish, reprimand, or take appropriate disciplinary action against such contractor including but not limited to:

- a) Suspension of the contractor's license for a fixed period not to exceed ninety (90) days;
- b) Suspension of the contractor's license for a fixed period exceeding ninety (90) days, provided, however, the contractor shall have the right to have the suspension and the terms thereof reconsidered by the Board at the expiration of the first ninety (90) days and every ninety (90) days thereafter to determine if just cause exists to modify or terminate the suspension. At the Board's option, such reconsideration may include a hearing.
- c) Revocation of the contractor's license for a period of not less than twelve (12) months from the date of revocation. A contractor's license shall be revoked if the contractor's license has been suspended three (3) times during any 36-month period.

A contractor may appeal any decision of the Board to the Board of County Commissioners of Marion County by filing notice of appeal with the Marion County Clerk within fifteen (15) days following the Board's written decision.

- **101.15.1 – Violation.** Any person, company, corporation, institution, municipality or agency of the State of Kansas who violates any provision of the Marion County Contractor Licensing Code as adopted herein and amended hereafter shall be subject to the penalties and remedies provided for in this Section. Each day that a violation is allowed to continue may be deemed to constitute a separate offense.
- **101.15.2 – Penalties.** A violation of this code shall be deemed to be a misdemeanor and punishable by a fine not to exceed five hundred dollars (\$500.00) for each offense.
- **101.16 – Safe Harbor Provision.** A contractor shall not be found in violation of this code, nor disciplined by the Board for a violation of an applicable building safety code provision if the contractor provides substantial and compelling evidence that the violation occurred as the result of the contractor's good faith compliance with the building plans and specifications prepared or approved by an architect or engineer licensed by the State of Kansas.
- **101.17 – Interlocal Cooperation.** Be it known that the Board consists of nine (9) members appointed by the Board of County Commissioners of Marion County. Be it also known that this Board acts on behalf of Marion County and is thereby appointed to oversee the licensing and regulation of contractors within the county.
- **101.18 – Complaints.** Any person may file a written complaint with the Board on forms provided for that purpose. Every complaint shall set forth one or more of the conditions specified by Section 101.13 (a) through (i).
- **101.18.1 – Consumer Complaints.** Consumer complaints relating to the quality of materials, workmanship, untimely construction, contract disputes and similar are beyond the jurisdiction of the Board. No complaint shall be considered by the Board unless it meets the requirements of Section 101.13 of this code.
- **101.19 – Board Action.** Upon a finding by a majority of the members present at the hearing that a contractor has violated one or more of the provisions of the Contractor Licensing



Regulations, the Board may admonish, reprimand or take other appropriate disciplinary action against such contractor.

- **101.20 – Hearings.** All contested matters pertaining to the approval, issuance, suspension, revocation, renewal and reinstatement of licenses, including examinations, shall be heard by the Board. The hearing shall be informal but witnesses shall testify under oath and a written decision shall be rendered by the Board setting forth the relevant findings and conclusions for any action taken. The Chairman or the Chairman’s designee shall preside over the hearing.
- **101.20.1 – Hearing Procedure.** A hearing shall be held before the Board after not less than ten (10) days notice to the contractor and to the complainant setting the hearing date, time and place and stating in general terms the nature of the complaint. The written complaint, including any supporting material or documents, shall be provided to the contractor prior to the hearing. The burden of proof shall be on the complainant to show, by a preponderance of the evidence presented, that the allegations set forth in the complaint are true. If the complainant, or a representative of the complainant, fails to appear at the scheduled hearing, the Board may nonetheless proceed with the hearing. For good cause shown the Board may grant a continuance, hold a hearing open, allow additions to the record after the hearing has concluded or take other action in the interest of justice.
- **101.20.2 – Appeal.** A contractor may appeal any decision of the Board to the Board of County Commissioners by filing a notice of appeal with the Marion County Clerk within fifteen (15) days of the decision. The fifteen (15) day appeal period shall commence three (3) days after the date the written decision is mailed to the contractor. The Board secretary shall forward the its decision, together with the record, to the Board of County Commissioners.
- **101.21 – Amendment.** These Rules and Regulations may be amended by the Planning Commission pursuant to the requirements set forth within the Zoning Regulations. Recommendation for amendments to these Rules and Regulations shall be forwarded to the Board of County Commissioners for final approval before amendments become effective.
- **101.22 – Severability.** It is hereby declared the intention of the Board of County Commissioners that the Articles, Sections, paragraphs, sentences, clauses and phrases contained within these Regulations are to be severable and should any Article, Section or provision of these regulations be declared unconstitutional or otherwise ruled to be invalid by any court of competent jurisdiction in a valid judgment or decree, then such decision or ruling shall not affect the validity of the Regulations as a whole or any part of them other than the specific part declared to be unconstitutional or ruled to be invalid.