

TITLE XV: LAND USAGE

Chapter

- 150. BUILDINGS
- 151. PLANNING AND DEVELOPMENT
- 152. STORM WATER MANAGEMENT AND CONTROL



CHAPTER 150: BUILDINGS

Section

150.01 Adoption of various codes by reference

Dangerous Buildings

150.10 Dangerous buildings  
150.11 Standards for repair, vacation, or demolition  
150.12 Public nuisances  
150.13 Duties of City Administrator  
150.14 Additional duties  
150.15 Duties of City Attorney  
150.16 Emergency cases  
150.17 Where owner absent from city  
150.18 Administrative liability  
150.19 Duties of Fire Department  
150.20 Duties of Police Department

Officials

150.30 Building Inspector

150.99 Penalty

§ 150.01 ADOPTION OF VARIOUS CODES BY REFERENCE.

(A) The Kentucky Building Code, the 1978 BOCA Basic Mechanical Code, the One and Two-Family Dwelling Code, the 1976 Supplement to the One and Two-Family Dwelling Code, and the 1978 National Electrical Code as promulgated by the Commonwealth's Board of Housing, Buildings, and Construction is hereby adopted in full as an ordinance of the city, by reference, as if set out at length herein.

(B) A copy of the above codes together with a copy of all regulations or NFPA pamphlets adopted or referred to thereunder, shall be kept on file in the office of the City Clerk and in the office of the Building Inspector. The codes shall be made available for reference at all times during the regular office hours of those officials.

(C) By adopting the One and Two-Family Dwelling Code and the 1976 supplement thereto, the city is extending application of the Kentucky Building Code to all single-family dwellings within the city which are to be constructed or remodeled.

Statutory reference:

Extension of Kentucky Building Code to single-family dwellings,  
see KRS 198B.010 (5)

## DANGEROUS BUILDINGS

§ 150.10 DANGEROUS BUILDINGS.

All buildings or structures which have any or all of the following defects shall be deemed a dangerous building:

(A) Those whose interior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.

(B) Those which, exclusive of foundation, show 33% or more, of damage or deterioration of the supporting member or members, or 50% of damage or deterioration of the non-supporting enclosing or outside walls or covering.

(C) Those which have improperly distributed loads upon the floors or roofs or in which the same are over-loaded, or which have insufficient strength to be reasonably safe for the purpose used.

(D) Those which have been damaged by fire, wind, or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the city.

(E) Those which have become or are so dilapidated, decayed, unsafe, insanitary, or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety, or general welfare of those living therein.

(F) Those having light, air, and sanitation facilities which are inadequate to protect the health, morals, safety, or general welfare of human beings who live or may live therein.

(G) Those having inadequate facilities for egress in case of fire or panic, or those having insufficient stairways, elevators, fire escapes, or other means of escapement.

(H) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.

(I) Those buildings existing in violation of any provision of the building codes of this city, or any provision of the fire prevention code, or other ordinances of this city.

(Ord. passed 2-2-76) Penalty, see § 150.99(A)

§ 150.11 STANDARDS FOR REPAIR, VACATION, OR DEMOLITION.

The following standards shall be followed in substance by the City Administrator in ordering repair, vacation, or demolition:

(A) If the dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this subchapter, it shall be ordered repaired.

(B) If the dangerous building is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants it shall be ordered to be vacated.

(C) In any case where a dangerous building is 50% damaged or decayed, or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this subchapter it shall be demolished. In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of this subchapter or any ordinance of the city or statute of the state, it shall be demolished.  
(Ord. passed 2-2-76) Penalty, see § 150.99(A)

#### § 150.12 PUBLIC NUISANCES.

All dangerous buildings within the terms of § 150.10 are declared to be public nuisances, and shall be repaired, vacated, or demolished as hereinbefore and hereinafter provided.  
(Ord. passed 2-2-76) Penalty, see § 150.99(A)

#### § 150.13 DUTIES OF CITY ADMINISTRATOR.

The City Administrator shall:

(A) Inspect or cause to be inspected semi-annually, all public buildings, schools, halls, churches, theaters, hotels, tenements, commercial, manufacturing, or loft buildings for the purpose of determining whether any conditions exist which render such places a dangerous building within the terms of § 150.10.

(B) Inspect any building, wall, or structure about which complaints are filed by any person to the effect that a building, wall, or structure is or may be existing in violation of this subchapter.

(C) Inspect any building, wall, or structure reported by the Fire or Police Departments of this city as probably existing in violation of the terms of this subchapter.

(D) Notify in writing the owner, occupant, lessee, mortgagee, agent, and all other persons having an interest in the building as shown by the land records in the County Court Clerk's office, of any building found by him to be a dangerous building within the standards set forth in § 150.10, that: The owner must vacate, repair, or demolish the building in accordance with the terms of the notice and this subchapter, the occupant or lessee must vacate the building or may have it repaired in accordance with the notice and remain in possession; the mortgagee, agent, or other persons having an interest in the building as shown by the land records in the

County Court Clerk's office may at his own risk repair, vacate, or demolish the building or have such work or act done; provided, that any person notified under this division to repair, vacate, or demolish any building shall be given such reasonable time, not exceeding 90 days, as may be necessary to do, or have done, the work or act required by the notice provided for herein.

(E) Set forth in the notice provided for in division (D) hereof, a description of the building, or structure deemed unsafe, a statement of the particulars which make the building or structure a dangerous building and an order requiring the same to be put in such condition as to comply with the terms of this subchapter within such length of time, not exceeding 90 days, as is reasonable.

(F) Report any noncompliance with the notice provided for in divisions (D) and (E) hereof.

(G) Appear at all hearings and testify as to the condition of dangerous buildings.

(H) Place a notice on all dangerous buildings reading as follows:

"This building has been found to be a dangerous building by the City Administrator. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee, or agent of this building, and all other persons having an interest in the building as shown by the land records in the Crittenden County Court Clerk's office. It is unlawful to remove this notice until such notice is complied with."

(Ord. passed 2-2-76)

#### § 150.14 ADDITIONAL DUTIES.

The City Administrator shall:

(A) Upon receipt of the report provided for in § 150.13(F) hereof, give written notice to the owner, occupant, mortgagee, lessee, agent, and all other persons having an interest in the building as shown by the land records in the County Court Clerk's office to appear before him on the date specified in the notice to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated, or demolished in accordance with the statement of particulars set forth in the City Administrator's notice provided for herein in § 150.13(E).

(B) Hold a hearing and hear such testimony as the City Administrator or the owner, occupant, mortgagee, lessee, or any other person having an interest in the building as shown by the land records in the County Court Clerk's office shall offer relative to the dangerous building.

(C) Make written findings of fact from the testimony offered pursuant to division (B) as to whether or not the building in question is a dangerous building within the terms of § 150.10 hereof.

(D) Issue an order based upon findings of fact made pursuant to division (C) commanding the owner, occupant, mortgagee, lessee, agent, and all other persons having an interest in the building as shown by the land records in the County Court Clerk's office, to repair, vacate, or demolish any building found to be a dangerous building within the terms of this subchapter and provided that any person so notified, except the owners, shall have the privilege of either vacating or repairing the dangerous building; or any person not the owner of the dangerous building but having an interest in the building as shown by the land records in the County Court Clerk's office may demolish the dangerous building at his own risk to prevent the acquiring of a lien against the land upon which the dangerous building stands by the city as provided in division (E) hereof.

(E) If the owner, occupant, mortgagee, or lessee fails to comply with the order provided for in division (D) hereof, within ten days, the City Administrator shall cause such building or structure to be repaired, vacated, or demolished as the facts may warrant, under the standards hereinbefore provided for in § 150.11, and shall with the assistance of the City Attorney cause the costs of such repair, vacation, or demolition to be charged against the land on which the building existed as a municipal lien or cause such costs to be added to the tax duplicate as an assessment, or to be levied as a special tax against the land upon which the building stands or did stand, or to be recovered in a suit at law against the owner; provided, that in cases where such procedure is desirable and any delay thereby caused will not be dangerous to the health, morals, safety, or general welfare of the people of the city, the City Administrator shall notify the City Attorney to take legal action to force the owner to make all necessary repairs or demolish the building.

(F) Report to the City Attorney the names of all persons not complying with the order provided for in § 150.14(D) hereof.  
(Ord. passed 2-2-76; Am. Ord. 01-24, passed 12-17-01)

#### § 150.15 DUTIES OF CITY ATTORNEY.

The City Attorney shall:

(A) Prosecute all persons failing to comply with the terms of the notices provided for herein in § 150.13(D) and (E), and the order provided for in § 150.14(D).

(B) Appear at all hearings before the City Administrator in regard to dangerous buildings.

(C) Bring suit to collect all municipal liens, assessments, or costs incurred by the City Administrator in repairing or causing to be vacated or demolished dangerous building.

(D) Take such other legal action as is necessary to carry out the terms and provisions of this subchapter.

(Ord. passed 2-2-76; Am. Ord. 01-24, passed 12-17-01; Am. Ord. 06-26, passed 12-18-06)

§ 150.16 EMERGENCY CASES.

In cases where it reasonably appears that there is immediate danger to the life or safety of any person unless a dangerous building as defined herein is immediately repaired, vacated, or demolished, the City Administrator shall report such facts and shall cause the immediate repair, vacation, or demolition of such dangerous building. The costs of such emergency repair, vacation, or demolition of such dangerous building shall be collected in the same manner as provided in § 150.14(E) hereof.

(Ord. passed 2-2-76)

§ 150.17 WHERE OWNER ABSENT FROM CITY.

In cases, except emergency cases, where the owner, occupant, lessee, or mortgagee is absent from the city all notices or orders provided for herein shall be sent by registered mail to the owner, occupant, mortgagee, lessee, and all other persons having an interest in the building as shown by the land records in the County Court Clerk's office to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the dangerous building to which it relates. Such mailing and posting shall be deemed adequate service.

(Ord. passed 2-2-76)

§ 150.18 ADMINISTRATIVE LIABILITY.

(A) No officer, agent, or employee of the city shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this subchapter.

(B) Any suit brought against any officer, agent, or employee of the city as a result of any act required or permitted in the discharge of his or her duties under this subchapter shall be defended by the City Attorney until the final determination of the proceedings therein.

(Ord. passed 2-2-76; Am. Ord. 01-24, passed 12-17-01; Am. Ord. 02-16, passed 6-28-02; Am. Ord. 06-26, passed 12-18-06)

§ 150.19 DUTIES OF FIRE DEPARTMENT.

The members of the Fire Department shall make a report in writing to the Building Inspector of all buildings or structures which are, may be, or are suspected to be dangerous buildings within the terms of this subchapter. Such reports must be delivered to the



Building Inspector within 24 hours of the discovery of such buildings by any employee of the Fire Department.  
(Ord. passed 2-2-76)

§ 150.20 DUTIES OF POLICE DEPARTMENT.

All employees of the Police Department shall make a report in writing to the City Administrator of any buildings or structures which are, may be, or are suspected to be dangerous buildings within the terms of this subchapter. Such reports must be delivered to the City Administrator within 24 hours of the discovery of such buildings by any employee of the Police Department.  
(Ord. passed 2-2-76)

OFFICIALS

§ 150.30 BUILDING INSPECTOR.

(A) There is hereby created the office of Building Inspector and shall be appointed by the Mayor, by and with the advice and consent of the City Council. The Building Inspector may be removed by the Mayor at will.

(B) No person shall be appointed or act as the Building Inspector unless such person has taken the oath required by Section 228 of the Constitution of the Commonwealth of Kentucky. No bond is required of the Building Inspector.

(C) The powers and duties of the Building Inspector shall be as follows:

(1) To inspect plans and drawings for new or additional construction as would be required to be inspected by the Commonwealth of Kentucky, Office of Housing, Building and Construction, Division of Building Code Enforcement. Such requirements are hereby incorporate herein by reference.

(2) To ensure that proposed buildings, building sites and remodeling or expansions of buildings meet requirements of zoning and building codes and ordinances.

(3) To enforce the building ordinances and where applicable coordinated such enforcement with the City Administrator and Code Enforcement Officer.

(4) To issue building permits.

(D) To ensure that builders and contractors obtain the proper occupational an other city licenses.

(E) To periodically inspect the sire and structure of buildings during construction.

(F) The Building Inspector must be certified but the Commonwealth of Kentucky.

(G) Upon completion of a structure, to ensure that construction is properly completed.

(H) To file a final inspection report with the City Clerk and other proper authorities as required by law.

(I) The compensation of the Building Inspector shall be in an amount to be established by the City Administrator. The Building Inspector is not a salaried position and no benefits shall be provided by the city.

(Ord. 05-4, passed 2-21-05)

§ 150.99 PENALTY.

(A) The owner of any dangerous building who shall fail to comply with any notice or order to repair, vacate, or demolish any building given by any person authorized by §§ 150.01 through 150.20 to give such notice or order shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$10 nor more than \$200 for each offense and a further sum of \$10 for each and every day such failure to comply continues beyond the date fixed for compliance.

(B) The occupant or lessee in possession who fails to comply with any notice to vacate and who fails to repair any building in accordance with any notice given as provided for in §§ 150.01 through 150.20 shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$10 nor more than \$200 for each offense and a further sum of \$10 for each and every day such failure to comply continues beyond the date fixed for compliance.

(C) Any person removing the notice provided for in § 150.13 (H), hereof shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$10 nor more than \$200 for each offense. (Ord. passed 2-2-76)

CHAPTER 151: PLANNING AND DEVELOPMENT

Section

Planning Commission

- 151.01 Establishment; jurisdiction
- 151.02 Membership
- 151.03 Terms of office
- 151.04 Removal of members
- 151.05 Officers; staff
- 151.06 Bylaws

Development Fees

- 151.20 Reimbursement to the city

Comprehensive Plan

- 151.30 Adoption of the Kentucky Comprehensive Plan

PLANNING COMMISSION

§ 151.01 ESTABLISHMENT; JURISDICTION.

(A) The city does hereby establish and create an independent city Planning Commission as authorized under KRS Chapter 100, and the Planning Commission shall be organized and empowered as herein set forth.

(B) This Planning Commission shall be known as the Marion Planning Commission. Upon the appointment and subsequent approval of members, election of officers, and the adoption of its bylaws, its official existence shall begin subject to the provisions of KRS Chapter 100. The Commission may engage in planning operations within its jurisdiction, which shall be coterminous with the political boundaries of the city except where otherwise provided for by KRS 100.131. (Ord. 96-10, passed 6-17-96)

§ 151.02 MEMBERSHIP.

The Planning Commission shall consist of six members. The Mayor, with the approval of the City Council, shall appoint the members of the Planning Commission. All members of the Planning Commission and the

Board of Adjustment as provided pursuant to the city zoning regulations, shall serve with compensation as set by City Council and reimbursement of expenses shall be authorized.

(Ord. 96-10, passed 6-17-96; Am. Ord. 01-19, passed 8-20-01; Am. Ord. 01-21, passed 10-15-01)

#### § 151.03 TERMS OF OFFICE.

The term of office of all elected officials shall be the same as their official tenure in office. The term of office of other members of the Commission shall be four years, except that the original terms shall be staggered so that one member shall serve one year, one member shall serve two years, one member shall serve three years, and one member shall serve four years. Reappointments or appointments to fill vacancies shall continue a staggered pattern. All vacancies, whether by resignation, dismissal, or expiration of the term of office shall be filled within 60 days by the appointing authority or as may otherwise be provided for in KRS 100.147.

(Ord. 96-10, passed 6-17-96)

#### § 151.04 REMOVAL OF MEMBERS.

A member may be removed by the appointing authority for inefficiency, neglect of duty, malfeasance, or conflict of interest. The removed member shall have the right of appeal in the manner prescribed by KRS 100.157.

(Ord. 96-10, passed 6-17-96)

#### § 151.05 OFFICERS; STAFF.

The Commission shall elect a Chairman and any other officers which it shall deem necessary from among its citizen members. The term of office shall be one year, and all officers shall be eligible for re-election. The Commission may employ a staff as it may deem necessary for its work and may contract with professional planners and other parties for such serves as it may require.

(Ord. 96-10, passed 6-17-96)

#### § 151.06 BYLAWS.

The Commission shall adopt bylaws so that it may properly transact any other business. The bylaws shall set forth the procedures, rules, and regulations, including meeting times necessary for the Commission to conduct its business.

(Ord. 96-10, passed 6-17-96)

DEVELOPMENT FEES§ 151.20 REIMBURSEMENT TO THE CITY.

(A) All owners, developers, and applicants, individually or by their authorized agents, seeking municipal approval for any proposed development or improvement of land by subdivision, planned unit development, site plan, preliminary plats, final plats, construction plans, grading plans, roadway plans, drainage plans, plans relating to water distribution systems or wastewater collection systems, matters that may require the establishment of performance bonding, dedication of easements, and facilities or structures associated with any of the foregoing shall be responsible for the reimbursement to the city for all actual expenses incurred by the city by virtue of engineering design, review, oversight, construction inspection, and testing services as they relate to the foregoing, by the city's designated consulting engineer and/or his appointed designee.

(B) All actual charges to be reimbursed to the city shall be paid within 30 days from the date of billing by the City Treasurer. In no event will final city approval be received for any development or improvements of land until payment of all outstanding bills are made. Additionally, the city may seek a legal remedy to collect unpaid due bills.

(C) This section is not deemed to be a tax but is to offset actual incurred engineering expenses of the city for an owner, developer, and applicant seeking development of land and improvement of lands with the city.

(Ord. 96-4, passed 3-18-96)

§ 151.30 ADOPTION OF THE KENTUCKY COMPREHENSIVE PLAN.

The City of Marion Planning Commission adopts the Kentucky Comprehensive Plan. This plan adheres to Chapter 100 of the Kentucky Revised Statutes.

(Ord. 99-3, passed 3-15-99)



CHAPTER 152: STORM WATER MANAGEMENT AND CONTROL

Section

- 152.01 Purpose
- 152.02 Definitions
- 152.03 General requirements for storm water management for developers
- 152.04 Excess storm water passages
- 152.05 Runoff and storage capacity
- 152.06 Storm water storage areas
- 152.07 Sinkholes and subterranean water channels
- 152.08 Application required
- 152.09 Variances
- 152.10 Code Enforcement Officer to enforce

§ 152.01 PURPOSE.

It is the intent of this chapter that storm water runoff controls be provided when land areas are developed or redeveloped.  
(Ord. 16-04, passed 5-16-16)

§ 152.02 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"CODE ENFORCEMENT OFFICER." The person designated to administer the provisions of this ordinance under the direction of the City Administrator.

"CONTROLLED RELEASE STRUCTURE." A facility constructed to regulate the volume of storm water runoff that is conveyed during a specific length of time.

"DEVELOPED." Conditions after construction or other man-made change to improved or unimproved, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

"EXCESS STORM WATER." That portion of storm water runoff that exceeds the capacity of storm sewers or natural drainage channels serving a specific watershed.

"EXCESS STORM WATER PASSAGE." A channel formed in the ground surface to carry storm water runoff that cannot be carried by normal drainage channels.

"IMPERVIOUS SURFACE." Asphalt, concrete, or any other surface which does not allow measurable infiltration.

"NATURAL DRAINAGE." Water that follows by gravity in channels formed by the surface topography of the earth prior to changes made by the efforts of man.

"ON-SITE." Internal to the boundary of a development.  
(Ord. 16-04, passed 5-16-16)

§ 152.03 GENERAL REQUIREMENTS FOR STORM WATER MANAGEMENT FOR DEVELOPERS.

(A) All developments undertaken as outlined in this chapter shall be done in such a way as to insure that storm water falling on a given site shall be absorbed or retained onsite to the extent that after development the rate of water leaving the site shall not be significantly different than if the site had remained undeveloped.

(B) A developer shall not be permitted to disturb the land in such a manner as to create significant water related damages to other landowners in the vicinity by having point discharge creating erosion across land or placing obstructions where flood peak increases. If the point discharge is high enough to produce erosion, other measures shall be taken to dissipate the flow.

(C) Where it can be demonstrated by the developer that a higher storm water release rate will not be contrary to the purpose and intent of this chapter and where such proposed release rate will not adversely affect properties in the downstream portion of the watershed, the Code Enforcement Officer may permit such release to be used as deemed appropriate.  
(Ord. 16-04, passed 5-16-16)

§ 152.04 EXCESS STORM WATER PASSAGES.

(A) An excess storm water passage shall be provided for all storm water areas. Such passage shall have the capacity to convey through the proposed development the excess storm water. The capacity for a passage shall be such that it will be able to transport the peak rate of runoff from a 100-year return frequency storm.

(B) There shall be no buildings or structures constructed within excess storm passages; however, parking lots, playgrounds, and park areas, which shall not impair or endanger the water holding capability of a development shall be considered compatible uses.

(C) Appropriate land planning shall be undertaken to preserve the existing natural drainage of a proposed development as part of the excess storm water passage.



(D) Open channels shall be protected from erosion by appropriate vegetative cover, lining, or other treatment and earthen channel side slopes shall be no steeper than two-to-one. Open channels with lining shall have a maximum gradient on side slopes of 67% and channel sides steeper than 67% shall be designed as structural retaining walls.  
(Ord. 16-04, passed 5-16-16)

#### § 152.05 RUNOFF AND STORAGE CAPACITY.

The volume of required storm water storage and runoff shall be calculated on the basis of the runoff from a 100-year frequency storm with a three-hour duration. The calculations can be made in accordance with the instantaneous runoff factor method, the rational method, or other methods that may be deemed appropriate by the Code Enforcement Officer.  
(Ord. 16-04, passed 5-16-16)

#### § 152.06 STORM WATER STORAGE AREAS.

(A) Storage areas shall be designed to the satisfaction of the Code Enforcement Officer and if possible to provide secondary purposes for recreation, open spaces, parking lots, or other types of uses that will not be adversely affected by intermittent flooding.

(B) All storm water storage areas must be designed to contain and safely pass storm water runoff. The combined capacity of these storage areas shall be sufficient to contain the storm from the development. The retention facility must be designed for periodic maintenance and energy dissipaters shall be provided at points necessary. The combination of storage of the water from a 100-year storm and the design release rate shall not result in a storage duration in excess of 72 hours.

(C) The ponding of storm water runoff shall not exceed a depth of one foot on pedestrian mall areas or 134 feet maximum in parking lots. Where these areas are used for ponding, the maximum depth should occur in the most remote and least used areas.

(D) The drainage and grading design shall be prepared to insure that in a 100-year storm the depth of water runoff in any street, alley or pedestrian mall will not exceed the level of the first floor of any building.

(E) For a 100-year storm, the ponding of surface water on local, collector, and arterial streets must not exceed a depth of 18 inches at the gutter; water exceeding this shall be designed to overflow into an excess storm water passage. The maximum velocity of water in the deepest part of the gutter shall have a minimum grade of 0.5%.

(F) Overflow for each storm water storage area shall be provided in the event a storm in excess of the design capacity occurs. Such overflow shall be constructed to function without specific attention and shall become part of the excess storm water passage.

(G) Where rooftop storage of excess storm water is provided, the building shall be provided with adequate structural design to insure that roof failure does not occur. Overflow areas shall be provided so that the weight of stored storm water will not exceed the structural capacity of the roof.

(H) For wet pond storage areas when calculating the storage capacity, only the volume available to store excess storm water shall be considered. Permanent water storage does not constitute control of excess storm runoff.

(Ord. 16-04, passed 5-16-16)

§ 152.07 SINKHOLES AND SUBTERRANEAN WATER CHANNELS.

(A) The use of sinkholes or subterranean water channels for direct drainage of excess storm water shall not be permitted although they may be used to drain a storm water storage area. The introduction of any foreign matter or the filling, clogging, or interfering with the natural drainage capabilities of the sinkholes shall not be permitted.

(B) Any person, firm, or corporation proposing alterations, improvements, or other disturbances of any sinkholes or known subterranean water channel must submit plans to the Code Enforcement Officer showing that the disturbance would not interfere with the drainage capability. Also included in the plans, erosion control methods must be shown for any activities that might create erosion or soil sedimentation.

(C) Sinkholes shall not be altered or covered in any way that would negatively affect the drainage capabilities of the sinkhole. Development within the 100-year floodplain of a sinkhole shall not be permitted.

(Ord. 16-04, passed 5-16-16)

§ 152.08 APPLICATION REQUIRED.

(A) An application is required to be submitted to the Code Enforcement Officer prior to subdivision approval or issuance of a building permit for each of the following proposed improvement within the corporate limits of Marion:

- (1) Residential development of two acres or more;
- (2) Commercial and all other non-residential development of one acre or more;
- (3) Residential development under two acres and non-residential development under one acre which, because of unusual circumstances, impose particular hazards to life safety or property;
- (4) Subdivision proposals and other proposed new developments;

(5) Proposals to alter or relocate a watercourse, or deposit or remove any material within a watercourse, or plant or remove any vegetation within a watercourse, or alter any embankment within a watercourse; and

(6) Any development meeting the conditions listed in this division (A) that does not have a valid building permit as of the effective date of this chapter.

(B) Plans, specifications, and all calculations for the control of storm runoff as required by this chapter shall be provided at the time of application.

(C) Required maintenance for retention basins or other structures shall be permanently provided by the developer with responsibility becoming that of the private landowner after complete development, subject to inspection of the Code Enforcement Officer. Every retention basin or structure shall be legally defined on both deed and plat and the maintenance entity shall be specified.

(D) The applicant is required to dedicate easements along those drainageways necessary for adequate watershed drainage, maintenance, and operations.

(E) Each application shall be on a form furnished by the city, submitted in at least three copies and each must be accompanied by a map to determine location of the proposed sites. At least one copy of the application and all attachments shall be retained by the Code Enforcement Officer for city files.

(F) An application for a permit for proposed improvements within the city must be accompanied by fee of \$100, as well as plans and specifications of such nature and detail that will enable the Code Enforcement Officer to determine that the proposed improvements meet this chapter.

(G) When it has been determined that the applicant has sufficiently met the requirements of this chapter, permits will be issued for proposed improvements to be carried out. If a definite determination cannot be made, the Code Enforcement Officer may request additional information be supplied by the applicant.  
(Ord. 16-04, passed 5-16-16)

#### § 152.09 VARIANCES.

Upon application to the Code Enforcement Officer, the Marion Planning Commission may grant variances to the applicant from the regulations specified in this chapter. The applicant must specify hardships to result in following the prescribed regulations. The Code Enforcement Officer, in conjunction with the city's engineer, must examine and decide the validity of the proposed hardships. This request is then submitted to the Planning Commission by staff, with a recommendation about granting the variance.

(A) The variance will be granted only upon showing that there is good and sufficient cause. Financial hardship to the applicant shall not constitute proper or appropriate grounds for a variance under this chapter.

(B) A record of all variance actions shall be maintained by the Code Enforcement Officer, including the justification for issuance.

(C) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places, or the State Inventory of Historic Places, without regard to the procedures set forth in this chapter.

(Ord. 16-04, passed 5-16-16)

§ 152.10 CODE ENFORCEMENT OFFICER TO ENFORCE.

(A) The Code Enforcement Officer shall have the authority to establish necessary administrative and certification procedures to insure the intent and purpose of this chapter is carried out.

(B) The Code Enforcement Officer has the authority to issue stop work orders to any development, construction, or other improvement that does not meet the requirements provided in this chapter.

(C) The provisions of this chapter may be enforced by the Marion Code Enforcement Board established in Ord. 03-14, or in the alternative, by the Crittenden County District Court as a misdemeanor and/or violation through the powers delegated to the Code Enforcement Officer. The decision on where the chapter will be enforced shall be at the city's discretion. However, nothing contained in Ord. 03-14 shall be construed or interpreted to limit those powers delegated by this chapter to the Code Enforcement Officer. Likewise, nothing contained in this chapter shall be construed or interpreted to limit those powers delegated to a Code Enforcement Officer as created in Ord. 03-14.

(D) Any person violating any of the provisions of this chapter or failing to comply with any of its requirements, including violations of conditions and safeguards established in connection with grants of variance or special exception, shall constitute an offense and shall result in a fine. The first offense shall result in a fine of not greater than \$300. A second offense shall result in a fine not greater than \$500. All other offenses shall result in a fine of not greater than \$600. Each day that a violation continues shall constitute a separate offense.

(E) An appeal of the final decision of the Code Enforcement Officer may be made to the Marion Code Enforcement Board following the procedures set forth in Ord. 03-14, specifically §§ 37.18 through 37.20 of the Marion Code of Ordinances. Appeals of any final order of the Code Enforcement Board may be made to the Crittenden County District Court within 30 days of the date the final order is issued.  
(Ord. 16-04, passed 5-16-16)