

An Ordinance to ~~Strike~~, Insert, and Amend Chapter 5 of the Ordinance of the Town of Chapmanville as applies to Buildings, to update and further organize this chapter. Upon adoption of this ordinance it will be considered the whole of and complete Chapter 5.

Chapter 5

Buildings

Article 1. In General

Sec. 1. *-(Article Struck 2/13/24)*

Article 2. Code-Enforcement Department

Sec. 1--The Code Enforcement Department for the Town of Chapmanville is hereby created. The Administrator of this department will be chosen by the Mayor, with approval of the Town Council, and shall be a Certified Code Official in accordance with the rules from the State Fire Marshall.

Article 3. Building Code Adoption.

- 1) There is hereby adopted in accordance with §8-12-13 and §15A-11-5 of the State code of WV as of January of 2023, as well as the Legislative Rules 87CSR4 and 103CSR6 from the WV Fire Marshall, which are hereby adopted by reference as though they were copied therein, for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures including permits and penalties that any construction made within the Town of Chapmanville, whether residential, commercial, dwelling, or otherwise, shall be done in accordance with the International Code Council Authorized; International Property Maintenance Code, 2018 edition; International Residential Code, 2018 edition; International Building Code, 2018 edition; International Existing Building Code, 2018 edition; International Plumbing Code, 2018 edition; International Energy Conservation Code, 2018 edition; International Fuel Gas Code, 2018 edition; and International Mechanical Code, 2018 edition. As well as National Fire Protection Association Authorized; NFPA 70 Electrical Code, 2017 edition; NFPA 101 Life Safety Code, 2021 edition; and NFPA 1 Fire Code, 2021 edition
- 2) Building Permits:
 - a. Fees for building permits shall be set by the Town Council and updated by ordinance herein. Fees for building permits shall be set at one Fourth of One Percent (.25%) of the total estimated cost of the project. Example: the Estimated cost for the project is \$100,000, the cost of the permit shall be \$250.
 - b. The Town of Chapmanville by its officials shall not issue a building permit for the construction of any new apartments and/or condominiums unless at least one off street parking place is provided for each apartment and/or condominium. Any

application for building permit shall contain sufficient information to verify the existence of off street parking.

- c. Any application for a building permit shall state the distance from the proposed building to the property lines. No construction shall be allowed nor building permit issued unless the distance as hereinafter set forth are shown to exist between the outside walls of the building to be constructed and the boundary line for the real property upon which the building is to be constructed. For all one story buildings, there shall be, at least, seven feet distance between the side walls or the back walls of the building and the property line, for each two story building, there shall be, at least, ten feet distance between the side walls or the back walls of the building and the property line for each three story building, there shall be, at least, fourteen feet distance between the side walls or the back walls of the building and the property line; in addition, for all residences there shall be at least twenty feet distance in the front of the building to the property boundary line as well as two locations for off street parking; and for all commercial buildings, there shall be adequate distance between the property boundary line and the building for sufficient parking.
- d. The Code Enforcement Department will have the authority to inspect or observe all permitted work during regular business hours, or whenever work is actively occurring on the project. Neither the Department nor its representatives will be present on a project without the owner, construction crew, foreman, etc., present.
- e. All construction must provide for refuse disposal. Construction sites will maintain cleanliness, secure and regularly dispose of construction waste, and prevent displacement of building materials and waste beyond property boundaries.
Approved options are:
 - i. Normal refuse pickup for those already signed up for Town Sanitation services
 - ii. Special trash pickup, for those already signed up for Town Sanitation services, must contact Town Hall for pickup and instructions
 - iii. A Rented Dumpster.
 - iv. Self-disposal
- f. Sediment Control
 - i. Construction in city limits must adhere to the following Best Management Practices (BMP), to prevent runoff and displacement of materials beyond property boundaries, to help protect waterways and public storm drains.
 - 1. Perimeter controls
 - a. Any construction causing denuding of soils within 100 ft of a creek, stream, or Guyandotte River will install perimeter controls in accordance with the WV BMP Manual from the WV Department of Environmental Protection (WV DEP).
 - 2. Stabilization
 - a. Any disturbance from or associated construction must be stabilized, in accordance with the WV BMP Manual from

- the WV DEP within either 4 days of final disturbance, or within 2 weeks of last disturbance.
- b. Any access to a public roadway must be stabilized as a Construction Entrance in accordance with the WV BMP Manual from the WV DEP.
 - c. Any sediment from a construction site that migrates offsite must be cleaned or stabilized immediately to avoid contamination of city maintained storm drains, or pollution of public waters.
 - g. A copy of the approved Building Permits shall be placed on the property, visible from the road.
 - h. A copy of these ordinances must be provided to the applicant with an approved building permit.
 - i. The regulations from this article will be addressed in the Official Building permit for the Town of Chapmanville.

Article 4. Burned Razed Buildings.

- Sec. 1- It shall be the duty of the owner of any land within the municipal boundaries of this Town to, within thirty (30) days after the burning or razing of any structure, and release of the property by the State Fire Marshal, if required, begin and diligently pursue the removal and clean-Up the debris from such burning or razing.
- Sec. 2- If , for insurance purposes, the owner of such property needs more than thirty (30) days to begin such action, the owner may apply to the Town Council. for an extension of said time and, if just cause is shown, an extension may be granted for such reasonable period as necessary to comply with any insurance requirements. If such extension is granted, the owner shall ensure the structure and any debris is surrounded by a fence of at least 6 feet until removal and cleanup has finished.
- Sec. 3- Failure to comply with this Ordinance shall be deemed a public nuisance, and the Town shall have the option of proceeding in any proper Court for injunctive relief to enforce this Ordinance.
- Sec. 4- . Each day shall constitute a separate offense under this Ordinance and shall be punishable by a fine of not Less than Twenty- Five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) per day and/or up to ten (10) days in jail.

Article 5: Prohibiting Coal and Stone Loading Facilities

- Sec. 1- The building and or operation of a coal or stone loading facility is prohibited within the limits of the Town of Chapmanville. Stone loading in association with a cement or concrete plant is excluded from this prohibition, provided that adequate dust control is provided for and maintained at all times. For the purpose of this exemption, adequate dust control is defined as no dust or sediment leaving the property, via air, vehicle, or water runoff, that the concrete or cement plant is on.

Article 6: Relating to Violations of the Property Maintenance Code

An ordinance of the Town of Chapmanville, West Virginia, adopting Penalties for Vacant, Neglected and Dilapidated Buildings for the Town of Chapmanville, West Virginia; providing for Penalties for Violations of the International Property Maintenance Code, as adopted, relating to dilapidated buildings and neglected buildings/property and other violations of the property maintenance code and DOES ORDAIN as follows:

1) Purpose.

- a) The Town has determined that neglected and dilapidated buildings present:
 - i) a fire hazard;
 - ii) are often utilized by vagrants and transients, including drug abusers and traffickers, as dangerous and unsafe temporary shelters;
 - iii) detract from private and/or public efforts to rehabilitate or maintain surrounding buildings; and
 - iv) requires additional services to protect the health, safety and welfare of the public.

2) Definitions.

- a) Dilapidated buildings – means a building or home that is in a state of disrepair or ruin as a result of age or neglect.
- b) Neglected buildings/property – buildings or property allowed to become and/or remain in a state of disrepair or ruin as a result of the negligent actions or inactions of the owner/occupier.

3) Registry, registry information, fees and dedicated account.

- a) The Certified Code Official or any of the Town's police officers shall register with the Town of Chapmanville on a form supplied by the Town, which will include the physical address of the building, mailing address of the property owner, and the property owners information related to dilapidated buildings and/or neglected buildings/property that he/she personally has observed and upon which notice of proposed violation has been issued.
- b) For the purpose of this article a year is 365 calendar days.
- c) Violations of this Ordinance or violation of the International Property Maintenance Code, which has been adopted by the Town of Chapmanville, related to dilapidated buildings and/or neglected buildings/property may result in the following fees if not corrected:
 - i) \$250 fee for dilapidated buildings and/or neglected buildings or property that is allowed to remain in disrepair, while inhabited by the owner or tenant, for at least three (3) months but less than six (6) months;
 - ii) \$500 fee for dilapidated buildings and/or neglected buildings or property that is allowed to remain in disrepair, while inhabited by the owner or tenant, for at least six (6) months but less than one (1) year;
 - iii) \$750 fee for dilapidated buildings and/or neglected buildings or property that is allowed to remain in disrepair, while inhabited by the owner or tenant, for at least one (1) year but less than two (2) consecutive years;

- iv) \$1,000 fee for dilapidated buildings and/or neglected buildings or property that is allowed to remain in disrepair, while inhabited by the owner or tenant, for at least two (2) consecutive years but less than three (3) years;
 - v) \$1,250 fee for dilapidated buildings and/or neglected buildings or property that is allowed to remain in disrepair, while inhabited by the owner or tenant, for at least three (3) consecutive years but less than four (4) years; and
 - vi) \$1,500 fee for dilapidated buildings and/or neglected buildings or property that is allowed to remain in disrepair, while inhabited by the owner or tenant, for at least four (4) consecutive years but less than five (5) years.
- d) That Notwithstanding the fine set forth herein, the owner of the subject property shall be provided a period of thirty (30) days in which to correct the dilapidated buildings and/or neglected buildings or property; however, the thirty (30) day extension shall not cause the time periods as set forth above to be extended or the started anew.
- e) Further, if the dilapidated buildings and/or neglected buildings or property is not corrected and subsequent violations are cited the fines and fees are compounded and not just the greater of the fines [i.e., if the property remains in disrepair for 9 months, then the owner is subject to fines and fees for violation of the 3 to 6 month subsection above (\$250) and also for violation of the 6 month to 1 year subsection above (\$500) for a total of \$750 fine].
- f) All fees collected pursuant to this article shall be deposited into a separate, dedicated account and shall only be used to:
- i) The funds in this account may be made available to residents of the town of Chapmanville for the upkeep of properties within the Town limits. Application must be made directly to the Town Council, who shall make a unanimous decision that a genuine need is present. If the need is determined to be genuine, and lack of maintenance will continue to impact public safety and the communities property values, the Council will determine the amount to grant to the petitioners. The Town's employees shall not be used for the labor, nor shall the towns equipment.
 - ii) Implement, monitor and/or administer this article;
 - iii) To improve the Town's appearance.
- g) That notwithstanding the fine set forth herein, the owner of the subject property shall be provided a period of thirty (30) days in which to address the dilapidated buildings and/or neglected buildings or property; in the event that the property owner is unable to correct the dilapidated buildings and/or neglected buildings or property within thirty (30) days, the property owner may present to Town Council and request an extension in order to correct the dilapidated buildings and/or neglected buildings or property. However, the thirty (30) day extension shall not cause the time period as forth above to be extended or started anew.
- 4) Publication.

- a) The Town may, from time to time and in its reasonable discretion, publish or disclose certain information contained in the Dilapidated/ Neglected property registry, including but not limited to:
 - i) General demographic information;
 - ii) The address of dilapidated buildings and/or neglected buildings/property;
 - iii) The owner of each dilapidated building and/or neglected building/property;
 - iv) The amount of time any dilapidated building and/or neglected building/property has been in such disrepair based upon the registry; and
 - v) The amount of any delinquent fees due under this article, or otherwise due the Town of Chapmanville for dilapidated buildings and/or neglected buildings/property.
 - b) All property owners on the Dilapidated/ Neglected Property Registry shall be notified by certified or priority mail of the publication of any information pertaining to said owner or property on the registry 30 days prior to the publishing date. Notification will also take place if information on this registry is requested and provided to a third party, such as a member of the public. However, the 30 day limit shall not stand due to public information request time constraints. Notifications will be considered complete whether a signed receipt of the notification is returned or not.
- 5) Changes in ownership.
- a) A change in ownership of a dilapidated building and/or neglected building/property shall not remove the dilapidated building and/or neglected building/property from the registry or from the requirements of this article, nor shall it renew the time period for subsection 3 above.
 - b) Fees arising under subsection 3 above shall continue to accrue at the applicable rate until the dilapidated building and/or neglected building/property no longer constitutes a dilapidated building and/or neglected building/property, all transfers of ownership notwithstanding.
- 6) Non-payment of fees/liens.
- a) If an owner fails to pay any amount due under section 3 above, said amount shall constitute a debt due and owing to the Town of Chapmanville and the Town of Chapmanville may commence a civil action to collect such unpaid debt.
 - b) In lieu of or in addition to commencing a civil action as authorized by the above subsection, the Town of Chapmanville may file a lien for unpaid fees against the property where the dilapidated/ neglected property is situated.
 - c) In the event service is not attained by certified mail alternative means of service may be used consistent with the West Virginia Rules of Civil Procedure for service, particularly notice and service via publication.
 - d) Each year the property remains dilapidated/neglected, fees will continue to accrue.
- 7) Property upkeep.

- a) The property owner will be responsible for the maintenance of the vacant building or property to a standard deemed reasonable by the building maintenance inspector in accordance with the International Building Maintenance Code.
- 8) Disputes.
- a) The property owner may challenge any determination made pursuant to the ordinance to the governing body of the Town of Chapmanville (Mayor or Municipal Judge).
 - b) Any person adjudicated, convicted, and/or sentenced under this chapter by any mayor, acting in a judicial capacity, or municipal court judge to the payment of a fine may appeal that sentence to the circuit court as provided in this section.
 - c) Any person convicted of an offense by a mayor or municipal court judge may appeal such conviction to circuit court as a matter of right by requesting such appeal within twenty (20) days after the sentencing for such adjudication, conviction and/or sentence. The mayor or municipal court judge may require the posting of bond with good security conditioned upon the appearance of the defendant as required in circuit court, but such bond may not exceed the maximum amount of any fine which could be imposed for the offense. The bond may be upon the defendant's own recognizance. If no appeal is perfected within such twenty (20) day period, the circuit court may, not later than ninety (90) days after the adjudication, conviction and/or sentencing, grant an appeal upon a showing of good cause why such appeal was not filed within the twenty (20) day period. The filing or granting of an appeal shall automatically stay the sentence of the mayor or municipal court judge.
 - d) In the case of an appeal of a municipal court proceeding tried, the defendant shall file with the circuit court a petition for appeal and trial de novo. The exhibits, together with all papers and requests filed in the proceeding, constitute the exclusive record for appeal and shall be made available to the parties.
 - e) Notwithstanding any other provision of this ordinance to the contrary, there shall be no appeal from a plea of guilty where the defendant was represented by counsel at the time the plea was entered: Provided, That the defendant shall have an appeal from a plea of guilty where an extraordinary remedy would lie or where the mayor or municipal court judge lacked jurisdiction.
- 9) Notwithstanding any enforcement action or remedy set forth herein, the Town of Chapmanville shall retain the right to pursue such other and further civil actions as it deems necessary, including but not limited to civil actions for public nuisance and/or private nuisance.

Article 7: Nuisance in Boardinghouses, Hotels, etc. Restaurants

- 1) Effect of certain situations and conditions
There is hereby declared to be a nuisance any boardinghouse, hotel, inn, apartment house, restaurant any building used for such purposes, or any part thereof, leased, let or rented for occupation as dwelling or lodging by any person or family:

- a) Which is not sufficiently lighted or ventilated or not provided with water or which is not kept in a clean and sanitary manner.
 - b) In which, in any part of, the structural strength or light or ventilation or sewage disposal facilities are, in any manner, shape or form, dangerous, insufficient or prejudicial to life or health.
 - c) Which is not provided with a sufficient number of adequate and properly constructed and operating water closets.
- 2) Procedure generally upon filing of complaint or report.
Upon complaint or report by any citizen or member of the police department or fire department to the mayor the one or any combination of the situations and conditions set forth in Sec. 1, this article exists, it shall be the duty of the mayor to bring such complaint or report to the attention of the council, which, after consideration thereof, may if a majority of the order the abatement of such nuisance in the manner and form set forth in the following sections of this article.
- 3) Notice and order to abatement, etc. of offending situation or condition- Generally.
The Council, if a majority be of opinion that nuisance exists, as provided in Sec. 1, of this article, may direct the mayor at once to notify and order the owner of the premises in question, or his agent, or the lessee or Occupant of the premises in question, to abate, correct or remove the situation or condition constituting the nuisance by taking such remedial action as the mayor or council shall deem fit and expeditious, within the time period set forth in the notice and order, length of which time period shall be left to the discretion of the majority of the whole council. Such notice and order shall be signed by the mayor and served upon the owner, agent or occupant having charge or custody of the property in question by the chief of police or any member of the police department in the same manner as process is served in civil cases.
- 4) Same Hearing by and before council.
Any person served with notice and order, as provided in Sec. 3, shall be entitled to be heard by and before the council upon such order and notice for the purpose of showing cause why he cannot or ought not to comply with such order and notice. Any such person so served with such notice and order desiring a hearing by and before the council shall, within seven days of the date such notice and order was served upon him, file with the town clerk a request for such a hearing by and before the council.
- 5) Same. -Effect of Failure to Comply.
If the person served with notice and order, as provided in Sec. 3 shall fail, within the time indicated therein, to comply therewith, he shall, upon conviction, be punished as provided in Sec. 1, article 1, chapter 15, and the situation or condition constituting a nuisance shall be abated, corrected or removed and the expenses incident to the abatement, correction or removal thereof shall be collected from the owner, occupant, tenant, agent or assignee in the same manner in which debts owing the town are collected and enforced. Each day such nuisance shall be allowed to continue unabated or removed shall constitute separate offense.

6) Order of closure.

In the event a situation or condition constituting a nuisance under Sec. 1 of this article cannot be feasibly abated, corrected or removed by the town, or, if such situation or condition be of such nature that the council shall deem it impracticable to undertake affirmative corrective action, then the council, upon a majority vote of the whole council may declare such building, or part thereof, to be nuisance and order such building, or part thereof, closed and padlocked by the chief of police, as unfit and unsafe for human habitation, until such time as full compliance shall have been made with the notice and order referred to in Sec. 3. A copy of such order of closure shall be posted at or on a prominent part of the premises in question.

7) Appeal.

The right of any person who deems himself adversely affected by any action taken by the mayor or council pursuant to this article to appeal to the circuit court of the county is hereby preserved and protected. However, unless such appeal be taken within twenty days after the action of the council under Sec. 6. such appeal shall not stay or delay enforcement of any action ordered be taken by the council to be taken under such section.

8) Additional Complaints

Upon complaint or report by any citizen or member of the police department or fire department or member of council to the Mayor that any building due to its structural strength constitutes a danger to the life and health of the residents of Chapmanville, shall be the duty of the Mayor to bring the complaint or report to the attention of the Council, which after consideration thereof, may, if a majority of the council be of the opinion that such danger exists, forthwith order the abatement of such nuisance in the manner and form set forth in the following Sections of this Article.

9) Notice

NOTICE: The Council, if a majority be of the opinion that a nuisance exists to the extent that it constitutes a danger as provided in the proceeding Section may direct the Mayor and cause to notify and order the owner of the premises in question, or its agent, or the lessee or occupant of the premises in question, to abate, correct or remove the building constituting the danger within the time period set forth in the notice and order, the length of which period shall shall be not less than ten days. Such notice and order shall be served personally if the party to whom notice is required is a resident of the State of West Virginia. If not, such notice shall be sent by certified or registered mail to the last known address of such party.

10) Demolition or Removal

If the nuisance or danger is not corrected within the time set forth in the notice provided in the preceding Section, the Council may order the demolition and removal of any building that constitutes a danger after first giving the owner, his agent, or lessee, or

occupant of the premises notice that such action shall be taken within a time period set forth in the notice, which time period shall not be less than ten days. The original notice sent under Section 9 above shall contain a paragraph indicating that this action may be taken if corrective action is not taken as provided for in Section 9.

Such notice of demolition and removal shall be served upon the owner of property, its agent, lessee or occupant in the same manner as required by West Virginia Rules of Civil Procedure for service in Rule 4 thereof.

11) Order of Demolition and Removal

- a) In the event corrective action is not taken within the time period set forth in the notice provided for in Section 10 above, then council may upon a majority vote thereof order that any building which constitutes a danger to the health and life of the residents of Chapmanville be demolished and removed on a date certain. The Mayor shall then take the necessary actions to cause the same to be done and any costs thereof shall be a lien upon the property of the owner of the building in question, which may be collected by Civil Action in the Circuit Court of Logan County, West Virginia.
- b) APPEAL: In the event the owner, occupant, agent or lessee shall object to any of the notices or orders set forth above, such party shall have the right to file an appeal in the Circuit Court of Logan County, West Virginia, on or before the date set forth in such notice or order. If an appeal is filed, notice of the appeal shall be served upon the Mayor and any further action by the Town of Chapmanville in the connection shall be withheld until the ruling by the Circuit Court of Logan County, West Virginia upon the appeal.

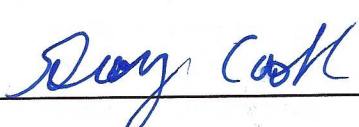
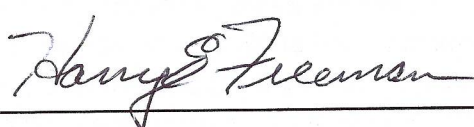


First Reading: 09/09/2025 (unanimous approval to consider second reading at special meeting)

Second Reading: 09/23/2025

Third Reading: 10/16/2025


Mayor Joel McNeely


Recorder Phillip Williamson

Council