An Ordinance to ~~Strike~~, amend, and insert different sections of Chapter 20 of the Ordinances of the Town of Chapmanville, WV. Be it ordained by the Town of Chapmanville, that upon passage this will be considered the entirety of Chapter 20 of the ordinances of the Town of Chapmanville

# Chapter 20

## Requirement of Bond prior to Construction or Damage to Public Property

I. The Council finds that different individuals, utility companies, and other corporations, from time to time damage the city streets and other property of The Town of Chapmanville for necessary purposes to repair or replace various utility lines and for other lawful purposes and from time-to-time proper repairs are not made to the streets of The Town of Chapmanville by the various persons damaging the same.

II. Establishment of a Bond Matrix

a. Purpose and Applicability
This section establishes a standardized method for determining and securing financial assurances for construction activities that disturb public rights-of-way or other public infrastructure. The intent is to ensure timely and complete restoration of public property in accordance with city standards.

b. Bond Matrix Spreadsheet
   i. The Mayor shall cause to be developed and maintained a Bond Matrix Spreadsheet that outlines the required bond amounts for various types of construction activities that disturb public property, including but not limited to:
      1. Roadway cuts and trenching
      2. Sidewalk and curb replacement
      3. Utility installations
      4. Excavation within public easements
   ii. The Bond Matrix Spreadsheet shall:
      1. Be based on unit costs for restoration, including labor, materials, inspection, and contingency.
      2. Include multipliers for project complexity, location sensitivity, and seasonal risk.
      3. Be reviewed and updated at the beginning of every new administration to reflect current market conditions and construction standards.
   iii. The Bond Matrix Spreadsheet shall be approved by the Town Council as Policy and incorporated by reference into this ordinance. The current version shall be made publicly available on the Towns internet presence, and in Town Hall by the Town Clerk.

c. Required Use
   i. Prior to issuance of any permit for construction that disturbs public property, the applicant shall post a bond in an amount determined using the Bond Matrix Spreadsheet.
      1. The bond shall be in the form of:
         a. Guarantee Fee
         b. Irrevocable letter of credit
         c. Continuing or Performance bond from a surety licensed in the state
   ii. No work shall commence until the bond is accepted by the Town and all associated fees are paid.

d. Bond Release and Reduction
   i. Upon satisfactory completion of the work and final inspection, the City may release the bond in full or in part.
   ii. Partial reductions may be granted based on completed work, but no bond shall be reduced below 20% of the original amount until final acceptance.
   iii. The City reserves the right to retain up to 15% of the bond amount as contingency for latent defects or warranty issues for a period of one year following project completion.

e. Enforcement and Penalties
Failure to comply with the bonding requirements may result in:
   i. Suspension or revocation of permits

ii. Withholding of final approvals
iii. Legal action to recover costs incurred by the City for restoration

III. No persons, party, utility company, corporation, or other legal entity shall for any purpose break the surface of the streets of The Town of Chapmanville or any other public property owned by The Town of Chapmanville without first obtaining a permit to do so.

a. The necessary permit shall be issued by the Mayor, or in the event of the absence of the Mayor, the Town Recorder for good cause shown by the party requesting the permit. The permit application shall contain at a minimum:
   i. The name of the applicant
   ii. Description of Project.
   iii. Total estimated cost of project.
   iv. ~~Total estimated cost to reclaim project to pre-construction state.~~ Completed Bond Matrix Spreadsheet for Bond Amount Determination; or if Bond Matrix Spreadsheet has not been approved, Total estimated cost to reclaim project to pre-construction state.
   v. Type of Bond
   vi. Bond information
   vii. Amount of bond.

b. ~~However,~~ No permit shall be issued until the following conditions are met:
   i. The party requiring the permit shall post a bond to ensure that the area damaged shall be repaired in such manner as to restore it to its same condition as prior to the construction. The amount of the bond shall be ~~set by the official issuing permit~~ in equal amount to the cost to completely restore the disturbed area from its greatest planned disturbance to its state prior construction. The official issuing the permit shall ~~have the right to~~ require ~~whatever~~ surety ~~that he feel might be necessary~~ on the bond.
   ii. Bond shall be submitted in the form of Guarantee Fee; Irrevocable Letter of Credit; or Surety Bond.
      1. Guarantee fees - A guarantee fee is a cash amount paid by the Permittee in advance of permit issuance to cover the performance of Excavation within the Public Rights- of-Way. When Excavation covered by the Permittee is completed to the satisfaction of the Mayor, the guarantee fee is refunded in its entirety to the Permittee. The guarantee fee may be paid by Personal check, cashier check, certified check, or money order. Should the Permittee fail to complete the Excavation to the satisfaction of the Mayor, then all or whatever portion of the guarantee fee that is required to complete work covered by permit or restore the Public Rights-of-Way to its original condition shall be retained by the Town of Chapmanville. Refunds of guarantee fees are processed by the Town of Chapmanville upon notification by the Mayor that the Excavation has been completed. Normally, six to eight weeks should be allowed for return of the guarantee fee once notice has been received by the Mayors Office.
      2. Irrevocable letter of credit - An irrevocable letter of credit may be used in lieu of a guarantee fee or performance bond. This letter of credit is furnished by a bank and is used to verify a line of credit that will be set aside to provide for coverage of work performed by the Permittee or his agent in accordance with the approved permit. The Town shall have the right to withdraw funds from the irrevocable letter of credit for the Permittee's failure to complete the Excavation in the Public Rights-of-Way, including restoration, in an amount up to the Town's actual costs, including overhead costs. If an irrevocable letter of credit is used by the Permittee, the irrevocable letter of credit shall be of a type and form issued or approved by the Town of Chapmanville.
      3. Continuing bonds and performance bonds - All bonds shall identify the work for which the bond is issued and define what type of work the bond covers, the specific location of the Excavation and whether it is a continuous bond or a performance bond. If a bond is used by the Permittee, the bond shall be of a type and form issued or approved by the Town of Chapmanville.

a. Continuing bonds - Required on all permits covering installations within the Public Rights-of-Way that are of a continuous nature. Unless otherwise specified by the Mayor, the amount of the continuing bond shall be $10,000.00 for public and private utilities, communications providers, or other entities regularly performing work in the Town, covering the amount the amount the Mayor determines necessary to complete or restore the Excavation should the Permittee fail to complete it. The purpose of this type of bond is to ensure proper performance of the Excavation restoration, maintenance of the installation; to ensure the removal or relocation of the installations when deemed necessary for the safety of the traveling public; and to ensure improvements or reconstruction of the Public Rights-of- Way. The bond shall remain in full force as long as the work covered under the permit remains within the Public Rights-of-Way. Any continuing bond forfeited due to non-compliance or non-performance of any provision of this Ordinance must be replaced by a new continuing bond in a like amount prior to the issuance of any further permits to the Permittee.

b. Performance bond - Required for the actual performance of the work covered by the permit as required by the Mayor. The estimated amount of the bond is the amount the Mayor anticipates it will take the Town, or the Town's Subcontractor, to complete or restore the Excavation should the Permittee fail to do so. Once the Excavation has been completed to the satisfaction of the Mayor, the performance bond will be released. Responsibility for the Excavation covered by the permit shall not be eliminated until such time as a completion notice has been released by the Mayor, and coverage under the performance bond shall remain in effect until the bond has been cancelled by the Town of Chapmanville.

iii. Visual Record is taken by a The Mayor or his designee of the pre-construction state of the area.

c. No bond be released until The Mayor agrees that the construction is complete and reclamation to pre-construction status has been achieved.

IV. Effective Date

a. This ordinance shall be effective from its date of passage.

First Reading: 08/12/2025 Second Reading: 11/13/25 Third Reading/Passage: 12/9/25

Mayor, Joel McNeely

Recorder, Phillip Williamson II

| | |
|---|---|
| Judy Vance | Harry Freeman |
| Suzy Cook | [illegible] |
| Brookie Craddock | |

Council