



**TO:** Elizabeth A. Pauli, City Manager  
**FROM:** Kurtis D. Kingsolver, P.E., Public Works Director/City Engineer  
Peter Huffman, Director, Planning & Development Services  
**COPY:** City Council and City Clerk  
**SUBJECT:** Ordinance – Amending TMC Title 10 Regarding Performance Bond Requirement –  
April 3, 2018  
**DATE:** March 29, 2018

---

**SUMMARY:**

An ordinance amending Chapter 10.22 of the Tacoma Municipal Code by amending Section 10.22.070 Provisions for Permit, to update the policy and procedure for performance bond requirements related to rights-of-way.

**COUNCIL SPONSORS:**

Council Member McCarthy

**STRATEGIC POLICY PRIORITY:**

- Foster a vibrant and diverse economy with good jobs for all Tacoma residents.

The proposed ordinance would update the protocol for Performance Bond Requirements by revising the policy and procedure for Required Amount, Consequence of Default, and Consequence of Working Without a Permit.

**BACKGROUND:**

Performance Bonds secure the construction and completion of required work in the City of Tacoma Right-of-Way under Site Development Work Orders. The City of Tacoma (City) Public Works and Planning and Development Services Departments have developed these proposed amendments to update procedures for the following three items related to performance bonds.

**Required Amount**

The Director shall have the discretion to reduce the bond obligation to 30 percent of the value of work proposed as determined by the City, for building developers where the amount of the reduced bond is deemed sufficient to protect the City, but in no event to an amount less than \$15,000. To qualify for this reduced obligation, the Principal must have a favorable previous construction history in the City of Tacoma. This reduced obligation does not apply to Assignments of Funds. When an Assignment of Funds account (cash deposit) is used, it must secure the full value of work proposed as determined by the City.

**Consequence of Default**

Upon the City’s determination of failure to perform as required by the bond and according to the terms of the Permit, the Principal shall be considered to be in default. **A Principal in default shall be subject to a 5 year period of increased bond obligation.** This period shall state that the individual and entity obligated under the bond shall be subject to an increased (150% of the amount of the work being guaranteed) minimum bond requirement for all projects going forward. After the 5 year period has expired, the individual/entity obligated under the bond shall be subject to a full value (100% of the amount of the work being guaranteed) minimum bond requirement for all projects going forward.

**Consequence of Working Without a Permit**

Where work for which a permit is required by City Code is commenced prior to obtaining required permits, the fees specified in this Code, including plan review fees, shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with applicable Codes in the execution of the work, nor from any other penalties prescribed. In no case shall such double fee be less than \$200.

In addition to the above, the Principal individual and entity performing the unpermitted work shall not qualify for a reduced bond obligation but instead shall be imposed with an increased minimum bond for all projects from that day forward. **The increased minimum bond shall be an amount equal to 100 percent of the value of work proposed as determined by the City.**

**ISSUE:**

Current Performance Bonding Requirements do not reward good development work within the City, nor do they appropriately discourage work that is substandard, incomplete, or performed without a permit.

**ALTERNATIVES:**

The City could choose to not update any of the current policies, procedures and code provisions regarding Performance Bonding Requirements. However, this is a high priority item for the Master Builders' Association of Pierce County and the options presented here are seen by the development community as updates to outdated practices. These updates are reasonable ways to innovate and modernize development regulations and improve relations with the development community, presenting our jurisdiction as development-friendly, while enforcing meaningful consequences for violations of our development regulations.

**RECOMMENDATION:**

An ordinance amending Section 10.22 of the Tacoma Municipal Code by amending Section 10.22.070 Provisions for Permit, to update the policy and procedure for performance bond requirements related to rights-of-way.

**FISCAL IMPACT:**

There is no fiscal impact. Seized bonds shall be handled in the same manner as before.