

Title 12

STREETS, SIDEWALKS AND PUBLIC PLACES

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Chapter 12.04

SIDEWALK REPAIR AND MAINTENANCE

Sections:

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12.04.010 Purpose.

This chapter is enacted to implement chapter 35.70 RCW in the city of Burlington with respect to sidewalk repairs and to clarify the responsibility of the abutting property owners for maintenance of planting strips and transition strips. (Ord. 1549 § 1, 2004).

12.04.020 Definitions.

“Maintenance” means the removal and disposal of debris, litter and vegetation which tends to impair the utilization of the right-of-way for public purposes and the removal of ice and snow from sidewalks.

“Planting strip” means that portion of the right-of-way between the outside of the curb and the inside of the sidewalk.

“Repair” means the removal and/or patching of small damaged portions of sidewalks, retaining walls or rockeries lying within the right-of-way, and planting strips and transition strips with like materials, each such damaged portions not exceeding 150 square inches in area. Larger areas shall be classified as reconstruction.

“Sidewalk” means all pedestrian structures or forms of improvement for pedestrians included in the space between the street margin, as defined by a curb or the edge of the traveled road surface, and the line where the public right-of-way meets the abutting property.

“Street” means street, boulevard, lane, avenue, way, alley, square, road, drive, place or public walkway.

“Transition strip” means that portion of the right-of-way between the outside of the curb and the property line; or where no curb or sidewalk exists, that portion of the right-of-way between the edge of the roadside ditch or the shoulder of the road, whichever is closer to the abutting property line, and the abutting property line. (Ord. 1549 § 1, 2004).

12.04.030 Responsibility and duty to maintain, repair and reconstruct planting strips.

It shall be the responsibility and duty of the abutting property owner to maintain, repair and reconstruct adjacent planting strips in an attractive and safe manner. Planting strips shall be maintained, repaired or reconstructed with an approved material and free of vegetation which tends to impair the utilization of the right-of-way for public purposes. Nonliving material shall be level with the top of the curb and the sidewalk and shall be contained within the planting strip so as not to be a hazard to the persons using the sidewalk or street or crossing the strip going to or from a vehicle. Living vegetation exclusive of street trees placed in the planting strip shall be of a height that does not interfere with the lawful and safe use of the public right-of-way and shall be maintained by weeding, spraying, fertilizing, watering and trimming. Street trees and root barriers shall be installed and maintained consistent with the requirements of chapter 12.20 17.81 BMC. City authorization is required prior to the installation of materials within the planting strip. (Ord. 1549 § 1, 2004).

12.04.040 Responsibility and duty to maintain, repair and reconstruct transition strips.

It shall be the responsibility and duty of the abutting property owner to maintain, repair and reconstruct adjacent transition strips in an attractive and safe manner, free of vegetation which tends to impair the utilization of the

right-of-way for public purposes. Nonliving material shall be contained within the transition strip so as not to be a hazard to the persons using the sidewalk or street. Living vegetation placed in the transition strip shall be maintained by weeding, spraying, fertilizing, watering and trimming. Street tree species and root barriers shall be approved by the planning department to ensure that the species will fit in the space provided. The abutting property owner shall maintain, repair and reconstruct rockeries and retaining walls within the transition strip; provided, however, the city of Burlington shall repair and reconstruct all rockeries and retaining walls constructed under street projects which exceed an average height of six feet as measured from the base of the retaining wall or rockery. (Ord. 1549 § 1, 2004).

12.04.050 Responsibility for sidewalks and procedures and methods for maintenance, repair and/or reconstruction – Apportionment of costs.

- A. The city is generally responsible for sidewalk maintenance and repair.
- B. The city may construct, reconstruct or repair sidewalks and pay the costs thereof from any available funds, or the city may require the abutting property owner to construct the sidewalk improvement at his or her own cost or expense or, in the alternative, the city may assess all or any portion thereof against the abutting property owner. In the event the city requests an abutting property owner to undertake or pay for the improvement, it shall follow the procedures for resolution, notice and hearing on such improvements as set forth in applicable law.
- C. Any person desiring to repair, change or relocate any sidewalk abutting their property shall make application in writing to the city permit center. Such application shall contain, among others, the exact location of such proposed change or relocation, the location of any new sidewalk to be laid and the connections and location of other sidewalks upon such street; no change or relocation of any sidewalk shall be made until the issuance of an appropriate permit; provided further, however, that the cost of reconstruction shall be borne solely by the abutting property owner without contribution from the city.
- D. Property owners or tenants are responsible for repairing any damage that they cause. (Ord. 1549 § 1, 2004).

12.04.060 Hazardous conditions on public street right-of-way.

It shall be unlawful for the owner and/or any person occupying or having charge or control of any premises abutting upon any public street right-of-way or alley in the city to construct, place, cause, create, maintain, or permit to remain upon any part of said right-of-way located between the curb line, or if there is no curb line, then between the adjacent edge of the traveled portion of such right-of-way and the abutting property line, any condition, structure, or object dangerous or hazardous to the use of said right-of-way by the members of the general public, including but not limited to the following conditions:

- A. Defective sidewalk surfaces, including but not limited to broken or cracked cement concrete, stub-toes, depressions within or between sidewalk joints.
- B. Defective cement concrete surfaces placed adjacent to the public sidewalk or defects at the juncture between said cement surfaces and said public sidewalks, including stub-toes or depressions at said juncture.
- C. Defects in sidewalks or public ways caused or contributed to by the roots of trees or similar growth or vegetation located either on private adjoining property or on the parking strip portion of any such street right-of-way.
- D. Defective conditions caused by tree limbs, foliage, brush, or grass on or extending over such public sidewalks or rights-of-way.
- E. Defective conditions on the parking strip area between the curb line and the sidewalk or, if there is no curb line, then between the edge of the traveled portion of the street and the sidewalk and between the sidewalk and the abutting property line.
- F. Defects consisting of foreign matter on the public sidewalks, including but not limited to gravel, oil, grease, or any other foreign subject matter that might cause pedestrians using said sidewalk to fall, stumble, or slip by reason of the existence of such foreign matter.

G. Defective handrails or fences or similar structures within or immediately adjacent to said right-of-way area. (Ord. 1549 § 1, 2004).

12.04.070 Enforcement.

BMC Title 1 is hereby adopted by reference as the enforcement provisions for this chapter. (Ord. 1549 § 1, 2004).

Chapter 12.08

OBSTRUCTION OF STREETS AND SIDEWALKS

Sections:

- 12.08.010 Display of goods beyond three feet from property line prohibited.
- 12.08.020 Goods damaging to sidewalk or passersby prohibited.
- 12.08.030 Violation – Penalty.

12.08.010 Display of goods beyond three feet from property line prohibited.

Except as permitted by chapter 5.30 BMC, it is unlawful to store, keep, place, exhibit or display goods, wares, merchandise, or other objects on the public sidewalks of the city beyond a distance of three feet from the line of the property. In all cases a clear and unobstructed path at least four feet in width shall be maintained. All goods, wares or merchandise displayed shall be removed from and kept off said sidewalk during the hours between sunset and sunrise. (Ord. 1759 § 4, 2012; Ord. 183 § 1, 1913; Ord. 109 § 1, 1909).

12.08.020 Goods damaging to sidewalk or passersby prohibited.

It is unlawful for any person to deposit, store or keep, on any sidewalks within the city, any goods, wares, merchandise or substance of any nature, kind or description that will be detrimental to said sidewalks or which shall interfere with going to and fro on said sidewalks by damaging, injuring or soiling the clothes of those traveling thereon. (Ord. 109 § 2, 1909).

12.08.030 Violation – Penalty.

Violation of or failure to comply with any of the provisions of this chapter shall be subject to a civil penalty as set forth in chapter 1.34 BMC. Each day shall constitute a separate violation. (Ord. 1759 § 4, 2012; Ord. 109 § 3, 1909).

Chapter 12.12
EXCAVATIONS

Sections:

- 12.12.010 Short title.
- 12.12.020 Definitions.
- 12.12.030 Chapter not applicable when.
- 12.12.040 Permit – Required.
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- 12.12.060 Drawings required when.
- 12.12.070 Property lines and easements.
- 12.12.080 Permit – Fees.
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- 12.12.360 Prompt completion of work.
- 12.12.370 Inspections – Rules and regulations – Enforcement authority.
- 12.12.380 Insurance.
- 12.12.390 Liability of city.
- 12.12.400 Attractive nuisance prohibited.
- 12.12.410 Violation – Penalty.

12.12.010 Short title.

The ordinance codified in this chapter shall be known and may be cited as the “street excavation ordinance of the city of Burlington.” (Ord. 763 § 10-1001, 1971).

12.12.020 Definitions.

For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words used in the present tense include the future,

words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

- A. “Applicant” means any person making written application for a permit under this chapter.
- B. “City” means the City of Burlington
- C. “City engineer” or “Public Works Director” means the city engineer of the city.
- D. “Development” means any activity that results in a use or modification of land or its resources. Development activities include, but are not limited to: dredging, drilling, dumping, filling, earth movement, grading, clearing or removal of vegetation; storage of materials or equipment; building or construction; land division, boundary line adjustments, lot segregations, subdivision and short subdivisions; binding site plans; land use permit approvals; variances; shoreline development or substantial development; and activities or uses allowed through conditional use permits.
- E. “Development activity” or “work” means any development subject to regulation under this chapter, required by this chapter, or authorized by a permit issued under this chapter.
- F. “Permittee” or “permit holder” means any person who has been granted and has in full force and effect a permit issued under this chapter.
- G. “Person” means any person, firm, partnership, association, corporation, company or organization of any kind.
- H. “Street” means any street, highway, sidewalk, alley, avenue, right-of-way, or easement made to the city for public use, or other public way or public grounds in the city. (Ord. 763 § 10-1002, 1971).

12.12.030 Applicability.

This chapter shall apply to any clearing, grading, excavation, construction, boring, or other development occurring within an established street right-of-way except as follows:

- A. Work performed by the City of Burlington or by a contractor employed by the City of Burlington;
- B. Pruning, planting, and removal of trees and other vegetation consistent with the provisions of Chapter 12.20 BMC and other applicable regulatory requirements.

12.12.040 Permit – Required.

A permit shall be required to conduct development activities within a street right-of-way, dig up, break, excavate, tunnel, undermine, or in any manner break up any street or to make or cause to be made any excavation in or under the surface of any street for any purpose or to place, deposit or leave upon any street any earth or other excavated material obstructing or tending to interfere with the free use of the street. (Ord. 763 § 10-1003, 1971).

12.12.050 Permit – Application Requirements.

Application for excavation permits shall be made on forms provided by the City and shall include all of the information required by the form in addition to all of the items listed below.

- A. Vicinity map;
- B. Name, address, and phone number of the applicant;
- C. Name address, and phone number of the engineer, contractor, or agent;
- D. A complete set of plans depicting the proposed work and including any information, details, or specifications requested by the Public Works Director. Unless waived by the Public Works Director, all plans shall be prepared by civil engineer licensed in the State of Washington;
- E. Users of subsurface street space shall furnish the city engineer with accurate drawings, plans and profiles, showing the location and character of all underground structures being installed, including abandoned

installations. Horizontal locations are to be referenced to street centerlines, as marked by survey monuments, and shall be accurate to a tolerance of plus or minus one foot. The depth of the utility or structure being installed may be referenced to the elevation of the street above the utility, with depths to the nearest one-half foot being shown at a minimum of 50-foot intervals along the location of the utility. Said maps shall be submitted to the city engineer's office within 60 days after new installations, changes or replacements are made.

12.12.060 Permit – Approval Criteria.

No permit shall be approved without full compliance with the requirements of this chapter and other applicable Burlington Municipal Code requirements including, but not limited to, the requirements of titles 12, 13, 14, 14A, and 15 BMC.

12.12.070 Property lines and easements.

Property lines and limits of easements shall be indicated on the plan of excavation submitted with the application for the excavation permit and it shall be the permittee's responsibility to confine excavation work within these limits. (Ord. 763 § 10-1018, 1971).

12.12.080 Permit – Fees.

A permit fee shall be charged for permits issued under this chapter consistent with the current city of Burlington fee resolution. (Ord. 1234 § 1, 1993; Ord. 763 § 10-1005, 1971).

12.12.090 (Reserved) .

12.12.100 Surety bond.

Before a permit is issued under this chapter the applicant shall deposit with the City Finance Department a surety bond in such reasonable amount as set by the City Engineer payable to the City. The City Engineer may waive this requirement for simple small scale projects where there is little risk of the work not being completed. The required surety bond must be:

- A. With good and sufficient surety;
- B. By a surety company authorized to transact business in the state;
- C. Satisfactory to the City Attorney in form and substance;
- D. Conditioned upon the permittee's compliance with this chapter and to secure and hold the city and its officers harmless against any and all claims, judgments or other costs arising from the development activities and other work covered by the permit or for which the City, the city council, or any city officer may be made liable by reason of any accident or injury to persons or property through the fault of the permittee either in not properly guarding the excavation or for any other injury resulting from the negligence of the permittee, and further conditioned to fill up, restore and place in good and safe condition as near as may be to its original condition, and to the satisfaction of the City Engineer, all openings, disturbed areas, and excavations made in streets, and to maintain any street where excavation is made in as good condition for the period of 24 months after the work has been done, usual wear and tear excepted, as it was in before the work was done. Any settlement of the surface within the two-year period shall be deemed conclusive evidence of defective backfilling by the permittee. Nothing contained in this section shall be construed to require the permittee to maintain any repairs to pavement made by the City if such repairs should prove defective. Any owner of real estate repairing or engaging another to repair his own sidewalk shall be required to give such bond. Recovery on such bond for any injury or accident shall not exhaust the bond but it shall in its entirety cover any or all future accidents or injuries during the excavation work for which it is given. In the event of any suit or claim against the city by reason of the negligence or default of the permittee, upon the city's giving written notice to the permittee of such suit or claim, any final judgment against the city requiring it to pay for such damage shall be conclusive upon the permittee and his surety. An annual bond may be given under this provision which shall remain in force for one year conditioned as above, in the amount specified above in other respects as specified above but applicable as to all excavation work in streets by the principal in such bond during the term of one year from said date. (Ord. 763 § 10-1007, 1971).

12.12.110 Urgent work.

If traffic conditions, the safety or convenience of the traveling public or the public interest require that the excavation work be performed as emergency work, the City Engineer shall have the authority to order, at the time the permit is granted, that workers and adequate facilities be employed by the permittee 24 hours a day to the end that such excavation work may be completed as soon as possible. (Ord. 763 § 10-1032, 1971).

12.12.120 Emergency action.

In the event of any emergency in which a sewer, main, conduit, or utility in or under any street breaks, bursts, or otherwise is in such condition as to immediately endanger the property, life, health or safety of any individual, the person owning or controlling such sewer, main, conduit or utility, without first applying for and obtaining an excavation permit under this chapter, shall immediately take proper emergency measures to cure or remedy the dangerous conditions for the protection of property, life, health and safety of individuals. However, such person owning or controlling such facility shall apply for an excavation permit not later than the end of the next succeeding day during which the city engineer's office is open for business, and shall not proceed with permanent repairs without first obtaining an excavation permit under this chapter. (Ord. 763 § 10-1033, 1971).

12.12.130 Breaking or cutting pavement.

Whenever it is necessary to break through existing pavement for excavation purposes, and where trenches are to be four feet or over in depth, the pavement in the base shall be removed to at least six inches beyond the outer limits of the subgrade that is to be disturbed in order to prevent settlement, and a six-inch shoulder of undisturbed material shall be provided in each side of the excavated trench. The face of the remaining pavement shall be approximately vertical. A power-driven concrete saw shall be used so as to permit complete breakage of concrete pavement or base without ragged edges. Asphalt paving shall be scored or otherwise cut in a straight line. No pile driver may be used in breaking up the pavement. (Ord. 763 § 10-1021, 1971).

12.12.140 Sidewalk excavations.

Any excavation made in any sidewalk or under a sidewalk shall be provided with a substantial and adequate footbridge over said excavation on the line of the sidewalk, which bridge shall be at least three feet wide and securely railed on each side so that foot passengers can pass over safely at all times. (Ord. 763 § 10-1013, 1971).

12.12.150 Noise, dust and debris.

All development activities shall be designed and carried out to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce to the fullest extent practicable in the performance of the excavation work, noise, dust and unsightly debris and between the hours of 10:00 p.m. and 7:00 a.m. shall not use, except with the express written permission of the City Engineer or in case of an emergency as otherwise provided in this chapter, any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property. (Ord. 763 § 10-1034, 1971).

12.12.160 Clearance for fire equipment.

All development activities shall be performed and conducted so as not to interfere with access to fire stations and fire hydrants. Materials or obstructions shall not be placed within 15 feet of fire hydrants. Passageways leading to fire escapes or firefighting equipment shall be kept free of piles of material or other obstructions. All development activities shall be consistent with any requirements or specified by the City Fire Marshal. (Ord. 763 § 10-1009, 1971).

12.12.170 Protective measures – Fences, barriers and lights.

The permittee shall be responsible for installing fences, railings or barriers as necessary to prevent danger to persons using the city streets or sidewalks, and such protective barriers shall be maintained until the work is completed or the danger removed. At twilight there shall be placed upon such place of excavation, and upon any excavated materials or structures or other obstructions to streets, suitable and sufficient lights which shall be kept on throughout the night until the work is completed. It is unlawful for anyone to remove or tear down the fence or railing or other protective barriers or any lights provided there for the protection of the public. (Ord. 763 § 10-1014, 1971).

12.12.180 Protective measures – Routing of traffic.

Appropriate measures shall be employed to avoid traffic impacts and to cause as little inconvenience as possible to the occupants of the abutting property and to the general public; provided, that the City Engineer may permit the closing of streets to all traffic as minimally necessary to complete the proposed work. The permittee shall route and control traffic, including its own vehicles, as directed by the public works department. The following steps shall be taken before any street may be closed or restricted to traffic:

A. The permittee must receive the approval of the City Engineer;

B. Notification shall be provided to the Fire Department;

C. Upon completion of construction work, the permittee shall notify the City Engineer;

D. Where flaggers or traffic control workers are deemed necessary by the City Engineer, they shall be furnished at the permit holder's expense. Through traffic shall be maintained without the aid of detours, if possible. In instances in which this would not be feasible, the City Engineer will designate detours. The City shall maintain roadway surfaces of existing highways designated as detours without expense to the permittee, but in case there are no existing streets the permittee shall construct all detours at its expense and in conformity with the specifications of the City Engineer. The permittee will be responsible for any unnecessary damage caused to any streets by the operation of its equipment. (Ord. 763 § 10-1008, 1971).

12.12.190 Protective measures – Highways and crossings.

The permittee shall erect and maintain suitable barriers to confine earth from trenches or other excavations in order to encroach upon City right-of-way as little as possible. The permittee shall construct and maintain adequate and safe crossings over excavations and disturbed areas and across streets under improvement to accommodate vehicular and pedestrian traffic at all street intersections. Vehicular crossings shall be adequately constructed to accommodate vehicular traffic safely. Decking shall be not less than four inches thick and shall be securely fastened together with heavy wire and staples. Pedestrian crossings shall consist of planking three inches thick, 12 inches wide and of adequate length, together with necessary blocking. The walk shall be not less than three feet in width and shall be provided with a railing as required by the City Engineer. (Ord. 763 § 10-1010, 1971).

12.12.200 Protective measures – Utilities.

The permittee shall not interfere with any existing utility without the written consent of the City Engineer and the utility company or person owning the utility. If it becomes necessary to remove an existing utility, this shall be done by its owner. No utility owned by the City shall be moved to accommodate the permittee unless the cost of such work is borne by the permittee. The cost of moving privately owned utilities shall be similarly borne by the permittee unless it makes other arrangements with the person owning the utility. The permittee shall support and protect by timbers or otherwise all pipes, conduits, poles, wires or other apparatus which may, in any way, be affected by the excavation work, and do everything necessary to support, sustain and protect them under, over, along or across said work. In case any pipes, conduits, poles, wires or apparatus should be damaged, they shall be repaired by the agency or person owning them and the expense of such repairs shall be charged to the permittee, and their bond shall be liable therefor. The permittee shall be responsible for any damage done to any public or private property by reason of the breaking of any water pipes, sewer, gas pipe, electric conduit or other utility and its bond shall be liable therefor. The permittee shall inform itself as to the existence and location of all underground utilities and protect the same against damage. (Ord. 763 § 10-1011, 1971).

12.12.210 Protective measures – Adjoining property.

The permittee shall at all times and at their expense preserve and protect from injury any adjoining property by providing proper foundations and taking other measures suitable for the purpose. Where in the protection of such property it is necessary to enter upon private property for the purpose of taking appropriate protective measures, the permittee shall obtain a license from the owner of such private property for such purpose and if they cannot obtain a license from such owner the City Engineer may authorize the permit holder to enter the private premises solely for the purpose of making the property safe. The permittee shall, at its own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the progress of the excavation work and shall be responsible for all damage to public or private property or highways resulting from its failure properly to protect and carry out said work. Whenever it may be necessary for the permittee to trench through any lawn area, the sod shall be carefully cut and rolled and replaced after ditches have been backfilled as required in this chapter. All

construction and maintenance work shall be done in a manner calculated to leave the lawn area clean of earth and debris and in a condition as nearly as possible to that which existed before such work began. The permittee shall not remove even temporarily any trees or shrubs which exist in parking strip areas or easements across private property without first having notified and obtained the consent of the property owner, or in the case of public property the appropriate City department or city official having control of such property. (Ord. 763 § 10-1012, 1971).

12.12.220 Protective measures – Watercourses.

The permittee shall provide for the flow of all watercourses, sewers or drains intercepted during the excavation work and shall replace the same in as good condition as it found them or shall make such provision for them as the City Engineer may direct. The permittee shall not obstruct the gutter of any street but shall use all proper measures to provide for the free passage of surface water. The permittee shall make provision to take care of all surplus water, muck, silt, slickings or other runoff pumped from excavations or resulting from sluicing or other operations and shall be responsible for any damage resulting from its failure to so provide. Storm-water, erosion, and sedimentation control shall be managed in accordance with the requirements of Chapter 14.05 BMC and applicable Washington State water quality regulations. All streams, wetlands, watercourses, and fish and wildlife habitat conservation areas shall be protected in accordance with the requirements of Chapter 14.15 BMC. (Ord. 763 § 10-1020, 1971).

12.12.230 Protective measures – Monuments.

The permittee shall not disturb any surface monuments or hubs found on the line of excavation work until ordered to do so by the City Engineer. All street monuments, property corners, bench marks and other monuments disturbed during the program of the work shall be replaced by the City Engineer and the cost of the same shall be paid by the permittee. (Ord. 763 § 10-1035, 1971).

12.12.240 Damage to existing improvements.

All damage done to existing improvements during the progress of the excavation work shall be repaired by the permittee. Materials and workmanship for such repair shall conform to the requirements of any applicable code or ordinance. If upon being ordered the permittee fails to furnish the necessary labor and materials for such repairs, the City Engineer shall have the authority to cause said necessary labor and materials to be furnished by the City and the cost shall be charged against the permittee, and the permittee shall also be liable on their bond therefor. (Ord. 763 § 10-1017, 1971).

12.12.250 Tunnels.

Tunnels under pavements shall not be permitted except by permission of the City Engineer. Where pipes or cables are placed under main thoroughfares, concrete streets, state highways, first-grade asphalt streets, or wherever designated by the city engineer, such work shall be done by jacking or boring casings under street surfaces and placing said pipes or cables inside of the casing. (Ord. 763 § 10-1022, 1971).

12.12.260 Trenches.

Except by special permission from the City Engineer, no trench shall be excavated more than 100 feet in advance of pipe laying nor left unfilled more than 200 feet where pipe has been laid. The length of the trench that may be opened at any one time shall not be greater than the length of pipe and the necessary accessories which are available at the side ready to put in place. Trenches shall be braced and sheathed according to generally accepted safety standards for construction work. No timber bracing, lagging, sheathing or other lumber shall be left in any trench. (Ord. 763 § 10-1030, 1971).

12.12.270 Care of excavated material.

All material excavated from trenches and piled adjacent to the trench or in any street shall be piled and maintained in such manner as not to endanger those working in the trench, pedestrians or users of the streets, and so that as little inconvenience as possible is caused to those using streets and adjoining property. Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, such as might be the case in a narrow alley, the City Engineer shall have the authority to require that the permittee haul the excavated material to a storage site and then re-haul it to the trench site at the time of backfilling. It shall be the permittee's responsibility to secure the necessary permission and make all necessary arrangements for all required storage and disposal. (Ord. 763 § 10-1016, 1971).

12.12.280 Cleanup.

As the excavation work progresses, all streets and private properties shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All cleanup operations at the location of such excavation shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the City Engineer. From time to time as may be ordered by the City Engineer, and in any event immediately after completion of said work, the permittee shall at his or its own expense clean up and remove all refuse and unused materials of any kind resulting from said work and, upon failure to do so within 24 hours after having been notified to do so by the City Engineer, said work may be done by the City Engineer and the cost thereof charged to the permittee. The permittee shall also be liable for the cost thereof under the surety bond provided under this chapter. (Ord. 763 § 10-1019, 1971).

12.12.290 Backfilling – Requirements.

Backfilling in any street opened or excavated pursuant to a permit issued under this chapter shall be compacted to a degree equivalent to that of the undisturbed ground in which the trench was dug. Compacting shall be done by mechanical tappers or vibrators, by rolling in layers, or by water settling, as required by the soil in question and sound engineering practices generally recognized in the construction industry. (Ord. 763 § 10-1023, 1971).

12.12.300 Backfilling – Material.

Whenever any excavation for the laying of pipe is made through rock, the pipe shall be laid six inches above the rock bottom of the trench and the space under, around and six inches above the pipe shall be backfilled with clean river sand, noncorrosive soil or one-quarter inch minus gravel. Broken pavement, large stones and debris shall not be used in the backfill. (Ord. 763 § 10-1026, 1971).

12.12.310 Backfilling – Water settling method.

When backfilling is to be done by water settling and before any compaction of the trenches is attempted, the permittee shall cause the loose material to be wetted by forcing a head of water of not less than 30 feet in height, down into the soft material so that the end of the pipe is not more than three feet above the bottom of the excavation. The water shall be allowed to run until the material is saturated as indicated by the water rising and running out on the surface of the ground around the pipe. After each hole has been saturated, the jet pipe shall be moved along the trench line a distance of approximately four or five feet, but in no case more than eight feet, and the process repeated for the entire length of the backfill trench. All work shall be done in such manner as to obtain a relative compaction throughout the entire depth of the backfill of not less than existing adjacent to the excavation. (Ord. 763 § 10-1024, 1971).

12.12.320 Backfilling – Dry method.

Backfilling up to the first 18 inches above the top of the utility pipes or similar installations shall be done with thin layers. Each layer is to be tamped by manual or mechanical means. Layers that are hand-tamped shall not exceed six inches in thickness. Layers that are power-tamped shall not exceed 12 inches in thickness. The same requirements shall apply to the remainder of the backfilling if tamping is the method used for backfilling. Backfilling of all pipes of over 24 inches in diameter shall be carried up to the spring line of the pipe in three-inch layers, with each layer moistened and thoroughly tamped with suitable mechanical equipment. The backfill around all pipes 24 inches or less in diameter shall be flooded or tamped as specified above to a depth of 18 inches above the top of the pipe before any additional backfilling is placed thereon. Any deviation from the method set forth above shall have prior written approval of the city engineer. (Ord. 763 § 10-1025, 1971).

12.12.330 Backfilling – Surface finishing.

Backfilling shall be completed by placing the backfill material well up over the top of the trench. For dry backfilling, the material shall be compacted with a roller of an approved type, or with the rear of a truck carrying at least five tons, until the surface is unyielding. Care shall be taken that material being compacted has proper moisture content for maximum compactibility. The surface shall then be graded as required. (Ord. 763 § 10-1027, 1971).

12.12.340 Restoration of surface – Procedure – Approval.

A. The permittee shall restore the surface of all streets broken into or damaged as a result of the work to their original condition in accordance with the specifications of the City Engineer. The permittee may be required to place a temporary surface over openings made in paved traffic lanes. Except when the pavement is to be replaced before the opening of the cut to traffic, the fill above the bottom of the paving slab shall be made with suitable material well tamped into place, and this fill shall be topped with a minimum of at least one inch of bituminous mixture which is

suitable to maintain the opening in good condition until restoration can be made. The crown of the temporary restoration shall not exceed one inch above the adjoining pavement. The permittee shall exercise special care in making such temporary restorations and must maintain such restorations in safe traveling condition until such time as permanent restorations are made. The asphalt which is used shall be in accordance with the specifications of the City Engineer. If in the judgment of the City Engineer it is not expedient to replace the pavement over any cut or excavation made in the street upon completion of the work allowed under such permit by reason of the looseness of the earth or weather conditions, the City Engineer may direct the permittee to lay a temporary pavement of suitable material over such cut or excavation to remain until such time as the repair of the original pavement may be properly made.

B. Permanent restoration of the street shall be made by the permittee in strict accordance with the specifications prescribed by the City Engineer to restore the street to its original and proper condition, or as near as may be.

C. Acceptance or approval of any work by the city engineer shall not prevent the City from asserting a claim against the permit holder or permit holder's surety under a surety bond required by this chapter for incomplete or defective work if discovered within 24 months from the completion of the work. The City Engineer's presence during the performance of any excavation work shall not relieve the permittee of its responsibilities under this chapter. (Ord. 763 § 10-1028, 1971).

12.12.350 Restoration of surface – City's right to complete work – Costs.

A. If the permittee has failed to restore the surface of the street to its original and proper condition upon the expiration of the time fixed by such permit or fails to prosecute the work in accordance with the requirements of this chapter or shall otherwise have failed to complete the excavation work covered by such permit, the City Engineer shall have the right to do all work and things necessary to restore the street and to complete the excavation work. The permittee shall be liable for the actual cost thereof and 25 percent of such cost in addition for general overhead and administrative expenses. The City shall have a cause of action for all fees, expenses and amount paid out and due to it for such work and the city shall also enforce its right under the permittee's surety bond provided pursuant to this chapter.

B. It shall be the duty of the permittee to guarantee and maintain the site of work authorized under this chapter in the same condition it was prior to the excavation for two years after restoring it to its original condition. (Ord. 763 § 10-1029, 1971).

12.12.360 Prompt completion of work.

The permittee shall prosecute with diligence and expedition all work covered by the permit and shall promptly complete such work and restore the street to its original condition, or as near as may be, as soon as practicable and in any event not later than the date specified in the permit therefor. (Ord. 763 § 10-1031, 1971).

12.12.370 Inspections – Rules and regulations – Enforcement authority.

The City Engineer shall make such inspections as are reasonably necessary in the enforcement of this chapter. When so made, the permittee shall pay for such inspections at the City's cost. The City Engineer shall have the authority to promulgate and cause to be enforced such rules and regulations as may be reasonably necessary to enforce and carry out the intent of this chapter. (Ord. 763 § 10-1036, 1971).

12.12.380 Insurance.

A permittee, prior to the commencement of development activities under this chapter, shall file with the public works director a certificate of insurance evidencing insurance in form and amount in accordance with policy established by the Public Works Director, which insurance shall be issued by an insurance company authorized to do business in Washington State. (Ord. 1663 § 1, 2008; Ord. 763 § 10-1039, 1971).

12.12.390 Liability of city.

This chapter shall not be construed as imposing upon the City or any official or employee any liability or responsibility for damages to any person injured by the performance of any work for which a permit is issued under this chapter, nor shall the City or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspections authorized under this chapter, the issuance of any permit, or the approval of any work. (Ord. 763 § 10-1040, 1971).

12.12.400 Attractive nuisance prohibited.

It is unlawful for the permittee to suffer or permit to remain unguarded at the place of work or opening any machinery, equipment or other device having the characteristics of an attractive nuisance likely to attract children and hazardous to their safety or health. (Ord. 763 § 10-1015, 1971).

12.12.410 Violation – Penalty.

Any person violating any of the provisions of this chapter is guilty of a misdemeanor and upon conviction thereof shall be punishable according to the provisions of chapter 1.24 BMC. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such under this chapter. (Ord. 763 § 10-1041, 1971).

12.12.420 Appeals.

Appeals of decisions made pursuant to this chapter shall be filed and processed in accordance with the applicable procedures identified in Title 14A. BMC.

Chapter 12.16
NUMBERING OF BUILDINGS¹

(Repealed by Ord. 1403)

¹ For current provisions on the city building numbering system, see chapter 15.10 BMC.

Chapter 12.20

TREES

Sections:

- 12.20.010 Intent.
- 12.20.020 Definitions.
- 12.20.030 Urban forestry board – Established.
- 12.20.040 Urban forestry board – Duties and responsibilities.
- 12.20.050 Street tree permits.
- 12.20.060 Tree species to be planted – Spacing – Setbacks – Distances.
- 12.20.070 Public tree care.
- 12.20.080 Tree topping.
- 12.20.090 Pruning – Corner clearance.
- 12.20.100 Removal of stumps.
- 12.20.110 Dead, diseased or hazardous tree removal on private property.
- 12.20.120 Preservation of trees on private property with new development.
- 12.20.130 Penalty.

12.20.010 Intent.

Recognizing the positive cost-benefit ratio trees provide in maintaining a healthy urban ecosystem through their energy-saving and storm water management potential, as well as their role in improving the quality of our community, it is the purpose of this chapter to provide for the regulation of the planting, maintenance, and removal of trees in the public right-of-way and on city-owned property, and to encourage the preservation of existing trees on private property where new development is planned. (Ord. 1286 § 1, 1995).

12.20.020 Definitions.

A. Appraisal. Tree appraisals shall use the Trunk Formula Method of the Council of Tree and Landscape Appraisers.

B. “City-owned property” means property within the city limits of Burlington, and:

1. Owned by the city in fee simple absolute; or
2. Implied or expressly dedicated to the public for present or future use for purposes of vehicular or pedestrian traffic, or for public easements.

C. “Columnar tree” means any tree growing in a symmetrical, pillar-like form with a spread at maturity equal to approximately half the height of the tree.

D. “Large tree” means any mature tree which would reach a maximum height of more than 50 feet with a maximum spread of over 35 feet.

E. “Major pruning” means cutting back of limbs larger than one and one-half inches in diameter on street trees.

F. “Medium tree” means any mature tree which would reach a maximum height of 25 to 50 feet with a maximum spread of 35 feet.

G. “Park trees” means trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the city, or to which the public has free access as a park.

H. “Planter strip”, “planting strip”, or “buffer strip” means that portion of the right-of-way between the outside edge of the curb and the inside edge of the sidewalk.

I. “Small tree” means any mature tree which would reach a maximum height of 25 feet with a maximum spread of 25 feet.

J. “Significant tree” means an existing deciduous or coniferous tree six inches or more in diameter breast high (measured four feet, six inches above adjacent grade – “dbh”), of any species suitable for inclusion as permanent landscaping in a proposed development project. This also includes unusual, historical or rare trees.

K. “Street trees” means trees, shrubs, bushes, and all other woody vegetation on public rights-of-way, land lying between property lines on either side of all streets, avenues, or boulevards, within the city.

L. “Topping” means the severe cutting back of limbs to stubs larger than one and one-half inches in diameter within the tree’s crown to such a degree so as to remove the normal canopy and disfigure the tree.

M. “Tree owner” means the owner of the real property upon which 51 percent or more of the trunk is located at ground level. (Ord. 1286 § 1, 1995).

N. “Tree plan” means a plan developed and adopted pursuant to this chapter (12.20 BMC).

12.20.030 Urban forestry board – Established.

The Planning Commission shall serve as the Urban Forestry Board for the City of Burlington.

12.20.040 Urban forestry board – Duties and responsibilities.

The Urban Forestry Board shall have the authority to develop and provide recommendations to the City Council on a plan for the care, preservation, pruning, planting, replanting, removal, or disposition of trees and shrubs in parks, along streets, and in other public areas. The plan developed under this section shall be known as the “Tree Plan”. The Tree Plan should, at a minimum, include a map of arterial streets with street tree species identified, along with a list of desirable trees for planting along other streets. The Tree Plan should also include lists of tree species not suitable for planting, such as poplar, willow, and cottonwood.

12.20.050 Street tree permits.

A. Permit Required. A permit shall be required prior to any planting, removal, topping, and/or major pruning of street trees. No permit shall be required for work conducted by utility companies as minimally necessary to maintain safe clearances provided the Community Development Department is notified and all such work is conducted in accordance with accepted arboricultural standards.

B. Application Requirements. Applications for street tree permits shall be made on forms provided by the Community Development Department and shall include all of the information required by the form in addition to the items listed below. Only applications including all of the information required by this section shall be deemed complete for the purposes of complying with this chapter and Title 14A BMC.

1. Vicinity map;
2. A site plan drawn to scale depicting the location of any street trees to be planted, removed, or pruned;
3. The size and species of all proposed plantings;
4. The location and specifications of any required root barriers. (Ord. 1799 § 19, 2014; Ord. 1286 § 1, 1995).

C. Review Process. Street tree permits shall be reviewed by the Community Development Department for compliance with this Chapter and other applicable Burlington Municipal Code requirements. The Public Works Department shall review the application for consistency with applicable engineering, traffic safety, and design standards.

12.20.060 Tree species to be planted – Spacing – Setbacks – Distances.

A. Once adopted the planting, removal, topping, and/or major pruning of street trees shall be consistent with the adopted Tree Plan.

B. When trees are planted within five feet of a street, sidewalk, curb, underground utility, or other public improvement root barriers shall be provided and tree shall be planted in pits of sufficient dimensions to accommodate future root development.

C. Consideration shall also be given to location of the tree(s) in relation to streets, sidewalks, curbs, gutters, overhead utility wires, fire hydrants, water and sewer lines, and other public improvements. No street tree shall be located in the public right-of-way that would damage any of the improvements listed herein. (Ord. 1286 § 1, 1995).

D. No street trees other than species meeting the definition of “small trees” may be planted under or within 10 feet of any overhead utility wire, unless approved by the Community Development Department.

12.20.070 Public tree care.

A. The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

B. The City may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect, or other pest. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees is in accordance with this chapter and the tree plan. (Ord. 1286 § 1, 1995).

12.20.080 Tree topping.

It shall be unlawful as a normal practice for any person, firm, or City department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree’s crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this chapter. (Ord. 1286 § 1, 1995).

12.20.090 Pruning – Corner clearance.

Every tree owner of any tree overhanging any street or right-of-way within the city shall be responsible for pruning or causing to be pruned the branches so that such branches shall not severely obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of 13 feet above street surface or eight feet above the sidewalk surface. Said owner or owner’s representative shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The City shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light, or interferes with visibility of any traffic control device or sign or sight triangle at intersections. Tree limbs that grow near high voltage electrical conductors shall be maintained clear of such conductors by the electric utility company in compliance with any applicable franchise agreements. A utility tree trimming policy must be reviewed by the tree board prior to any trimming by the utility company. (Ord. 1286 § 1, 1995).

12.20.100 Removal of stumps.

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. (Ord. 1286 § 1, 1995).

12.20.110 Dead, diseased or hazardous tree removal on private property.

The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor significant infestations of insects or disease which constitute a potential threat to other trees within the city. (Ord. 1286 § 1, 1995).

12.20.120 Preservation of trees on private property with new development.

Landscaping on private property, including the planting, maintenance, pruning and removal of trees shall be subject to landscaping requirements identified in the City’s zoning code (Chapter 17.81 BMC).

12.20.130 Penalty.

Any person, firm or corporation responsible for removing a street or park tree without a permit shall be subject to any applicable fines identified in the fee schedule adopted by the City Council and shall be required to provide replacement trees. When required replacement trees shall be either be provided on the site or on a designated public property.

12.20.140 Appeals.

Appeals of decisions made pursuant to this chapter shall be filed and processed in accordance with the applicable procedures identified in Title 14A. BMC.

Chapter 12.24

STREET USE

Sections:

12.24.010	Title.
12.24.020	Exercise of police power.
12.24.030	Definitions.
12.24.040	Permit – Required.
12.24.045	Burlington Hill Business Park.
12.24.050	Permit – Application – Contents.
12.24.060	Permit – Application – Processing.
12.24.070	Permit – Fees.
12.24.080	Permit – Revocation.
12.24.090	Termination of use.
12.24.100	Indemnity deposit.
12.24.110	Agreement to save city harmless.
12.24.120	Right to prosecute in civil action.
12.24.130	Violation declared misdemeanor.

12.24.010 Title.

This chapter shall constitute the street ordinance of the City and may be referred to as such. (Ord. 917 § 1, 1978).

12.24.020 Exercise of police power.

This chapter is declared to be an exercise of police power of the City for the public safety, health and welfare, and its provisions shall be liberally construed to the accomplishment of that purpose. (Ord. 917 § 2, 1978).

12.24.030 Definitions.

A. “Public place” means and includes streets, avenues, ways, boulevards, drives, places, alleys, sidewalks, planting (parking) strips, squares, triangles and right-of-way open to the use of the public in the space above or beneath the surface of the same.

B. “Use” means and includes to construct, store, erect, place upon or maintain, upon, over or under any public place any staging, scaffolding, elevator, loading ramp or dock, building, or any other structure, or to use or occupy any public place for the storage or placement of any material, equipment or thing. (Ord. 917 § 4, 1978).

12.24.040 Permit – Required.

A written permit may be required from the City to ensure compliance with all the provisions of this chapter and those specific provisions addressed in the permit for the respective public place; provided, that nothing contained in this chapter shall apply to street construction and/or maintenance, utility construction and/or maintenance performed by the City or its authorized agents, and development work authorized under chapter 12.12 BMC, relating to the opening and excavation of streets. (Ord. 1799 § 17, 2014; Ord. 1527, 2003; Ord. 917 § 5, 1978).

12.24.045 Burlington Hill Business Park.

Applicants requesting the use of those public places within the area known as Burlington Hill Business Park that front and are adjacent to Old Highway 99 shall have the following:

A. The public place that is requested by the applicant will include the entire useable area located within the parameters of this policy.

B. The area of display shall be limited to the following setbacks:

1. Displayed merchandise may not be parked within 25 feet of the center line of Old Highway 99.
2. Displayed merchandise may not be parked within 100 feet of either side of the street curb of Walton Street or North Hill Blvd.

3. Displayed merchandise shall not be parked within 50 feet of adjoining property lines unless the adjoining property is owned or leased by the same party. Exception: There shall be a 100-foot setback from the southern east-west property line of Lot 7.

4. The city shall place markers that clearly designate the boundaries of the public places permitted in the Burlington Hill Business Park.

C. There shall be overnight parking in the public space fronting Burlington Hill Business Park Lots 1, 2, 4, 5 and 6.

D. There shall be no overnight parking in the public space fronting Burlington Hill Business Park Lots 7, 8, 9, 10 and 16.

E. There shall be no parking on the walking/bike path.

F. No structures of any kind shall be permitted in the public place.

G. This area will be used for display purposes only in compliance with city codes.

H. The entire public place fronting their property shall be mowed, maintained and free of garbage and weeds.

I. Any agent of the city can require removal of displayed merchandise immediately if it should be determined to be a traffic or safety hazard to the public. (Ord. 1799 § 18, 2014; Ord. 1527, 2003).

12.24.050 Permit – Application – Contents.

Application for permits provided for in this chapter shall be filed on a form provided by the City. A complete application shall, at a minimum, contain:

A. An accurate description of the public place or portion thereof desired to be used;

B. The use desired to be made of such public place;

C. The plans and specifications for any utility or structure desired to be constructed, erected or maintained by the applicant. (Ord. 1527, 2003; Ord. 917 § 6, 1978).

12.24.060 Permit – Application – Processing.

A. The city public works director shall examine each application to determine if it complies with the provisions of this chapter.

B. The city public works director or designee may inspect the premises which are desired to be used in order to ascertain any facts which may aid in determining whether a permit should be granted, and shall endorse his findings in such application.

C. The application shall then be submitted to the city council for consideration. Final approval of the permit shall be by the city council; provided, that the proposed use of such public place will not unduly interfere with the rights of the public or create a public safety hazard or nuisance. The city council may seek recommendations and comments from the planning commission.

D. If the application is approved, the time for which the permit may be granted shall be fixed and the city public works director shall be directed to issue the permit upon the applicant's compliance with the provisions of this chapter relative to indemnity. (Ord. 1527, 2003; Ord. 917 § 7, 1978).

12.24.070 Permit – Fees.

The City Public Works Director is authorized and directed to prepare and adopt a schedule of fees applicable to all such permits heretofore or hereafter issued commensurate with the cost of administration, inspection and policing involved in the issuance and continuance of such permits, and the use thereby granted. Any such schedule, when approved by the city council by resolution shall govern the amount of the fee for any such permit. The fee shall be paid on an annual basis. In the event the fee is not paid by the applicant, the permit shall be revoked. (Ord. 1527, 2003; Ord. 917 § 11, 1978).

12.24.080 Permit – Revocation.

All permits granted under the provisions of this chapter for the use of any public place shall be wholly of a temporary nature, shall vest no permanent right, and when issued it may in any case be revoked by the city upon 30 days' written notice, or immediately without written notice in case such use or occupation shall become dangerous or any structure or obstruction permitted shall become insecure or unsafe, or shall not be constructed, maintained or used in accordance with the provisions of the permit and this chapter. (Ord. 1527, 2003; Ord. 917 § 10, 1978).

12.24.090 Termination of use.

In the event that a permit is not renewed, or in the event a permit is revoked, if the permittee fails to discontinue and/or remove the use within 60 days of the termination date of the permit, then the use may be enjoined by the city and any structures shall be removed by the city at the expense of the permittee. (Ord. 1527, 2003; Ord. 917 § 12, 1978).

12.24.100 Indemnity deposit.

A. In the event that the city public works director, city administrator or the city council determines that there is a possibility of injury, damage or expense to the city arising from an applicant's proposed use of any public place, the applicant shall deposit with the city clerk-treasurer a cash indemnity deposit, the amount to be determined by the city administrator or the city council as the case may be at the time of approving the application. Such indemnity deposit shall be used to pay the cost, plus 15 percent thereof, of inspections, surveys, plans and other services performed by the city, restoring the street and removing any earth or other debris from the street, the replacement of any utility interrupted or damaged, or the completion of any work left unfinished, the cost of filing an indemnity agreement, if such an agreement is required with the permit, and any other expense the city may sustain in conjunction with the permitted work. The balance of the cash indemnity deposit, if any, after the foregoing deductions shall be returned to the applicant. If the indemnity deposit is insufficient, the applicant will be liable for the deficiency. In the event any studies are required prior to the issuance of a permit, the cost of such studies shall be paid for by the applicant.

B. The applicant, in lieu of or in addition to the cash indemnity deposit, may, as approved by the city administrator, file with the city a surety bond, which bond shall assume all the requirements provided in subsection A of this section in relation to a cash indemnity deposit, shall run for the full period of the permit, shall be in an amount to be fixed by the city, and conditioned that such applicant shall faithfully comply with all the terms of said permit and all the provisions of this chapter, and all other ordinances of the city, and indemnify and save the city free and harmless from any and all claims, actions or damages of every kind and description which may accrue to, or be suffered by, any person by reason of the use of any public place, as provided for in the application. (Ord. 1527, 2003; Ord. 917 § 8, 1978).

12.24.110 Agreement to save city harmless.

The owner of the premises in front of which, and in connection with which, a public way is going to be used, shall execute and deliver to the city public works department upon a form provided by the city public works department, an agreement in writing signed and acknowledged by such owners and by any existing lessee wherein they agree to save the city free and harmless and agree to indemnify the city, its elected and/or appointed officials, employees and/or agents from any and all claims, actions or damages of every kind and description which may accrue to, or be suffered by, any person by the use of such public place, or by the construction, existence or maintenance or use of such structure. No permit shall be issued until such agreement is signed and delivered to the city public works department. In addition, such agreement shall contain a provision setting forth the terms of BMC 12.24.080. (Ord. 1527, 2003; Ord. 917 § 9, 1978).

12.24.120 Right to prosecute in civil action.

Nothing in this chapter shall be construed to curtail or abridge the right of anyone to prosecute a civil action for damages by reason of injury to person or property resulting from the negligent use by any other person of any public place or the space above or beneath the same, nor shall the issuance of a permit under the provisions of this chapter be construed as relieving the persons accepting the same, or anyone, from liability caused by the occupation, obstruction of or encroachment on, any public place. (Ord. 1527, 2003; Ord. 917 § 3, 1978).

12.24.130 Violation declared misdemeanor.

Anyone who violates or fails to comply with any of the provisions of this chapter, or who fails to remove any obstruction or discontinue use or occupancy of any public place when ordered to do so by the city, under authority of this chapter, is, upon conviction, guilty of a misdemeanor. (Ord. 1527, 2003; Ord. 917 § 14, 1978).

Chapter 12.26

COMPLETE STREETS

Sections:

- 12.26.010 Complete streets.
- 12.26.020 Exceptions.

12.26.010 Complete streets.

The purpose of the complete streets program is to plan for, design and construct all city transportation projects to provide appropriate accommodation for bicyclists, pedestrians, transit users and persons of all abilities in comprehensive and connected networks. (Ord. 1792 § 1, 2013).

12.26.020 Exceptions.

Facilities for bicyclists, pedestrians, transit users and/or people of all abilities are not required to be provided:

- A. Where their establishment would be contrary to public safety;
- B. Where there is no identified long-term need; or
- C. Where the public works director grants a documented exception which may only be authorized in specific situations where conditions warrant. Such site-specific exceptions shall not constitute general changes to the standards set in BMC 12.26.010. (Ord. 1792 § 1, 2013).

Chapter 12.28

CONSTRUCTION OF STREETS, SIDEWALKS AND STORM DRAINS

Sections:

- 12.28.010 Application.
- 12.28.020 Standard specifications.

I. Street Classifications

- 12.28.030 Generally.
- 12.28.040 Major arterial (Principal).
- 12.28.050 Secondary arterial (Minor).
- 12.28.060 Collector arterial (Collector).
- 12.28.070 Access street (Access).
- 12.28.080 Street designations.

II. Street and Sidewalk Design Criteria

- 12.28.090 Plans required.
- 12.28.095 Telecommunication conduit required.
- 12.28.100 Geometric design standards – Generally.
- 12.28.110 Geometric design standards – General requirements.
- 12.28.120 Geometric design standards – Major arterials.
- 12.28.130 Geometric design standards – Secondary arterials.
- 12.28.140 Geometric design standards – Collector arterials.
- 12.28.150 Geometric design standards – Access streets.
- 12.28.160 Structural design standards.

III. Storm Sewers

- 12.28.170 *Repealed.*
- 12.28.180 *Repealed.*
- 12.28.190 *Repealed.*

12.28.010 Application.

This chapter sets forth the specifications and requirements for the construction of public works, including streets and sidewalks, within the city.

A. Improved right-of-way is required for access to all new construction projects. A traffic study prepared to the specifications of the City Engineer may be required to identify required right-of-way improvements.

B. Improved right-of-way for new single-family and duplex buildings on existing lots of record is defined as grading to a minimum of 20 feet and installing six inches of crushed rock. An additional three-inch lift of crushed rock is required if the roadbed is destroyed by trucks during the construction process.

C. All other new construction shall meet the right-of-way improvement standards specified in this code unless, in the opinion of the city engineer, improvements are not warranted at the time of development. In that case, the property owner shall be required to do one of the following, as specified by the city engineer:

1. Enter into a binding agreement to participate in any street improvement, local improvement district (LID) affecting the described right-of-way which LID may be formed now or in the future;
2. Enter into a binding agreement to construct specified right-of-way improvements at a specified date;
3. Construct improvements which conform to existing improvements in the immediate area.

D. The City of Burlington comprehensive transportation plan has adopted level of service “D” for all streets. If a traffic study meeting the specifications of the city engineer is prepared that demonstrates that the development

causes the level of service to decline below the adopted standards, then transportation improvements or strategies to accommodate the impacts of development are required to be made concurrent with the development, or the development permit application shall be denied.

These strategies may include public transportation improvements, ride sharing programs, connectivity improvements, demand management, pedestrian or bicycle infrastructure, and other transportation systems management strategies. For the purposes of this section, “concurrent with the development” shall mean that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years. In the case of transportation facilities of statewide significance, which includes State Route 20, every effort shall be made to coordinate with the state to work toward timely planned improvements, although a six-year commitment may not be feasible. (Ord. 1536 § 1, 2004; Ord. 1474 § 1, 2001; Ord. 1419 § 1, 1999; Ord. 1401 § 1, 1999; Ord. 1188 § 1, 1991; Ord. 959 § 1, 1980).

12.28.020 Standard specifications.

Construction and maintenance of all public works, including streets, sidewalks, storm drains and all associated appurtenances shall be in conformance with, and comply with, the most current Washington State Department of Transportation/American Public Works Association (WSDOT/APWA) standard specifications, WSDOT amendments and General Special Provisions (GSPs), and the APWA amendments, and as hereafter amended, unless different standards or specifications are required by the city engineer, or are provided for in the applicable public works contract. (Ord. 1708 § 1, 2010; Ord. 1059 § 2, 1985; Ord. 959 § 2, 1980).

I. Street Classifications

12.28.030 Generally.

All streets in the city shall be functionally classified in one of the categories specified in BMC 12.28.040 through 12.28.070. (Ord. 959 § 3, 1980).

12.28.040 Major arterial (Principal).

Major arterials provide for the movement of traffic across and between large subparts of the urban region and serve predominately “through” trips with minimum direct service to abutting land uses. Major arterial service is required by the central business district, large shopping centers, large industrial plants, major governmental centers, large hospitals, important secondary business districts and similar land uses which comprise the top layer of hierarchy of trip generators. Major arterials shall form a closed, interconnected system linking together major traffic generators in the urban region, and functioning to collect and distribute traffic from freeways and state highways to less important arterial streets. (Ord. 959 § 3, 1980).

12.28.050 Secondary arterial (Minor).

Secondary arterials provide for movement within the large subparts prescribed by major arterials. Secondary arterials may also serve “through” traffic, but provide more direct service to abutting land uses than do major arterials. Secondary arterial service is required by small central business districts, tourist districts with motels and restaurants, high schools and some grade schools, strip commercial development, parks and recreational areas, warehousing areas and similar land uses which comprise the middle layer of the trip generator hierarchy. Secondary arterials shall, whenever possible, be long, continuous streets with direct rather than meandering alignments. (Ord. 959 § 3, 1980).

12.28.060 Collector arterial (Collector).

Collector arterials provide for movement within the smaller areas, which are often definable neighborhoods and may be bounded by higher class arterials. Collector arterials serve very little “through” traffic but serve a high proportion of local traffic requiring direct access to abutting land uses. Collector arterial service is required for the majority of land uses which generate measurably important traffic volumes such as plats, churches, small parks and recreation areas, convenience shopping centers and other areas which are not served by major or secondary arterials. Collector arterials need not be particularly long or continuous since this would tend to attract through trips. (Ord. 959 § 3, 1980).

12.28.070 Access street (Access).

Access streets provide for movement within residential neighborhoods, light commercial areas, and the residential agricultural districts. Access streets serve little or no through traffic and may terminate in cul-de-sacs. (Ord. 959 § 3, 1980).

12.28.075 Pedestrian amenity street.

Pedestrian amenity streets are designated in Transportation Element of the Burlington Comprehensive Plan for enhanced pedestrian amenities. Pedestrian amenity streets are intended to promote and accommodate increased pedestrian traffic in areas of intensive mixed-use development.

12.28.080 Street designations.

The city council shall designate a comprehensive arterial street plan. Classification of new streets shall be made by the Public Works Director according to the comprehensive street plan. Every effort shall be made to incorporate new streets into the existing street grid pattern, and to provide for systematic naming and numbering of streets. (Ord. 959 § 3, 1980).

II. Street and Sidewalk Design Criteria

12.28.090 Permit required.

A. Permit required. The construction, modification, or repair of public streets, sidewalks, and utilities located within a public right-of-way, and all other development activities occurring within a public right-of-way shall require a permit and approved plans.

B. Application requirements. Applications shall be made on forms provided by the City and shall include all of the information required by the form in addition to all of the items listed below.

1. Vicinity map showing the location of existing arterial streets adjoining the proposed improvement or within the immediate vicinity of the improvement;
2. Name, address, and phone number of permit applicant;
3. Name, address, and phone number of engineer, contractor, or agent;
4. A complete set of plans depicting the proposed work and including any information, details, or specifications requested by the Public Works Director. Unless waived by the Public Works Director, all plans shall be prepared by a civil engineer licensed in the State of Washington

C. Plan requirements. Unless waived or modified by the Public Works Director, plans shall, at a minimum, include all of the following:

1. Width and location of existing streets adjoining the improvement,
2. Property lines, right-of-way lines and easement lines with dimensions and north arrow,
3. Location of street improvement and appurtenances including driveways, properly dimensioned and stationed along the centerline and location and stationing of all horizontal angle points and horizontal curve data,
4. Location of all existing and proposed overhead and underground utilities, including storm and sanitary sewers, water courses, railroad crossings, structures within the right-of-way, trees, and all pertinent topographic features, including location and elevations of all survey bench marks,
5. Suitable title plate on each drawing with street name, name and address of developer, scale, date and the name, address and telephone number and stamp of the registered engineer or land surveyor responsible for the plan preparation;
6. Street profiles for individual street sections including the following information:
 - a. Street centerline stationing and vertical elevations,

b. A two or three line profile showing the existing ground surface along the street centerline and proposed top of curb and street centerline profiles,

c. Slope of the street between grade changes and vertical curve information,

d. Centerline profile of intersecting streets a minimum of 100 feet each side of street improvement and profile of all driveways with grades greater than eight percent,

d. Suitable title plate on each drawing with street name, name and address of developer, vertical and horizontal scale, date and the name, address, telephone number and stamp of the registered engineer or land surveyor responsible for the plan preparation;

6. Structural details shall include properly dimensioned details of curbs and gutters, street cross sections, drainage facilities, retaining walls and all major structures to be constructed within the right-of-way. (Ord. 959 § 4, 1980).

7. Information and specifications for telecommunications conduit and vaults.

12.28.095 Telecommunication conduit required.

A. Applicability. This section shall apply whenever a permit is required for the following actions:

1. Clearing, grading, cutting, boring, trenching, excavation, or the construction or modification of utilities within a city right-of-way or a future city right-of-way identified in the capital facilities or transportation elements of the city's comprehensive plan;

2. Land divisions, including subdivisions, short subdivisions, and binding site plans;

3. The construction of new residential and nonresidential buildings;

4. Any development involving the construction or establishment of public or private streets.

B. As a condition of permit approval fiber optic telecommunications conduit and vaults shall be installed or constructed in accordance with the requirements of this section.

C. Unless otherwise specified by the public works director or city engineer fiber optic telecommunications conduit and vaults shall be provided along any streets, alleys, sidewalks, or pedestrian paths that are disturbed, constructed or established in conjunction with the development activities identified in subsection (A) of this section.

D. For proposals involving land divisions or the construction of new residential or nonresidential buildings telecommunications conduit shall be provided between the demarcation point(s) associated with the proposed buildings and adjacent rights-of-way. If city telecommunications conduit exists in the adjacent right-of-way, the conduit serving the development shall be connected to the existing conduit. If no conduit exists in the adjacent right-of-way a vault shall be provided in the adjacent right-of-way and the conduit serving the new development shall terminate in the vault.

E. Conduit shall be four-inch diameter for primary telecommunication paths and two-inch diameter for secondary paths. Vaults shall be located at intervals of no more than 500 feet. Conduit shall be placed at horizontal and vertical locations as determined by the public works director. Conduits shall be labeled for identification and provided with pull strings. The conduit shall conform to the size, shape and characteristics as determined by the public works director based on an evaluation of industry standards.

F. Conduit and vaults installed within a city right-of-way, and accepted by the city, shall become the property of the city of Burlington. For conduit and vaults located on private property the property owner shall be responsible for all maintenance.

G. Any abandoned, unmarked or unused conduit and/or vaults located within the city right-of-way shall become the property of the city following 60 days' notice posted at the approximate location of the conduit, and following reasonable efforts by the city public works director to contact the last known owner of said conduit and/or vaults. If

reasonable efforts by the public works director fail to identify the last known presumed owner of said conduit and/or vaults, then the public works director shall publish a notice in the legal newspaper for the city of Burlington notifying the public of the city's intent to take possession of the applicable conduit and/or vaults, and shall provide 60 days' notice of said possession.

H. All conduit and vaults installed within the city right-of-way shall be properly labeled and identified as determined by the public works director. An "as built" drawing shall be provided to the public works director on the completion and/or inspection of the completed work.

I. Applicability to Service Providers. This section shall apply to "service providers" as defined in RCW 35.99.010 except as modified by RCW 35.99.070. (Ord. 1904 § 1 (Exh. A), 2021; Ord. 1810 § 1, 2015; Ord. 1805 § 1, 2014).

12.28.100 Geometric design standards – Generally.

Streets shall be designed and constructed in accordance with the requirements set out in BMC 12.28.110 through 12.28.150. (Ord. 959 § 5, 1980).

12.28.110 Geometric design standards – General requirements.

Streets shall be designed and constructed in accordance with the following general requirements:

A. Streets shall be designed to provide vehicular access according to the street classification to, from and through the service area;

B. Street widths shall be adequate to provide access for emergency vehicles, firefighting equipment, garbage trucks and city service vehicles;

C. Whenever possible streets shall be used to collect runoff from adjacent properties in the service area and divert it into storm drain systems;

D. Whenever possible new streets shall align with the existing street grid. New streets shall intersect existing streets at an approximate 90-degree angle;

E. Vertical clearance of structures or vegetation above a paved roadway shall be 16-1/2 feet. Vertical clearance of structures or vegetation above a sidewalk or walkway surface shall be eight feet;

F. Lateral clearance between the curb or edge of street shoulder and the closest part of any fixed object (excluding traffic control signs and breakaway supports) shall be at least three feet;

G. Traffic control devices shall conform to the Washington State Department of Transportation Manual on Uniform Traffic Control Devices, latest edition;

H. Ramps for Handicapped. Curb ramps for physically handicapped persons shall be included in all construction in accordance with the laws of the state of Washington;

I. Roadway Geometrics. Street designs shall be based on accepted engineering practices and current standards of the American Association of State Highway and Transportation Officials;

J. Design Year. Twenty years after the year construction is completed;

K. Street Intersections. Gutter drainage should not be allowed to cross any intersections on major, secondary or collector arterials. (Ord. 959 § 5, 1980).

L. Transit Stops. Concrete pads shall be provided to accommodate the installation of transit stops or shelters in accordance with any plans or specifications adopted by the Skagit Transit Authority (SKAT).

12.28.120 Geometric design standards – Major arterials.

Major arterials shall be designed and constructed in accordance with the following requirements:

A. Access conditions; intersections at grade with traffic signals at all major intersections; traffic channelization at all major intersections or driveways; parking restricted within road right-of-way; access control to adjoining properties according to the following conditions:

1. One driveway per lot or driveways spaced a minimum of 150 lineal feet apart,
2. No driveways within 150 lineal feet of street intersections,
3. Driveway width 24 feet minimum, 36 feet maximum;

B. Average daily traffic. 5,000 to 25,000 vehicles per day;

C. Right-of-way width: 80 feet minimum;

D. Traffic lane width criteria:

Two-way traffic	12 feet minimum
Turn lane	12 feet minimum
Shoulders	8 feet minimum
Bus lane	12 feet minimum

E. Pavement width (two-way traffic):

With curbs	48 feet measured to face of curb
With shoulders	56 feet

F. Horizontal curvature: minimum centerline radius = 955 feet;

G. Maximum grade = 6 percent; minimum grade = 0.5 percent;

H. Road surface cross slope: 2.5 percent minimum;

I. Curb radii at intersections = 25 feet minimum;

J. Curb type: APWA Type A;

K. Sidewalks shall be provided on both sides of the street and shall have a minimum width of ten feet;

L. Buffer strips with a minimum width of five feet shall be provided between the curb and sidewalk.

12.28.130 Geometric design standards – Secondary arterials.

Secondary arterials shall be designed and constructed in accordance with the following requirements:

A. Access conditions: intersections at grade with traffic channelization at major intersections; driveways within 150 feet of an intersection may be prohibited if there are potential traffic hazards. The extent of the potential traffic hazard shall be determined by the city engineer;

B. Average daily traffic: 1,500 to 10,000 vehicles per day;

C. Right-of-way width: 60 feet minimum;

D. Traffic lane width criteria:

Two way traffic	11 feet minimum
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Turn lane	12 feet minimum
Shoulders	8 feet minimum
Parking lane	10 feet minimum
Bus lane	12 feet minimum

E. Pavement width (two-way traffic):

With curbs	44 feet measured to face of curb
With shoulders	52 feet

F. Horizontal curvature: minimum centerline radius = 820 feet;

G. Maximum grade = 6 percent; minimum grade = 0.5 percent;

H. Road surface cross slope: 2.5 percent minimum;

I. Curb radius at intersections = 20 feet minimum;

J. Curb type: APWA Type A;

K. Sidewalks shall be provided on both sides of the street as follows:

1. Pedestrian amenity streets, minimum width: 10 feet;
2. All other secondary arterials, minimum width: 8 feet.

12.28.140 Geometric design standards – Collector arterials.

Collector arterials shall be designed and constructed in accordance with the following requirements:

A. Access conditions: intersections at grade with stop signs at major cross streets; driveways within 150 feet of an intersection may be prohibited if there are potential traffic hazards. The extent of the potential traffic hazard shall be determined by the city engineer in his sole discretion;

B. Average daily traffic: 1,000 to 5,000 vehicles per day;

C. Right-of-way width: 60 feet minimum;

D. Traffic lane width criteria:

Two-way traffic	11 feet minimum
Parking lane	8 feet minimum
Bus lane	12 feet minimum

E. Pavement width (two-way traffic):

With curbs	36 feet measured to face of curb
With shoulders	44 feet

F. Horizontal curvature: minimum centerline radius = 715 feet;

G. Maximum grade = 7 percent; minimum grade = 0.4 percent;

H. Road surface cross slope = 2.78 percent minimum;

I. Curb radius at intersections = 20 feet minimum;

J. Curb type: APWA Type A or D;

K. Sidewalks shall be provided on both sides of the street as follows:

1. Pedestrian amenity streets, minimum width: 10 feet;
2. All other collector arterials, minimum width: 6 feet.

12.28.150 Geometric design standards – Access streets.

Access streets shall be designed and constructed in accordance with the following requirements:

A. Access conditions: intersections at grade with stop signs at all major cross streets; driveways within 150 feet of an intersection may be prohibited if there are potential traffic hazards. The extent of the potential traffic hazard shall be determined by the city engineer in his sole discretion;

B. Average daily traffic: 500 vehicles per day or less;

C. Right-of-way width: 50 feet minimum;

D. Traffic lane width criteria:

Two-way traffic	10 feet minimum
Parking lane	8 feet minimum;

E. Pavement width (two-way traffic):

With curbs and parking	36 feet
both sides	measured to face of curbs
With curbs and parking	
one side	32 feet
With shoulders (five	34 feet
feet each side)	total width

F. Horizontal curvature: minimum centerline radius = 410 feet;

G. Maximum grade = 12 percent; minimum grade = 0.4 percent;

H. Road surface cross slope = 2.78 percent;

I. Curb radius at intersections = 10 feet minimum;

J. Curb type: APWA Type A or D;

K. Cul-de-sacs:

Length 300 feet maximum

- Diameter 90 feet – residential zone
100 feet – commercial zone

L. Sidewalks shall be provided on both sides of the street and shall have a minimum width of five feet.

12.28.160 Structural design standards.

A. All streets shall be designed to provide a useful life span of 20 years without excessive maintenance. Major, secondary and collector arterials shall be designed and stamped by a civil engineer registered in the state of Washington. Accepted engineering practices shall be employed in the street designs. Soil, drainage and traffic conditions shall be considered in the design.

B. Access streets shall be subject to the following minimum design and construction standards:

1. Asphalt concrete surfacing:
 - a. Three inches Class B asphalt concrete placed in two lifts of one and one-half inches;
 - b. One and one-half inches crushed rock base;
 - c. Eight inches pit run gravel ballast.
2. Portland cement concrete pavement:
 - a. Five inches 4,000 psi PC concrete on compacted subgrade.

C. Adequate storm sewers shall be provided for all streets. (Ord. 959 § 5, 1980).

12.28.170 Detailed street plans.

The City Council may adopt detailed street plans for specific geographic areas or individual street segments. In such cases the geometric and structural design standards identified in the adopted detailed street plan shall apply.

12.28.180 Appeals.

Appeals of decisions made pursuant to this chapter shall be filed and processed in accordance with the applicable procedures identified in Title 14A. BMC.

III. Storm Sewers

12.28.170

Definitions. *Repealed by Ord. 1273.* (Ord. 959 § 6, 1980).

12.28.180

Plans required. *Repealed by Ord. 1273.* (Ord. 959 § 6, 1980).

12.28.190

Design criteria. *Repealed by Ord. 1273.* (Ord. 959 § 6, 1980).