

Title 15

BUILDINGS AND CONSTRUCTION¹

Chapters:

- 15.01 General Provisions**
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- 15.06 Requirements for Building Permit Applications**
- 15.08 Fire Code**
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¹ Prior legislation: Ords. 668, 969, 970, 1039, 1040, 1211, 1293, 1294, 1296, 1309, 1347, 1397, 1403, 1404, 1495, 1504, 1508, 1523, 1533, 1554, 1555, 1578, 1611, 1625, 1627, 1635, 1650, 1651, 1654, 1669, 1680, 1683, 1695, 1707, 1708, 1716, 1718, 1724, 1734, 1739, 1746, 1754, 1764, 1767, 1776, 1777, 1783, 1785, 1795, 1800, 1808, 1815, 1817, 1830 and 1842.

Chapter 15.01

GENERAL PROVISIONS

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15.01.010 Title.

This title shall be known as “Buildings and Construction.” This chapter shall be called “General Provisions.” (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.01.020 Application.

This title shall be applicable as is set forth in the following chapters. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.01.030 Purpose.

The purpose of this title is as follows:

1. Identify the international, uniform, and fire codes adopted by the City;
2. Establish regulations for the construction, maintenance, and operation of buildings and structures;
3. Establish a uniform system of addressing and ensure coordination with regional emergency response communication and dispatch systems;
4. Establish provisions for the collection and assessment of transportation, park, and fire impact fees.
5. Ensure buildings and structures provide environments that are safe, healthy, accessible, and energy efficient;
6. Facilitate emergency response services;
7. Implement and enforce the provisions of the Washington State Building Code, Title 51 WAC, and chapters 19.27, 19.27A, and 70.92 RCW;
8. Implement the Burlington Comprehensive Plan and the requirements of Chapter 36.70A RCW.

15.01.040 Authority.

The provisions of this title are authorized pursuant to chapters 19.27 and 36.70A RCW, RCW 82.02.050 through 82.02.090 and other applicable laws and regulations as well as the authority identified in the chapters contained within this title. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.01.050 Adoption by reference.

Statutes, codes or regulations identified or adopted herein shall be the existing version of that statute, code or regulation and any subsequent amendment to the same, unless expressly stated otherwise. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.01.060 Definitions.

The words listed in this title shall have the following meanings unless the context clearly indicates otherwise. Terms relating to pollutants and to hazardous wastes, materials, and substances, where not defined in this title, shall be as defined in chapters 173-303 and 173-340 WAC, the International Building Code or Fire Code. Words used in the singular include the plural, and words used in the plural include the singular. For the purpose of reviewing permit applications or conducting plan review or inspections under the uniform codes adopted by Chapter 15.04 BMC the definitions in the applicable uniform codes shall control in the event of a conflict with this section.

“A”

“Act” means the Growth Management Act, as codified in chapter 36.70A RCW, as now in existence or as hereafter amended.

“B”

“Boundary line adjustment” or “lot boundary adjustment” shall have the same meaning as set forth in BMC Title 16.

“Building official” means the building official who is responsible for the enforcement of the building code, residential code, mechanical code, fuel gas code, plumbing code, energy conservation code, housing code, abatement of dangerous buildings code, all special hazards codes which may now or hereafter be adopted, of the city. Building official shall also be known as a department head.

“Building permit” or “construction permit” means an official document or certification issued under the City’s adopted uniform codes which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a building or structure.

“Burlington Hill special management area” means those portions of Burlington Hill with a ground elevation 40 feet or more above sea level as shown on the most current USGS 7.5 minute topographic quadrangle map.

“C”

“Capital facilities” means streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools. “Capital facilities” also means any buildings, structures, equipment, and physical improvements necessary to provide public services.

“Capital facilities plan” means the capital facilities element of the city’s comprehensive plan. The capital facilities plan (CFP) is a general plan for providing the facilities and services necessary to serve the projected population and employment growth identified in the land use element of the comprehensive plan and is used as the basis for the development, and annual revision of, the capital improvement plan (CIP).

“Capital improvement plan” (CIP) means the detailed six-year financing plan required by WAC 365-196-415(1)(d). The capital improvement plan is a component of the comprehensive plan and is revised and updated annually as a means to address changing budgetary conditions and is used to implement the capital facilities plan.

“Certificate of occupancy” means a written document issued by the City in accordance with the provisions of the building permit. The certificate of occupancy indicates that the project has been inspected for compliance with applicable uniform and development code requirements. The certificate of occupancy give permission to use or occupy the premises for the approved proposed use.

“City” means the city of Burlington.

“City Administrator” means the duly appointed city administrator or his/her designee under the authority of the mayor.

“City Engineer” or “Public Works Director” means the official appointed and acting as the public works director for the city.

“Community development director” means the official appointed and acting as the Community Development Director.

“Council” means the city council of the city of Burlington.

“County” means Skagit County.

“D”

“Developer” means an individual, group of individuals, partnership, corporation, state agency, or other person undertaking development activity, and their successors and assigns.

Development or Development Activity. “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; the placement of manufactured homes; land division, boundary line adjustments, lot segregations, subdivisions 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; or any change in use of land that creates additional demand and need for public streets and roads, publicly owned parks, open space and recreational facilities, and fire protection facilities.

“Development approval” means any written authorization from the city, other than a building permit, which authorizes the commencement of a development activity, including, but not limited to, plat approval, binding site plan approval, boundary line adjustment, and a conditional use permit.

“Director” means the community development director.

“ Dwelling unit” means a building, or a portion of a building, providing complete housekeeping facilities for one family or housekeeping unit. Dwellings are differentiated from transient accommodations by providing a permanent, non-transient, residence or place of habitation.

“E”

“Encumbered” means to reserve, set aside, or otherwise earmark the impact fees in order to pay for commitments, contractual obligations, or other liabilities incurred for public facilities.

“F”

“Family” means a person, or two or more persons, related by blood or marriage or law living together as a single housekeeping unit in a single dwelling. In addition, the following shall be included in the definition of “family” pursuant to the requirements of state and/or federal law:

1. Adult family homes licensed pursuant to RCW 70.128.150;
2. Foster homes for the placement of the disabled, or expectant mothers in a residential setting including, but not limited to, foster family homes licensed pursuant to chapter 74.15 RCW, community group care facilities licensed pursuant to chapter 74.15 RCW and crisis residential centers pursuant to chapter 13.32A RCW;
3. Consensual living arrangements of the disabled protected pursuant to the Federal Fair Housing Act amendments; and
4. A housekeeping unit as defined by chapter 17.01 BMC.

“Feepayer” is a person, corporation, partnership, an incorporated association, or any other similar entity, or department or bureau of any governmental entity or municipal corporation, commencing a development activity which creates the demand for planned facilities, and which requires development approval and/or the issuance of a building permit. “Feepayer” includes an applicant for an impact fee credit.

“Fire impact fee” means the impact fee designated to pay for a proportionate portion of fire protection facilities identified in the capital improvement plan.

“Fire marshal” or “fire code official” means the official responsible for enforcing and administering the city’s adopted fire code, fire safety requirements, and other related codes and requirements.

“G”

“Grading permit” means a permit authorizing the clearing, grading, fill, excavation, or the construction of site improvements or infrastructure such as utilities, streets, and storm-water infrastructure. Grading permits are processed as a type of building permit but are subject to an additional level of review for compliance with the requirements of titles 12, 13, and 14 BMC.

“H”

“Hearing examiner” means the official designated under the provisions of chapter 17.120 BMC.

“I”

“Impact fee” means a payment of money imposed by the city on development activities pursuant to this chapter as a condition of granting development approval and/or a building permit in order to pay for the planned facilities needed to serve new growth and development activity. “Impact fee” does not include a reasonable permit fee, an application fee, the administrative fee for collecting and handling impact fees, the cost of reviewing independent fee calculations, or the administrative fee required for an appeal pursuant to this chapter.

“Impact fee account” or “account” means the account or accounts established for the planned facilities for which impact fees are collected. The accounts shall be established pursuant to this chapter, and comply with the requirements of RCW 82.02.070.

“Independent fee calculation” means the impact calculation and/or economic documentation prepared by the feepayer to support the assessment of an impact fee other than by the use of the impact fees adopted herein and on file in the office of the finance director, or the calculations prepared by the public works director/city engineer in the case of traffic impact fees, the parks and recreation director in the case of park impact fees and/or the fire chief in the case of fire impact fees, where none of the impact fee categories or impact fee amounts in this chapter accurately describe or capture the impacts of the development activity on public streets and roads, publicly owned parks, open space and recreational facilities, and fire protection facilities. All independent fee calculations shall be prepared by the respective department director(s) as specified above, and shall be submitted to the city administrator/community development director for review and recommendation to city council for final determination.

“Interest” means the average interest rate earned by the city of Burlington in the last fiscal year, if not otherwise defined.

“L”

“Land use permit” is a consolidated development approval or permit issued pursuant to BMC Title 14A.

“Legally existing” or “legally established” means a use or structure which was established in compliance with all applicable rules, regulations, and laws in effect at the time of its establishment, including the requirement to obtain permits, authorizations, or approvals.

“Level of service (LOS)” means the quantity and quality of service which the city council has determined to be appropriate and desirable for the city. A measure of the LOS may include, but is in no way limited to, maximum levels of congestion on city streets and roads, maximum commute times, maximum wait at stops, maximum fire

department response time, minimum fire suppression capabilities, minimum park space per capita for a variety of types of parks, minimum distance from residences to parks, and any other factors the city council may deem appropriate.

“M”

“Manufactured home” means a single-family dwelling built in accordance with regulations adopted under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et seq.) and RCW 43.22.335. This term includes modular homes as defined in this chapter but does not include mobile homes. This term also does not include recreational vehicles, park models, trailers, and other similar vehicles which are licensed for use on public roads, capable of being licensed for use on public roads, or designed and constructed to be licensed for use on public roads. Only structures which are certified by the state of Washington or federal government for use as a permanent habitable dwelling are included in this definition.

“Manufactured home park” or “mobile home park” means an area of land occupied or designed for the occupancy of two or more manufactured homes.

“Mobile home” means a factory built dwelling unit that does not meet current state or federal standards for factory built dwellings, modular homes, or manufactured homes. This definition does not include manufactured or modular homes as defined in this chapter or site built homes constructed in accordance with city building code requirements..

“Modular home” means factory built housing as defined by RCW 43.22.450(3) which has been approved by the Department of Labor and Industries in accordance with RCW 43.22.455.

“O”

“Owner” means the owner of record of real property or a person with an unrestricted written option to purchase property; provided, that if the real property is being purchased under a recorded real estate contract, the purchaser shall be considered the owner of the real property.

“P”

“Parks director” means the parks and recreation director of the city parks and recreation department, also referred to herein as a department head.

“Parks impact fee” means the impact fee designated to pay for publicly owned parks, open space and recreation capital facilities, projects and equipment listed within the capital facilities element of the comprehensive plan (adopted annually by resolution of city council in the form of the six-year CIP).

“Peak p.m. hour” means the consecutive 60-minute periods during the 4:00 p.m. to 6:00 p.m. peak period during which the highest volume of trips on the city’s street system occurs.

“Planned facilities” shall mean public streets, roads and associated transportation equipment, facilities and infrastructure, publicly owned parks, open space, parks and recreation equipment and facilities, and fire protection equipment and facilities included in the capital facilities element of the comprehensive plan, capital facility plan, and/or six-year capital improvement plan (CIP) for Burlington.

“Project improvements” means site improvements and facilities that are planned and designed to provide service for a particular development project or users of the project, that are necessary for the use and convenience of the occupant or users of the project, and are not listed in the capital facilities plan or capital facilities element of the comprehensive plan (six-year city capital improvement plan (CIP)) adopted by resolution of the city council annually and used in the fee calculation.

“Public services” means fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

“R”

“Residential structure” means a house, apartment, mobile home, manufactured home or modular home containing one or more dwelling units.

“S”

“Square footage” means the square feet of the gross floor area of a development or structure.

“State” means the state of Washington.

“System improvements” means planned facilities that are designed to provide service to the community at large, in contrast to project improvements. In the instance of transportation impact fees, “system improvements” are those public facilities that are included in the city of Burlington’s capital facilities plan or capital improvement plan, and form the basis of calculating the city’s traffic/transportation impact fees.

“T”

“Traffic/transportation impact fees” means the impact fee designated to pay for public streets and roads, capital facilities and equipment identified in the city’s capital facilities plan or capital improvement plan.

“Transient accommodations” means the provision of lodging units, room, board, or sleeping space to guests on a short-term basis for periods of less than 30 days. This term does not include multifamily dwellings or boarding houses as defined in Title 17 BMC.

“U”

“Uniform codes” means the codes adopted by reference under Chapter 15.04 BMC.

“V”

“Voluntary agreement” means an agreement between the developer and the city or as authorized by RCW 82.02.020.

“W”

“Way-of-travel” means a roadway of whatever sort, including, but not limited to, avenues, boulevards, courts, drives, lanes, loops, places, tracts and ways, which is capable of carrying vehicular traffic.

Ways-of-travel include:

1. Alley.
2. Avenue.
3. Boulevard.
4. Court.
5. Designate.
6. Drive.
7. Lane.
8. Road.
9. Street.

10. Way.

11. “Alley” means a public or private way-of-travel 16 feet or less in width not designated or improved for general travel and used as a secondary means of access to the rear of residential, business or other property.

12. “Avenue” means a way-of-travel which runs generally east and west.

13. “Boulevard” means a way-of-travel that extends north and south through the commercial and industrial district.

14. “Court” means a way-of-travel under two grid blocks long.

15. “Designate” means to name a way-of-travel whether by name or number.

16. “Drive” means a way-of-travel.

17. “Lane” means a way-of-travel one block long.

18. “Place” means a way-of-travel.

19. “Road” means a way-of-travel which heretofore has been designated a road.

20. “Street” means a way-of-travel which generally runs north and south.

21. “Way” means a way-of-travel. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.01.070 Liability.

It is the specific intent of this title to place the obligation of compliance upon the property owner or party subject to the provisions of the chapters contained within this title. Nothing contained in this title is intended to be or shall be construed to create or form the basis for liability on the part of the city of Burlington officers, employees or agents for any injury or damage resulting from the failure of the property owner or party subject to the provisions of the chapters contained within this title, to comply with the provisions of this title, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this code by the city of Burlington officers, employees or agents. This title is not intended to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by its terms. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.01.080 Minimum requirements.

The requirements of this title are minimum requirements. They do not replace, repeal, abrogate, supersede or effect any other more stringent requirements, rules, regulations, covenants, standards, or restrictions. Where this title imposes requirements which are more protective of human health or the environment than those set forth elsewhere, the provisions of this title shall prevail.

Approvals and permits granted under this title are not waivers of the requirements of any other laws. Compliance is still required with all applicable federal, state and local laws and regulations, including rules promulgated under authority of this title. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.01.090 Violations and penalty.

All acts or omissions in violation of any provision contained within this title, or acts or omissions that cause or contribute to a violation of any provision contained within this title, are hereby determined to be detrimental to the public health, safety and general welfare and shall constitute a public nuisance. Further, as specified in chapter 1.24 BMC, such acts or omissions shall be subject to fines and abatement under chapter 8.12 BMC, criminal penalties as set forth in chapter 1.24 BMC, penalties for civil infractions as set forth in chapter 1.34 BMC, or civil violations as set forth in chapter 1.44 BMC. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.01.100 Appeal.

Appeals of decisions made pursuant to this title shall be filed and processed in accordance with the applicable procedures identified in BMC Title [14A](#).

15.01.110 Severability.

If any portion of this title is found to be invalid or unenforceable for any reason, such finding shall not affect the validity or enforceability of any other section of this title. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

Chapter 15.04
UNIFORM CODES

Sections:

- 15.04.010 Title.
- 15.04.020 Application.
- 15.04.030 Purpose.
- 15.04.040 Authority.
- 15.04.050 Codes and standards designated – Adopted by reference.
- 15.04.060 Electrical standards and inspection – State responsibility.
- 15.04.070 Administration and enforcement of chapter provisions.
- 15.04.080 Uniform codes – Copies on file.
- 15.04.105 Premises identification.
- 15.04.110 Violations and penalty.

15.04.010 Title.

This chapter shall be known as “Uniform Codes.” (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.04.020 Application.

This chapter shall be applicable to all development activities including, but not limited to, the erection, construction, enlargement, alteration, repair, moving, improvement, removal, converting, demolishing, equipping, using, occupying, or maintaining any building or structure. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.04.030 Purpose.

The purpose of this chapter is to establish uniform codes governing the activities set forth in BMC 15.04.020 to protect the general health, safety and welfare. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

Authority.

The provisions of this chapter are authorized pursuant to chapter 19.27 RCW, c Title 51 WAC, and other applicable laws and regulations. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.04.050 Codes and standards designated – Adopted by reference.

As amended by the provisions of this chapter and the Washington State Building Code Council under Title 51 WAC, the following codes are adopted by reference.

- A. International Building Code, 2018 Edition;
- B. International Residential Code, 2018 Edition;
- C. International Mechanical Code, 2018 Edition;
- D. Uniform Plumbing Code, 2018 Edition;
- E. International Fuel Gas Code, 2018 Edition, published by the National Fire Protection Association, together with standards NFPA 58 and NFPA 54;
- F. The Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition, published by the International Conference of Building Officials;
- G. Appendix chapter J, Grading, of the International Building Code, 2018 Edition;
- H. The Washington State Energy Code, 2018 Edition, and Reference Standard 29 developed by the Washington State Building Code Council, and set forth in chapters 51-11C and 51-11R WAC, as may be further amended;

I. Installation of Factory Built Housing and Commercial Structures, RCW 43.22.460, together with WAC 296-150C-0540, 296-150F-0540 and the installation of manufactured and mobile homes, RCW 43.22.440 and WAC 296-150M-0650;

J. International Existing Building Code, 2018 Edition;

K. International Property Maintenance Code, 2018 Edition;)

L. The City shall have the authority to enforce any provision, amendment, update, or requirement identified in the State Building Code or adopted by the State Code Council under Title 51 WAC.

15.04.060 Electrical standards and inspection – State responsibility.

The city relinquishes to the state all responsibilities for electrical construction standards and electrical inspection, heretofore assumed by the city under the provisions of laws of the state, chapter 19.28 RCW. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.04.070 Administration and enforcement of chapter provisions.

A. The building official shall administer and enforce the provisions of this chapter.

B. The building official shall use the edition of the Building Safety Journal/Building Valuation Data Tables as published by the International Code Council that is referenced in the fees Resolution No. 08-2014 or alternative methods such as architect and design engineer's estimates, contractor bids or other established methods to establish the valuation of all construction as authorized by city council.

C. When submittal documents are required for plan review, a plan review fee shall be paid at the time of submittal consistent with the City's adopted fee resolution.. The plan review fees specified in this section are separate fees from the building permit fee, and are in addition to the building permit fee. Additional plan review fees and fee deferrals shall be subject to the following:

1. When submittal documents are revised so as to require additional plan review or when the project involves deferred submittal items as defined by International Building Code, an additional plan review fee may be charged.
2. Plan review fees for planning and engineering reviews shall be based on the City's adopted fee resolution. Permit applicants shall be responsible for the payment of plan review fees regardless of whether a building permit is issued.
3. Payment of plan review fees may be deferred and paid prior to permit issuance with the approval of the Building Official.
4. A deposit may be may be charged in lieu of the full plan review fee if the full review amount is not known at the time of submittal. Any plan review deposit shall be applied toward the total plan review fee owned. The actual permit fees and related plan review fee shall be determined upon the completion of the plan review and the balance owing shall be paid at the time of permit issuance.

D. Payment of Permit Fees. Upon notification by the city that a permit application has been approved, the applicant shall submit payment to the city for all permit fees for which approval has been received prior to permit application expiration. All permit applications shall expire 180 days from the date the application was submitted. The applicant shall promptly advise the city of any changes that would limit or otherwise hinder the city in contacting the applicant.

E. Permit Expiration and Extensions. Every permit issued shall expire two years from the date of issuance except that extensions and renewals may be granted as follows:

1. An extended expiration date may be approved when a construction schedule is provided by the applicant and approved prior to permit issuance.

2. Permits may be granted a single extension of not more than one year beyond the original expiration date provided a renewal request is submitted, in writing, prior to the original permit expiration date. Significantly revised permits and plans shall not be renewed.

3. A permit renewal fee shall be charged consistent with the City's adopted fee resolution. A single extension of up to 30 days may be granted with no additional fee when only the final building inspection is remaining and all other work has been inspected and approved. If the work required for a final inspection approval is not completed within the 30-day extension period the permit shall expire.

F. Where a plan review has been conducted, and no building permit is issued, it shall be the applicant's responsibility to pick up all submitted plans and documents within three weeks following payment of the plan review fees. Following such three-week period, the plans and documents may be discarded or destroyed by the city.

G. The community development director may authorize a refund of any fee paid pursuant to the provisions of this chapter which was erroneously paid or collected. The Community Development Director may authorize a refund of not more than 80 percent of the building permit fee paid when no work has been done under a permit issued in accordance with this chapter. Any refund shall be reduced by the actual costs incurred in reviewing the application. The community development director shall not authorize the refunding of any fee paid except upon the written application filed by the original permittee. Plan review fees are not refundable. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.04.080 Uniform codes – Copies on file.

At least one copy of the adopted codes will be kept on file in the Community Development Department and made available for public inspection during business hours. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.04.105 Premises identification.

Section 502, Premises Identification, of the International Building Code is hereby amended to read as follows:

Approved numbers or addresses shall be displayed on all new buildings in such a position as to be plainly visible and legible from the street or road fronting the property, and shall conform to the standards of Burlington Municipal Code Chapter 15.10.

(Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.04.110 Violations and penalty.

A. It shall be unlawful for any person, firm or corporation to conduct development activities or erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy, or maintain any building or structure in the city, or cause the same to be done, in violation of provisions contained within or adopted by this chapter or any of the provisions of this chapter.

B. The owner or tenant of any building, structure, premises, or part thereof, or any architect, builder, contractor, agent, or other person who commits, participates in, assists in or maintains such violation may each be found in violation of this chapter. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

Chapter 15.06

REQUIREMENTS FOR CONSTRUCTION PERMIT APPLICATIONS

Sections:

- 15.06.010 Title.
- 15.06.020 Application.
- 15.06.030 Purpose.
- 15.06.040 Authority.
- 15.06.050 Construction permit application – Consideration – Requirements.

15.06.010 Title.

This chapter shall be known as “Requirements for Construction Permit Applications.” (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.06.020 Application.

This chapter shall be applicable to all building and grading permit applications. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.06.030 Purpose.

The purpose of this chapter is to identify the application requirements for building and grading permits. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.06.040 Authority.

The provisions of this chapter are authorized pursuant to chapter 19.27 RCW and other applicable laws and regulations. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.06.045 Permit Required. Unless explicitly identified as exempt, a construction permit shall be required for all development consistent with the City’s adopted uniform codes. An exemption from having to obtain a permit shall not be construed as an exemption from other applicable requirements. This section shall not apply if a permit is required by other provisions of the Burlington Municipal Code.

A. Exempt Development. The following development shall not require a construction permit:

1. Decks. Decks and associated platforms and stairs when accessory to residential buildings constructed under the provisions of the IRC which are not more than 30 inches above the adjacent grade plane and not over any basement or story below.
2. Minor Alterations. Alterations of buildings regulated by the IRC for which the total cost of fair market value of the alteration does not exceed \$1,500 in any consecutive six-month period. This exemption shall not otherwise exempt the alteration from the substantive standards of the City’s adopted uniform codes. This exemption also does not apply to electric, plumbing, or mechanical devices.
3. Roof Replacements. Roof replacements shall be exempt from permit requirements under the following circumstances:
 - a. For one and two family dwellings and townhouses if no changes are made to the building envelope other than adding or replacing insulation, and the insulation value is equivalent or better than the existing structure; or
 - b. Where less than 500 square feet of roof sheathing or insulation is exposed within any six-month period. Permits shall be required for structural changes and replacement of sheathing of any size. See energy code sections R503.1.1, C503.1, and C503.3 for insulation requirements for existing buildings.

4. Solar Panels. Roof-mounted photovoltaic solar panels for one and two family dwellings that have a total dead load not exceeding four pounds per square foot and are not more than 18 inches above the roof or the highest roof point on which they are mounted.

15.06.050 Application Requirements.

A. A valid and fully complete building permit application for a structure that is permitted under the zoning or other land use control ordinances in effect on the date of the application shall be considered under the building permit ordinance in effect at the time of application, and the zoning or other land use controls in effect on the date of application.

B. The requirements for a fully completed application shall consist of the elements required by RCW 19.27.095 (State Building Code Act), Sections 107.1 through 107.3.4 of the International Building Code, subsection (F) of this section, and all of the following:

1. The legal description, or the tax parcel number assigned pursuant to RCW 84.40.160, and the street address if available, and may include any other identification of the construction site by the prime contractor;
2. The property owner's name, address, and phone number;
3. The prime contractor's business name, address, phone number, and current state contractor registration number; and
4. Either:
 - a. The name, address, and phone number of the office of the lender administering the interim construction financing, if any; or
 - b. The name and address of the firm that has issued a payment bond, if any, on behalf of the prime contractor for the protection of the owner, if the bond is for an amount not less than 50 percent of the total amount of the construction project;
5. Applications for permits to construct a building which requires potable water shall include evidence of an adequate water supply for the intended use of the building consistent with RCW 19.27.097;
6. Any information requested by the city under the provisions of BMC Title 14A for purposes of determining consistency with applicable land use, engineering, zoning, development, or environmental regulations and controls;
7. Any applicable fees established by the fee schedule adopted by the city council;
8. Applications for building permit approval shall be submitted on forms provided by the community development director and shall include any additional information required by the form.

C. The information required on the building permit application by subsections (B)(1) through (4) of this section shall be set forth on the building permit document which is issued to the owner, and on the inspection record card which shall be posted at the construction site.

D. The information required by subsection (B) of this section and information supplied by the applicant after the permit is issued under subsection (E) of this section shall be kept on record in the office where building permits are issued and made available to any person on request. If a copy is requested, a reasonable charge may be made.

E. If any of the information required by subsection (B)(4) of this section is not available at the time the application is submitted, the applicant shall so state and the application shall be processed forthwith and the permit issued as if the information had been supplied, and the lack of the information shall not cause the application to be deemed incomplete for the purposes of vesting under subsection (A) of this section. However, the applicant shall provide the remaining information as soon as the applicant can reasonably obtain such information.

F. The limitations imposed by this section shall not restrict conditions imposed under chapter 43.21C RCW (the State Environmental Policy Act).

G. In addition to the information required by subsection (B) of this section, applications for clearing, grading, excavation, or filling, and applications to construct, modify, expand, or repair civil infrastructure, utilities, streets, storm-water improvements, or sidewalks shall include:

1. A complete set of plans showing plan and profile of all existing and proposed development to a scale acceptable to the city engineer and stamped by a civil engineer licensed in the state of Washington;
2. The plans shall show all utilities, sidewalks, curbs and gutters, typical cross-sections, construction notes and any other details that are necessary to properly build the project;
3. The submittal shall also include a drainage control plan that meets the minimum technical requirements set forth in BMC Title 14;
4. The plans shall contain all of the information required by, and shall comply with, the applicable provisions of BMC Titles 12, 13, and 14.

H. Except as explicitly modified by this chapter or BMC Title 14A, building and grading permit applications shall be processed as Type I decisions in accordance with the provisions of BMC Title 14A. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

Chapter 15.08

FIRE CODE

Sections:

- 15.08.010 Title.
- 15.08.020 Application.
- 15.08.030 Purpose.
- 15.08.040 Authority.
- 15.08.050 International Fire Code adopted by reference.
- 15.08.060 Bureau of fire prevention established – Enforcement authority.
- 15.08.070 Storage of explosives and fireworks.
- 15.08.080 Storage of flammable/combustible liquids and liquefied petroleum gas.
- 15.08.090 Liquefied petroleum gas storage – District limit establishment.
- 15.08.100 Explosives and blasting agents – Vehicle transportation route establishment.
- 15.08.110 Hazardous materials – Vehicle transportation route establishment.
- 15.08.120 Premises identification.
- 15.08.130 Automatic sprinkler systems.
- 15.08.140 Fire flow and access requirements.
- 15.08.150 Violations.

15.08.010 Title.

This chapter shall be known as the “Fire Code.” (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.08.020 Application.

This chapter shall be applicable to all development activities including, but not limited to, the erection, construction, enlargement, alteration, repair, moving, improvement, removal, converting or demolishing, equipping, using, occupying, or maintaining any building or structure in the city, or causing the same to be done, in violation of any of the provisions of this chapter. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.08.030 Purpose.

The purpose of this chapter is to establish international codes governing the activities set forth in BMC 15.08.020 to protect the general health, safety and welfare. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.08.040 Authority.

The provisions of this chapter are authorized pursuant to chapter 19.27 RCW, chapter 51-51 WAC, and other applicable laws and regulations. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.08.050 International Fire Code adopted by reference.

The International Fire Code, 2018 Edition, published by the International Code Council, including Appendix chapters B through N, but excluding Appendix chapter L, mandated state amendments and local administrative rules, and subject to modifications as set forth by the state of Washington in chapter 51-54 WAC, is adopted as the official fire code of the city of Burlington. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.08.060 Bureau of fire prevention established – Enforcement authority.

The fire code shall be enforced by the Fire Marshal. =

15.08.070 Storage of explosives and fireworks.

The storage of explosives, fireworks and blasting agents is prohibited in all areas of the city except those areas designated CI-2- on the Burlington zoning map and meeting the approval of the fire marshal. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.08.080 Storage of flammable/combustible liquids and liquefied petroleum gas.

The bulk storage, as defined by the fire code, of flammable or combustible liquids and of liquefied petroleum gas in aboveground tanks is prohibited in all areas of the city except areas designated CI-2 on the Burlington zoning map and meeting the approval of the fire marshal. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.08.090 Liquefied petroleum gas storage – District limit establishment.

Reserved. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.08.100 Explosives and blasting agents – Vehicle transportation route establishment.

Vehicles transporting explosive materials shall be routed, where practicable, to avoid congested traffic and heavily populated areas. The fire marshal is authorized to designate such routes of travel and the times of use. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.08.110 Hazardous materials – Vehicle transportation route establishment.

Vehicles transporting hazardous materials shall be routed, where practicable, to avoid congested traffic and heavily populated areas. The fire marshal is authorized to designate such routes of travel and the times of use. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.08.120 Premises identification.

Section 505, Premises Identification, of the International Fire Code is hereby amended to read as follows:

Approved numbers or addresses shall be affixed to all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property or building and shall conform to the standards of Burlington Municipal Code Chapter 15.10.

(Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.08.130 Automatic sprinkler systems.

Automatic sprinkler systems shall be provided in accordance with the applicable sections of the adopted fire and building codes except that at all new residential buildings located within the Burlington Hill Special Management Area shall be equipped with an approved NFPA 13D or 13R automatic sprinkler system.

15.08.135 Fire alarms.

An approved fire alarm system shall be provided in accordance with the applicable sections of the adopted fire and building codes except that an approved fire alarm system shall also be provided as follows:

A. For all new non-residential buildings and structures 1,000 square feet or larger;

B. Existing non-residential buildings and structures 1,000 square feet or larger where a change of use occurs resulting in a more hazardous occupancy classification or an increased occupancy load as determined by the Building Official.

C. For occupancy classifications A, B, E, F, H, M, and S encompassing 1,000 square feet or more, full alarm and notification appliances shall be provided whenever a new alarm system is installed or whenever an existing alarm system is upgraded or modified.

15.08.140 Fire flow and access requirements.

All new development shall comply with the fire flow and access requirements identified in the applicable sections of the adopted fire and building codes except as follows:

A. For the construction of a detached dwelling or accessory dwelling unit on an existing legally established lot within the boundaries of the plat of Tinas Coma recorded under Auditor's File Number 200008110004, existing legally established streets and roads shall be deemed sufficient for purposes of fire flow and access.

B. Except for the construction of a detached dwelling or accessory dwelling within the boundaries of the plat of Tinas Coma, all development within the Burlington Hill special management area shall fully comply with fire flow and access requirements of the adopted fire and building codes and all new lots shall have frontage on public street that fully complies with fire flow and access requirements and the design requirement of BMC Title 12. (Ord. 1906 (Exh. A), 2021).

15.08.150 Violations.¹

It is unlawful for any person, firm or corporation to conduct development activities or erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure in the city, or cause the same to be done, or to transport or store any material or substance, contrary to or in violation of any of the provisions of this chapter. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018. Formerly 15.08.130).

¹ Code reviser's note: This section has been editorially renumbered to accommodate the new sections added by Ord. 1906.

Chapter 15.10

ADDRESSES

Sections:

- 15.10.010 Title.
- 15.10.020 Application.
- 15.10.030 Purpose.
- 15.10.040 Authority.
- 15.10.050 Community development department to assign address numbers.
- 15.10.060 Numbering system prescribed.
- 15.10.070 Way-of-travel names.
- 15.10.080 Building owner to post and maintain address signs.
- 15.10.090 Enforcement.

15.10.010 Title.

This chapter shall be known as “Addresses.” (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.10.020 Application.

This chapter shall be applicable to all buildings and structures used or constructed within the city of Burlington. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.10.030 Purpose.

The purpose of this chapter is to establish a uniform methodology for assigning way-of-travel names and building address numbers under the administration of the planning department and permit center, and to establish the authority to retroactively remedy incorrect addresses, and improve signage for existing building and premises identification. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.10.040 Authority.

The provisions of this chapter are authorized pursuant to chapter 19.27 RCW, chapter 51-51 WAC, the codes adopted by this chapter, and other applicable laws and regulations. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.10.050 Community development department to assign address numbers.

A. The community development department shall determine the address of any property in the city in accordance with the numbering system established in this chapter.

B. Addresses for new buildings, premises, and tenant spaces shall be assigned as part of the building permit review process. If no associated building permit exists, an address shall be assigned using a Type I review process in accordance with the provisions of BMC Title 14A.

C. Applications for address assignment shall be made on forms provided by the community development director and shall include all of the information required by the form. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.10.060 Numbering system prescribed.

A. The numerical designation of all doorways and entrances to buildings, lots, yards and grounds fronting upon the several ways, avenues, streets, drives and places of the city are established in accordance with the following system:

1. Except where otherwise specified, 100 numbers are allotted to each block, the city of Burlington addressing grid map, to be spaced evenly along the grid with 50 numbers on each side of the street or way in each grid line. The grid has been adjusted in areas of the city where the blocks differ in length. Even numbers shall be used on the southerly side of avenues or ways extending in an easterly and westerly direction and on the easterly side of streets or ways extending in a northerly and southerly direction; odd numbers shall be used on the northerly side of avenues or ways extending in an easterly and westerly direction and on the westerly side of streets or ways extending in a northerly and southerly direction.

2. In the case of irregular drives, places, streets, ways or avenues, the frontages shall be numbered as near as may be possible, according to the uniform series of block numbers with which they most nearly correspond.

B. For new buildings, a site plan showing the footprint of the building, all front door entrances, location and name of adjoining street or way and a north arrow is required. The number for new buildings is assigned according to this section as follows:

1. If the project is multifamily with multiple entrances, each building receives an address and numbering is assigned for that building with the first floor having the 100 series, the second floor 200 series, the third floor 300 series.

2. A single entrance for a multiple tenant building receives one common number, with each tenant receiving a separate suite number. Separate entrance doors receive a separate address.

C. New addresses are added to the address database, mapped and copies distributed to emergency service agencies, utilities, the post office and city departments.

D. Whenever the irregularity of plats, the changing direction of streets, avenues, or other highways, the interruption of the continuity of highways or any other condition causes doubt or difference of opinion as to the correct number of any piece of property or any building thereon, the number shall be determined by the department. The planning department shall be guided by the specific provisions of this chapter as far as they are applicable, and on the recommendations of the fire and police departments. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.10.070 Way-of-travel names.

A. The city council shall designate all public or private ways-of-travel, now existing or hereafter created; provided, that a name shall be designated that is different than any existing way-of-travel name currently in the address system and that will not be easily confused with an existing name.

B. The baseline for ways-of-travel shall be Fairhaven Avenue and shall bear the suffix “E” (east) on the east side of Burlington Boulevard and the suffix “W” (west) on the west side of Burlington Boulevard.

C. The meridian line for ways-of-travel running generally north-south shall be Burlington Boulevard and shall bear the suffix “N” (north) on the north side of Fairhaven Avenue and the suffix “S” (south) on the south side of Fairhaven Avenue. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.10.080 Building owner to post and maintain address signs.

A. The owner of any building or other structure shall maintain the street number of each building and structure in a conspicuous place over or near the principal street entrance, or in other conspicuous places so that the address may be easily seen from the street.

B. It shall be the responsibility of the owner of any new building to obtain and post an approved sign as required by this chapter.

C. Exception. Where there are multiple buildings on a site, the department may waive the requirement for posting an address on appurtenant or accessory buildings where individual identification of each building is not essential. Where a property has frontage along more than one named street or for any other property where there may be confusion regarding the address of a building or structure, the department may require the complete address, including street number and street name, to be conspicuously posted.

D. Buildings served by a private road or a common driveway shall post their address number(s) at the head of the road or driveway in a manner that can be easily read from the intersecting street. This posting requirement shall be in addition to the requirement to post the number on the building itself. Where the existing street grid may not adequately allow for the assignment of street addresses which will promote the easy locating of such addresses, or for any other reason consistent with the intent of this chapter, the planning department may assign a name to the private road or common driveway which shall be used for addressing purposes. The city council shall assign a name to the private road or common driveway when there are four or more parcels served by it. In addition, one or more

property owners along the road or driveway may be required to post a sign displaying the assigned name at a location near the intersection of the road or driveway with a named public street.

E. Numbers and letters shall be of approved reflective material that is easily legible and shall have a high contrast with the background color. Letters and numbers shall be white reflective material and shall not be less than five inches (76 mm) in height. The sign background shall be blue reflective material. The department shall maintain a list of vendors approved to make address signs.

F. Approved address signs shall be posted prior to approval of a final building permit inspection or occupancy approval. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.10.090 Enforcement.

A. It shall be a violation of this chapter to post an address or number other than an address or number assigned by the city of Burlington in accordance with the requirements of this chapter.

B. It shall be a violation of this chapter to offer any unit, suite, tenant space, or building for sale, lease, or occupancy that has not been addressed in accordance with this chapter.

C. Should the department find that any building, structure or premises is not provided with numbers as herein required, or is not correctly numbered, the department shall notify the owner, agent or tenant of the correct street or unit number and shall require that the same shall be properly placed, in accordance with the provisions of this chapter, within 30 days unless additional time is provided for in writing by the department. Failure to respond to such notification shall be considered a violation of this chapter. (Ord. 1906 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

Chapter 15.12

TRANSPORTATION, PARKS, AND FIRE IMPACT FEES

Sections:

- 15.12.010 Title.
- 15.12.020 Application.
- 15.12.030 Purpose.
- 15.12.040 Authority.
- 15.12.060 Assessment of impact fees.
- 15.12.070 Exemptions.
- 15.12.080 Credits.
- 15.12.090 Tax adjustments.
- 15.12.100 Appeals.
- 15.12.110 Establishment of impact fee accounts.
- 15.12.120 Impact fees.
- 15.12.130 Refunds.
- 15.12.140 Use of funds.
- 15.12.150 Review.
- 15.12.160 Independent fee calculations.
- 15.12.170 Existing authority unimpaired.
- 15.12.180 Adoption of traffic/transportation, parks and fire impact fees.
- 15.12.190 Authorization to adopt capital project, facility and equipment lists and impact fee calculation formula or methodology by resolution.

15.12.010 Title.

This chapter shall be called “Transportation, Parks, and Fire Impact Fees.” (Ord. 1855 § 2 (Exh. B), 2018).

15.12.020 Application.

This chapter shall apply to all building permits, applications for building permits and development authorized by the city. This includes, but is not limited to, the development of residential, commercial, retail, industrial and office land, including the expansion of existing uses that creates a demand for additional planned facilities, as well as a change in existing use that creates a demand for additional planned facilities. (Ord. 1855 § 2 (Exh. B), 2018).

15.12.030 Purpose.

The city council of the city of Burlington (the “council”) hereby finds and determines that growth and development activity in the city will create additional demand and need for public streets and roads, publicly owned parks, open space and recreational facilities, and fire protection facilities in the city, and the council finds that growth and development activity should pay a proportionate share of the cost of such planned facilities needed to serve the growth and development activity and that concurrency requirements of chapter 36.70A RCW need to be complied with. (Ord. 1855 § 2 (Exh. B), 2018).

15.12.040 Authority.

This chapter is authorized pursuant to chapter 36.70A RCW and RCW 82.02.050 through 82.02.090. (Ord. 1855 § 2 (Exh. B), 2018).

15.12.060 Assessment of impact fees.

A. It is a policy of the city of Burlington to assess transportation, fire and park impact fees in compliance with this title. The city shall collect impact fees as listed in this chapter and based on the most currently adopted traffic/transportation, parks and fire impact fee formula or methodology resolution, from any applicant seeking a building permit from the city. This shall include, but is not limited to, the development of residential, commercial, industrial, retail, and office buildings and/or land, and includes the expansion of existing uses and/or structures that creates a demand for additional planned facilities, as well as a change in existing use that creates a demand for additional planned facilities.

B. Except as may be due to exemptions or credits provided pursuant to this chapter, pursuant to an independent fee calculation pursuant to this title, or impact fees imposed pursuant to this chapter, the city shall not issue a building permit(s) unless and until the impact fees set forth in the schedules in this title have been paid.

C. Impact fees may also be collected pursuant to the timeline provisions of an adopted development agreement as provided in BMC Title 14A.

D. Collection of impact fees associated with the construction of a single-family home may be deferred until the final building permit inspection if requested by a permit applicant; provided, that:

1. The permit applicant submits a written request to defer impact fees at the time of building permit application on a form provided by the community development director; and
2. Not more than 20 deferrals shall be granted to an applicant in a single calendar year. For purposes of interpreting this requirement, “applicant” shall mean a contractor as identified by his or her contractor registration number; and
3. Impact fees shall be based on the fee schedule in effect at the time a complete building permit application is submitted.
4. No final inspection shall be conducted and no certificate of occupancy shall be granted until all impact fees have been paid.
5. An applicant seeking an impact fee deferral must grant and record a deferred impact fee lien against the property in favor of the city in the amount of the deferred impact fee. The deferred impact fee lien shall be consistent with, and contain all of the required elements identified in, RCW 82.02.050. (Ord. 1910 § 2 (Exh. A), 2021; Ord. 1855 § 2 (Exh. B), 2018).

15.12.070 Exemptions.

A. The following shall be exempted from the payment of impact fees:

1. Replacement and reconstruction of legally existing residential structures. Legally existing residential structures may be replaced or reconstructed on the same site or lot; provided a valid building permit is obtained within 24 months of the demolition or destruction of the existing residential structure and no additional dwelling units are created.
2. Alterations, expansion, enlargement, remodeling, rehabilitation or conversion of a legally existing residential structure where no additional dwelling units are created and the use is not changed.
3. The construction of accessory structures that will not result in an increased use of planned facilities.
4. Miscellaneous appurtenant improvements, including but not limited to fences, walls, swimming pools, and signs.
5. Demolition or moving of a structure.
6. Expansion of a residential structure provided the expansion does not result in the creation of any additional dwelling units.
7. Alteration or replacement of an existing nonresidential structure that does not expand the usable space or change the existing land use.
8. Parking garages and building spaces that are constructed solely to park motor vehicles that are not for sale, lease or rent, or part of a stock in trade are exempt from the requirement to pay any impact fees. The conversion of parking garages or vehicle parking areas exempted by this subsection to other uses requires the payment of impact fees.

9. Temporary uses and structures authorized by this title. Temporary uses, or its successor, are exempt from the requirement to pay any impact fees.

10. Where the development activity is exempt from the payment of impact fees pursuant to RCW 82.02.100, or its successor, in that the property is part of a development activity that mitigated its impacts on all of the system improvements funded by impact fees under the State Environmental Policy Act (SEPA).

11. Developments owned and/or operated by the city of Burlington.

B. Any claim of exemption shall be made no later than the time of application for a building permit. If a building permit is not required for the development activity, the claim shall be made when the fee is tendered. Any claim not made when required by this section shall be deemed waived.

C. Developments that are not exempt from the requirement to pay impact fees may be entitled to an adjustment as set forth in BMC 15.12.150.

D. The community development director shall be authorized to determine whether a particular development activity falls within an exemption identified in this section, in any other section, or under other applicable law. Determinations of the community development director shall be in writing and shall be subject to the appeals procedures set forth in BMC Title 14A. (Ord. 1855 § 2 (Exh. B), 2018).

15.12.080 Credits.

A. Credit Available. After the effective date of the ordinance codified in this chapter, credit against the amount of the impact fees for developer dedications of land necessary for the construction of planned facilities included within the adopted city capital facility plan or for construction of infrastructure or capital facilities included within the adopted capital facilities plan shall be governed by this section. This section allows for the provision of reasonable credit(s) to a feepayer for the value of any dedication of land for, improvements to, or new construction of one or more projects included within the adopted city of Burlington capital facility plan (capital facility element of the comprehensive plan/six-year CIP), on file in the office of the city finance director, by a feepayer, pursuant to RCW 82.02.060(3), as further provided herein. The amount of the credit for a particular improvement or facility shall be limited to the cost of that improvement or facility as set forth in the capital facility plan (capital facility element of the comprehensive plan/six-year CIP), on file in the office of the city finance director, as now or hereafter amended. Credits shall be specific to the type of improvements or dedications made, such that dedications of land for, construction of or improvements to publicly owned parks, open space or recreational facilities shall be applicable only to the parks impact fee; dedications of land for, construction of or improvements to public transportation facilities shall be applicable only to the transportation impact fee; and dedications of land for construction of or improvements to fire protection facilities shall be applicable only to the fire impact fee. Credit shall not include increased housing density.

B. No credit shall be given for project improvements, or any other improvements or infrastructure required as part of approval of a development proposal or as mitigation for development related impacts.

C. Application for Credit – Determination of Suitability of Land, Improvements, Construction. The feepayer applying for credit (hereinafter, “the applicant”) shall direct the request for a credit or credits to the city administrator/community development director, who shall refer the request to the finance director, community development director, director of public works/city engineer, the fire chief and/or the parks and recreation director as applicable. The applicable department head shall first determine the general suitability of the land, improvements, and/or construction for city purposes. The finance director shall then evaluate whether the land, improvements, and/or the facilities constructed are included within the city’s adopted capital facilities plan and shall forward results of said evaluation to the city administrator/community development director. Recommendations regarding the appropriateness and amount of credit provided shall be submitted by the applicable director(s)/department heads to the city administrator/community development director for review. The city administrator shall make a recommendation to city council as to whether the proposed dedication of land and/or equipment or facility(ies) proposed are included within the capital facility plan and also shall recommend the appropriate amount of credit provided. In all cases, the city administrator/community development director shall inform the applicant and city council of his/her recommendation at the next available council meeting. City council shall render a decision as to the amount of credit, if any, provided to an applicant.

D. The value of credit for land provided under this section, including right-of-way and easements, shall be established on a case-by-case basis by an appraiser selected by, or acceptable to, the applicable department director.

E. The feepayer shall pay for the cost of the appraisal or request that the cost of the appraisal be deducted from any credit provided to the feepayer, in the event that credit is awarded.

F. Determination of Credit Amounts. For each request for credit the city shall first determine that the land, improvements, and/or construction would be suitable for city purposes, does not constitute a project improvement, and that the project is listed within the adopted capital facility plan. The value of a credit for structures, facilities or other improvements shall be established by original receipts provided by the applicant for one or more of the same system improvements for which the impact fee is being charged.

G. For donations of land, the applicable appraiser must be licensed and in good standing by the state of Washington for the category of the property appraised. The appraiser must possess an MAI or other equivalent certification and shall not have a fiduciary or personal interest in the property being appraised. A description of the appraiser's certification shall be included with the appraisal, and the appraiser shall certify that he/she does not have a fiduciary or personal interest in the property being appraised. The appraisal shall be in accord with the most recent version of the Uniform Standards of Professional Appraisal Practice.

H. The applicant shall be entitled to a credit for a reasonable value of the land, improvements, and/or construction that is made or dedicated, based upon the actual cost of improvements and/or construction, or the agreed upon or actual predevelopment value of land dedicated. In the event an appraisal is necessary to determine the value of land dedicated, an appraiser shall be designated by the city and the full cost of such appraisal shall be paid by the applicant. The city administrator/community development director shall then issue a credit certificate as approved by city council in the amount of the determination of value.

I. Use of Credits. The applicant, upon receipt of a credit certificate, shall have the right to use the certificate to offset any future impact fee assessed for any development activity that will be required to pay impact fees. The administration and application of the credit certificates will be as described in subsection (H) of this section. The application of any credit certificate will be specific to the transportation impact fee, the park impact fee, or the fire impact fee.

J. Credit Certificates – Administration. After city council makes a determination of the amount of the credit, the city administrator/community development director shall issue and provide the applicant with a document hereinafter known as a credit certificate, setting forth the dollar amount of the credit, the date of issuance of the credit certificate, the date of expiration of the credit and the credit certificate, the reason for the credit, the legal description of the property donated, and/or the improvement or construction for which was the basis the credit certificate is registered (the “credit holder”). The applicant must sign and date the credit certificate, and return such signed credit certificate to the city finance director for filing in the city's credit certificate registry before the credit will be awarded. The failure of the applicant to sign, date, and return the credit certificate within 60 calendar days shall nullify the credit. The original credit certificate shall be kept registered in the city's records, and the credit holder shall be provided a duplicate copy. The city finance director shall develop reasonable rules and regulations for the administration of the credit certificate program, including the calculation of credits, procedures for use of credits and application of credits to particular parcels of land which may be by recorded document, and the ability to levy an administrative fee in an amount sufficient to cover actual costs to the city.

K. Transfer of Credit – Partial Use of Credit. Credit certificates may be transferred or sold to third parties by the credit holder; provided, that in order to transfer credits to another party, the current credit holder shall register the transfer with the city finance director in accordance with the procedures for registration of credit transfers developed by the city finance director. Only the credit holder who is reflected on the city's registration system pursuant to the city's registration system may utilize the credit. Registration with the city of credit certificates shall be conclusive evidence of credit ownership. To the extent that a credit holder wishes to utilize only a portion of the credit reflected on the credit certificate against impact fees due on a particular project, the city finance director shall develop procedures for reducing the the amount of credit reflected on the credit certificate accordingly or issuing a new credit certificate with the remaining credit amount.

L. Limitations on Utilization of Credits. Utilization of credit against payment of impact fees must in all cases be made prior to payment of the impact fee. No reimbursement of impact fees will be made for credit not utilized at the time the impact fee was due. In no event shall the city be under any obligation to advise any applicant for a building permit or other development approval of the existence or possible existence of the availability of credits. The burden of investigating and determining if credits may be available shall rest solely with such applicant. Credit utilized shall never exceed the amount of the impact fee due.

M. Credit for Significant Past Tax Payments. For each request for a credit for significant past tax payments made for particular improvements or land acquisitions, the feepayer shall submit proof of payments and calculation of past tax payments earmarked for or proratable to the particular improvements or land acquisitions. The city finance director shall establish procedures for determining the amount of credit for significant past tax payment made for particular improvements or land acquisitions.

N. Appeals. Determinations made pursuant to this section shall be subject to the appeals procedures set forth in this chapter.

O. Expiration of Credits. Credits shall expire, and credit certificates shall become null and void, on a date 10 years from the date of issuance of the original credit certificate by the city administrator/community development director. Transfer of credits or partial use of credits which may involve reissuance of credit certificates shall in no event extend the expiration date of those credits. (Ord. 1855 § 2 (Exh. B), 2018).

15.12.090 Tax adjustments.

Pursuant to and consistent with the requirements of RCW 82.02.060, the capital facilities plan has provided adjustments for future taxes to be paid by the developer which are earmarked or proratable to the planned facilities which will serve the development activity. The impact fees as adopted herein have been reasonably adjusted for taxes and other revenue sources which are anticipated to be available to fund particular planned facilities. (Ord. 1855 § 2 (Exh. B), 2018).

15.12.100 Appeals.

A. Decisions regarding impact fee assessments may be appealed by any feepayer using the appeal procedures applicable to Type I decisions identified in BMC Title 14A.

B. Any feepayer may pay the impact fees imposed by this chapter under protest in order to obtain the development approval and/or a building permit. In such cases the feepayer shall provide written notification to the Community Development Director indicating that they are paying the fee under protest and shall subsequently file a timely appeal consistent with the timelines and procedures identified in Title 14A BMC.

C. No administrative fee shall be assessed for processing appeals involving the assessment of impact fees.

15.12.110 Establishment of impact fee accounts.

A. The city shall establish separate impact fee accounts for the following: (1) transportation impact fees; (2) parks impact fees; (3) fire impact fees. The accounts shall be interest-bearing accounts.

B. Funds withdrawn from the impact fee accounts must be used in accordance with the provisions of this chapter. The interest earned shall be retained in each account and expended for the purposes for which the impact fees were collected.

C. On an annual basis, the city finance director shall provide a report to the council on the impact fee accounts, showing the source and amount of all moneys collected, earned, or received, and the planned facilities that were financed in whole or in part by impact fees.

D. Impact fees shall be expended or encumbered within 10 years of receipt, unless the city council identifies in written findings extraordinary and compelling reasons or reasons to hold the impact fees beyond the 10-year period. Under such circumstances, the council shall establish the period of time within which the impact fees shall be expended or encumbered. (Ord. 1855 § 2 (Exh. B), 2018).

15.12.120 Impact fees.

The impact fees set forth in this chapter, and the supporting formula or methodology and analysis under which these impact fees have been developed, are adopted by resolution of the city council on file in the office of the finance director, are based upon the data and assumptions set forth therein, and the information and public input provided to the city council in considering adoption of the ordinance codified in this chapter. Except as otherwise provided in BMC 15.12.070, 15.12.080 or 15.12.160, all development activity in the city will be charged the impact fees set forth in this chapter. (Ord. 1855 § 2 (Exh. B), 2018).

15.12.130 Refunds.

A. If the city fails to expend or encumber the impact fees within 10 years of when the impact fees were paid or, where extraordinary or compelling reasons exist, such other time periods as established pursuant to this chapter, the current owner of the property on which impact fees have been paid may receive a refund of such impact fees. In determining whether impact fees have been expended or encumbered, impact fees shall be considered expended or encumbered on a first-in, first-out basis.

B. The city shall notify potential claimants by first class mail deposited with the United States Postal Service at the last known address of such claimants. A potential claimant or claimant must be the owner of the property.

C. Owners seeking a refund of impact fees must submit a written request for a refund of the impact fees to the community development director within one year of the date the right to claim the refund arises or the date that notice is given, whichever is later.

D. Any impact fees for which no application for a refund has been made within this one-year period shall be retained by the city and expended on the appropriate planned facilities.

E. Refunds of impact fees under this section shall include any interest earned on the impact fees by the city, calculated at the average interest rate earned by the city on the impact fee account over the preceding fiscal year.

F. When the city seeks to terminate any or all components of the impact fee program, all unexpended or unencumbered funds from any terminated component or components, including interest earned, shall be refunded pursuant to this section. Upon the finding that any or all impact fee requirements are to be terminated, the city shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first class mail at the last known address of the claimants. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the city, but must be expended for the appropriate planned facilities. This notice requirement shall not apply if there are no unexpended or unencumbered balances within the impact fee account(s) being terminated.

G. The city shall also refund to the current owner of property for which impact fees have been paid all impact fees paid, including interest earned on the impact fees, if the development activity for which the impact fees were imposed did not occur; provided, that if the city has expended or encumbered the impact fees in good faith prior to the application for a refund, the city can decline to provide the refund. If the same or subsequent owner of the property proceeds with the same or substantially similar development activity, the owner can petition the city for an offset. The petitioner must provide proof of payment of impact fees previously paid for a development of the same or substantially similar nature on the same property or some portion thereof. The community development director shall determine whether to grant an offset. Determinations of the city shall be in writing and shall be subject to the appeals procedures set forth in this chapter. (Ord. 1855 § 2 (Exh. B), 2018).

15.12.140 Use of funds.

A. Pursuant to this chapter:

1. Impact fees collected for public streets and roads, impact fees for publicly owned parks, open space and recreational facilities, and impact fees for fire protection facilities shall be used solely for those respective purposes, and only those that will reasonably benefit the development activity.

2. Impact fees shall not be imposed to make up for deficiencies in existing facilities serving existing developments.

3. Impact fees shall not be used for maintenance or operation.

B. Impact fees may be spent for planned facilities, including but not limited to planning, land acquisition, construction, engineering, architectural, permitting, financing, and administrative expenses, applicable impact fees or mitigation costs, capital equipment pertaining to planned facilities, and any other similar expenses which can be capitalized.

C. Impact fees may also be used to recoup city improvement costs previously incurred by the city to the extent that new growth and development activity will be served by the previously constructed improvements or incurred costs.

D. In the event that bonds or similar debt instruments are or have been issued for the advanced provision of city improvements for which impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities or improvements provided are consistent with the requirements of this section and are used to serve the development activity. (Ord. 1855 § 2 (Exh. B), 2018).

15.12.150 Review.

The impact fee schedules adopted herein shall be reviewed by the council as it may deem necessary and appropriate in conjunction with the annual update of the capital facilities plan element of the city's comprehensive plan and/or six-year capital improvement plan.

The city's cost of administering the impact fee program shall be as set forth in the city's fee ordinance. (Ord. 1855 § 2 (Exh. B), 2018).

15.12.160 Independent fee calculations.

A. If the public works director/city engineer as pertains to traffic impact fees, and/or the fire chief as pertains to fire impact fees, and/or the parks and recreation director as pertains to parks impact fees believes in good faith that none of the impact fee categories or impact fee amounts set forth in this chapter accurately describe or capture the impacts of a development activity on planned facilities, the applicable director may conduct independent fee calculation recommendations for review by the city administrator/community development director as per the procedures detailed for application of credits under this chapter. The city administrator/community development director may recommend that city council act to impose alternative impact fees on a specific development activity based on these calculations. The alternative impact fees and the calculations shall be set forth in writing.

B. If a feepayer opts not to have the impact fee determined according to the schedules set forth in this chapter, then the feepayer shall prepare and submit to the applicable director(s) an independent fee calculation for the development activity for which final plat, binding site plan, or other development approval, or a building permit is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made. The applicable department head(s) shall review the independent fee calculation and provide an analysis to the city administrator/community development director concerning whether the independent fee calculation should be accepted, rejected, or accepted in part. The city administrator/community development director shall after review of the materials submitted, make recommendation to city council, who may adopt, reject or adopt in part the independent fee calculation based on the analysis prepared by appropriate department head(s) and/or recommended by the city administrator/community development director, and based on the specific characteristics of the development activity, and/or principles of fairness. The impact fees or alternative impact fees and the calculations recommended by the city administrator/community development director shall be set forth in writing and shall be mailed to the feepayer.

C. Any feepayer submitting an independent fee calculation will be required to pay to the city of Burlington a fee to cover the cost of reviewing the independent fee calculation. The fee shall be the actual cost of any additional staff time not to exceed \$500.00 spent in review plus the cost of consultant services if the city deems these services to be necessary; provided, however, for independent fee calculations for single residential lots where, in the sole discretion of the city administrator/community development director, the issues involved are easily handled and the fee is clearly excessive, the \$500.00 maximum fee may be reduced.

D. While there is presumption that the calculations set forth in the city's capital facilities plan are valid, in making an independent fee calculation recommendation to city council, the city administrator/community development director shall consider the documentation submitted by the feepayer and the analysis prepared by the appropriate

department heads, but is not required to accept such documentation or analysis which the applicable director and/or city administrator/community development director reasonably deems to be inaccurate or not reliable, and may, in the alternative, recommend to city council that it require the feepayer to submit additional or different documentation for consideration. The city council is authorized to adjust the impact fees on a case-by-case basis based on the independent fee calculation, the specific characteristics of the development activity, and/or principles of fairness. City council's decision regarding impact fees and the calculations shall be set forth in writing and shall be mailed to the feepayer.

E. An independent fee calculation determination made by the city council pursuant to this section may be appealed as per this chapter. (Ord. 1855 § 2 (Exh. B), 2018).

15.12.170 Existing authority unimpaired.

Nothing in this chapter shall preclude the city from requiring mitigation of adverse environmental impacts of a specific development pursuant to the State Environmental Policy Act, chapter 43.21C RCW, based on the environmental documents accompanying the underlying development approval process, and/or chapter 58.17 RCW, governing plats and subdivisions; provided, that the exercise of this authority is consistent with BMC 15.12.040 and with RCW 43.21C.065 and 82.20.100. (Ord. 1855 § 2 (Exh. B), 2018).

15.12.180 Adoption of traffic/transportation, parks and fire impact fees.

Impacts fees shall be assessed as follows:

A. Traffic/Transportation Impact Fee:

\$2,665 per peak p.m. hour trip based on factors listed in the most current ITE Manual (Institute of Traffic Engineers); or based upon an independent fee calculation as specified in BMC 15.12.160.

B. Park Impact Fee:

| | |
|------------------------------------|--------------------|
| Single-Family Residence: | \$655/unit |
| Multifamily Residence: | \$655/unit |
| Commercial/Industrial Development: | \$0.50/square foot |

C. Fire Impact Fee:

| | |
|------------------------------------|---------------------|
| Single-Family Residence: | \$253.73/unit |
| Multifamily Residence: | \$253.73/unit |
| Commercial/Industrial Development: | \$0.219/square foot |

(Ord. 1855 § 2 (Exh. B), 2018).

15.12.190 Authorization to adopt capital project, facility and equipment lists and impact fee calculation formula or methodology by resolution.

The city council is authorized to adopt by resolution specific capital project, facility and equipment lists and impact fee calculation formula or methodology in support of the fees adopted in this chapter as listed above or as amended in the future. The formula and methodology are attached to the ordinance codified in this chapter as Appendix A. (Ord. 1855 § 2 (Exh. B), 2018).

Chapter 15.14

OVERNIGHT LODGING ESTABLISHMENTS

Sections

| | |
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15.14.010 Title.

This chapter shall be known as “Overnight Lodging Establishments.” (Ord. 1855 § 2 (Exh. B), 2018).

15.14.020 Application.

This chapter shall be applicable to all overnight lodging establishments. (Ord. 1855 § 2 (Exh. B), 2018).

15.14.030 Purpose.

This chapter shall provide for the licensing and inspection of all overnight lodging establishments, and the enforcement of violations of this chapter. (Ord. 1855 § 2 (Exh. B), 2018).

15.14.040 Authority.

The ordinance codified in this chapter is adopted by the Burlington city council which authorizes the city to perform all or part of the licensing, inspection and enforcement duties. (Ord. 1855 § 2 (Exh. B), 2018).

15.14.050 Definitions.

For the purposes of interpreting this chapter the following definitions shall be used unless the context clearly indicates otherwise. If a word or term is not defined in this section, but is defined in BMC Title 17, the definition in BMC Title 17 shall be used. Words used in the singular include the plural, and words used in the plural include the singular. The words “shall” and “must” are always mandatory and the words “may” and “should” denote the use of discretion in making a decision.

“Bed and breakfast” means a single-family dwelling, as defined in BMC Title 17, where up to two rooms or lodging units are let as temporary accommodations for travelers or guests by the owner or occupant of the single-family dwelling. Bed and breakfast establishments may provide limited food service to guests.

“Boarding house” or “rooming house” means a dwelling unit, other than a hotel, where meals and/or lodging are provided for compensation. This term does not include buildings meeting the definition of a hotel, bed and breakfast, single-family home, or multifamily dwelling. Boarding houses are differentiated from overnight lodging establishments by providing accommodations for periods of 30 days or more.

“Building code” means the codes identified in, or adopted by, chapter 15.04 BMC.

“Building official” means the building official for the city of Burlington designated pursuant to the provisions of BMC 2.34.030.

“City” means the city of Burlington, Washington.

“Clean” means without visible or tangible soil or residue including absence of dirt, grease, rubbish, garbage, rodents, pests, and other offensive, unsightly or extraneous matter.

“County” means the county of Skagit.

“Department” means the planning and community development department of the city of Burlington.

“Director” or “community development director” means the city administrator or designee.

“Fire code” means the codes identified in, or adopted by, chapter 15.08 BMC and WAC 246-360-220.

“Good repair” means free of corrosion, breaks, cracks, chips, excessive wear and tear, leaks, obstructions and similar defects so as to constitute a good and sound condition.

“Guest” means any individual occupying or registered to occupy an overnight lodging unit.

“Hearing examiner” means the hearing examiner for the city of Burlington as defined in BMC Title 14A, or if no hearing examiner is under contract with the city, the term “hearing examiner” shall mean the board of adjustment.

“Licensee” means an overnight lodging establishment operator to whom the city issues an overnight lodging license.

“Local health jurisdiction” or “health department” means the Skagit County public health department.

“Lodging unit” means one self-contained unit designated by number, letter or some other method of identification.

“Operator” means any person who operates an overnight lodging establishment either as owner, lessee, manager, agent or in any other capacity.

“Overnight lodging establishment” means transient accommodations, bed and breakfasts, and vacation rentals.

“Overnight lodging license” means a license issued by the city authorizing the use or operation of an overnight lodging establishment.

“Person” means individual, firm, partnership, corporation, limited liability corporation, company, association or joint stock association, and the legal successor thereof.

“State” means the state of Washington.

“State Department of Health” means the Washington State Department of Health.

“Transient accommodation” means any facility such as a hotel, motel, condominium, resort, or any other facility or place offering three or more lodging units to guests for periods of less than 30 days and may include food service operations in accordance with chapter 246-215 WAC. Only transient accommodations with a valid city license and State Department of Health approval are an authorized use.

“Vacation rental” means a dwelling unit, or a portion of a dwelling unit, used to provide lodging for guests for periods of less than 30 days. (Ord. 1855 § 2 (Exh. B), 2018).

15.14.060 License required.

A. It is unlawful to operate an overnight lodging establishment without a current and valid overnight lodging license.

B. All licenses issued pursuant to this chapter are nontransferable and valid for a period of one year unless suspended or revoked.

C. Applications for license renewal shall be submitted to the city at least 30 days prior to the expiration of the overnight lodging license. All applications for renewal shall be submitted on forms provided by the director and shall include the applicable fee identified in the fee schedule adopted by the city council. (Ord. 1855 § 2 (Exh. B), 2018).

15.14.070 Application requirements.

Applications for overnight lodging licenses shall be submitted on forms provided by the director. Applications shall include any information identified on the form and all of the following:

- A. The name and address of the overnight lodging operator.
- B. A floor plan depicting the general layout of the overnight lodging establishment. The floor plan shall clearly illustrate the location of all entrances and exits and the location and identifying number, letter, or name, of each lodging unit.
- C. A copy of the certificate of occupancy for the building housing the overnight lodging establishment. If no certificate of occupancy is available, the building official shall verify the building housing the overnight lodging establishment was constructed or established in compliance with any applicable building code requirements in effect at the time of its establishment.
- D. A copy of a current, valid transient accommodation license issued by the Washington State Department of Health pursuant to chapter 246-360 WAC, unless the overnight lodging establishment is specifically exempt from state licensing requirements.
- E. The applicable fee identified in the fee schedule adopted by the city council. (Ord. 1855 § 2 (Exh. B), 2018).

15.14.080 Approval criteria.

A. No overnight lodging license shall be issued or renewed unless all of the following criteria are met:

- 1. The overnight lodging establishment shall fully comply with the requirements of this chapter;
- 2. The overnight lodging establishment is in compliance with the building and property maintenance code requirements identified, or referenced, in chapter 15.04 BMC;
- 3. The overnight lodging establishment shall be in compliance with the fire code requirements identified, or referenced, in chapter 15.08 BMC and WAC 246-360-220;
- 4. The overnight lodging establishment shall be in compliance with the applicable standards, requirements, and regulations identified, or referenced, in BMC Title 17;
- 5. The overnight lodging establishment shall be in compliance with the applicable requirements identified in chapter 246-360 WAC;
- 6. The overnight lodging establishment shall have a current, valid license issued by the State Department of Health pursuant to the provisions of chapter 246-360 WAC, unless the overnight lodging establishment is explicitly exempt from such requirements.
- 7. The overnight lodging establishment shall be in compliance with chapters 8.04 and 8.06 BMC.

B. Prior to issuing or renewing a license for an overnight lodging establishment the director shall conduct an inspection of the establishment to ensure compliance with requirements of this chapter. This may include an examination of the guest registry to show compliance with this chapter. (Ord. 1855 § 2 (Exh. B), 2018).

15.14.090 Review process.

A. Applications for overnight lodging licenses, and the renewal of existing overnight lodging licenses, shall be reviewed using a Type I process in accordance with the provisions of BMC Title 14A.

B. All decisions regarding the issuance or renewal of overnight lodging licenses shall be made in writing and shall be final and conclusive unless appealed.

C. When issuing or renewing an overnight lodging license the director shall provide the operator with a signed certificate including the following information:

1. The name and address of the overnight lodging establishment;
2. The name and address of the overnight lodging operator;
3. A statement indicating the establishment has been reviewed and inspected for compliance with Burlington Municipal Code requirements;
4. The approval date of overnight lodging license;
5. The expiration date of the overnight lodging license. (Ord. 1855 § 2 (Exh. B), 2018).

15.14.100 Maintenance and operations.

A. A current, valid overnight lodging license shall be displayed on the office or lobby wall inside the overnight lodging establishment so that it is clearly visible to any person or guest. If the overnight lodging establishment does not have an office or lobby, the license shall be displayed in an alternative location that is open, accessible, and visible to all guests.

B. All lodging units shall be equipped, arranged, and maintained as follows:

1. An occupancy level for each lodging unit shall be established based on the number of beds and their intended maximum usage and the maximum occupancy level shall not be exceeded.
2. Floors, ceilings, doors, walls, carpet, windows, electrical switches and fixtures, and locking mechanisms shall be in working condition, free from defects, clean, and in good repair.
3. Wall and ceiling mounted lighting fixtures shall be firmly secured, functional, and in good repair.
4. All wiring, lighting, appliances, and electrical fixtures shall be free from defects, functional, and in compliance with all applicable laws, regulations, and permitting requirements.
5. Each lodging unit shall be provided with heating and ventilation and all heating and ventilation equipment shall be functional, free from defects, and in good repair.
6. A functioning phone shall be provided in each lodging unit and shall be capable of allowing immediate communication with emergency services.
7. All lodging units shall be free from rodent or insect infestation.
8. All lodging units shall be free from chemical or biological hazards.
9. All lodging units shall be free from mold or mildew.

C. Overnight lodging operators shall maintain a record of all guests. The record shall be consistent with the following requirements:

1. A record of the arrival and departure of guests shall be maintained for at least one year from the date of departure. The record shall include the name, address, driver's license or government issued ID type and number, and phone number of each guest, and shall indicate the lodging unit used by the guest. In the case of corporate, tour, or other group bookings, the name, address and phone number of the person responsible for the booking, and a rooming list of occupants and their assigned room numbers shall be included in the guest record.

2. The names and addresses of all guests shall be verified by requiring each guest to present a driver's license, passport, or other government-issued identification.

3. The overnight lodging operator shall permit law enforcement personnel to inspect the guest record where there is reasonable suspicion of criminal conduct, or as otherwise allowed by law.

D. No operator shall knowingly permit an overnight lodging establishment to be used for illegal purposes.

E. No operator shall knowingly provide a lodging unit to a person known to be in violation of a court order if said order is caused to be violated by his/her presence or activity at the overnight lodging establishment.

F. No operator shall permit a lodging unit to be occupied for a period longer than 30 days per BMC Title 17 and chapter 246-360 WAC. Consecutive 30-day periods are not permitted in one establishment.

G. Water, sewer, electrical power, and garbage service shall be provided to the overnight lodging establishment at all times and maintained in compliance with all applicable laws, regulations, and service provider policies. Failure to continuously maintain such services and utility connections shall constitute a violation of this chapter.

H. Utility accounts shall be in good standing. (Ord. 1855 § 2 (Exh. B), 2018).

15.14.110 General requirements.

A. The following general requirements shall apply to all overnight lodging establishments, operators, overnight lodging licenses, and applications for overnight lodging licenses:

1. No person shall make any material false statement in the application or omit material information required on the application.

2. No license shall enable any person to engage in any dishonest, illegal act, practice or enterprise.

3. Overnight lodging establishments shall be established and maintained in compliance with all applicable zoning, building, fire, health, and sanitation laws and regulations.

4. Operators shall permit the director, building official, or fire marshal to conduct an inspection of the overnight lodging establishment at any time for the purpose of ensuring compliance with the requirements of this chapter, as well as fire, building, safety, health, and sanitation laws and regulations; provided, that prior to conducting an inspection reasonable notice shall be provided to the operator.

5. The director shall inspect all overnight lodging establishments prior to issuing or renewing an overnight license.

B. Failure to comply with the general requirements identified in this section shall be grounds for denial, suspension, or revocation of an overnight lodging license.

C. Prior to issuing or renewing a business license for an overnight lodging establishment the city may require the applicant to demonstrate compliance with this chapter and obtain an overnight lodging license. All overnight lodging establishments shall comply with this chapter and shall require an overnight lodging license. (Ord. 1855 § 2 (Exh. B), 2018).

15.14.120 License suspension and revocation.

A. Grounds for Suspension or Revocation. The director may suspend or revoke an overnight lodging license for any violation of this chapter. The director should generally adhere to the following progressive enforcement steps, but may, at their discretion, suspend or revoke an overnight lodging license based the severity of the violation, the risk to public health and safety, or a record of previous violations by the operator:

1. Correction Notices. The director may issue correction notices in instances where minor violations of this chapter exist which do not constitute immediate threats to public health or safety. Correction notices shall be in writing, shall identify the issue requiring corrective action, and shall be provided to the operator in person or

mailed to the address indicated on the operator's license application. Correction notices shall also specify a date by which the violation shall be remedied or corrected.

2. Suspension. The director may suspend an overnight lodging license where immediate threats to public health or safety exist, or in instances where the operator has failed to address previous correction notices. Suspensions shall remain in effect until the violations which caused the suspension have been corrected. The director may also issue conditional suspensions which identify specific lodging units, or areas of the overnight lodging establishment, which shall not be available to guests during the period of suspension.

3. Revocation. The director may revoke an overnight lodging license when numerous immediate threats to public health or safety exist, or where the operator has failed to address previous correction notices or suspensions.

B. Notice of Suspension or Revocation. Prior to suspending or revoking an overnight lodging license the director shall provide the operator with a written notice. The notice shall be provided to the operator in person or mailed to the address indicated on the operator's license application, and shall include the following:

1. The specific violations or reasons for the suspension or revocation;
2. The date upon which the license will be suspended or revoked;
3. If the notice concerns a license suspension, a statement identifying the time period of the suspension;
4. If the notice concerns a conditional suspension, a statement identifying the specific lodging units, or areas of the overnight lodging establishment, which shall not be available to guests;
5. A statement indicating that if the license is suspended or revoked, continued operation of the business is a criminal offense (WAC 246-360-035/RCW 70.62.280); and
6. A statement indicating that future license applications, or renewal requests, may be denied if the operator's license has been suspended more than once in a given year, or revoked within the preceding five years.

C. It shall be unlawful to display a license which has been suspended or revoked. When a conditional suspension has been issued, the director shall provide the operator with a revised license indicating the conditions to which the license is subject and the operator shall display the revised license during the period of suspension.

D. When an overnight lodging license has been suspended or revoked, the director shall post notices on or near the entrances to the overnight lodging establishment stating that the establishment's license has been suspended or revoked and indicating that lodging units may not be occupied or provided to guests.

E. In addition to the reasons outlined in chapter 5.04 BMC, a business license for overnight lodging establishment may be revoked under chapter 5.04 BMC if gambling or lewd, boisterous, or disorderly conduct is permitted in or about any such overnight lodging establishment.

F. Repeated Violations. If an overnight lodging establishment's license has been suspended more than once in the preceding year, or has been revoked in the preceding five years, the director may deny subsequent applications for licenses or license renewals.

G. All decisions regarding the suspension or revocation of overnight lodging licenses shall be made in writing and shall be final and conclusive unless appealed in accordance with the provisions of BMC 15.14.130 and BMC Title 14A. (Ord. 1855 § 2 (Exh. B), 2018).

15.14.130 Appeals.

A. Decisions regarding applications for overnight lodging licenses, or overnight lodging license renewals, may be appealed using the appeal procedures applicable to Type I decisions identified in BMC Title 14A.

B. Decisions regarding the suspension or revocation of an overnight lodging license may be appealed using the appeal procedures applicable to Type I decisions identified in BMC Title 14A. (Ord. 1855 § 2 (Exh. B), 2018).

15.14.140 Existing overnight lodging establishments.

Within six months of the effective date of the ordinance codified in this chapter the operators of existing overnight lodging establishment shall apply for an overnight lodging license and shall be required to obtain a license with one year of the effective date of the ordinance codified in this chapter. (Ord. 1855 § 2 (Exh. B), 2018).

15.14.150 Liability.

Whenever a license as provided for in this chapter is issued to a firm or corporation, any member of such firm or any managing officer, agent, or employee of such firm or corporation shall, upon conviction of a violation of the provisions of this title, be liable in the same manner and subject to the same penalties as the principal. (Ord. 1855 § 2 (Exh. B), 2018).

15.14.160 Severability.

If any section, sentence, clause or phrase of this chapter should be held to be invalid or unconstitutional, the invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, clause or phrase of this chapter. (Ord. 1855 § 2 (Exh. B), 2018).

15.14.170 Effective date.

The ordinance codified in this chapter shall be in full force and effect five days after its passage, approval and publication as provided by law. (Ord. 1855 § 2 (Exh. B), 2018).