

## Chapter 17.48 PERFORMANCE STANDARDS

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#### **17.48.010 Intent.**

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The intent of this chapter is to establish the following performance standards to specifically govern industrial, manufacturing, processing, assembly and similar type uses typically found within the industrial zones. These standards also apply to multifamily, commercial or industrial development when abutting a residential zone. These performance standards are intended to reduce the visual, physical, and environmental impacts of new development on existing single-family, duplex and multifamily residences and the character of the neighborhood. These standards may also apply to other uses and activities in other zones, which are not otherwise governed by other regulations. (Ord. 1322 § 10, 1996; Ord. 1221 § 6, 1992).

#### **17.48.020 Light and glare.**

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Building materials with high light-reflective qualities shall not be used in the construction of buildings in such manner that reflected sunlight will throw intense glare to surrounding areas. Artificial lighting shall be hooded or shaded so that direct light of high-intensity lamps will not result in glare when viewed from residential areas surrounding a commercial or industrial district. (Ord. 1221 § 6, 1992).

#### **17.48.030 Electrical interference.**

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Provisions must be made for necessary shielding or other preventive measures against interference occasioned by mechanical, electrical and nuclear equipment uses or processes with electrical apparatus in nearby buildings or land uses. (Ord. 1221 § 6, 1992).

#### **17.48.040 Odorous gases and matter.**

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The emission of odorous gases or matter in such quantities as to be readily detectable, without special instruments, at any point beyond the property line of the use creating the odors, is prohibited. (Ord. 1221 § 6, 1992).

#### **17.48.050 Smoke and particulate matter emissions.**

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No emissions shall exceed the allowances set forth by the Environmental Protection Agency, the Washington State Department of Ecology and/or the Northwest Sound Air Pollution Control Agency, unless local regulations are more restrictive, in which case the local regulation shall apply. (Ord. 1322 § 11, 1996; Ord. 1221 § 6, 1992).

#### **17.48.060 Dust, dirt, fly ash, or air-borne solids.**

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No observable dust, dirt, fly ash or other air-borne solids shall be emitted except as related to construction activity. (Ord. 1221 § 6, 1992).

#### **17.48.070 Waste storage.**

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Storage of animal or vegetable wastes which attract insects or rodents or otherwise create a health hazard shall be prohibited. No waste products shall be exposed to view, from eye level, beyond the property line of the use storing the waste. (Ord. 1221 § 6, 1992).

#### **17.48.080 Toxic gases and matter.**

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No emissions of toxic gases or matter shall be permitted. (Ord. 1221 § 6, 1992).

#### **17.48.090 Vibration.**

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Vibration which is easily discernible, without special instruments at any point beyond the property line, is prohibited. This shall not apply to vibration caused by highway vehicles, trains, aircraft or construction activities. (Ord. 1221 § 6, 1992).

#### **17.48.100 Hazardous substance and waste.**

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No hazardous substances or wastes shall be released into the environment so as to cause dangerous or offensive emission or contamination of any public or private water supply, sewage treatment processes, watercourse or water body, the air, or, the ground, except in accordance with standards approved by provisions of federal, state and local laws and regulations, and the Uniform Fire Code. (Ord. 1221 § 6, 1992).

#### **17.48.110 Solar access.**

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Shading affects property lying to the north of land where new construction is proposed. These criteria are required to be met for any new construction that is south of existing residential land:

A. New construction of multifamily, commercial or industrial structures more than one story in height shall in no way, partially or fully, shade the maximum building envelope of any existing dwelling(s) or vacant residential lots as determined by the angle of the sun on December 21st (winter solstice) at 12:00 p.m. (an approximate angle of 22 degrees).

B. Site plans shall be required to show the shading impacts of new multifamily, commercial or industrial structures on existing dwellings or vacant residential lots.

C. When existing vegetation is shading a dwelling or a vacant residential lot prior to the construction of an adjacent multifamily, commercial or industrial building more than one story in height, the new construction shall meet the requirements of this section as if the vegetation were not there.

D. The provisions of this section shall apply only to the primary dwelling and its maximum building envelope and not to accessory structures on the threatened property.

E. Shading impact on dwellings or on vacant residential lots shall be measured at the adjacent property's southernmost building envelope baseline, where the foundation wall would be located. (Ord. 1322 § 12, 1996).

#### **17.48.120 Height requirements for transitional zones.**

The average elevation of the nearest single-family structures on either side of a lot shall be used to establish the height limit of the multifamily and commercial structures located within 45 feet of the lot line of the single-family zone. The multifamily dwellings with this average building height will act as a transition between single-family residences and taller multifamily structures. Average building heights shall be established according to the following provisions:

A. Each structure used for averaging shall be located on a lot adjacent to the side or rear lot line for which a height limit is being established. The structure used shall be the nearest single-family structure on each side of the lot, and shall be within 100 feet of the lot lines of the lot.

B. The height limit for the multifamily and commercial structures located within 45 feet of the single-family zone shall be established by averaging the elevations of the structures on either side in the following manner:

1. The elevation to be used for averaging shall be the highest point of the roof of the nearest structure on either side.
2. Rooftop features which are exempt from height limitations shall not be included in elevation calculations.
3. The elevations obtained from subsection (B)(1) of this section shall be averaged to derive the height limit for the portion of the structure within 45 feet of the lot line.

C. When there is no single-family structure within 100 feet on a side of the lot, or when the nearest single-family structure within 100 feet on a side of the lot is across a street, the elevation used for averaging on that side shall be 30 feet.

D. When the lot is a corner lot, the height limit may be the highest elevation of the nearest structure on the same block front; provided, that that structure is within 100 feet of the side lot line of the lot and that both front yards face the same street.

E. In no case shall the height limit established according to these height averaging provisions be greater than 45 feet.

F. Height averaging will not be required for multifamily or commercial structures greater than 45 feet from the lot line of adjacent single-family lots. (Ord. 1322 § 13, 1996).

#### **17.48.130 Minimum setback requirements.**

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A. Multifamily: The same as for R-1, except the minimum side and rear yard setback for multifamily structures more than one story in height, adjacent to single-family residential lots shall be derived using a ratio of two feet building setback for every one foot of building height.

B. Commercial: The same as C-1, C-2, except the minimum side and rear yard setback for structures adjacent to single-family lots shall be derived using a ratio of two feet building setback for every one foot of building height.

C. Industrial: The same as C-1, C-2, except the minimum side and rear yard setback for structures adjacent to single-family lots shall be derived using a ratio of two feet building setback for every one foot of building height. (Ord. 1322 § 14, 1996).

#### **17.48.140 Performance standard for urban residential density.**

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Residential development shall be required to meet a minimum net density standard of four dwelling units or more per acre, on average, throughout the residential zoning districts in the unincorporated urban growth area as established in the 1997 Skagit County comprehensive plan. Four dwelling units per acre shall be the minimum allowable density for new subdivisions and development other than a single-family home on an existing lot of record, except where it cannot be achieved due to special flood risk designation or other physical site constraints. (Ord. 1388 § 1, 1999).

#### **17.48.145 Telecommunication facilities.**

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A. Application and Conditional Use Criteria – FCC Preemption. In any proceeding regarding the issuance of a conditional use permit under the terms of this chapter, federal law prohibits consideration of environmental effects of radio frequency emissions to the extent that the proposed facilities comply with the Federal Communications Commission regulations concerning such emission.

B. The following are exempt from the requirements of a conditional use permit, and shall be considered a permitted use in all zones where wireless and attached wireless communications facilities are permitted: minor modifications of existing wireless communications facilities and attached wireless communications facilities, whether emergency or routine, so long as there is little or no change in the visual appearance. Minor modifications are those modifications, including the addition of antennas, to conforming wireless and attached wireless communications facilities that meet the performance standards set forth in this title.

C. A wireless communications facility or attached wireless communications facility shall be removed by the facility owner within six months of the date it ceases to be operational or if the facility falls into disrepair. (Ord. 1396 § 57, 1999).<sup>1</sup>

**17.48.150 Mechanical equipment.**

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A. Mechanical equipment shall be equipped with a noise-baffling screen as necessary, so that there shall be no audible sound at the property line.

B. Roof-mounted or ground-mounted equipment shall be located and designed to blend in with the architecture of the building. (Ord. 1396 § 58, 1999).

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<sup>1</sup>Code reviser's note: Ord. 1396 added this section as BMC [17.48.140](#). It has been editorially renumbered to avoid duplication of section numbering.

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**The Burlington Municipal Code is current through Ordinance 1808, passed January 8, 2015.**

Disclaimer: The City Clerk's Office has the official version of the Burlington Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

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