

## Chapter 12.08

### STREET OPENINGS

#### Sections:

#### **12.08.010 Policy.**

#### **12.08.020 Highway and road openings for minor opening projects.**

#### **12.08.030 Highway and road openings for major opening projects.**

#### **12.08.010 Policy.**

The Town of Burlington discourages opening roads which have been recently paved or re-paved. Recognizing that there is an economic benefit to tax payers to encourage building in established neighborhoods, the Town shall allow such openings only on the following terms and conditions, which are designed to ensure the Town will recoup any economic loss from road openings.

#### **12.08.020 Highway and road openings for minor opening projects.**

A. The following provisions relating to highway openings shall apply to those situations in which the roads opening(s) are minor in scope. "Minor" shall mean any road openings not considered "major". Each separate opening, or 'cut', shall require a separate permit, bond and fee.

Following the paving or repaving of a town road, road openings shall be allowed by permit and fees, which shall be set and amended from time to time by resolution of the town board.

No opening shall be made in any town highway by any person for any purpose until after a permit therefore has been applied for and issued by the town clerk of the town.

B. The application forms for permits shall be furnished by the town clerk. Such forms shall contain an accurate description of the property, the name of the highway to be opened, the approximate location of such

opening and the purpose for which such opening is to be made. The application shall be signed by the owner or his authorized agent unless the work is not to be performed by the owner in person. In that event, the person engaged to do the work shall sign the application and the permit shall be issued in his name.

C. The issuance of the permit shall be subject to review by the Town Roads' Superintendent. The Superintendent shall inspect the site and the proposed plans, and shall make any modifications thereto deemed necessary in his sole discretion, which shall be binding on the applicant. No permit shall be issued until final plans are submitted bearing the approval (by signature) of the Superintendent.

D. In opening any public highway all paving and excavated materials shall be removed with the least possible damage to the surrounding area, and shall be placed where it will cause the least inconvenience to the public and where the same will not interfere with drainage. All openings in public highways shall be enclosed with sufficient barricades and lanterns or flares shall be maintained upon such location during the hours of darkness. All other necessary precautions to guard the public against accidents shall be taken.

E. The issuance of and acceptance of a permit to open a highway shall obligate the applicant of such permit to refill the opening in such highway in accordance with subsection (F) of this section and to maintain the same for a period of one year from the date of such permit. No permit to open a highway shall be issued unless the applicant pays to the town clerk a permit fee, inspection fee, a cash or insurance bond, and payment of an additional fee if the pavement is less than five years old. Such fees and bonds shall be established by resolution. Such cash bond or insurance bond shall be held by the town treasurer to guarantee the filling of trenches

and the relaying of pavement or gravel and the maintaining of such filled areas to the level of the surrounding road surface for a period of one year from the date of the permit. This completion work and maintenance shall be done by the person in whose name the permit is issued. If the permittee fails to refill such trench and/or, at any time during the period of one year, fails to maintain the filled area as herein required, such work and maintenance shall be done by town upon the order of the town chairman and in that event, the bond filed by the applicant shall be immediately and completely forfeited to the town. Any and all other costs, fees and expenses which may be incurred by the Town over and above the fees established by resolution, as may be allowed by this Code, are not excluded or exempted by virtue of this fee.

F. All excavated material removed from trenches in public highways shall be removed from the site and such trenches shall be backfilled with approved slurry fill material to the surface grade of the highway. In cases where such highway is paved with blacktop or concrete, the opening shall be repaved with blacktop or concrete in conformity with the surrounding pavement within thirty (30) days of the excavation. Back fill material required shall consist of state slurry; a compound of one thousand three hundred fifty (1,350) pounds sand, one thousand nine hundred (1,900) pounds by three-fourths inch washed stone and thirty-one (31) gallons of water per cubic yard, plus any weather-related chemicals as appropriate.

**12.08.030 Highway and road openings for major opening projects.**

A. The following provisions relating to highway openings shall apply to those situations in which the road opening(s) are major in scope. "Major" shall mean any road openings for the purposes of mainline utility

extension, mainline utility repair and/or replacement, and new subdivisions.

No person shall perform a major road opening project without first securing the consent of the town board. Such consent shall only be granted upon the execution of a contract which will provide for the refilling of all excavations and the relaying of all surfacing within a time and in a manner satisfactory to the town board. Such contract shall contain such provisions for guarantee of performance as the town board shall require.

B. The consent required by subsection (A) of this section shall be conditional upon compliance with the following provisions:

1. No opening shall be made in any town highway by any person for any purpose until after a permit therefore has been applied for and issued by the town clerk of the town.

2. The application forms for permits shall be furnished by the town clerk. Such forms shall contain an accurate description of the property, the name of the highway to be opened, the approximate location of such opening and the purpose for which such opening is to be made. The application shall be signed by the owner or his authorized agent unless the work is not to be performed by the owner in person. In that event, the person engaged to do the work shall sign the application and the permit shall be issued in his name.

3. The issuance of the permit shall be subject to review by the Town Engineer. The Engineer shall inspect the site and the proposed plans, and shall make any modifications thereto deemed necessary in his sole discretion, which shall be binding on the applicant. No permit shall be issued until final plans are submitted bearing the approval (by signature) of the Engineer.

C. In opening any public highway all paving and excavated materials shall be removed with the least possible damage to the surrounding area, and shall be placed where it will cause the least inconvenience to

the public and where the same will not interfere with drainage. All openings in public highways shall be enclosed with sufficient barricades and lanterns or flares shall be maintained upon such location during the hours of darkness. All other necessary precautions to guard the public against accidents shall be taken.

D. The issuance and acceptance of a permit to open a highway shall obligate the applicant of such permit to reconstruct and/or repair the road pursuant to the requirements of the town. All construction plans shall be furnished to the town at least sixty (60) days before the anticipated commencement date of construction. In the event that the repair and/or reconstruction of the road will involve a cut and patch trench and repair of the damaged pavements areas, permit fees and bonds shall be paid and/or posted as may be established by ordinance.

E. In the event that the repair and/or reconstruction involves full-width pavement re-processing, re-using of pavement materials and placement of full-width asphaltic binder material, permit fees and a bond shall be required as established by resolution.

F. The cash bonds herein may be posted by the municipality, governmental agency, or other entity contracting for the work to be performed that will involve the opening of any public roads, streets or highways.

G. Any cash and/or insurance bond shall be held by the town treasurer to guarantee the completion of repair and/or reconstruction work pursuant to town requirements and standards and maintaining of such area for a period of one year from the date of completion of construction. The completion work and maintenance shall be performed by the person in whose name the permit is issued. If the permittee fails to repair and/or reconstruct the road according to town requirements, such work and maintenance shall be performed by the town upon order of

the town chairman and, in that event, the cash bond and/or insurance bond filed by the applicant shall be immediately forfeited to the town in an amount equal to the cost of such repair.

H. All bonds provided therein shall be held by the town treasurer. The town shall be permitted to draw against the bonds for all costs incurred by the town with respect to the highway opening including, but not limited to, engineering fees, attorney's fees, administrative costs, inspection fees, and such other reasonable costs as may be incurred by the town relative to the highway opening. Upon completion of the project all cash bonds remaining on deposit after the town has been fully reimbursed for all of its costs as hereinabove described shall be refunded to the permittee.

I. The town shall require permittees to provide proof of liability insurance in amounts established by resolution of the town board. The town shall be listed as an additional insured party in the insurance policy. (Ord. dated 3/23/06).