

Title 12
STREETS, SIDEWALKS AND PUBLIC PLACES

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Chapter 12.04
DRAINAGE CODE

Sections:

- 12.04.010 Title of provisions.**
- 12.04.020 Tile installation.**
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- 12.04.040 Maintenance of natural contours.**
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12.04.010 Title of provisions.

This chapter shall be known as the "drainage code of the city." (Ord. 20.2 §1, 1968)

12.04.020 Tile installation.

Driveway tiles shall be installed in all driveways crossing drainage ditches or swales on, under, or alongside public rights-of-way. Such tiles shall be concrete and have a minimum inside diameter of twelve inches, and of sufficient length to provide a minimum fifteen-foot-wide entrance from any public road; provided such tiles may be omitted in certain areas lacking a roadside ditch or drainage swale upon written authorization by the city engineer. (Ord. 20.2 §2, 1968)

12.04.030 Conformance to natural drainageways.

All plats developed with curbs and gutters shall also provide storm sewers for the control and disposal of surface runoff. Such sewers and appurtenances shall be so located and designed to meet the requirements specified by the city engineer, so as to conform and be compatible with adjacent natural drainage ways and city storm sewer comprehensive planning. (Ord. 20.2 §3, 1968)

12.04.040 Maintenance of natural contours.

All natural contours shall be maintained during development, improvement, use, or construction within a

lot, site, parcel, plat, or area to the extent that natural drainage flow from or onto adjacent public or private property shall not be disrupted, blocked, increased, redirected, or otherwise made detrimental to the use or maintenance of said adjacent property; provided, that this restriction shall not prevent the tiling and maintenance of a covered storm sewer under or across private property along a natural drainage course for the purpose of generally improving a particular property, in conformance with specifications and plans meeting the approval of the city engineer. (Ord. 20.2 §4, 1968)

12.04.050 Standing water prohibited.

No unprotected and uncovered ditch, pit, hole, or excavation wherein standing water presents a hazard to health or safety, as determined by the appropriate city official shall be created, constructed, installed or permitted to exist on any property. (Ord. 20.2 §5, 1968)

12.04.060 Substances prohibited in storm sewer.

No effluent of any drainage system serving any home, trailer, or other building or used to collect sanitary wastes or garbage of any nature shall be permitted to enter, mix with, join, or flow into any natural drainage course or storm sewer system, whereby any contamination, foul odor or unsanitary condition does or is likely to occur. (Ord. 20.2 §6, 1968)

12.04.070 Abatement--Civil action.

In lieu of charging any person, firm or corporation under Section 12.04.090 of this chapter, the city may bring a civil action for abatement and recovery of all costs thereof, in which event and upon satisfaction of judgment thereon, such named defendant shall not be subject to the provisions of Section 12.04.090. Abatement proceedings shall be by civil action in municipal court or in any court of competent jurisdiction seventy-two hours or more after written demand for correction and compliance has been served by the city upon the defendant and by mail to the property owner of recOrd. Such action shall include entitlement to a temporary restraining order on a prima facie showing of violation of Sections 12.04.050 and 12.04.060 of this chapter, and on finding, after hearing, of violation of any of the provisions and requirements set forth in this chapter, and failure to correct or cause correction of the same, the court may extend additional reasonable time or may order forthwith compliance and correction by defendant, or may direct compliance, correction or abatement be accomplished under the direction of the chief of police, the city engineer or any other officer authorized by the order of said court, which order of abatement, compliance and correction shall be entered upon the docket of said court and be made a part of the judgment in said civil action hereunder. (Ord. 20.2 §8, 1968)

12.04.080 Abatement--Costs.

Upon entry of a finding of violation of any provision or requirement hereinabove set forth, the defendant shall be liable for all costs and expenses of the city, including reasonable attorney's fees in bringing the action, together with the costs of abatement, correction and compliance for which the city shall have judgment against the defendant, provided the city engineer shall keep an account of all expenses attending work performed in such abatement, correction and compliance for which the city shall have judgment against the defendant, and such separate expense for removal and installation work performed to effect abatement, correction and compliance shall be a lien upon the real property which the city shall be entitled

to collect and enforce in any court of competent jurisdiction. (Ord. 20.2 §9, 1968)

12.04.090 Violation--Penalty.

Any person, firm or corporation violating any of the provisions of this chapter shall upon conviction thereof be fined a sum not to exceed three hundred dollars or imprisoned for a period not to exceed ninety days, or both, and for each act prohibited by Sections 12.04.050 and 12.04.060 of this chapter, which is of a continuing nature each day shall constitute and be considered a separate offense. (Ord. 20.2 §7, 1968)

Chapter 12.08
STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION

Sections:

12.08.010 **Adopted.**

12.08.010 **Adopted.**

A. There are established standard specifications for construction of all public works such as streets, sewers, water distribution systems and/or other such facilities within the city.

B. The city of Brier hereby adopts by reference as though fully set forth in this chapter the Standard Specifications for Road, Bridge and Municipal Construction of the Washington State Chapter of the American Public Works Association, current edition.

C. All public works construction, including but not limited to streets, sewers, and water distribution systems in the city shall hereafter conform to the specifications referenced and adopted hereby. (Ord. 25.1.B §1, 1999; Ord. 25.1.A §1, 1969; Ord. 25.1, 1967)

Chapter 12.12
RIGHT-OF-WAY USE PERMITS

Sections:

- 12.12.010 Permit—Required.**
- 12.12.020 Permit—Application.**
- 12.12.030 Permit—Issuance—Fee.**
- 12.12.040 Appeal.**
- 12.12.050 Permit—Performance bond.**
- 12.12.060 Removal of excavated material.**
- 12.12.070 Backfilling.**
- 12.12.080 Pavement cuts.**
- 12.12.090 Traffic flow.**
- 12.12.100 Public safety.**
- 12.12.110 Liability of permittee.**
- 12.12.120 Terms and conditions.**
- 12.12.130 Violation—Penalty.**

12.12.010 Permit—Required.

No person, firm, or corporation shall dig or excavate any ditch for water, sewer, power or gas, drainage, driveway or for any purpose in the city street rights-of-way without first obtaining a right-of-way use permit issued by the department of community development and planning upon the written approval and recommendation of the city engineer and/or the designated city official. No excavation shall occur without first obtaining such permits and without first having all utilities locations identified. (Ord. 158.D §1(part), 2002: Ord. 158.A (part), 1999: Ord. 158 §1, 1984)

12.12.020 Permit—Application.

All applicants for a right-of-way use permit shall file a written application and duplicate on forms furnished by the city. The department of community development and planning shall retain one copy. (Ord. 158.D §1(part), 2002: Ord. 158.A (part), 1999: Ord. 158 §2, 1984)

12.12.030 Permit—Issuance—Fee.

A right-of-way use permit for any excavation upon any city right-of-way shall be issued only upon written approval of the city engineer and/or the designated city official as provided in Section 12.12.010 of this chapter, and upon furnishing a bond as provided in Section 12.12.050 of this chapter and further only upon payment to the city of the following fees:

A. For a paved street or alley, a right-of-way use permit issued to install new utilities including water, sewer, natural gas, electric power, stormwater, communications or cable TV shall be accomplished by using guided boring; the permit fee shall be one hundred dollars. Each individual excavation shall require a separate permit and fee.

1. Exception. If the city official determines the guided boring method is not practical or feasible, or the guided boring pits are located in a paved area, excavation upon any city right-of-way shall comply with city standards for utilities in the city right-of-way. The base course shall be cut only where the

trench or excavation work is required. Further, all conditions as provided for in this chapter and any additional requirements of the director shall apply.

a. If the alternate method is used, the permit fee shall be two hundred dollars. Each individual excavation shall require a separate permit and fee.

B. A right-of-way permit issued to open a paved street or alley for the following purposes:

1. To repair breaks or leaks;
2. To avoid interruptions to essential utility service;
3. To respond to emergencies which may endanger life or property;
4. Work that is mandated by city, state, or federal legislation shall comply with all conditions

as provided for in this chapter and any additional requirements of the director shall apply. The permit fee shall be one hundred seventy-five dollars. Each individual excavation shall require a separate permit and fee.

a. Exemptions. Public utilities, specifically, power, gas, water, telephone and cable utility companies doing utility repair for a single-family dwelling may be exempt from the permit fees of subsections (A), (B) or (C) of this section, and pay a fee of fifty dollars for each excavation. The determination shall be made by the city official at the time of right-of-way use application.

C. For an unpaved street or alley, each excavation shall not exceed one hundred square feet, or as specified by the city official. To install or repair water, sewer, natural gas line, electric power, stormwater, telephone or TV cable or for any similar reason, the permit fee shall be two hundred dollars. Each individual excavation shall require a separate permit and fee.

D. For each excavation other than those described above, the permit fee shall be five dollars per square foot, with a minimum fee of seven hundred fifty dollars. Each excavation shall require a separate permit.

E. Use of the city's right-of-way to perform any work other than excavation shall require a right-of-way use permit. The permit fee shall be fifty dollars for each four-hour time period or fraction thereof. (Ord. 158.E §1, 2005: Ord. 158.D §1(part), 2002: Ord. 158.A (part), 1999: Ord. 158 §3, 1984)

12.12.040 Appeal.

The city council may, following an administrative appeal, as outlined in Chapter 1.20 of this code and based on the evidence and testimony at the appeal hearing, allow for issuance of a right-of-way use permit not meeting the construction requirements of Section 12.12.030(A) and (B) of this chapter. (Ord. 158.D §1(part), 2002: Ord. 158.A (part), 1999)

12.12.050 Permit—Performance bond.

No right-of-way use permit for excavation shall be issued unless the permittee has on file with the public works department a performance bond in the minimum amount of three thousand dollars or an appropriate amount as required and determined by the designated city official, either with personal or corporate surety or other surety, approved by the city attorney, conditioned as a guarantee that the permittee shall, as to each excavation performed by the permittee, properly backfill each excavation in accordance with this chapter and maintain proper warning signs, barricades and warning lights in accordance with the Manual on Uniform Traffic Control Devices. The performance bond shall remain in force for one year after completion of excavation and backfill. Any settling in the repair surface within the one year shall be replaced at permittee's expense, upon notification, or city will commence repair and attach performance bond. If remedial action is required to repair settling in a paved surface, the bond will remain in force of

responsibility for repairing the surface settling. (Ord. 158.D §1(part), 2002: Ord. 158.A (part), 1999: Ord. 158 §5, 1984)

12.12.060 Removal of excavated material.

All excavated material shall be removed and disposed of, and replaced with suitable pit run and crushed surfacing materials as approved by the director of community development and planning or city engineer, compacted in nine-inch layers to ninety-five percent. Compaction testing may be ordered by the city with the expense for the same to be borne by the permittee. The permittee shall notify the director upon completion of backfill and preparation for surfacing. (Ord. 158.D §1(part), 2002: Ord. 158 §6, 1984)

12.12.070 Backfilling.

Each permittee shall place and compact any backfill to obviate any sinking or depression in any right-of-way where any excavation has been performed by any permittee. For any excavation for which the fee is provided either in Section 12.12.030(A), (B), (C) or (D) of this chapter, the permittee shall replace the surface of the right-of-way in accordance with the standards as established by the city and located in the public works department and accompanying terms and conditions incorporated as a part of the right-of-way use permit. (Ord. 158.D §1(part), 2002: Ord. 158.A (part), 1999: Ord. 158 §7, 1984)

12.12.080 Pavement cuts.

Before commencing excavation in a paved street, every permittee doing so shall first cut the pavement and/or concrete around the perimeter of the excavation with a saw, cutting wheel or other approved method and specified by the city official. (Ord. 158.D §1(part), 2002: Ord. 158.A (part), 1999: Ord. 158 §8, 1984)

12.12.090 Traffic flow.

All permittees shall, unless authorized by the city council, excavate only one-half of any street at any one time and shall backfill the said portion so excavated prior to the excavation of the remaining one-half so the traffic may not be unduly interfered with or in the alternative the permittee with written approval of the city engineer and/or the designated city official may bridge across any ditch so as to maintain proper and safe traffic flow. (Ord. 158.D §1(part), 2002: Ord. 158.A (part), 1999: Ord. 158 §9, 1984)

12.12.100 Public safety.

All permittees shall at all times during any period of excavation and backfill maintain proper signs, barricades, and warning lights in accordance with the Manual of Uniform Traffic Control Devices. (Ord. 158.D §1(part), 2002: Ord. 158 §10, 1984)

12.12.110 Liability of permittee.

Any permittee shall be responsible for any injury to persons or damage to property by reason of excavation or manner of performance of work, and by making application for a permit agrees to hold the city, its agents, employees, and persons acting on its behalf harmless from any and all claims of any sort whatsoever resulting from work performed. (Ord. 158.D §1(part), 2002: Ord. 158 §11, 1984)

12.12.120 Terms and conditions.

The following additional general terms and conditions shall apply to all permits issued:

A. No excavation shall be made or obstacle placed within the limits of a city street or alley in such a manner as to interfere unreasonably with the travel over said road.

B. Except as authorized, no excavation shall be made or obstacle placed within four feet of the edge of the pavement.

C. If the work done under a permit interferes in any way with the drainage of a street or alley, the permittee shall make such provision at the permittee's expense as the street department and/or public works director may direct to take care of said drainage. On completion of all work performed, all rubbish and debris shall be immediately removed and the roadway and roadside shall be left in a neat and presentable fashion, satisfactory to the city.

D. All work contemplated by any permit shall be done under the direct supervision and to the satisfaction of the city and the expense of such supervision shall be borne by the party or parties to whom this permit is issued.

E. The city reserves the right to order the change of location or removal of any structure or structures authorized by this permit at any time, such change or removal to be made at the sole expense of the party or parties to whom the permit is issued, or their successors.

F. A permit granted by this chapter shall not be deemed to be exclusive and shall not prohibit the city from granting other permits of like or other nature to other public or private utilities nor shall it prevent the city from using any of its streets or alleys or public places, or affect its rights to full supervision and control over all or any part of them, none of which is surrendered.

G. The city may revoke, annul, change, amend, amplify, or terminate a permit or any of the terms and conditions enumerated in a permit if the permittee fails to comply with any or all of its provisions, requirements or regulations as set forth in this chapter or through willful or unreasonable neglect, fails to heed or comply with notices given.

H. The party or parties to whom this permit is issued shall maintain at their sole expense the structure or object for which this permit is granted in the condition satisfactory to the city. (Ord. 158.D §1(part), 2002: Ord. 158 §12, 1984)

12.12.130 Violation—Penalty.

Any person, firm, corporation or other entity violating or failing to comply with any of the provisions of this chapter or the conditions established by the permit as issued shall be subject to a nontraffic civil infraction in the amount set forth in Chapter 1.28 of this code, General Penalty, and shall be punished in accordance with the current fine and penalty provisions for a Class B civil infraction. Failure to respond to a Class B civil infraction or a second and subsequent violation for the same offense shall constitute a Class C civil infraction. Failure to respond to any infraction, third or subsequent violation, shall constitute a misdemeanor and shall be subject to the general fines and penalties for misdemeanors as stated in this code or under the laws of the state of Washington. Each day a violation is committed or continued shall constitute a separate offense and may be punished as such. (Ord. 158.D §1(part), 2002: Ord. 158.A (part), 1999: Ord. 158 §13, 1984)

Chapter 12.16
ATHLETIC FACILITY USE REGULATIONS

Sections:

- 12.16.010 Purpose.**
- 12.16.020 Scheduling priorities.**
- 12.16.030 Scheduling procedures.**
- 12.16.040 Fees and charges.**
- 12.16.050 Rules and regulations.**
- 12.16.060 Violation—Penalty.**

12.16.010 Purpose.

The purpose of this document is for all city of Brier athletic facilities to:

- A. Establish scheduling priorities;
- B. Outline facility scheduling procedures;
- C. Define fees and charges for use of the facilities;
- D. Define rules and regulations regarding use; and
- E. Assure equitable distribution and maximum use of the facilities by the public. (Ord. 142.G §1, 2001: Ord. 142.E §1, 1998: Ord. 142.C §1, 1987: Ord. 142(b), §1, 1985: Ord. 142a §1, 1983)

12.16.020 Scheduling priorities.

A. Priority use will be granted to organizations, clubs and groups residing within the corporate limits of the city of Brier, the boundaries of the Edmonds School District and the Northshore School District. All organizations desiring to utilize the facilities must provide a roster showing at least fifty percent of their membership residing within the boundaries described above. Exceptions to the above may be considered for tournaments, special events, etc.

- B. Programs meeting the requirements of subsection A of this section will be scheduled as follows:
 - 1. First Priority: Nonprofit community/city sponsored youth programs;
 - 2. Second Priority: Nonprofit city sponsored adult programs;
 - 3. Third Priority: Independent sponsored programs, family parties and private groups. (Ord. 142.G §2, 2001: Ord. 142.E §2, 1998: Ord. 142.C §2, 1987: Ord. 142(b), §2, 1985: Ord. 142a §2, 1983)

12.16.030 Scheduling procedures.

A. Requests for use of park or athletic facilities must be submitted on forms provided by the city and submitted to the Brier City Hall.

B. Facilities will be scheduled for three program periods each year which are as follows:

Spring/Summer (May, June, July, and August) Requests for this period will be accepted beginning January 1st.

Fall (September, October, and November) Requests for this period will be accepted beginning July 1st.

Winter (December, January, February, March, Normally Brier facilities and parks will be closed

and April)

to all organizations, clubs, and groups. Special consideration may be given to allow certain activities on a limited basis if field and facilities are in satisfactory condition. Any requests for this period will be accepted beginning October 1st of each year.

C. A scheduled meeting, if necessary, will be conducted within thirty days after the designated date for submission of requests. Following the scheduling meeting, approved requests will be mailed to each organization confirming the dates of use. Facilities will be assigned on an equitable basis and contingent upon field availability. Reassignments necessary due to inclement weather or facility closure will be made when possible.

D. The city reserves the right to limit the amount of play permitted on the facilities during any program period. Beginning and ending dates for field use will be established by the city for each period.

E. Field use requests must be accompanied by an organization information form defining pertinent information about the organization and their various programs.

F. All organizations shall submit two copies of their formal league schedule to the city thirty days before the program starting date.

G. Scheduled league games shall have priority for use of the facilities over practices. Maximum scheduled time per game is three hours and maximum scheduled time per practice is three hours. Practice session locations may be rotated around the field playing surfaces in accordance with existing field conditions. The department of public works will control use of the facility. (Ord. 142.G §3, 2001: Ord. 142.E §3, 1998: Ord. 142.D §1, 1993; Ord. 142.C §3, 1987: Ord. 142(b), §3, 1985: Ord. 142a §3, 1983)

12.16.040 Fees and charges.

A. Fees and charges will be assessed for use of all facilities to help partially offset administrative and park operation costs; provided, however, for special events sponsored by the park board, or events of city-wide benefit which are also open to the general public, after approval by the city council, there shall be no fees or charges for usage for such events.

B. Facility Rental—Hourly Rates. The user shall pay for all reserved use at the rate established from time to time by city council resolution.

C. Tournament and Special Events Fees. The facility rental fees listed above will be charged accordingly for all tournaments and special events. Tournament requests are to be submitted on a tournament request form and must be accompanied by a fifty dollar deposit. If a gate entry fee is charged to the general public to observe the activity, ten percent of the gross gate income or twenty five dollars per day, whichever is greater, will be required in addition to the above fees. All special event fees must be paid one week before the activity with the exception of the gate entry fee, which must be paid within forty-eight hours of the conclusion of the activity.

D. Collection of Fees. Billing statements for facility usage will be attached to approved facility use permits and must be paid within thirty days of receipt of approved permit. Failure to make payment within the thirty-day period will result in immediate termination of approved permit. All payments for fees and charges will be made by check payable to the city of Brier.

1. Exception: Fees may be paid in the form of services provided upon recommendation from

the city of Brier public works superintendent and after approval by the city council.

2. Fees paid by services rendered shall require a written receipt describing the nature, amount, contribution, and relative value of the services rendered and received. Such receipt shall be provided to the public works superintendent or designee, and services in lieu of fees shall be accepted only to the extent that such services are actually rendered and provide a benefit to Brier facilities in an amount approximately equal to the fees due. The department of public works shall maintain and preserve such receipts for purposes of audit and review of payment of fees by services in lieu of cash payment.

E. Refunds.

1. Request for refunds must be submitted in writing to the city council. Refunds may be granted based on the following conditions:

a. Games or total tournament cancelled by the athletic team or organization at least five working days in advance.

b. Games or total tournament cancelled by weather conditions, which are not rescheduled to a later time or day.

c. Games or total tournament cancelled by Brier officials at least forty-eight hours in advance of the scheduled activity, and which has not been subsequently rescheduled to an earlier or later time and date.

d. Emergency, short or no notice cancellations, instituted by police, fire, park or official personnel, wherein, the health and/or safety of the participants and/or spectators could be endangered, which are not rescheduled to a later date and time.

e. Adverse weather conditions which are not rescheduled to a later time or day.

2. All refunds for the above reasons will be made to the organization at the conclusion of the approved permit use.

3. Refunds will not be given for the following:

a. The cancellation of a portion of a game request, by an athletic team, organization or association.

b. The cancellation of a portion of a game request, caused by weather conditions.

c. Emergency, short or no notice, cancellation of a portion of a game request.

d. Practice permit fees.

e. For cancellation of reservations to use the picnic shelter for any reason. (Ord. 361 §1, 2008; Ord. 326 §1, 2006; Ord. 142.H §§1, 2, 3, 2002; Ord. 142.G §4, 2001; Ord. 142.E §4, 1998; Ord. 142.C §4, 1987; Ord. 142(b), §4, 1985; Ord. 142a §4, 1983)

12.16.050 Rules and regulations.

A. Illegal drugs are prohibited at all park facilities.

B. Alcoholic beverages may be permitted for special events only with approval of the Brier city council, further in compliance with all state liquor laws.

C. Motor vehicles are to be parked only in designated parking areas except as may be permitted for special events and approved by the Brier public works department.

D. Animals are not permitted on the park athletic fields or playground facilities at any time except for special events and approved by the Brier public works department.

E. No person shall mutilate, deface or damage any park facility or improvements. All litter shall be deposited in designated receptacles.

F. No person shall engage in the sale of any merchandise or services or operate any concession

without prior approval of the city council; provided, however, that for those special events as defined in Section 12.16.040(A) of this chapter, this requirement regarding limitation on sale of merchandise or services, or operation of concessions, shall be waived.

G. Minor organizations will not be permitted to use the facilities without adequate adult supervision at all times.

H. All organizations, groups and/or individuals using the facilities must leave them in a satisfactory condition. Failure to do so will result in additional maintenance costs charged to the organizations, group or individuals responsible for additional clean up.

I. The city of Brier reserves the right to cancel any facility use permit for just cause or to amend the procedures set forth in this document at any time.

J. The park department, the department of public works or the city of Brier is not responsible for accidents, injuries or loss of property.

K. The misuse of a park facility or the failure to conform to these regulations will be sufficient reason for immediate permit suspension and/or denial of future applications.

L. The groups using the facilities agree to indemnify, defend and hold harmless the city of Brier from and against any and all claims for damages resulting from the death, personal injury or property loss or damage suffered or claimed to have been suffered by any person whatsoever and arising out of any act or omission of the applicant and/or its agents during use of the facilities.

M. Teams may not use ball fields unless prescheduled.

N. City ball fields and park facilities will be available for scheduling, as noted in Section 12.16.030 of this chapter, Scheduling Procedures.

O. Fields for practice or game sessions will not be lined.

P. Official league schedules are due in this office thirty days prior to league play. Fields will not be maintained for league play unless this is done.

Q. Forty-eight-hour notice is required for requests for additional field usage.

R. Cancellations of ball fields must be reported to this office five working days prior to date of scheduled usage.

S. When using park, and playing fields, teams must furnish their own bases.

T. In the judgement of the city or umpires, a game may be cancelled due to wet grounds. A game played on wet grounds will cause damage to the field and delay future play. Field "closed" signs will be displayed at all park sites when fields are too wet.

U. City Hall is to be contacted if a user is not satisfied with the maintenance of fields during league play: (425) 775-5440.

V. Misuse of ball fields should be reported to (425) 775-5440.

W. Approved field or facility request forms must be carried and produced upon request of city officials.

X. The mayor, director of community development and planning, or designee or chief of police may, as necessary, close the parks or use of park facilities at any time. Signs shall be displayed when such a closure occurs. All parks and park facilities shall be deemed closed, whether or not posted closed, as of nine-thirty p.m. of each day.

Y. All organized athletic user groups shall supply the city proof of insurance for not less than one million dollars, and shall name the city of Brier as additionally insured before any issuance of use permits. The mayor or city council shall reserve the right to request any other organized users of park facilities to supply proof of insurance for not less than one million dollars and naming the city of Brier as additionally

insured. (Ord. 142.G §5, 2001: Ord. 142.E §5, 1998: Ord. 142.C §5, 1987: Ord. 142(b), §5, 1985: Ord. 142a §5, 1983)

12.16.060 Violation--Penalty.

A. Violation of any part of this chapter shall constitute a nontraffic civil infraction as provided for in Section 1.28.030 of this code and shall be punished in accordance with the current general fine and penalty provisions for a Class B civil infraction. Failure to respond to a civil infraction or a second violation shall be issued a Class C civil infraction. Failure to respond to any civil infraction or further violation shall constitute a criminal misdemeanor for any person to mutilate, deface, or damage any park facility or improvement.

B. Conviction of a criminal misdemeanor shall be punishable by a fine of up to one thousand dollars and one year in jail in addition to any other penalty or remedy afforded by this code or laws of the state of Washington. (Ord. 142.G §6, 2001: Ord. 142.E §6, 1998: Ord. 142.C §6, 1987: Ord. 142(b), §6, 1985: Ord. 142a §6, 1983)

**Chapter 12.20
STREET DEBRIS REMOVAL AND CONTROL**

Sections:

- 12.20.010 Requirements and restrictions.**
- 12.20.020 Failure to abate--Penalty.**
- 12.20.030 Failure to comply with order--Penalty.**

12.20.010 Requirements and restrictions.

It is unlawful for any person or firm or corporation through its agents or employees or authorized subcontractors or suppliers to cause to be deposited upon the public rights-of-way of the city, any mud, rock, dirt, or other debris or material of any nature, except under the following conditions:

A. A permit has been obtained from the city for the hauling of material or items to or from premises either in connection with filling, excavating, grading or constructing any building or structure of any type whatsoever, and such activity either does, or is likely to, contribute to the depositing of dirt, mud, rock, debris or other material of any nature on the public rights-of-way by virtue of truck or other vehicular traffic or from any other cause resulting in such deposits upon the public rights-of-way.

B. A cash deposit in an amount to be established by the designated city official, but in no event less than two hundred fifty dollars, shall be deposited with the city to be held in trust to cover the cost of any necessary maintenance, repairs or other cleanup in the event of the failure of any person, firm or corporation causing any dirt, mud, rock or other debris or material being deposited upon the roadway to remove the same. These funds or the balance shall be refunded upon completion of the activity resulting in the debris and material being deposited on the roadway.

C. The permit required under this section may be coupled with, and shall be deemed a part of any other permit otherwise required to be issued in conjunction with any activities, construction or development going on premises which result in any offending debris or material being deposited upon the public rights-of-way; provided, however, those projects presently underway as of the effective date of the ordinance codified in this chapter shall obtain the necessary permission, post the required deposit and

perform the necessary cleanup, even though operating under other valid permits from the city.

D. Each permittee shall be required to make provision to have adequate equipment available during the course of each day's operation to assure a speedy and timely removal of any rock, mud, dirt or other debris or material from the public rights-of-way. Such shall include availability of a power broom or other means approved by the city's representative. The right-of-way surfaces shall be cleaned prior to the end of each day's operation and, in addition, all catchbasins, culverts or other municipal improvements affected by the depositing of mud, dirt, rock, debris or other material shall also be cleaned to the satisfaction of the city as is necessary as determined by a representative of the city. (Ord. 60.A §1, 1999; Ord. 60 §1, 1978)

12.20.020 Failure to abate--Penalty.

Anyone who fails to comply with the terms and provisions of Section 12.20.010 of this chapter, or who otherwise causes, directly or indirectly, the depositing of mud, dirt, rock, debris or other materials upon the public rights-of-way and fails to clean the same in a timely manner, shall be subject to a civil infraction, the penalty for which shall be as set in Chapter 1.28 of this code, the general fine and penalty provisions for nontraffic civil infractions. Violations of any provisions of this chapter upon the first offense shall be Class B civil infractions. A second offense shall be a Class C civil infraction. The third and subsequent offense shall be punishable as a misdemeanor.

Each day the violation occurs shall be considered a separate violation. Failure to respond to an initial infraction or a second and subsequent violation of the same provision shall constitute a misdemeanor and shall be subject to the general fines and penalties as established for misdemeanor violations in this code. (Ord. 60.A §2, 1999; Ord. 60 §2, 1978)

12.20.030 Failure to comply with order--Penalty.

In the event any person, firm or corporation fails to comply with the provisions of this chapter as to cleanup of debris or other material deposited on the public rights-of-way, or any sewer system of the city, the mayor, or his designee, may cause a notice and order to be issued to any representative of the party responsible for such action, including on the job site, which may order all work to cease until the necessary permits and/or cleanup is obtained and/or accomplished to the satisfaction of the city's representative. Failure to comply with this provision shall result in the issuance of an infraction, the penalty for which shall be as established in the general fine and penalty provisions of this code for infractions. Failure to respond to an initial infraction, or a second and subsequent violation of the same provision, shall constitute a misdemeanor and shall be subject to the general fines and penalties as established for misdemeanor violations in this code. (Ord. 60.A §3, 1999; Ord. 60 §3, 1978)

Chapter 12.24
STORMWATER DETENTION FACILITIES

Sections:

- 12.24.010** **Applicability.**
- 12.24.020** **Definitions.**
- 12.24.030** **Permit--Procedures.**
- 12.24.040** **Permit--Issuance or denial.**
- 12.24.050** **Violation--Penalty.**

12.24.010 Applicability.

This chapter and the requirements herein are in addition to any other permit requirement that otherwise applies with respect to construction, maintenance or use of a stormwater facility including, without limitation, the requirement for a shoreline substantial development permit, a grading permit, a building permit, or a determination of environmental significance. No regional stormwater detention facility shall be allowed in the city except after meeting all of the requirements of this chapter. (Ord. 192 §1(part), 1987)

12.24.020 Definitions.

As used in this chapter:

A. "Regional stormwater detention facility" means any device and associated geographic water storage area which collects and retains regional stormwater runoff, including all improvements necessary for such retention; the areas where such water is retained, the improvements to property necessary for such retainage, including tree cutting, ground profile changes, grading and leveling; for a facility servicing more than a single plat or subdivision.

B. "Regional stormwater detention facility permit" means a permit issued by the city public works department, subject to appeal to the city council as provided in this chapter, which shall be necessary prior to any construction, use or maintenance of any regional stormwater detention facility as defined in subsection A of this section. (Ord. 192 §2, 1987)

12.24.030 Permit--Procedures.

A. No person shall construct, use, or maintain any regional stormwater detention facility as defined in this chapter without first having obtained a regional stormwater detention facility permit issued by the city. An application may be filed by any person, entity, public works department, private or public applicant, on forms as provided by the city clerk. In conjunction with each application, the applicant shall submit a fully completed environmental checklist regardless of whether any independent or other determination under the State Environmental Policy Act has previously been made or environmental impact statement issued, and the same shall be a part of the project proponent's application and shall be reviewed by the city independently of any other environmental significance and necessity of environmental study of city-related impacts. The fee for a regional stormwater detention facility application shall be five hundred dollars and shall be nonrefundable.

B. After receipt of an application for a regional stormwater detention facility, the clerk shall cause notice to be issued to all property owners in Brier which are within three hundred feet of the proposed regional stormwater detention facility and associate water storage area, giving twenty days advance notice

of a public hearing to be held at the City Hall on the proposed application, which notice shall likewise be published once each week for two successive weeks in a newspaper of general circulation in the city giving notice of said hearing. Any person, entity or interested party may appear and be heard with respect to the proposed application at the public hearing.

C. After considering the project proponent's application and associated documents, and after the public hearing above, the department of public works may issue, deny, or conditionally grant a regional stormwater facility permit provided, however, any permit issued with or without conditions, may be appealed to the city council by written notice of appeal filed by any affected party within thirty days after issuance by the department of public works. Upon issuance of any permit, notice shall be mailed to each property owner within three hundred feet of the proposed project and associated water detention area, that a permit has been issued and of the right of the party to appeal. In the event that no appeal is filed, the permit shall be final after said appeal period has expired. No permit shall be valid pending appeal.

D. In the event of an appeal, the city council shall hear the application, de novo without regard to any determination made by the department of public works, and may issue, deny or conditionally grant a permit. Any party appearing in support of or in opposition to the application shall be heard at a public meeting held by the city council prior to taking final action on the application. (Ord. 192 §3, 1987)

12.24.040 Permit--Issuance or denial.

No permit for a regional stormwater detention facility shall be issued unless such facility:

A. Is clearly in compliance with the city's comprehensive plan and Shoreline Management Master Program;

B. Will not flood, cover, or cause the loss of use, whether temporary or permanent, of any area covering more than one hundred square feet commonly used or enjoyed by the public, or more than four residences, as open space or for recreational purposes. (Ord. 192 §4, 1987)

12.24.050 Violation--Penalty.

Any construction, maintenance, or use of a regional stormwater detention facility as defined in this chapter without first obtaining a permit shall be a misdemeanor and may be prosecuted as such. The fine and penalty for violation of this chapter shall be the then-maximum amount for misdemeanors imposed or allowed by the state for the prosecution of misdemeanors, as of the time of the offense. (Ord. 192 §5, 1987)

Chapter 12.32
STORMWATER MANAGEMENT UTILITY

Sections:

- 12.32.010 Purpose.**
- 12.32.020 Definitions.**
- 12.32.030 Stormwater management utility created--Responsibilities.**
- 12.32.040 Administrator of utility.**
- 12.32.050 Ownership of city stormwater facilities and assets.**
- 12.32.060 Connection procedures--Permit.**
- 12.32.070 Inspection.**
- 12.32.080 Washington State Department of Ecology Manual.**
- 12.32.090 City of Brier standards.**
- 12.32.095 Stop loss provisions.**
- 12.32.100 Storm and surface water fund created.**
- 12.32.110 Charges.**
- 12.32.120 City of Brier facilities and right-of-way.**
- 12.32.130 Senior/disabled low income discount.**
- 12.32.140 Appeal of charges.**
- 12.32.150 Billing and collections.**
- 12.32.160 Nonpayment of charges.**
- 12.32.170 Penalties for nonpayment of charges.**
- 12.32.180 Utility billing--Credit priority.**
- 12.32.190 Liability disclaimer.**

12.32.010 Purpose.

It is the purpose of this chapter to create a funding methodology to provide financing for planning, development, management, operation, maintenance, use and alteration of the storm drainage and surface water runoff system in the drainage basins of the city, as specified in and pursuant to RCW Chs. 35.67 and 39.34, and Article 11, Section 11 of the Washington State Constitution. Further, to promote sound development policies and construction procedures which respect and preserve the city's watercourses; to minimize water quality degradation and control of sedimentation of creeks, streams, ponds, lakes, and other water bodies; to protect the life, health, and property of the general public; to preserve and enhance the suitability of waters for contact recreation and fish habitat; to preserve and enhance the aesthetic quality of the waters; to maintain and protect valuable groundwater quantities, locations, and flow patterns; to ensure the safety of city roads and rights-of-way; and to decrease drainage-related damages to public and private property. (Ord. 294 (part), 1999)

12.32.020 Definitions.

For the purposes of this chapter, the words or phrases below shall have the following meanings:

- A. "City" means the city of Brier, Washington, or as indicated by the context, may mean the sewer department, sewer superintendent, clerk-treasurer, city engineer or other employee or agent representing the city in the discharge of his or her duties.

B. "Impervious surface" means those hard surfaced areas either which prevent or retard the entry of water into the soil in the manner that such water entered the soil under natural conditions preexistent to development, or which cause water to run off the surface in greater quantities or an increased rate of flow than that present under natural conditions preexistent to development, including, without limitation, such surfaces as, but not limited to, roof tops, asphalt or concrete paving, driveways and parking lots, walkways, patio areas, storage areas or other surfaces which similarly affect the natural infiltration or runoff patterns existing prior to development.

C. "Residence" means a building or structure or portion thereof, designed for and used to provide a place of abode for human beings. The term residence includes the term "residential" and "residential unit" as referring to the type of or intended use of a building or structure.

D. "Service charge" means the fee levied by the city upon all developed real property within the boundaries of the city as authorized by Section 12.32.100 of this chapter.

E. "Single-family residential property or parcel" means any property or parcel which contains one residential unit which is within the same structure. Properties or parcels which contain more than one residence or residential units shall be classified as non single-family residential properties or parcels.

F. "System" means the entire system of storm drainage and surface water runoff facilities owned by the city or over which the city has right of use for the movement and control of storm drainage and surface water runoff, including both naturally occurring and manmade facilities.

G. "Undeveloped" means that condition of real property unaltered by the construction or addition to such property by man of impervious groundcover or physical manmade improvements of any kind which change the hydrology of the property from its natural state. (Ord. 294 (part), 1999)

12.32.030 Stormwater management utility created--Responsibilities.

There is hereby created and established pursuant to RCW Chs. 35A.80 and 35.67, a storm and surface water utility to be known as the stormwater management utility. All references to the "utility" in this chapter refer to the stormwater management utility. The utility will have primary authority and responsibility for carrying out the city's comprehensive drainage and storm sewer plan, including responsibilities for planning, design, construction, maintenance, administration, and operation of all city storm and surface water facilities, as well as establishing standards for design, construction and maintenance of improvements on private property where these may affect storm and surface water and management. (Ord. 294 (part), 1999)

12.32.040 Administrator of utility.

The superintendent of public works shall be the administrator of the utility. (Ord. 294 (part), 1999)

12.32.050 Ownership of city stormwater facilities and assets.

Title and all other incidents of ownership of the following assets are hereby vested in the utility:

A. All properties, interest, and physical and intangible rights of every nature owned or held by the city, however acquired, insofar as they relate to or concern storm or surface water runoff.

B. All properties, interests and rights acquired by adverse possession or by prescription directly or through another in and to the drainage or storage, or both, of storm or surface waters, or both, through, under or over lands, watercourses, sloughs, streams, ponds, lakes, and swamps. The properties, interests and rights so transferred shall begin from a point where storm or surface waters first enter the storm and

surface water system of the city and shall end at a point where the storm or surface waters exit from the storm and surface water system of the city. The width of the properties, interest and rights so transferred shall be to the full extent of inundation caused by storm or flood conditions.

C. All funds on deposit in the city storm drainage fund and future revenues of said fund. (Ord. 294 (part), 1999)

12.32.060 Connection procedures--Permit.

A. It is unlawful for any person to construct, connect, repair or replace any portion of the city's storm drainage system without first obtaining a permit to do so.

B. The city shall establish reasonable rules and regulations for a permit system to govern the construction, connection, repair or replacement of the city's storm drainage system. The permit fee shall be established and stated in Chapter 3.04 of this code.

C. All excavations for storm drainage installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Work within the rights-of-way shall conform to all city rules and regulations. (Ord. 294 (part), 1999)

12.32.070 Inspection.

Duly authorized and properly identified city employees shall have the right to access any person's property at all reasonable times for the purpose of inspecting private storm drainage systems for compliance with the provisions of this chapter, and for inspecting, testing or repairing any part of the public storm drainage system on private property. (Ord. 294 (part), 1999)

12.32.080 Washington State Department of Ecology Manual.

The WSDOE Manual, current edition, is hereby adopted by reference. (Ord. 294 (part), 1999)

12.32.090 City of Brier standards.

The city has established regulations and standards for design, construction, and maintenance of improvements on private property where these may affect storm and surface water and management. A copy of the standards referenced herein shall be located in the city public works department. (Ord. 294 (part), 1999)

12.32.095 Stop loss provisions.

A. Stop Loss Defined. "Stop loss," as used in this section, refers to an allowance for the treatment, flow control, and wetlands protection requirements imposed for impervious surfaces, subject to a specified limit, as herein described, and in consideration of existing storm water conditions for existing nonresidential development. "Stop loss" does not apply to meeting storm water requirements for new impervious surfaces, for new construction not involving redevelopment.

B. Criteria. A nonresidential redevelopment project, as defined by the Washington State Department of Ecology Storm Water Manual, current edition, need not construct stormwater improvements beyond a specified stop loss amount, specified either as a percentage of the total project costs, or a specified dollar maximum, as established by the city engineer. The stop loss amount, as established by the city engineer, shall be subject to the normal administrative appeal requirements of the city's administrative appeals ordinance. Only nonresidential development shall be qualified for stop loss limitations.

C. Effective Date for Stop Loss Redevelopment Provisions. Any project whose development rights

were vested after release of the State of Washington Department of Ecology's August 2001 Storm Water Development Manual shall be vested and entitled to stop loss predevelopment requirements, as stated in this section. Projects vested prior to such date shall be required to develop in accordance with the then current stormwater requirements as of the date of vesting of the project application. (Ord. 312 §§1--3, 2004)

12.32.100 Storm and surface water fund created.

The storm and surface water management fund, Fund No. 407, is hereby created. All service charges and related revenues shall be deposited in this fund and shall be used to fund repairs, replacement, maintenance and operations as well as making improvements to all existing and future storm drainage and surface water run off facilities.

The city clerk/treasurer is authorized to make necessary deposits, expenditures or transfers to and from Fund No. 407 as required to operate the utility. (Ord. 294 (part), 1999)

12.32.110 Charges.

The following utility charges are hereby established for all parcels of real property in the city:

A. Residential Parcels. The single-family residential charge shall be three dollars per month for each parcel having one residential dwelling. This uniform rate is based on each residential parcel being equal to one equivalent service unit (ESU).

B. Non-Single-Family Parcels. Each residential unit that has an assigned number or address for postal purposes shall be charged three dollars per month.

C. Undeveloped Parcels. Undeveloped parcels shall not be charged.

D. Schools, Churches and Neighborhood Businesses.

1. The charge for all other parcels except residential parcels and undeveloped parcels shall be based upon the total amount of impervious surface as measured by the public works department.

2. The charge for all such parcels shall be three dollars per month for each two thousand square feet of impervious surface. (Ord. 294 (part), 1999)

12.32.120 City of Brier facilities and right-of-way.

All city facilities including parks and open space, as well as rights-of-way, including surfaced and nonsurfaced streets, alleys, and all other public roads located within the city shall be exempt from the charges established within this chapter. (Ord. 294 (part), 1999)

12.32.130 Senior/disabled low income discount.

Parcels owned by persons qualifying for senior or disabled property tax exemption as determined by Snohomish County's assessor's office, would be exempt from storm and surface water service charges. The property tax exemption is authorized in RCW 84.36.381. The property owners' status must be approved and on file with the county assessor's office. (Ord. 294 (part), 1999)

12.32.140 Appeal of charges.

A. Any person, firm, corporation or district who considers the stormwater utility charge applied to said parcel to be inaccurate, or who otherwise disagrees with a stormwater utility rate determination, may apply to the Brier city council for a rate adjustment, stating in writing the grounds of the appeal.

B. Nothing in this chapter shall be construed to grant a right to judicial review which does not otherwise exist in law. In all cases, the decision of the council shall be final and conclusive. (Ord. 294 (part), 1999)

12.32.150 Billing and collections.

Utility rates and charges for each parcel of developed real property within the city shall be computed on a bimonthly basis for all residential accounts. The amount to be billed shall be included on the existing sewer bill as a separate line item. A "stormwater only" statement will be sent to those property owners who are not sanitary sewer customers. The city shall bill the address of the property served unless otherwise specified by the property owner, but this shall not relieve the owner from liability for utility rates and charges.

A. A discount of one month's rate may be granted if eleven months of the effective rate is paid by February 28th of each year. (Ord. 294 (part), 1999)

12.32.160 Nonpayment of charges.

A. Collection of and penalties for nonpayment of bills shall be pursuant to conditions identified in Section 12.32.170 of this chapter.

B. For nonpayment of the service charge for use of the storm and surface water utility of the city, the city shall have the right to pursue the filing and foreclosing of a lien(s) in accordance with the laws of the state of Washington, for any unpaid and delinquent bills. (Ord. 294 (part), 1999)

12.32.170 Penalties for nonpayment of charges.

A. The bimonthly service charge is due on the last day of the bimonthly period and thereafter will be past due. Each subsequent billing for which a portion of the account is unpaid the past due shall be marked "past due". A late charge of ten percent per annum of that portion of an account past due over thirty days and still unpaid at the time of the next billing shall be added to the total for said account then being billed. The principal sum due and late charge penalty shall bear interest at the rate of eight percent per annum as provided by RCW 35.67.200.

B. All accounts past due 120 days are delinquent and the owners of record will be notified by certified mail of the delinquent status and that a lien may be filed against the property unless the account is cleared within sixty days of mailing of said notice. The city council shall subsequently review such delinquent accounts along with related correspondence, whereupon a lien may be ordered against that property for which satisfactory payment arrangements have not been made. In no event shall such arrangements permit additional service charges to become past due or permit the past due balance to remain past due beyond an additional one hundred eighty days. (Ord. 294 (part), 1999)

12.32.180 Utility billing--Credit priority.

In the event that any person, firm or corporation shall tender as payment of sewer or stormwater services an amount insufficient to pay in full all of the charge so billed, credit shall be given first to the stormwater utility charges, second to the charges for sanitary sewer service. (Ord. 294 (part), 1999)

12.32.190 Liability disclaimer.

A. Floods from stormwater runoff may occasionally occur which exceed the capacity of storm drainage facilities constructed and maintained by funds made available under this chapter. The city's

adoption of this code does not imply that property liable for the storm and surface water drainage charge will always be free from stormwater flooding or flood drainage. Further, this code does not purport to reduce the need or the necessity for any property owner to obtain flood insurance.

B. This chapter shall be administered and enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.

C. No provision of or any term used in this chapter is intended to impose any duty upon the city or any of its officers or employees which would subject them to damages in a civil action. (Ord. 294 (part), 1999)