

**Title 8  
HEALTH AND SAFETY**

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**Chapter 8.02  
EMERGENCY MANAGEMENT**

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**8.02.010 Purpose.**

The declared purposes of this chapter are to provide for the preparation and carrying out of plans for mitigation, preparedness, response and recovery for persons and property within the city of Brier in the event of an emergency or disaster, and to provide for the coordination of emergency functions and services of the city of Brier with the Emergency Services Coordinating Agency (ESCA) and other affected public agencies and private persons, corporations and organizations. Any expenditures made in connection with such emergency management activities, including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the city of Brier. (Ord. 304 §3(part), 2003)

**8.02.020 Emergency management policy.**

It is the policy of the city of Brier to make effective preparation and use of manpower, resources, and

facilities for dealing with any emergency or disaster that may occur. Disasters and emergencies, by their very nature, may disrupt or destroy existing systems and the capability of the city of Brier to respond to protect life, public health and public property. Therefore, citizens are advised to be prepared to be on their own for up to seventy-two hours should an emergency or disaster occur. (Ord. 304 §3(part), 2003)

**8.02.030 "Emergency management" defined.**

"Emergency management" shall mean the preparation for and the carrying out of all emergency functions, other than functions for which the military forces are primarily responsible, to mitigate, prepare for, respond to and recover from emergencies and disasters, and to aid victims suffering from injury or damage resulting from disasters caused by all hazards, whether natural or manmade, and to provide support for search and rescue operations for persons and property in distress. (Ord. 304 §3(part), 2003)

**8.02.040 "Emergency or disaster" defined.**

"Emergency or disaster" as used in this chapter shall mean an event or set of circumstances which:

A. Demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken area within the city overtaken by such occurrences; or

B. Reaches such a dimension or degree of destructiveness as to warrant the mayor proclaiming the existence of a disaster or the Governor declaring a state of emergency in accordance with appropriate local and state statutes. (Ord. 304 §3(part), 2003)

**8.02.050 "Disaster coordinator" defined.**

"Disaster coordinator" shall mean the person, appointed by the mayor, who is responsible for the administration and operation of the emergency management program for the city of Brier. (Ord. 304 §3(part), 2003)

**8.02.060 "Deputy disaster coordinator" defined.**

The "deputy disaster coordinator" shall mean the person appointed by the disaster coordinator to represent him/her in his/her absence. (Ord. 304 §3(part), 2003)

**8.02.070 Emergency operations plan.**

The emergency operations plan, prepared by the emergency management committee, is the official emergency operations plan of the city of Brier. The disaster coordinator shall file a copy of said plan in the office of the Brier city clerk, and distribute copies of said plan to appropriate city departments. (Ord. 304 §3(part), 2003)

**8.02.080 Emergency management organization.**

The emergency management organization of the city of Brier is hereby created, and shall consist of:

A. The mayor, who shall be the administrative head and have direct responsibility for the organization, administration and operation of the emergency management program for the city of Brier and direct responsibility for the emergency operations of departments in the city of Brier.

B. The disaster coordinator, who shall be appointed by the mayor, and who shall develop and maintain the emergency operations plan and program in cooperation with the Emergency Services Coordinating Agency (ESCA), and the emergency management committee, and shall have such other duties as may be assigned to him/her by the mayor, etc.

C. A deputy disaster coordinator, who may be appointed by the disaster coordinator, subject to the approval of the mayor, shall perform such functions as outlined in the emergency management plan and

shall act for and exercise the powers and perform the duties of the disaster coordinator during his/her absence or disability.

D. An emergency management committee shall provide staff support to the disaster coordinator in the direction for the development, implementation, and maintenance of the emergency operations plan, to staff the emergency operations center and perform other necessary functions during an emergency or disaster. During an emergency or disaster, the committee shall also oversee and provide policy recommendations to the Brier city council. The committee shall be chaired by the mayor and shall consist of such key personnel as are designated by the department directors, personnel from the Emergency Services Coordinating Agency (ESCA) and such personnel from outside professional and volunteer organizations having key roles in emergency preparedness, planning and response activities as determined by the disaster coordinator.

E. The city of Brier has, in conjunction with other cities, in consideration of mutual benefits to be derived, and as authorized under Chapter 39.34 RCW, formed the Emergency Services Coordinating Agency (ESCA) to provide combined emergency management services in accordance with Chapter 38.52 RCW.

F. Other as deemed appropriate by the city of Brier. (Ord. 304 §3(part), 2003)

#### **8.02.090 Disaster and emergency powers of the mayor.**

In the event of a proclamation of a disaster as herein provided, or upon the proclamation of a state of extreme emergency by the Governor of the state, or other agency with jurisdiction, the mayor is hereby empowered:

A. To make and issue administrative rules and regulations on matters reasonably related to the protection of life and property as affected by such disaster; provided, however, such administrative rules and regulations shall be presented to the Brier city council at the earliest reasonable opportunity.

B. To request the county executive to proclaim a local emergency when, in the opinion of the mayor, the resources of the area or region are inadequate to cope with the disaster.

C. To obtain vital supplies, equipment and such other properties and materials found lacking and needed for the protection of the life and property of the people, so long as such procurement is reasonably related to the disaster in emergency services, procurement is in line with the total of the budget of the city for the fiscal year, and ratification of purchases by the council shall be undertaken at the earliest opportunity by the city council.

D. To control and direct the efforts of the emergency management organization of the city of Brier for the accomplishment of the purposes of this chapter.

E. To require emergency services of any city of Brier officer or employee and, in the event of the proclamation of a state of extreme emergency by the Governor in the region in which the city of Brier is located, to command the aid of as many citizens of Brier as may be deemed necessary in the execution of the mayor's duties; and such persons to be entitled to all privileges, benefits and immunities as are provided by state law for registered emergency workers.

F. To requisition necessary personnel or material of any city of Brier department or agency.

G. To execute all of the special powers conferred upon the mayor, etc., by this chapter, by any other statute, agreement or lawful authority, as necessary.

H. Other as deemed appropriate by the Brier city council. (Ord. 304 §3(part), 2003)

#### **8.02.100 Disaster and emergency powers of the disaster coordinator.**

The disaster coordinator is hereby empowered:

A. To request the mayor to proclaim the existence or threatened existence of a disaster and the

termination thereof, if the Brier city council is in session, or to issue such proclamation, if the Brier city council is not in session, subject to confirmation by the Brier city council at the earliest practicable time.

B. To direct coordination and cooperation between divisions, services and staff of the departments and services of the city in carrying out the provisions of the emergency management plan, and to resolve questions of authority and responsibility that may arise between them.

C. To recommend for adoption by the Brier city council mutual aid agreements.

D. To act on behalf of the mayor, if the mayor is unable to carry out his/her duties, in carrying out the purposes of this chapter or the provisions of the emergency management plan.

E. To represent the emergency management organization of the city of Brier in dealing with issues pertaining to emergency management.

F. To prepare and maintain the emergency management plan of the city of Brier and manage the day-to-day responsibilities of the emergency management program activities of the city of Brier in coordination with the Emergency Services Coordinating Agency (ESCA).

G. Other as deemed appropriate by the Brier city council. (Ord. 304 §3(part), 2003)

#### **8.02.110 Functions and duties of departments and employees.**

The Brier city council hereby assigns to the various departments and to the officers and employees thereof the functions, duties and powers set forth in the emergency management plan referenced in Section 8.02.070 of this chapter. (Ord. 304 §3(part), 2003)

#### **8.02.120 Private liability.**

The city, through the office of the mayor or disaster coordinator, or designee, may present for consideration by the council an agreement to hold any individual, firm, association, corporation or other party owning, maintaining or controlling any building or premises, or providing any materials or assistance during a disaster, harmless from any claims by the city, its agents or persons acting on its behalf, or from liability by a third party; provided, that such hold harmless shall not be effective until approved by the council; and further provided, that said hold harmless shall be specific as to time, place, nature and kind of obligation, and shall include all other usual and ordinary terms, conditions, and limitations for such hold harmless agreements. (Ord. 304 §3(part), 2003)

#### **8.02.130 Penalty.**

Any person who shall:

A. Willfully obstruct, hinder, or delay any member of the emergency management organization in the enforcement of any lawful rule or regulation issued pursuant to this chapter or in the performance of any duty imposed upon such member by virtue of this chapter;

B. Wear, carry or display, without authority, any means of identification specified by the emergency management agency of the state;

shall, upon conviction, be fined in any sum not exceeding one thousand dollars, or by imprisonment for a period not exceeding ninety days, or both, at the discretion of the court. (Ord. 304 §3(part), 2003)

#### **8.02.140 Severability.**

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable. (Ord. 304 §3(part), 2003)

**Chapter 8.04**  
**OUTDOOR BURNING**

**Sections:**

- 8.04.010** Permitted when.
- 8.04.020** Authority to prohibit.
- 8.04.030** Permit--Issuance.
- 8.04.040** Permit--Appeal after denial.
- 8.04.050** Permit--Expiration.
- 8.04.060** Extinguishing of out-of-control fires--Costs recovery.
- 8.04.070** Violation--Penalty.
- 8.04.080** Applicability of other provisions.

**8.04.010 Permitted when.**

A. No person, firm, or corporation shall start or continue, or cause to be started or continued within the city limits, any open fire, without first having obtained a special burning permit as authorized herein, and excepting the following:

1. Small fires for cooking when contained in a stove, pit, receptacle, or other burner designed and used for cooking purposes. Only natural vegetation and wood shall be burned, and no treated wood or chemical or artificial substance may be burned as a small fire;
2. Flares, torches, pots or burners for the destruction or control of insects, incense burners and smokeless waste gas burners;
3. Fires for the instruction of firefighters or public officials in methods of firefighting, when and where such fires are permitted by the Puget Sound Air Pollution Control Agency;
4. Fires for the testing of fire-resistant material or fire protection equipment, when prior written approval for such fires has been issued by the Puget Sound Air Pollution Control Agency;
5. Fires for disease control and pest control, but only when prior written approval for such fires has been issued by the Puget Sound Air Pollution Control Agency, Health Department, or agency having jurisdiction;
6. Burning barrels and fires not exceeding three feet in diameter.

B. Outdoor burning as provided in this section shall be allowed only if such burning does not otherwise constitute a hazard. All fires with or without a permit, shall be at least ten feet from roadways, power poles, and similar areas; shall be no larger than twenty-five feet by twenty-five feet in size and twenty-five feet from any flammable structures. (Ord. 146 §1, 1983)

**8.04.020 Authority to prohibit.**

A. The fire chief, his designee, the city, or its agents may prohibit outdoor burning when atmosphere conditions or local circumstances make such burning hazardous. No person shall kindle any outdoor fire or authorize such fire to be kindled or maintained, even if a permit has been previously issued, when any of the following conditions are in force:

1. Wind velocity is above ten miles per hour; or
2. If a temperature inversion is present, or air circulation is insufficient to disperse smoke, gases and fumes, to the extent necessary to protect public health or property;
3. For violation of any other ordinance of the city.

B. It shall be the responsibility of the person burning to check the local conditions prior to burning by calling the Paine Field tower at 353-0414. (Ord. 146 §2, 1983)

**8.04.030 Permit--Issuance.**

A special burning permit for burning of natural vegetation may be issued. Said permit shall be issued only by the city of Mountlake Terrace Fire Department upon application to said department on forms prepared by the city. The fire department shall provide copies of all permits issued to the city engineer, the permittee, and the police chief. The denial of issuance of a permit may be appealed to the city council by written notice filed with the city clerk no later than fifteen days after notice of such denial. No materials from a land clearing site may be hauled to a different site where land clearing by burning has been permitted. (Ord. 146 §3, 1983)

**8.04.040 Permit--Appeal after denial.**

Appeal of a denial after appeal to the city council where such denial has been sustained, shall be by writ of certiorari or writ of prohibition to the Snohomish County Superior Court, which appeal must be taken no later than thirty days after denial by the city council. (Ord. 146 §4, 1983)

**8.04.050 Permit--Expiration.**

Any permit issued herein shall expire after thirty days; provided, however, any permit may be renewed after approval in the same manner as required for issuance herein. (Ord. 146 §5, 1983)

**8.04.060 Extinguishing of out-of-control fires--Costs recovery.**

In the event that the fire department is called to control or extinguish any fire started under the authority or condition granted or stated in this chapter, that person, firm or corporation which has been granted authority or who has kindled or maintained any fire, agrees by his application for such permit and issuance of a permit by the city, to pay to the city the reasonable costs for labor, equipment, fuel and materials, as determined by the fire chief, his designee, the city or its agents, which costs shall be assessed against the applicant/permittee and paid within ninety days of such assessment. Failure to make payment within ninety days shall constitute a further violation of this chapter and may be prosecuted as such as described in this chapter. (Ord. 146 §6, 1983)

**8.04.070 Violation--Penalty.**

The violation of any part or portion of this chapter shall constitute a misdemeanor and may be punished as such. The penalty for any such violation shall be up to five hundred dollars and/or six months in jail. In the event that any similar rule, regulation, or ordinance provides for penalties, fines, or forfeitures for any similar type violation, this chapter shall be the sole and exclusive remedy, and shall be cited for any such violations. (Ord. 146 §7, 1983)

**8.04.080 Applicability of other provisions.**

All other applicable rules and regulations regarding burning from other agencies with jurisdiction shall, as a condition of any burning permitted herein, whether by permit or otherwise, shall be a condition of approval of any such burning, and any individual, person, firm, or corporation conducting outdoor burning shall, demonstrate compliance with the requirements of said other agencies with jurisdiction, including, without limitation, the requirements of the Puget Sound Air Pollution Control Authority, Snohomish County, the Environmental Protection Agency. (Ord. 146 §8(part), 1983)

**Chapter 8.08  
NOISE CONTROL**

**Sections:**

- 8.08.005 Declaration of policy.**
- 8.08.010 Definitions.**
- 8.08.020 Motor vehicles--Specific prohibitions.**
- 8.08.030 Nuisance noises designated.**
- 8.08.040 Exemptions.**
- 8.08.050 Provisions not exclusive.**
- 8.08.055 Citizen complaint.**
- 8.08.060 Violation--Penalty.**

**8.08.005 Declaration of policy.**

It is hereby declared to be the policy of the city of Brier to minimize the exposure of citizens to harmful, physiological and psychological effects of excessive noise. It is the express intent of the city to control the level of noise in a manner which promotes the use, value and enjoyment of property, sleep and repose, and the quality of the environment. (Ord. 135.A §1(part), 1999)

**8.08.010 Definitions.**

The following definitions apply in this chapter:

- A. "Motorcycle" is any motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, except farm tractors and such vehicles powered by engines of less than five horsepower.
- B. "Motor vehicle" means any vehicle which is self-propelled, used primarily for transporting persons or property upon public highways, and required to be licensed under RCW 46.16.010.
- C. "Noise" means the intensity, duration, and character of sounds from any and all sources.
- D. "Person" means any individual, firm, association, partnership, corporation or any other entity, public or private.
- E. "Property boundary" means the survey line at ground surface which separates the real property

owned, rented or leased by any one or more other persons and its vertical extension.

F. "Receiving property" means any real property within which sound originating from sources outside the property is received. (Ord. 135.A §1(part), 1999: Ord. 135 §1, 1982)

**8.08.020 Motor vehicles--Specific prohibitions.**

Every motor vehicle operated upon the public highways shall at all times be equipped with a muffler in good working order and constant operation. It is unlawful for any person to operate a motor vehicle in such a manner as to cause or allow to be emitted squealing, screeching or other such sounds from the tires in contact with the ground because of rapid acceleration or excessive speed around comers or other such reason; provided, that noise resulting from emergency braking to avoid imminent danger shall be exempt from this section. It is unlawful for any person to change or modify any part of a motor vehicle or install any device thereon in any manner that permits sound to be emitted in violation of this chapter. (Ord. 135.A §1(part), 1999: Ord. 135 §2, 1982)

**8.08.030 Nuisance noises designated.**

It is unlawful for any person to cause, or for any person in possession of property, to allow to originate from the property, a sound that is a public nuisance as defined in this chapter. The following sources of sound are defined to be public nuisance noises:

A. Frequent, repetitive, or continuous noise made by any animal which unreasonably disturbs or interferes with the peace, comfort and repose of property owners or possessors, except that such sounds made in animal shelters, or commercial kennels, veterinary hospitals, pet shops or pet kennels licensed in compliance with city ordinances shall be exempt from this subsection; provided, however, that notwithstanding any other provision of this chapter, if the owner or other person having custody of the animal cannot, with reasonable inquiry, be located or if the animal is a repeated violator of this subsection, the animal shall be impounded as provided in Title 6 of this code;

B. The frequent, repetitive, or continuous sounding of any horn or siren attached to a motor vehicle, except as a warning of danger or as specifically permitted or required by law;

C. The creation of frequent, repetitive, or continuous noise in connection with the starting, operating, repair, rebuilding or testing of any motor vehicle, motorcycle, off-highway vehicle or internal combustion engine;

D. The use of a sound amplifier or other device capable of producing or reproducing amplified sounds upon public streets for the purpose of commercial sales or for attracting the attention of the public to any vehicle, structure, or property, or the contents therein, except as permitted by law and excepting vehicles whose sole method of selling is from a moving vehicle, shall be exempt from the subsection;

E. The making of any loud or raucous noise which unreasonably interferes with the use of any school, church, hospital, sanitarium, or nursing or convalescent facility;

F. The creation by use of a musical instrument, whistle, sound amplifier, stereo, juke box, radio, television, or other device capable of loud and raucous noises which emanate frequently, repetitively, or continuously from any building, structure, motorcycle, motor vehicle, or property, such as sounds originating from a band session, or social gathering;

G. Sound from a motor vehicle audio system, such as a radio, tape player or compact disc player,

which is operated at such a volume that it could clearly be heard by a person of normal hearing at a distance of fifty feet or more from the vehicle while the vehicle is being operated on any public street or is in or on any public property;

H. Sound from portable audio equipment, such as a radio, tape player or compact disc player, which is operated at such a volume that it could be clearly heard by a person of normal hearing at a distance of fifty feet or more from the source of the sound, while the equipment is being operated on any public property;

I. Any sound made by the construction, excavation, repair, demolition, destruction or alteration of any building or property of upon any building site anytime on Sundays and holidays and outside the hours of seven a.m. through six p.m. Monday through Friday and nine a.m. through five p.m. Saturday. (Ord. 135.A §1(part), 1999; Ord. 250 §1, 1992; Ord. 135 §3, 1982)

#### **8.08.040 Exemptions.**

The following noises are exempt from the provisions of this chapter at all times:

A. Noise originating from aircraft in flight;

B. Noises created by safety and protective devices such as relief valves where noise suppression would defeat the safety release intent of the device;

C. Noises created by fire alarms;

D. Noises created by emergency equipment including, but not limited to, emergency standby or backup equipment, and emergency work necessary in the interest of law enforcement or the health, safety, and welfare of the community, and including, but not limited to, any emergency work necessary to replace or repair essential utility services;

E. Noises created by auxiliary equipment on motor vehicles used for highway maintenance;

F. Noise originating from officially sanctioned parades, sporting events and other public events;

G. Noises created by warning devices not operated continuously for more than thirty minutes per incident;

H. Nothing herein shall be construed to limit or prohibit different or more restrictive hours for any work authorized under a development permit issued under any chapter of this code as may be specified in any determination or decision issued under Title 16 of this code;

I. Noise created by powered equipment used in temporary or periodic maintenance or repair of residential homes and property, including, but not limited to, grounds and appurtenances, such as lawnmowers, powered hand tools, etc., between seven a.m. and ten p.m. any day of the week;

J. Noises created by installation or repair of essential utility services. (Ord. 135.A §1(part), 1999; Ord. 135 §4, 1982)

#### **8.08.050 Provisions not exclusive.**

The provisions of this chapter shall be cumulative and nonexclusive, and shall not affect any other claim, cause of action or remedy, nor, unless specifically provided, shall this chapter be deemed to repeal, amend, or modify any law, ordinance, or regulation relating to noise, additional to existing legislation and common law noise. (Ord. 135.A §1(part), 1999; Ord. 135 §5, 1982)

**8.08.055 Citizen complaint.**

In addition to the other remedies stated herein, whenever it is stated in writing by two or more persons having separate residences in a neighborhood that any person is violating any of the provisions of Section 8.08.030 of this chapter, the code enforcement officer shall advise the person originating the noise or owning or in possession of the property from which the noise originates that such noise is a nuisance and must cease. (Ord. 135.A §1(part), 1999)

**8.08.060 Violation--Penalty.**

Violation of any part or portion of this chapter or conduct made unlawful in this chapter shall constitute an infraction and shall be punished in accordance with the current general fine and penalty provisions for a Class A infraction; provided, however, any violator who fails to abate any noise violation promptly after issuance of a first infraction notice shall be guilty of a second, separate violation, failure to abate, which shall be punished as a Class C infraction. Continual failure to abate a violation for which a second notice has been issued shall constitute a misdemeanor and shall be subject to the uniform fine and penalty for misdemeanors, in accordance with the general fine and penalty provisions of the Brier Municipal Code. Evidence of sound level through the use of a sound level meter shall not be required to establish commission of a noise violation offense. (Ord. 135.A §1(part), 1999; Ord. 135 §6, 1982)

**Chapter 8.12  
NUISANCES**

**Sections:**

- 8.12.010 Definitions.**
- 8.12.020 Nuisances designated.**
- 8.12.030 Removal of animal carcasses.**
- 8.12.040 Notice to abate.**
- 8.12.045 Abatement and removal of junk vehicles on private property.**
- 8.12.047 Dangerous or unfit buildings, dwellings and structures on private property.**
- 8.12.050 Entry to buildings and premises.**
- 8.12.060 Nuisance abatement by the city.**
- 8.12.070 Nuisance abatement by owner or other responsible person.**
- 8.12.080 Appeal.**
- 8.12.090 Violation--Penalty.**

**8.12.010 Definitions.**

For the purpose of this chapter:

A. "Abate" means to repair, replace, remove, destroy or otherwise remedy the condition in question by such means and in such a manner and to such an extent as the enforcement officer, in his or her judgment, determines is necessary in the interest of the general health, safety and welfare of the community.

B. "Building materials" means and includes lumber, plumbing materials, wallboard, sheet metal,

plaster, brick, cement, asphalt, concrete block, roofing material, cans of paint and similar materials.

C. "Enforcement officer" means the mayor, or alternate designee.

D. "Premises" means any building, lot, parcel, real estate or land portion of land whether improved or unimproved, including adjacent sidewalks and parking strips.

E. "Responsible person" means any owner, agent, lessee or other person occupying or having charge or control of any premises.

F. "Hearing examiner" means a person appointed and confirmed by the city council for the purpose of conducting all required hearings as specified herein. (Ord. 28.E §4(part), 2002)

### **8.12.020 Nuisances designated.**

Each of the following conditions, unless otherwise permitted by law, is declared a public nuisance, and whenever the enforcement officer determines that any of these conditions exist upon any premises or in any lake, river, stream, drainage way, ponds, detention/retention systems, or wetlands, the enforcement officer may require or provide for the abatement thereof pursuant to this chapter:

A. The existence of any dead, diseased, infested or dying tree that may constitute a danger to any street right-of-way or any area open to the public, or private property;

B. The existence of any tree, shrub or foliage, unless by consent of the city, which is apt to destroy, impair, interfere or restrict:

1. Streets, sidewalks, sewers, utilities or other public improvements,

2. Visibility on, or free use of, or access to such improvements;

C. The existence of any vines or climbing plants growing into or over any street tree, or any public hydrant, pole or electric utility, or the existence of any shrub, vine or plant growing on, around or in front of any hydrant, standpipe, sprinkler system connection or any other appliance or facility provided for fire protection purposes in such a way as to obscure the view thereof or impair the access thereto;

D. The existence of any accumulation of materials or objects in a location when the same endangers property, safety or constitutes a fire hazard;

E. The burning of refuse, sawdust or any other material;

F. The existence of any obstruction to a street, alley, crossing or sidewalk, and any excavation in or under any street, alley, crossing or sidewalk, which is by ordinance prohibited, or which is made without lawful permission, or which, having been made by lawful permission, is kept and maintained after the purpose thereof has been accomplished, and for an unreasonable length of time;

G. The erecting, maintaining, using, placing, depositing, leaving or permitting to be or remain in or upon any private lot, building, structure or premises, or in or upon any street, alley, sidewalk, park, parkway or other public or private place in the city, any one or more of the following disorderly, disturbing, unsanitary, fly-producing, rat-harboring, disease-causing places, conditions or things:

1. Any putrid, unhealthy or unwholesome bones, meat, hides, skins, the whole or any part of any dead animal, fish or fowl, or waste parts of fish, vegetable or animal matter in any quantity; but nothing in this chapter shall prevent the temporary retention of waste in approved covered receptacles,

2. Any privies, vaults, cesspools, sumps, pits or like places which are not securely protected from flies and rats, or which are foul or malodorous, or which are not approved by the appropriate official,

3. Any filthy, littered or trash-covered dwellings, cellars, house yards, barnyards, stable yards, factory yards, vacant areas in the rear of stores, vacant lots, houses, buildings or premises,

4. Any animal manure in any quantity which is not securely protected from flies or weather

conditions, or which is kept or handled in violation of any ordinance of the city,

5. Any noxious weed listed by the state or Snohomish County,

6. Any bottles, cans, glass, ashes, scrap metal, wire, metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster and all such trash, or abandoned material, unless it is kept in approved covered receptacles,

7. Any accumulation of trash, litter, rags, barrels, boxes, crates, packing cases, mattresses, bedding excelsior, packing material, lumber not neatly piled, scrap iron, tin or other metal not neatly piled, or anything whatsoever in which flies or rats may breed or multiply or which may be a fire hazard;

H. The depositing or unlicensed burning or causing to be deposited or burned in any street, alley, sidewalk, park, parkway or other public place which is open to travel, of any hay, straw, paper, wood, boxes, leaves, manure or other rubbish or material;

I. The storage or keeping on any premises outside of an enclosed building for more than ninety days of any used or unused building materials without approval from the building official; provided, that nothing in this chapter shall:

1. Prohibit such storage when done in conjunction with a construction project for which a building permit has been issued and which is being prosecuted diligently to completion,

2. Prohibit such storage upon the premises of a bona fide lumberyard, dealer in building materials or other commercial enterprise when the same is permitted under the zoning ordinance and other applicable laws,

3. Make lawful any such storage or keeping when it is prohibited by other ordinances or laws;

J. The existence of any fence or other structure or thing on private property abutting or fronting upon any public street, sidewalk or place which is in a sagging, leaning, fallen, decayed or other dilapidated or unsafe condition;

K. The existence or maintenance on any premises outside of an enclosed building of any unused or abandoned equipment, trailers, house trailers, recreational vehicles, boats, tractors trucks, automobiles, major parts or any other vehicle which is not currently registered with the state of Washington or any other state and does not have a current registration tab on the vehicle license plate which is attached to that vehicle, or which may be considered inoperable, unusable, or not inhabitable;

L. The existence on any premises of any abandoned or unused septic tank, well, cistern or storage tank without first demolishing or removing from the city such storage tank or securely closing and barring any entrance or trapdoor thereto or without filling any septic tank, well or cistern or capping the same with sufficient security to prevent access thereto by children;

M. The existence on any premises of any unattended and/or discarded icebox, refrigerator or other large appliance;

N. All buildings, wall and other structures which have been damaged by fire, decay or otherwise so as to endanger the safety of the public;

O. All explosive, inflammable liquids and other dangerous substances stored in any manner or in any amount other than that provided by ordinance;

P. Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the streets or sidewalks;

Q. All hanging signs, awnings and other similar structures over the streets or sidewalks, or so situated as to endanger public safety, not constructed and maintained as provided by ordinance;

R. All trees, hedges, billboards, fences, vehicles or other obstructions which prevent persons from

having a clear view of traffic approaching an intersection from cross streets in sufficient time to bring a motor vehicle driven at a reasonable speed to a full stop before the intersection is reached;

S. All limbs of trees which are less than eight feet above the surface of any public sidewalk, or twelve feet above the surface of any street;

T. The discharge or firing of a gun, weapon or device capable of propelling a missile through the force of combustion or explosion of gun powder, or similar substances, except in the protection of life or property;

U. The discharge or use of any device capable of propelling a missile through the force of substances, such as a BB gun, a pellet gun, a bow, sling shot, crossbow, etc., such that the projectile crosses or enters public property or right-of-way, or the property of other persons;

V. All other conditions or things which are liable to cause injury to the person or property of anyone;

W. The existence of any goods, merchandise, property or equipment of any kind on any streets, alleys, trails, sidewalks, portions of public right-of-way or public property of the city of Brier which unreasonably obstructs pedestrian or vehicular traffic. (Ord. 28.E §4(part), 2002)

**8.12.030 Removal of animal carcasses.**

Every person owning or having in charge any animal that has died or been killed on account of disease shall immediately dispose of the same as directed by the Snohomish health district officer. No person shall sell or offer to give away the carcass of any animal which, on account of disease, died or was killed. Every violation of any provision of this section is a misdemeanor. (Ord. 28.E §4(part), 2002)

**8.12.040 Notice to abate.**

An enforcement officer, having knowledge of any nuisance, shall attempt to meet with the owner or other responsible person(s) and discuss abatement, to determine how and when abatement will occur. Upon refusal to meet with the city enforcement officer or failure to agree and accomplish abatement, the enforcement officer shall cause the owner or other responsible person to be notified in written form of the existence of a nuisance on any premises and shall direct the owner or other responsible person to abate the condition within a reasonable period which may be within twenty-four hours or less for any nuisance posing an imminent threat to public health, safety, or welfare. The notice shall be substantially in the following form:

NOTICE TO ABATE UNSAFE OR UNLAWFUL CONDITION To  
(Name and address of person notified)

As owner, agent, lessee or other person occupying or having charge or control of the building, lot or premises at \_\_\_\_\_ you are hereby notified that the undersigned pursuant to Ordinance \_\_\_\_ of the City of Brier has determined that there exists upon or adjoining said premises the following condition contrary to the provisions of subsection \_\_\_\_\_ of City Ordinance or Brier Municipal Code.

You are hereby notified to abate said condition to the satisfaction of the undersigned within \_\_\_\_\_ hours/days of the date of this notice. If you do not abate such condition within \_\_\_\_\_ hours/days the city may abate the condition at your expense.

Abatement is to be accomplished in the following manner: \_\_\_\_\_

Your failure to abate the above nuisance as directed may constitute a nontraffic civil infraction as specified in Brier Municipal Code Section 1.28.030 or a misdemeanor.

You may appeal this Notice to Abate decision by filing a written Notice of Appeal with the City Clerk of the City of Brier as outlined in BMC Chapter 1.20 within ten (10) days after the date of this notice.

\_\_\_\_\_  
Dated:

\_\_\_\_\_  
(Name of Enforcement Officer)  
(Ord. 28.E §4(part), 2002)

**8.12.045 Abatement and removal of junk vehicles on private property.**

A. The storage or retention of junk vehicles on private property is declared to constitute a public nuisance subject to abatement by removal and disposal. The enforcement officer shall inspect and investigate complaints relative to junk vehicles, or parts thereof, on private property. Upon discovery of such nuisance, the enforcement officer shall cause the police department to inspect said vehicle(s) to determine if the same meets the requirements of RCW 46.55.010(4). If the inspection by the police department confirms that the vehicle(s) in question meets the criteria of RCW 46.55.010(4), then the enforcement officer shall give notice in writing to the last registered owner of record of the junk vehicle(s) and also to the property owner of record that a hearing may be requested by filing an administrative appeal as outlined in Chapter 1.20 of this code, and that if no appeal is requested within ten business days, the junk automobile(s) may be removed by the city. Costs of removal may be assessed against the last registered owner of the junk vehicle(s) if the identity of such owner can be determined, or the costs may be assessed the landowner of the property on which the junk vehicle is stored.

B. If an appeal is received, a notice giving the time, location and date of such hearing on the question of the abatement of the junk vehicle(s) or part thereof as a public nuisance shall be mailed, by certified or registered mail with a five-day return receipt requested, to the owner of the land as shown on the last equalized assessment roll of the county assessor and to the last registered and legal owner of record of the junk vehicle(s) unless the junk vehicle(s) is in such condition that the identification numbers are not available to determine ownership.

C. The owner of the land on which the junk vehicle(s) is located may appear in person at the hearing or present a written statement in time for consideration at the hearing, and deny responsibility for the presence of the junk vehicle(s) on the land, with his reasons for such denial. If it is determined at the hearing that the junk automobile(s) was placed on the land without the consent of the landowner and that he has not subsequently acquiesced in its presence, then the city council shall not assess costs of administration or removal of the junk vehicle(s) against the property upon which the junk vehicle(s) is located or otherwise move to collect such costs from the property owner.

D. After notice has been given of the intent of the city to dispose of the junk vehicle(s), and after a hearing, if requested, has been held, the junk vehicle(s), or part thereof, shall be removed, at the request of a police officer, and disposed of by a registered tow truck operator with notice to the Washington State Patrol and the Department of Licensing that the vehicle has been wrecked.

E. The city may, after removal of the junk vehicle from private property, file a report with the county auditor and a claim for lien for the costs of removal and disposal, which lien may be foreclosed in any manner provided by state law or city ordinance for foreclosure of liens on real property.

F. "Junk vehicle" is defined in RCW 46.55.010(4) as meeting at least three of the following four requirements:

1. Is three years old or older;
2. Is extensively damaged, such damage including but not limited to any of the following: a broken window or windshield or missing wheels, tires, motor, or transmission;
3. Apparently inoperable;
4. Has an approximate fair market value equal only to the approximate value of the scrap in it.

G. Exceptions. A vehicle or part thereof which is completely enclosed within a building in a lawful manner, or where it is not visible from the street or other public place or private property. (Ord. 28.E §4(part), 2002)

**8.12.047 Dangerous or unfit buildings, dwellings and structures on private property.**

A. The existence of unfit buildings, dwellings, structures on private property is declared a public nuisance subject to abatement by removal and disposal.

B. The enforcement officer shall inspect and investigate complaints relative to dangerous or unfit buildings and structures and premises or portions thereof which are unfit for other uses due to dilapidation, disrepair, structural defects, defects increasing the hazards of fire, accidents, or other calamities, inadequate ventilation and uncleanness, inadequate light or sanitary facilities, inadequate drainage, overcrowding, or due to other conditions which are inimical to the health and welfare of the residents of the city of Brier.

C. In addition to the above considerations, buildings, dwellings and structures may be determined to be a nuisance if they:

1. Injure, endanger, or unreasonably annoy the comfort, repose, health or safety of others;
2. Offend decency;
3. Offend the senses;
4. Unlawfully interfere, obstruct, tend to obstruct or endanger the passage of any stream, park, parkway, square, street, sidewalk, easement or way;
5. Render others insecure in life or use of property;
6. Obstruct the full use of property so as to essentially interfere with the comfortable enjoyment of life or property;
7. Constitute a weed hazard;
8. Violate any provision of this code;
9. Are unlawful or illegal.

D. An enforcement officer, having knowledge of any nuisance, shall attempt to meet with the owner or other responsible person(s) and discuss abatement, to determine how and when abatement will occur. Upon refusal to meet with the city enforcement officer or failure to agree and accomplish abatement, the enforcement officer shall cause the owners to be served, either personally, or by first class and certified mail with return receipt requested, and shall post in a conspicuous place on such property, a complaint stating in what respect such building is unfit for human habitation or other use, or that the premises is a nuisance. If the whereabouts of such person is unknown and cannot be ascertained by the enforcement officer in the exercise of reasonable diligence, he shall make an affidavit to that effect, then the serving of such complaint or order upon such person may be made either by personal service or by mailing a copy of the notice and orders by certified mail, postage prepaid, return receipt requested, to each person at the

address appearing on the last equalized tax assessment roll of the county, or at the address known to the county assessor. A copy of the notice and order shall also be mailed, addressed to each person or party having a recorded right, title, estate, lien, or interest in the property. Such complaint shall contain a notice that a hearing will be held as outlined in Chapter 1.20 of this code at a place therein fixed, not less than ten days nor more than thirty days after the service of such complaint; that all parties in interest shall be given the right to file an answer to the complaint, and to appear in person or otherwise and give testimony at the time and place fixed in the complaint. A copy of such complaint shall also be filed with the auditor of Snohomish County, and such filing of the complaint and order shall have the force and effect of *lis pendens*.

E. Unless prior to the time fixed for hearing in the complaint issued by the enforcement officer, arrangements satisfactory to the enforcement officer for the repair, demolition, vacation or re-occupancy of the building or premises are made, including the proper application for permits, or abatement of the nuisance, the city council or hearing examiner shall hold a hearing in accordance with this section for the purpose of determining the immediate disposition of the building or premises. The city council or hearing examiner shall determine whether or not the building is an unfit or a dangerous building, or whether the building is a substandard building, or if the condition is a nuisance. The rules of evidence prevailing in courts of law or equity shall not be controlling at the hearing before the city council or hearing examiner. Evidence, including hearsay evidence, is admissible if in the judgment of the city council or hearing examiner is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs.

F. The city council or hearing examiner shall determine whether or not the building should be repaired or vacated, whether or not the building should be demolished, whether an annual inspection fee is due, or whether or not a nuisance should be abated.

G. If, after the required hearing, the city council or hearing examiner determines that the building is unfit, dangerous, substandard, or the condition of the building or premises is a nuisance, the city council or examiner shall state in writing findings of fact in support of such determination, and shall issue and cause to be served upon the owner and other parties of interest a copy of such findings. The city council or examiner shall cause to be posted an order in a conspicuous place on said property:

1. Requiring the owner or party in interest, within the time specified in the order, to repair, alter or improve such building to render it fit for human habitation or for other use, or to vacate and close the building; or

2. Stating that an annual inspection fee has been assessed against the building until such time as it is reoccupied or demolished; or

3. Requiring the owner or party in interest to abate the nuisance and setting out generally those steps necessary to abate it. In addition, such order shall state that the owner has the right to appeal to the superior court in accordance with RCW 35.80.030 and, unless he/she does appeal or comply with the order, the city shall have the power, without further notice or proceedings, to abate and secure the building or premises and do any act required of the owner in the order of the city council or hearing examiner, and to charge any expenses incurred thereby to the owner and assess them against the property; provided, that if an annual inspection fee is the only order made by the city council or hearing examiner, the addition to the notice need only state that unless the fee is paid or arrangements for payment are made or an appeal filed, that amount will be assessed against the property.

H. If no appeal is filed, a copy of such order shall be filed with the auditor of Snohomish County and shall be a final order.

I. The order of the enforcement officer, the city council or hearing examiner may prescribe times within

which demolition shall be commenced or completed. If the action is not commenced or completed within the prescribed time, or if no time is prescribed within the time for appeal, the enforcement officer may cause the building to be demolished and the premises to be suitably filled and cleared. If satisfactory progress has been made and sufficient evidence is presented that the work will be completed within a reasonable time, the enforcement officer, city council or the hearing examiner may extend the time for completion of the work. If satisfactory or substantial progress has not been made, the enforcement officer, city council or hearing examiner may cause the building to be demolished and the premises suitably filled and cleared.

J. If other action by the enforcement officer, city council or the hearing examiner is not taken within the time prescribed, or if no time is specified within the time for appeal, the enforcement officer, city council or the hearing examiner may cause the action to be taken by the city.

K. If the enforcement officer, city council or the hearing examiner deems it necessary to have the building secured as an interim measure for the protection of the public health and welfare while pending action, they may so order. If the owner is unable or unwilling to secure the building within forty-eight hours, the enforcement officer, city council or the hearing examiner may order the building secured by the city.

L. If the owner is unable to comply with the enforcement officer, city council or hearing examiner's order within the time required, and the time for petition to the superior court has passed, the owner may, for good and sufficient cause beyond his or her control, request in writing an extension of time. The enforcement officer, city council or the hearing examiner may grant a reasonable extension of time after a finding that the delay was for good and sufficient cause. There shall be no appeal or petition from the enforcement officer, city council or the hearing examiner's ruling on an extension of time.

M. The costs of abatement, repair, alteration or improvement, or vacating and closing, or removal or demolition, and reasonable costs and reasonable attorney's fees of the city, as well as the hearing examiner's fees, shall be assessed against the real property upon which such costs were incurred, unless paid. The city council may determine such costs, fees and expenses which shall be forwarded to the city treasurer, for certification to the county treasurer, for assessment on the tax rolls, in accordance with RCW Chapter 35.80; provided, as an alternative, the city council may likewise direct that a sworn statement be recorded attesting to the amount of expenses due, to be filed with the county auditor, and proceed to foreclose same as the lien upon the real property involved, with the additional expense of reasonable costs and reasonable attorney's fees, if any, to be included in any final judgment or foreclosure.

N. When necessary, bids for demolition shall be let only to a licensed contractor. All contract documents shall provide that the value of the materials and other salvage of the property shall be credited against the costs of the demolition. The contract documents may require the contractor to estimate the salvage value of the property and, by claiming the salvage, reduce the amount of his price accordingly. The contract price fixed by acceptance of the contract shall not be adjusted to reflect the actual salvage value. Such contracts may be let prior to the time for compliance or appeal, but shall not be binding or accepted until the order for demolition is final. The mayor shall have the authority to sign the contract on behalf of the city.

O. There shall be charged against the owner and assessed against the property of an annual inspection fee of two hundred dollars.

1. Such fees shall be payable annually on the date of enforcement officer, city council or examiner's order. The hearing examiner, city council or enforcement officer shall order a refund of the proportional amount not due if the nuisance is abated as ordered. Subsequent annual fees shall be payable on or before the preceding annual fee has been exhausted.

2. The enforcement officer, city council or hearing examiner may reduce or modify the time and method of payment of the fee as the condition of the property or the circumstances of the owner may warrant.

P. Whenever a building is found to be unfit or substandard or a premises to be a nuisance and the cost of demolition, repair or abatement must be borne by the city, there shall be charged against the owner and assessed against the property the costs for all administrative proceedings before the enforcement officer, city council or the hearing examiner including salaries, wages, material and other expenses incurred for inspecting, conducting hearings, or otherwise determining the status of the property.

Q. The enforcement officer, city council or the hearing examiner may modify the time or methods of payment of such expenses as the condition of the property and the circumstances of the owner may warrant. In cases of extreme hardship, such expenses may be waived.

R. Any work including construction, repairs or alterations under this section to rehabilitate any building or structure may require a permit in accord with the provision of this code.

S. It shall be unlawful and a violation of this section to knowingly:

1. Occupy or suffer to be occupied any building or premises ordered vacated or abated;

2. Fail to comply with any order issued pursuant to this section; or

3. Obstruct any officer or agent of the city of Brier or other governmental unit in the enforcement of this section.

Violation of this section is a gross misdemeanor.

T. The provisions of this section are not exclusive of any other right or remedy the city may have, or any other government agency or entity may undertake, based on state law or local ordinance, including, specifically, application of provisions of the current building codes, abatement code, or any other state or local code that may be simultaneously enforced with any of the above provisions. (Ord. 28.E §4(part), 2002)

#### **8.12.050 Entry to buildings and premises.**

Whenever necessary to make an inspection to determine whether a nuisance exists, has occurred or is occurring, or to enforce any provision of this code, or regulation issued thereunder, which is a violation under this chapter, the applicable department head or his designee may enter any building or premises at any reasonable time, provided if such building or premises is occupied he shall first present credentials and demand entry; and if such building or premises is not occupied, he shall first make a reasonable effort to locate the owner or other person having charge of the building or premises and demand entry. If such entry is refused, or the owner or other person having charge of the building or premises cannot be located, the applicable department head or his designee shall have recourse to every remedy provided by law to secure entry, including recourse to the district or superior court for issuance of a warrant authorizing such entry and inspection. (Ord. 28.E §4(part), 2002)

#### **8.12.060 Nuisance abatement by the city.**

A. Prior to the city proceeding with abatement, the office of the city attorney should be consulted and followed by action where the city may abate a condition which was caused by or continues to be a violation when:

1. The terms of voluntary correction agreement have not been met; or
2. A notice of violation has been issued pursuant to this chapter and a hearing has been held if required or requested and the required correction has not been completed by the date specified in the hearing examiner's order; or
3. The condition is subject to summary abatement as provided for in subsection B of this section.

B. Summary Abatement. Whenever any violation of a regulation causes a condition, the continued existence of which constitutes an immediate and emergent threat to the public health, safety or welfare or to the environment, the city may summarily and without prior notice abate the condition. Notice of such abatement, including the reason for it shall be given to the person responsible for the violation as soon as reasonably possible after the abatement.

C. Recovery of Costs and Expenses. The costs, including incidental expenses, of correcting the violation shall be billed to the person responsible for the violation and/or the owner, lessor, tenant or other person entitled to control, use and/or occupy the property and shall become due and payable to the city within ten calendar days. The term "incidental expenses" includes but shall not be limited to personnel costs, both direct and indirect, including attorney's fees; costs incurred in documenting the violation; hauling, storage and disposal expenses; and actual expenses and costs of the city in preparing notices, specifications and contracts, and in accomplishing and/or contracting and inspecting the work; and the costs of any required printing and mailing. (Ord. 28.E §4(part), 2002)

#### **8.12.070 Nuisance abatement by owner or other responsible person.**

If and when an owner or other responsible person shall undertake to abate any condition described in this chapter, whether voluntary, by order or otherwise, all needful and legal conditions pertinent to the abatement may be imposed. It is unlawful for the owner or other responsible person to fail to comply with such conditions. Nothing in this chapter shall relieve any owner or other responsible person of the obligation of obtaining any required permit to do any work incidental to the abatement. (Ord. 28.E §4(part), 2002)

#### **8.12.080 Appeal.**

Any person who has received a notice to abate a condition or declared nuisance of this chapter may appeal said determination by filing written notice of appeal within ten business days after the date of said notice to abate with the city clerk as outlined in Chapter 1.20 of this code. Said notice shall set forth the grounds upon which the appeal is based. Upon receipt of notice of appeal, the city shall hold a hearing not less than ten or more than thirty days after said appeal was filed. It shall be the duty of the enforcement officer to present proof relating to the grounds for the issuance of the notice to abate. If the city council or hearing examiner finds that a nuisance exists, the city council or examiner shall order that such nuisance be abated pursuant to this chapter and shall set forth reasonable time limits for such abatement. If the city council or examiner finds that a nuisance does not exist under this chapter, the city shall cancel the notice to abate. Upon the filing of a proper notice of appeal, the time limits herein shall be stayed during the pendency of the appeal. (Ord. 28.E §4(part), 2002)

**8.12.090 Violation--Penalty.**

Other than penalties as specified herein, any owner, responsible person, firm, corporation or agent which violates, disobeys, omits, neglects or refuses to comply with any of the provisions 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 infraction; provided, however, any violator who fails to abate any nuisance or file an appeal within ten days after issuance of the first infraction, shall be issued a notice to abate per Section 8.12.040 and a second separate Class C infraction. Failure to respond to either infraction shall constitute a misdemeanor and shall be subject to the general fines and penalties as established by this code for misdemeanors or allowed by the laws of the state of Washington.

In addition, if a notice to abate is issued, the procedures as outlined herein shall be followed. (Ord. 28.E §4(part), 2002)

**Chapter 8.16  
GARBAGE COLLECTION**

**Sections:**

- 8.16.010 License required.**
- 8.16.020 License--Application--Fee.**
- 8.16.030 License cancellation or revocation.**
- 8.16.040 General compliance of licensee.**
- 8.16.050 Certificate of public necessity required.**
- 8.16.060 Truck specifications generally.**
- 8.16.070 Violation--Penalty.**

**8.16.010 License required.**

No person, association, or corporation shall engage in the business of hauling, transporting, or gathering garbage, cans or discarded bottles within the city of Brier without obtaining a license stated in this chapter, and complying with all city, Snohomish County, and state requirements. (Ord. 26.C §1(part), 2000; Ord. 26.B §1(part), 1999; Ord. 26.A §1, 1982)

**8.16.020 License--Application--Fee.**

Written application for said license shall be made annually to the city clerk no later than February 15th of the year concerned. Licensee shall pay an annual license fee determined on the basis of three dollars for each resident or business establishment being served as of January 1st of the same year; provided, that such license fee shall be at least five hundred dollars and be paid by February 15th of the year concerned. (Ord. 26.B §1(part), 1999; Ord. 26.A §2, 1982)

**8.16.030 License cancellation or revocation.**

Any license issued under this chapter may be cancelled or revoked following a hearing by a hearing examiner appointed by the city council for willful or repeated violations of city ordinance or health regulations; provided, that the licensee shall have the right to appeal the determination of the hearing examiner to the city council, which shall hear the matter on the record. (Ord. 26.B §1(part), 1999: Ord. 26.A §5, 1982)

**8.16.040 General compliance of licensee.**

Licensee shall have all proper state and local certifications prior to engaging in any handling or transporting operations. (Ord. 26.B §1(part), 1999: Ord. 26.A §6, 1982)

**8.16.050 Certificate of public necessity required.**

The licensee shall have the proper certificate of public need and necessity authorizing the hauling of garbage and refuse for hire in the city or portion thereof. (Ord. 26.A §3, 1982)

**8.16.060 Truck specifications generally.**

Trucks and equipment used for hauling by the licensee shall be adequate to contain all garbage, refuse, etc., during such hauling, and the use thereof must protect the health and welfare of the inhabitants of the city and not lead to the loss or distribution of garbage or refuse within the city. (Ord. 26.A §4, 1982)

**8.16.070 Violation--Penalty.**

Violation of any of the provisions of this chapter shall constitute a misdemeanor punishable by fines and penalties as established for misdemeanors in the Brier Municipal Code. (Ord. 26.B §1(part), 1999: Ord. 26.A §7, 1982)

**Chapter 8.20  
LITTER CONTROL**

**Sections:**

- 8.20.010 Short title--Purpose.**
- 8.20.020 Definitions.**
- 8.20.030 Requirements and restrictions generally.**
- 8.20.040 Receptacles--Placement.**
- 8.20.050 Receptacles--Use.**
- 8.20.060 Receptacles--Damaging.**
- 8.20.070 Receptacles--Maintenance.**
- 8.20.080 Mandatory litter bags.**

- 8.20.090**      **Sweeping litter into gutter prohibited.**
- 8.20.100**      **Newspapers.**
- 8.20.110**      **Property owner maintenance responsibility.**
- 8.20.120**      **Handbill distribution.**
- 8.20.130**      **Handbill distribution--Placement on vehicles.**
- 8.20.140**      **Handbill distribution--Vacant property.**
- 8.20.150**      **Handbill distribution--Posted property.**
- 8.20.160**      **Handbill distribution--Private posted property.**
- 8.20.170**      **Throwing from vehicles prohibited.**
- 8.20.180**      **Spilling loads from vehicles prohibited.**
- 8.20.190**      **Litter from construction sites.**
- 8.20.200**      **Litter in parks.**
- 8.20.210**      **Inspections.**
- 8.20.220**      **Enforcement authority and procedures.**
- 8.20.230**      **Conflicting provisions.**
- 8.20.240**      **Violation--Penalty.**

**8.20.010**    **Short title--Purpose.**

This chapter shall be known and may be commonly referred to and cited as the "uniform litter control code." The purpose of this chapter is to accomplish litter control in the city and pursuant to the general laws of the state to adopt basically uniform and coordinated local litter control legislation throughout the state. This chapter is intended to place upon all persons within the city, in a cooperative and coordinated statewide effort, the duty of contributing to the public cleanliness of the city and appearance in order to promote the public health, safety and welfare and to protect the economic interests of the people of the city against unsanitary and unsightly conditions. It is further the intent of this chapter to protect the people against the health and safety menace and the expense incident to the litter of the streets and public places by the promiscuous and uncontrolled distribution of advertising matter and handbills. (Ord. 28.E §4(part), 2002)

**8.20.020**    **Definitions.**

As used in this chapter, unless the context clearly indicates otherwise, the following terms have the following meanings. All words used in the present tense include the future and past tense; all words in the plural number include the singular number and all words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

A. "City" means the city of Brier, Washington.

B. "Handbill" is any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, newspaper, magazine, or any other printed or otherwise reproduced original or copies of any matter or literature, political or nonpolitical, for profit or nonprofit, for commercial or noncommercial purposes not included in the definitions of "newspaper"; except the word "handbill" shall not include any notice or any document relating to legal proceedings, court proceedings, or action of any government agency including the city.

C. "Public way," for the purpose of this chapter, is synonymous with and includes "street," "road," "alley," "trail" or "pedestrian way."

D. "Litter" means all solid wastes, including but not limited to containers, packages, wrapping, printed matter garbage, refuse, rubbish, animal excrement, and in addition, all other waste material which, if thrown or deposited as prohibited in this chapter, tends to create a public nuisance.

E. "Litter bag" means a bag, sack, or other container made of any material, which is large enough to serve as a receptacle for litter inside the vehicle or watercraft of any person.

F. "Litter receptacle" means those containers meeting minimum requirements of state regulations of the State Department of Ecology.

G. "Newspaper" is any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States, in accordance with federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and in addition thereto, means and includes any periodical or current magazine regularly published with not less than four issues per year, and sold or distributed to the public:

1. Which advertises for sale any merchandise, product, commodity, or thing; or
2. Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales; or
3. Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit; but the terms of this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition, or event of any kind, when either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order; provided, that nothing contained in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition, or event of any kind, without a license, where such license is or may be required by any law of this state, or under any ordinance of this city; or
4. Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

H. "Rubbish" means nonputrescible solid wastes consisting of both combustible and noncombustible wastes such as paper, wrapping, cigarettes, cardboard, tin cans, wood, glass, plastic, cloth, bedding, crockery and similar materials.

I. "Park" is a park, reservation, playground, beach, recreation center or any other area in the city, devoted to active or passive outdoor recreation.

J. "Person" is any individual, political subdivision, government agency, municipality, industry, public or private corporation, co-partnership, association, firm, or other entity, whatsoever.

K. "Private residence" means any privately owned yards, grounds, walk, driveway, dwelling, house, building or other structure, including appurtenant porches, steps or vestibules, used or designed either wholly or in part for private residential purposes, whether single-family, duplex, or multiple, and whether inhabited or temporarily or continuously uninhabited or vacant.

L. "Public place" means any area that is used or held out for use by the public whether owned or operated by public or private interests.

M. "Solid waste" means all putrescible and nonputrescible solid and semisolid wastes including garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or

parts thereof, and discarded commodities.

N. "State regulations" means the regulations duly promulgated and adopted by the State Department of Ecology pursuant to RCW Chapter 70.93 and codified or prepared for codification as part of the Washington Administrative Code.

O. "Vehicle" includes every device capable of being moved upon a public street and in, upon, or by which any person or property is or may be transported or drawn upon a public street, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks.

P. "Watercraft" means any boat, ship, vessel, barge, or other floating craft.

Q. "Sidewalk" means concrete or asphalt sidewalk, pathway, trail, or anywhere the public has access by foot, bicycle or other mode of movement other than a motor vehicle. (Ord. 28.E §4(part), 2002)

#### **8.20.030 Requirements and restrictions generally.**

No person shall throw, drop, deposit, discard or otherwise dispose of litter upon any street, alley, sidewalk or any other public place in the city or upon a private residence or other private property not owned by him, or in any waters within the jurisdiction of the city whether from a vehicle or otherwise except:

A. When such property is designated by the state or by any of its agencies or the city for the disposal of garbage and refuse, and such person is authorized by the proper public authority to so use such property; or

B. Into a litter receptacle or other container in such manner that the litter will be prevented from being carried away or deposited by the elements upon any part of said public place, private residence or other private property; or

C. When such person is the owner or does have control or custody of the property, or has prior consent of the owner or tenant in lawful possession of such property, or unless the act is done under the personal direction of said owner or tenant and provided said litter will not cause a public nuisance or be in violation of any other state or local laws, rules or regulations. (Ord. 28.E §4(part), 2002)

#### **8.20.040 Receptacles--Placement.**

A. Litter receptacles shall be placed in all parks, trailer parks, gasoline service stations, parking lots of shopping plazas, and grocery stores, beaches, and other such public places in numbers appropriate to the need as specified by state regulation.

B. It is the responsibility of any person owning or operating any establishment or public place in which litter receptacles are required by this section to procure and place and maintain such litter receptacles at his or her expense on the premises. (Ord. 28.E §4(part), 2002)

#### **8.20.050 Receptacles--Use.**

A. Persons placing litter in litter receptacles shall do so in such manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private residence or other private property.

B. Litter receptacles placed near sidewalks and other public places shall be used only for such litter

material as persons may have for disposal while passing along the street or other public places and in no event shall be used for the disposal of other solid waste accumulated in residences or places of business. (Ord. 28.E §4(part), 2002)

**8.20.060 Receptacles--Damaging.**

It is unlawful for any person to willfully damage or deface any litter receptacle. (Ord. 28.E §4(part), 2002)

**8.20.070 Receptacles--Maintenance.**

It is the responsibility of the agency or person owning or maintaining the same for the removal of litter from litter receptacles. (Ord. 28.E §4(part), 2002)

**8.20.080 Mandatory litter bags.**

The owner and person in possession of all vehicles or watercraft shall keep and use a litter bag in said vehicle or watercraft at all times, which litter bag shall be maintained in such vehicle or watercraft in a place in which the same may be viewed from the outside of such vehicle or watercraft whether or not said vehicle or watercraft is locked or otherwise secured from entry. (Ord. 28.E §4(part), 2002)

**8.20.090 Sweeping litter into gutter prohibited.**

No person shall sweep into or deposit in any gutter, stormwater drain, street, alley or other public place the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property within the city shall keep the sidewalks in front of or adjacent to their premises free of litter. (Ord. 28.E §4(part), 2002)

**8.20.100 Newspapers.**

Newspapers shall be placed on private property or in an appropriate container in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk, or other public place or upon private property. (Ord. 28.E §4(part), 2002)

**8.20.110 Property owner maintenance responsibility.**

The owner or person in control of any private residence or other private property or public place shall at all times maintain the premises free of litter. (Ord. 28.E §4(part), 2002)

**8.20.120 Handbill distribution.**

No person shall throw or deposit any handbill in or upon any sidewalk, street or other public place

within the city. Further, the city will discourage any person from handing or distributing or selling any handbills in any public place; provided, however, this section shall not apply to political signs as permitted by Chapter 17.38 of this code. (Ord. 28.E §4(part), 2002)

**8.20.130 Handbill distribution--Placement on vehicles.**

No person shall throw or deposit any handbill in or upon any vehicle; provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof, a handbill to any occupant of a vehicle who is willing to accept it. (Ord. 28.E §4(part), 2002)

**8.20.140 Handbill distribution--Vacant property.**

No person shall throw or deposit, post, or distribute any handbill in or upon any private residence or other private property which are temporarily or continuously uninhabited or vacant. (Ord. 28.E §4(part), 2002)

**8.20.150 Handbill distribution--Posted property.**

No person shall throw, deposit, post, or distribute any handbill upon any private residence or other private property, if requested by anyone thereon not to do so, or if there is placed on said residence or property in a conspicuous position near the entrance thereof, a sign bearing the words: "No Trespassing," "No Peddlers or Agents," "No Advertisement," or any similar notice, indicating in any manner that the occupants of said residence or property do not desire to be molested or have their right of privacy disturbed, or to have any such handbills left upon such premises. (Ord. 28.E §4(part), 2002)

**8.20.160 Handbill distribution--Private posted property.**

A. No person shall throw, deposit, post or distribute any handbill in or upon private residence which is inhabited, except by handing or transmitting any such handbill directly to the owner, occupant, or other person then present in or upon such private residence; provided, however, that in case of inhabited private residence which is not posted, as provided in this chapter, such person unless requested by anyone upon such residence not to do so, may place or deposit any such handbill in or upon such inhabited private residence, if any such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such residence or sidewalks, streets, or other public places, and except that mailboxes may not be so used when so prohibited by federal postal law or regulations.

B. Exemption for Mail and Newspapers. The provisions of this section shall not apply to the distribution of mail by the United States, nor to newspapers, as defined in this chapter. (Ord. 28.E §4(part), 2002)

**8.20.170 Throwing from vehicles prohibited.**

No person, while a driver or passenger in a vehicle, shall throw or otherwise deposit litter upon any

street or other public place or upon any private residence or private property. (Ord. 28.E §4(part), 2002)

**8.20.180 Spilling loads from vehicles prohibited.**

A. No vehicle shall be driven or moved within the city unless such vehicle is so constructed or loaded as to prevent any of its load, contents or litter from dropping, shifting, leaking or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway surface in the cleaning or maintaining of such roadway by public authority having jurisdiction for the same or by persons under contract or other authorization by such public authority.

B. Any person owning or operating a vehicle from which any glass or other objects of its load have fallen or escaped, which would constitute an obstruction or injure a vehicle or otherwise endanger travel upon such public street shall immediately cause said public street to be cleaned of all such glass or other objects and shall pay any cost therefor. (Ord. 28.E §4(part), 2002)

**8.20.190 Litter from construction sites.**

A. No individual or person in charge of a construction site in the city shall cause or allow any litter from the site to be deposited by the elements or otherwise upon any adjacent public or private property. During such time as the construction site is not actually being used, all litter shall be stored or deposited in containers or receptacles in such a manner as to prevent the litter from being deposited upon adjacent property by the elements or otherwise.

B. No person in charge of any construction site in the city shall cause or allow any mud, dirt, sticky substances, road surfacing materials or other litter from said construction site to be deposited by any vehicles, the wheels or tires of any vehicles, the elements or otherwise upon any street, alley or other public place; provided, however, if a construction site and adjacent public streets are maintained under a clean-up program approved by the department of public works, then this subsection shall not apply.

C. All of the terms, conditions, regulations and restrictions as outlined in Chapter 12.20 of this code shall also apply to this section.

D. Violation. The penalty for failure to abate or comply with this section shall be subject to the penalty provisions as outlined in Chapter 12.20 of this code. (Ord. 28.E §4(part), 2002)

**8.20.200 Litter in parks.**

No person shall throw or deposit litter in any park within the city except in litter receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements onto any part of the park or onto any street or other public place. Where litter receptacles are not provided, all such litter shall be carried away and properly disposed of elsewhere. (Ord. 28.E §4(part), 2002)

**8.20.210 Inspections.**

A. At such times as the city or other local contract agency makes routine or other inspections within the city, it shall inspect all such premises to assure compliance with the requirements for maintaining litter as required by this chapter.

B. The building department shall not approve occupancy of any building, structure or other improvement for new construction or modification to any existing building, structure or other improvement for which a building permit is required, nor give final inspection approval to any such building, structure or other improvement, until all litter receptacles as required in this chapter have been removed from the subject property. (Ord. 28.E §4(part), 2002)

**8.20.220 Enforcement authority and procedures.**

Enforcement of this chapter may be by any police officer or other law enforcement officer, fire department and building department personnel, jurisdictional health department personnel, and those public employees charged with the responsibility of operating and maintaining all public places within the provisions of this chapter. All such enforcement officers are empowered to issue citations for infractions or, in the case of violations resulting in a misdemeanor or gross misdemeanor, to issue citation or effect arrest for violation of this chapter where such official is specifically sworn to do so and is authorized under state law and city ordinance to effect arrest. Enforcement officers may serve and execute citations and notices as described above, as well as process issued by the courts. Mailing by registered mail of a warrant, citation or other process to the last known place of residence of the offender shall be deemed personal service upon the person charged. Nothing in this chapter shall be construed to prohibit citizen complaints or citizen assistance as may be otherwise permitted under applicable state regulations, state statutes, local ordinances or court rules. (Ord. 28.E §4(part), 2002)

**8.20.230 Conflicting provisions.**

In the event any other city ordinance, whether or not codified, is in conflict with any of the terms of this chapter, the more stringent shall be construed as applicable. (Ord. 28.E §4(part), 2002)

**8.20.240 Violation--Penalty.**

Other than penalties as specified herein, the violations of or failure to comply with any provision of this chapter is declared unlawful. Violations or failures to comply with any provisions 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 A civil infraction. Failure to respond to a civil infraction or a second and subsequent violation for the same offense shall be issued a Class B civil infraction. Failure to respond to any infraction, third or subsequent violation shall constitute a misdemeanor. These fines shall be in addition to any other remedy allowed by this code or laws of the state of Washington. (Ord. 28.E §4(part), 2002)

**Chapter 8.24  
SOLID WASTE MANAGEMENT**

**Sections:**

- 8.24.010 System designated.**
- 8.24.020 Definitions.**
- 8.24.030 Unlawful disposal of solid waste.**

**8.24.040 Approval of comprehensive plan.**

**8.24.050 Approval of memorandum of understanding.**

**8.24.010 System designated.**

A. All solid waste generated within the corporate limits of the city shall be disposed of through the county system as provided for in the comprehensive plan except as otherwise provided in subsection D of this section.

B. The county is authorized to designate disposal sites for the disposal of all solid waste which is generated within the city, subject to the applicable laws of the Snohomish health district and the city if the disposal site is located within the city.

C. No solid waste may be diverted from the disposal sites designated by the county without county approval or as provided in the comprehensive plan.

D. The provisions of the comprehensive plan shall not apply:

1. To the disposal of solid waste through the waste recycling element of the comprehensive plan or any waste reduction or recycling plan approved by the county;

2. To the disposal of hazardous wastes or substances where disposal into the county system is prohibited or where other provisions pursuant to state or federal law are made for the handling of such wastes or substances;

3. Where disposal is otherwise provided for under state or federal law. (Ord. 252 §§1--4, 1992; Ord. 228 §2, 1990)

**8.24.020 Definitions.**

As used in this chapter, the following definitions apply:

"Comprehensive solid waste management plan" or "comprehensive plan" means the county comprehensive solid waste management plan, including a recycling element, as adopted by county motion, and as amended from time to time.

"County" means Snohomish County, Washington.

"Memorandum of understanding" means the memorandum of understanding regarding solid waste disposal site designation, attached and incorporated in this chapter by this reference.

"Person" means an individual, firm, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation or any other entity whatsoever.

"Solid waste" means solid waste as defined by WAC Section 173-304-100, with the exception of wastes excluded by WAC Section 173-304-015.

"Solid waste handling" means the management, storage, collection, transportation, treatment, utilization, processing, and final disposal of solid wastes, including the recovery and recycling of materials from solid wastes, the recovery of energy resources from such wastes, or the conversion of the energy in such wastes to more useful forms or combinations thereof, and as such term may be modified by amendments to RCW Section 70.95.030(10).

"System" means all facilities for solid waste handling owned or operated or contracted for, by the county, and all administrative activities related thereto. (Ord. 228 §1, 1990)

**8.24.030 Unlawful disposal of solid waste.**

A. It is unlawful for any person to dispose of any solid waste generated in the city and subject to this chapter at any location other than a site designated by the county except for solid waste which is eliminated through waste reduction or waste recycling activities under the comprehensive solid waste management plan or the handling of hazardous wastes and substances as provided in Section 8.24.010(D).

B. Any violation of subsection A of this section shall be a misdemeanor, and shall be in addition to any other violation, penalty, infraction or crime otherwise described in this code for punishment and prosecution of illegal disposal of solid waste. The fine and penalty for this specific violation and prosecutions for this specific offense shall be by a fine not to exceed five thousand dollars or imprisonment in jail not to exceed one year, or both such fine and imprisonment. (Ord. 228 §3, 1990)

**8.24.040 Approval of comprehensive plan.**

The city finds that approval of the comprehensive plan is in the best interests of the residents of the city and such plan is approved. (Ord. 228 §4, 1990)

**8.24.050 Approval of memorandum of understanding.**

The city finds that execution of a memorandum of understanding is in the best interests of the city and that a memorandum shall be prepared and presented for review, acceptance and approval by further action of the council and the mayor. (Ord. 228 §5, 1990)

**Chapter 8.28  
FIREWORKS PROHIBITED**

**Sections:**

- 8.28.010 Restrictions on sale and discharge of fireworks.**
- 8.28.020 Fireworks sales/stands.**
- 8.28.030 Licenses and permits.**
- 8.28.040 Violation and penalty.**

**8.28.010 Restrictions on sale and discharge of fireworks.**

RCW Chapter 70.77 as amended by SSSB 6080 (Chapter 370, Laws of 2002) is hereby adopted in its entirety, save and except for RCW 70.77.395, by reference and incorporated by the city of Brier as if fully set forth; provided, however, that the following is substituted for RCW 70.77.395 and shall read as follows:

A. Except as provided in RCW 70.77.311, no consumer fireworks shall be sold within the city of Brier except from twelve noon on the twenty-eighth of June to eleven p.m. on the fourth day of July of each year.

B. Except as provided in RCW 70.77.311, no consumer fireworks shall be sold within the city of Brier from twelve noon on the twenty-seventh of December to eleven p.m. on the thirty-first day of December of

each year.

C. The use or discharge of consumer fireworks shall be restricted to the fourth day of July each year during the hours of nine a.m. through eleven-fifty-nine (11:59) p.m.

D. In accordance with RCW 70.77.395, as amended, the use or discharge of consumer fireworks is expressly prohibited within the city of Brier from twelve noon on December 27th through twelve midnight, December 31st. (Ord. 253.C §1(part), 2002)

**8.28.020 Fireworks sales/stands.**

A. Chapter 212-17 WAC Part III, Wholesaler, is hereby adopted by reference and incorporated by the city of Brier as if fully set forth.

B. Chapter 212-17 WAC Part V, Retailer, is adopted by reference and incorporated by the city of Brier as if fully set forth. (Ord. 253.C §1(part), 2002)

**8.28.030 Licenses and permits.**

A. A wholesaler must obtain an annual business license from the city in conjunction with state licenses. Wholesale businesses shall meet all the requirements of the Brier Zoning Code as well as requirements of the Uniform Fire Code and conditions of the local fire department. The city license fee shall be one hundred fifty dollars with one-hundred-dollar renewal fees.

B. A retailer must obtain an annual permit to sell fireworks within the city of Brier in conjunction with state licenses or permits. Retail fireworks stands shall meet all the requirements of the city of Brier Zoning Code as well as requirements of the Uniform Fire Code and conditions of the local fire department. The city permit fee shall be twenty-five dollars each year and shall only be valid for the allowed time schedule of this chapter stated in Section 8.28.010(A) of this chapter. (Ord. 253.C §1(part), 2002)

**8.28.040 Violation and penalty.**

Any person, firm, corporation or other entity violating the fireworks provisions of this chapter shall, for a first offense, be subject to a Class B civil infraction; for a second offense, shall be subject to a Class C civil infraction; and for a third offense, shall be subject to a misdemeanor, with fines and punishments as proscribed in the general penalty provisions of Section 1.28.030 of this code, as presently existing or hereafter amended. (Ord. 253.C §1(part), 2002)