

TITLE 13. HEALTH AND SANITATION

Chapter 13.01. In General.

13.01.001. Title.

The provisions of this Title 13 may be cited and referred to as the "Brigham City Code Chapter on Refuse Management."

13.01.002. Definitions.

For the purpose of this Title, the following words and phrases shall have the meanings given herein:

A. Commercial Collection means the collection, transportation or disposal of refuse other than residential.

B. Commercial Hauler means a person, entity or Brigham City when engaged in commercial collection who collects, transports or disposes of refuse generated in Brigham City.

C. Construction or Demolition Materials means refuse from construction or demolition activities, including wood, brick, stone, rubble, concrete, drywall and other building materials, but does not include small amounts of such materials that are susceptible to collection by the regular methods.

D. Dispose or Disposal means to abandon, deposit, inter or otherwise discard material as a final action after its use has been achieved or a use is no longer intended, including the deposition of material at a refuse management facility.

E. Hazardous Waste means a refuse or combination of which is a hazardous waste under the Utah Solid and Hazardous Waste Act, Section 19-6-101, Utah Code, as amended, and regulations issued under it.

F. Night Soil means the contents from privy vaults, cess pools, septic tanks, grease tanks and water closets.

G. Owner means one (1) or more persons owning an interest in a structure, and includes tenants and other occupants.

H. Refuse means all putrescible and non-putrescible materials or substances discarded or rejected as being spent, useless, worthless, or in excess to the owner's needs at the time of discard or rejection, including but not limited to garbage, industrial and commercial waste, sludge from air or water control facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris, discarded automobiles and offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous form.

I. Residential Collection means the collection, transportation or disposal of refuse generated by the occupants of the following units:

- 1) Single family dwellings as defined by Title 29 of the Brigham City Code.
- 2) Two family dwellings as defined by Title 29 of the Brigham City Code.
- 3) Three family dwellings as defined by Title 29 of the Brigham City Code.
- 4) Four family dwellings as defined by Title 29 of the Brigham City Code.
- 5) Condominiums and townhouses as defined by Title 29 of the Brigham City Code.

J. Refuse Collection Containers means a receptacle with an attached lid or cover of varying sizes and material capable of collecting refuse and designed to interact with an automated collection vehicle (except for containers used solely for recycling collection).

K. Structure means any building or part thereof in Brigham City whether or not used for human habitation and includes the parcel of real property upon which it is located and includes any business or activity occurring in the building or on the parcel of real property.

L. Superintendent means the Superintendent of Brigham City Department of Refuse management, or his designee.

M. Unsanitary Condition means a condition found and determined by any local or state health department to be a health risk to any people or animals.

13.01.003. Hazardous Waste.

This title does not apply to the generation, transportation, treatment, storage or disposal of hazardous waste.

13.01.004. Unlawful to Collect, Transfer or Dispose of Refuse Without a Business License.

Except as otherwise provided in this chapter, it shall be unlawful for any person or entity other than the City to collect, transport or dispose of refuse in Brigham City without a business license thereof.

13.01.005. Unlawful Acts.

It shall be unlawful, and punishable as a Class "B" misdemeanor, for a person:

- A. To use the public streets or other municipal property to collect, transport, remove, dispose of or deposit refuse in any manner contrary to the provisions of this Title.
- B. To tamper or permit an animal under the control of a person to tamper with any City owned container or its contents, or to tamper with any other refuse collection container.
- C. To set fire, except when authorized, to refuse on a public street, on City property, in any refuse collection container, or within any refuse management facility.
- D. To maintain (or cause to be maintained) refuse collection containers or refuse collection container storage areas in an unsanitary condition.
- E. To do or fail to do any act prohibited or required by this Title.
- F. To transport refuse over the public streets of Brigham City without sufficient restraint or cover to prevent the refuse from escaping from vehicles or containers onto the public streets.
- G. To place for collection by the City any material that is not refuse as defined herein or that is prohibited from collection by the term of this Title.
- H. To place a refuse collection container on any sidewalk, roadway, alleyway or parking lot so as to impede pedestrian movement or vehicle traffic.
- I. To engage in residential collection. This provision shall not apply to Brigham City or to a private hauler under contract to Brigham City.
- J. To act as a commercial hauler without a business license therefore.
- K. For the owner of a structure, which does not qualify to receive residential refuse collection service, to fail or refuse to contract for sufficient service from a commercial hauler to remove, or otherwise provide for the removal, in a manner approved by the Superintendent, all refuse generated at the structure with respect to which he/she is an owner.
- L. For the owner of a structure receiving service from a commercial hauler to fail or refuse to maintain the site of the refuse collection container in a reasonably clean condition.
- M. To place, deposit or dump any type of refuse or waste in or around the Box Elder Creek Channel.

13.01.006. Collection and Disposal -- Duty of Owner.

The owner of a structure shall lawfully cause the collection, transportation and disposal of refuse which has been generated at his structure. The owner of a structure shall not cause or permit putrescible refuse to remain at his structure for more than seven (7) days or non-putrescible refuse to remain at his structure for more than thirty (30) days.

13.01.007. Building or Demolition Contractors.

A licensed building or demolition contractor shall not be required to obtain a separate license under this Title to collect, transport and dispose of construction or demolition materials from a site at which he is acting as a building or demolition contractor.

13.01.008. Unlawful Dumping.

This Section shall not apply to single family residences in which refuse generated onsite is completed and the finished compost is used onsite.

It shall be unlawful, and punishable as a Class "B" misdemeanor, for a person:

- A. To place, deposit or dump garbage, ashes, market waste, paper boxes, cartons, trade waste, manure or night soil, organic material, or any other refuse, upon any real property within the limits of the City, including the water and riparian area of the Box Elder Creek, whether such lot is occupied or vacant, and whether such person so placing, depositing or dumping such refuse is the owner, tenant, occupant or lessor thereof or has the same under his or her jurisdiction and control.
- B. To place refuse in a refuse container owned, leased, rented or controlled by another without the consent of the person or entity that owns, leases, rents or controls said container.

13.01.009. Control of Collection, Transportation and Disposal by Superintendent.

The Superintendent may impose reasonable and uniform rules not inconsistent with the provisions of this Title upon the collection, transportation and disposal of refuse throughout Brigham City, including but not limited to rules regarding:

- A. The operation of all collection, transportation and disposal services by Brigham City and by commercial haulers.
- B. The operation of all Brigham City refuse management facilities.
- C. Days and times of operation of all of the above to ensure efficient City operations.

13.01.010. Residential Collections.

The City will provide for all residential collection as defined herein under the supervision of the Department of Public Works pursuant to the following:

A. Owner Responsible for Charges. Except where water, sewer and garbage service to the owner's premises is properly terminated, the owner of every premise subject to residential collection shall be responsible and liable for the monthly charges for residential collection as established by resolution. The charge for such service shall be billed with the City's regular electric, water and sewer billings to such address as the City's utility billing department has records, and directly to the address of all other such premises where residential collection is provided. In those instances where the electric, water and sewer bill is currently being sent to a tenant at the owner's request, the refuse collection service will be similarly billed. However, the owner will pay for all refuse collection services furnished such tenant, or any other occupant of the premises named in the City's utility billing department application in case such tenant or occupant shall fail to pay the same.

B. Billing.

1. Delinquency. Fees and charges levied in accordance herewith shall be a debt due to the City. If this debt is not paid within thirty days after billing, it shall, at the option of the Director of Finance, be deemed delinquent and subject to recovery in a civil action for which the City may recover reasonable attorney's fees, and/or said department shall have the right to terminate water, sewer and refuse collection services to said premises in accordance with all applicable laws, rules and regulations pertaining to such terminations. Any uncollected amount due from the owner on any inactive, terminated or discontinued account, may be transferred to any active account under the owner's name and upon failure to pay said bill after at least five days prior written notice, water, sewer and/or refuse collection services to that account and premises may be discontinued.

2. Restoration of Service. Water, sewer and refuse collection service shall not be restored until all charges shall have been paid.

C. Enterprise Fund. All funds received from such refuse collection services shall be placed in the refuse enterprise fund, which is part of the City's Public Utility Fund. The collection, accounting and expenditure of all refuse funds shall be in accordance with existing fiscal policy of the City.

13.01.011. Special Community Services.

Brigham City may from time to time provide special collection and disposal services related to refuse for which a charge may be imposed upon the recipients of those services.

13.01.012. Regulations Applicable to Brigham City Residential Collection.

The following regulations shall apply to residential refuse collection provided by Brigham City. Violation of any of the following shall be a Class "B" Misdemeanor:

A. For all residential collection, Brigham City shall provide a refuse container for use in residential collection. The owner of every premise subject to residential collection shall be responsible for the proper care and maintenance of said refuse container, reasonable wear and tear excepted.

B. Residential refuse shall be collected only from containers obtained from Brigham City. (Containers obtained from Brigham City are specially designed for use in an automated collection system.)

C. The City shall at reasonable times and places, but not less than once each week, collect and dispose of a reasonable accumulation of refuse from each residential unit. Additional service may be provided by the City, for which an additional fee may be imposed.

D. Except where the Superintendent shall otherwise agree, residential collection of refuse shall be made from the street. Containers shall be placed at the edge of the street in a manner that will allow a refuse collection truck to be driven to the side of the container.

E. Containers shall be placed in front of a residence for collection at such time as may be designated by Department Policy, but not earlier than the day before the day scheduled for collection and shall be removed within twenty-four (24) hours after collection.

F. The owner of the premise receiving residential collection shall maintain the refuse containers serviced at said premises in a clean and sanitary condition.

G. Fluids shall be separately packaged when placed in a container. Fluids shall not be allowed to accumulate in the bottom of a refuse container.

H. Ashes shall be cold before being placed in a container.

I. This section shall apply only to collections made by the City or a private contractor working for the City.

1. Small animal waste material must be dry and mixed with sand, sawdust, commercial pet litter or similar absorptive material, and double-wrapped in paper or placed in a separate plastic bag before being placed in a refuse container for disposal.

2. Sharp objects such as broken glass, knives and hypodermic needles, must be double-wrapped in paper or other suitable material so that no sharp edge is exposed before being placed in a refuse container for disposal.

J. The Superintendent or his designee is hereby authorized and required to inspect the condition of refuse containers.

K. No refuse shall extend vertically beyond the top of any Brigham City refuse container in such a manner that its contents may be reasonably expected to spill onto the ground prior to or during collection operations.

L. Refuse collection for residential construction; Brigham City may provide a refuse container for residential construction sites. Such refuse containers shall be limited to 300-gallon containers.

M. The owner shall pay the replacement cost for lost or damaged containers. Such damage shall include fire damage, heat, vandalism, natural disasters or any other circumstances other than for normal wear.

13.01.013. Limitations on Residential Collection.

Except when otherwise agreed or provided for, Brigham City residential refuse collection shall not include collection or disposal of the following:

A. Large quantities of construction and demolition materials.

B. Large quantities of dirt, sod, rocks and concrete.

C. Contagious disease waste. Such waste shall not be placed in containers for regular collection.

D. Large bulky waste items such as appliances, furniture or metal objects.

E. Dead animals.

F. Septic tank waste or holding tank waste from recreational vehicles or travel trailers.

G. Highly flammable or explosive materials such as oil, gas or paint.

H. Hazardous or radioactive waste material.

I. Any substance or material which is not refuse as defined herein or which Brigham City reasonably determines to be unsuitable for collection and disposal because of its physical or chemical properties, size or quantity.

13.01.013.5. Brigham City as a Commercial Hauler.

A. Brigham City may act as a commercial hauler, under the following conditions:

1. When servicing Brigham City owned or operated facilities.

2. When servicing special public events.

3. Other commercial service shall be limited to one (1) ninety gallon container per customer.

B. When acting as a commercial hauler for other than government agencies, Brigham City shall:

1. Conform to all regulations, except for business licensing and insurance, which apply to commercial haulers generally;

2. Pay all other fees imposed generally by the City on the operations of commercial haulers.

13.01.014. Business License for Commercial Haulers.

A commercial hauler must obtain a business license subject to the requirements of Title 14.13 of the Brigham City Code.

13.01.015. Insurance.

All commercial haulers shall have and maintain at all times general liability insurance in an amount not less than: \$2,000,000, Aggregate; \$1,000,000, Occurrence/General Liability; and, \$1,000,000, Automobile Liability.

13.01.016. Regulations for Commercial Haulers.

The following regulations shall apply to all licensed commercial haulers. Violation of any of the following shall be a Class "B" misdemeanor and shall constitute a sufficient basis to suspend or revoke a hauler's license:

- A. Commercial haulers shall not engage in residential collection.
- B. All vehicles used to collect or carry refuse must be in good mechanical condition and all mechanisms relevant to the hauling of refuse must be fully operable. Each vehicle, except roll-off vehicles, manufactured after January 1, 1990, shall be equipped with a backup alarm and one or more amber warning lights. The warning light(s) shall be mounted near the rear of the vehicle in an area visible to the public. Roll-off vehicles shall be equipped with a backup alarm.
- C. All vehicles used to collect or transport, except for roll-off service containers, shall be fully enclosed with watertight sides and bottom.
- D. The tailgate of each vehicle used to collect or carry refuse shall be so constructed as to prevent the contents of the body spilling or blowing from the vehicle while in motion.
- E. The outside of the body of each vehicle used by a commercial hauler to collect or carry refuse must be clearly painted and identified with the name and telephone number of the licensee.
- F. All vehicles used to collect or carry refuse shall comply with all applicable state and federal statutes and regulations relating to such vehicles.
- G. Haulers shall comply with all provisions of this Title and all applicable state or federal regulations or laws concerning the collection, transportation or disposal of refuse.
- H. Commercial hours of operation shall be in accordance with Brigham City Code 13.02.020.

13.01.017. Refuse Collection Containers.

- A. All refuse collection containers shall be of a type approved by the Superintendent prior to being placed.
- B. All refuse collection containers used or intended for use by commercial haulers shall be located and maintained as follows:
 - 1. Each refuse collection container shall be located and maintained as described in an applicable project plan.
 - 2. If there is no applicable project plan, each refuse collection container shall be located or screened so as to minimize its visibility from public property. No such container shall be placed upon any public street, right-of-way or easement adjacent to public streets, except in areas designated for the servicing of the structures on which located. Automated containers with wheels which are designed to be placed out for collection may be placed on public right-of-way in accordance with provisions set forth for residential pickup in Section 13.01.012 of this title. In no case shall any refuse container be placed at anytime as to block or hinder public vehicular, or pedestrian access, or otherwise pose a threat to public health or safety by its placement. Containers may be placed on public streets for temporary, short-term special services when approved by the Superintendent.
 - 3. If there is no applicable project plan, and there is no reasonable way in which a particular refuse collection container can be located or screened so that it cannot be observed from public property, the location and maintenance of said refuse collection container shall be as approved by the Superintendent.
- C. It shall be unlawful for any owner to fail or refuse to provide a site conforming to the requirements of this section with respect to the following:
 - 1. each refuse collection container located on property owned or controlled by owner, and;
 - 2. each refuse collection container which is used to deposit refuse from the structure of the owner.
- D. It shall be unlawful for a commercial hauler to:
 - 1. fail or refuse to return a refuse collection container to the specific site or location conforming to the requirements of subsection 2 of this section, after it has been emptied. This shall not apply to automated containers with wheels which are designed to be set at the curb for pickup.
- E. If the required location of a refuse collection container is obstructed by spilled or excess refuse, the hauler who moves said container shall clean the required location sufficiently that the container can be reasonably returned to the required location.
- F. All contracts entered into by a commercial hauler for the servicing of refuse collection containers shall be deemed subject to further amendment as necessary to comply with this section.

13.01.018. Recycling.

A person who collects refuse for the primary purpose of reusing or recycling said refuse shall be subject to all regulations and financial charges applicable to commercial haulers, except the following:

A. This section shall not apply to a person who sells refuse generated by that person, if the refuse which is sold is to be reused (recycled). This section shall, however, apply to a person who buys refuse from a person who generates it.

B. Such person shall be allowed to engage in curbside residential collection for the sole purpose of reusing or recycling the refuse collected.

13.01.019. Regulations for Recycling Collection.

A. Recycling collection haulers shall collect and transport only Brigham City approved recyclable items.

B. All vehicles and/or trailers used to collect or transport recyclable items shall be in good mechanical condition and all mechanisms relevant to the hauling of such items must be fully operable and in compliance with the following:

1. For residential curbside recycling, each vehicle and/or trailer shall be equipped with a backup alarm.

2. Recycling vehicles and/or trailers with a gross vehicle weight rating (GVWR) of 26,100 pounds or more shall, in addition to prior requirements of this section, be equipped with the following:

a. A remote camera and monitor appropriately mounted for viewing the vehicle's backing area.

b. Amber warning beacons installed on the vehicle.

C. All vehicles and/or trailers used to collect or transport recyclable items shall be fully enclosed and/or have enclosed bins to prevent the contents from spilling, falling, blowing or leaking from the vehicle.

D. The outside of the body of each vehicle used by a recycling collection hauler to collect or transport recyclables must be identified with the name of the licensee clearly painted on the outside of the vehicle.

E. All vehicles used to collect or transport recyclable items shall comply with all applicable state and federal regulations relating to such vehicle.

F. Recycling collection haulers shall comply with all provisions of this Title and all applicable state and federal regulations regarding the collection, transportation and/or disposal of recyclable items.

G. Recycling collection hours of operations shall be in compliance with the Brigham City Code, Title 13.02.020.

H. Recycling collection containers used for the purpose of storing, staging and collecting recyclables and the placement of said containers for collection shall be approved by Brigham City, public Works Department.

I. The provisions of this section shall not apply to non-profit organizations engaged in fund raising activities.

13.01.019.5 Charges for Refuse Collection by Brigham City.

Charges for refuse collection by Brigham City shall be as fixed by resolution by the City Council. ¹

13.01.020. Nuisances - Definition. ²

~~Anything which is injurious to the health or morals or indecent or offensive to the senses or whatever is dangerous to human life or health or whatever renders soil, air, water or food impure or unwholesome or whatever is an obstruction to the free use of property so as to interfere with the enjoyment of life or property is a nuisance. For state law as to power of cities to declare and abate nuisances, see U.C.A., 1953, Section 10-8-60.~~

A. Abate. *To repair, replace, remove destroy, correct, or otherwise remedy a condition which constitutes a nuisance.*

¹ Ordinance No. 00-37, 12/7/00

² Ordinance No. 02-17, 6/20/02

B. Completion Date. The date by which the Responsible Person must abate a nuisance. The Completion Date is originally set by the Neighborhood Improvement Coordinator in the Voluntary Correction Agreement.

C. Emergency. A situation which, in the opinion of the Neighborhood Improvement Coordinator or applicable City Official, requires immediate action to prevent or eliminate an immediate threat to the health or safety of a person or property.

D. Neighborhood Improvement Coordinator. Any code enforcement officer(s) hired by the City to enforce City ordinances.

E. Public Place. An area generally used by or visible to the public.

F. Responsible Person(s). The owner(s), lessor(s), lessee(s), or other person(s) entitled to control, use and/or occupy property upon which a nuisance is found; and any person, whether as owner, agent or occupant, who creates, aids in creating, or contributes to a nuisance, or who supports, continues, or retains a nuisance.

13.01.030. Nuisance - Enumeration.

Without limiting or impairing the effect of other sections of the code, the following, when they exist within the limits of the City, are specifically declared to be public nuisances:

A. Nuisances as Defined by State Code. Nuisances as defined within the State Code, specifically U.C.A. '78-38-1, U.C.A. '76-10-801 through '76-10-803 and all other sections meeting the definition of a nuisance.

B. Fire Hazard. A fire hazard as determined by the Fire Marshal, and also the burning of material which causes a dangerous or offensive smell, smoke, soot or cinders.

C. Improper Accumulation or Storage. Accumulation of soil, sand, gravel or rock, litter, debris, plant trimmings, or trash, in the public right-of-way or visible from the street or an adjoining property. Material stored as part of an active construction project shall not be considered a nuisance.

D. Accumulation of Junk. Accumulation of used or damaged lumber; junk; salvage materials; abandoned, discarded, or unused furniture; stoves, sinks, toilets, cabinets, or other fixtures or equipment stored so as to be visible from a public street, alley, or adjoining property, or which is likely to harbor rats, vermin, or other pests. However, nothing herein shall preclude the placement of stacked firewood for personal non-commercial use on the premises.

E. Attractive Nuisances. Any attractive nuisance dangerous to children and other persons including, but not limited to, abandoned, broken or neglected household appliances, equipment and machinery, abandoned foundations or excavations, or improperly maintained or secured pools.

F. Vegetation. Dead, decayed, diseased, or hazardous trees, noxious weeds, hedges, and overgrown or uncultivated vegetation which is in a hazardous condition, is an obstruction to pedestrian or vehicular traffic, is a potential fire hazard or which is likely to harbor rats, vermin, or other pests.

G. Fugitive Dust. Any Premises or Property from which dust escapes due to human disturbance of the landscape such as removal of or lack of landscaping, non-maintenance, manufacturing or other business activity, mining activity, construction activity, or other cause.

H. Construction Equipment. Construction equipment or machinery of any type or description parked or stored on property, without a business license specifically regulating the parking or storage of such equipment or machinery, when it is readily visible from a public street, alley, or adjoining property, except while excavation, construction or demolition operations covered by an active building permit are in progress on the subject property or an adjoining property, or where the property is zoned for the storage of construction equipment and/or machinery. This section shall not apply to the keeping or storage of equipment, implements, or tools normally kept for the maintenance of residential yards such as lawn mowers, roto-tillers, etc.

I. Graffiti. Any graffiti including, but not limited to, graffiti consisting of vulgar or indecent words or pictures, which remains on the exterior of any building, fence, sign or within a public place which is visible to the general public.

J. Improper Maintenance. Maintenance of buildings, structures, walls, signs, fences, gates, hedges or structures in such condition as to be deemed defective or in a condition of deterioration or disrepair including, but not limited to:

1. Any building or structure which is unfit for human habitation or which is an unreasonable hazard to the health of people residing in the vicinity thereof, and which is not reasonably secured against entry; or

2. Any building or structure that presents an unreasonable fire hazard in the vicinity where it is located.

3. Any building or structure which is abandoned, partially destroyed, or left in an unreasonable state of partial construction for a period of six (6) months or longer. The building or structure shall not be considered to be a nuisance if it is under active construction as evidenced by a current building permit, or a plan for its rehabilitation is being reasonably pursued.

4. Any building or structure having dry rot, warping, termite infestation, decay, excessive cracking, peeling or chalking finish material, so as to render the building unsightly and/or in a state of disrepair, and for which no plan for its rehabilitation is being reasonably pursued.

5. Any building, structure or condition that violate any building, electrical, plumbing, fire, housing or other code adopted by the City.

This section shall not be construed to require the removal of buildings which have a legitimate and demonstratable historic significance to the community; however, such buildings shall be maintained in a condition that does not create a health or safety hazard to persons working or residing in the vicinity, or to the general public.

K. Dangerous Conditions. Any fence, wall, shed, deck, house, garage, building, structure or any part of any of the aforesaid; or any tree, pole, smokestack; or any excavation, hole, pit, basement, cellar, sidewalk, subspace, dock or loading dock; or any lot, land, yard, premises, or location which in its entirety, or in any part thereof, by reason of the condition in which the same is found or permitted to be or remain, shall or may endanger the health, safety, life, limb or property, or cause any hurt, harm, inconvenience, discomfort, damage or injury to any one or more individuals in the City.

L. Other Conditions. Anything which is injurious to the health or morals or which is indecent or offensive to the senses or whatever is dangerous to human life or health or whatever renders soil, air, water or food impure or unwholesome or whatever is an obstruction to the free use of property so as to interfere with the enjoyment of life or property is a nuisance.

13.01.040 Exceptions.

No situation, conduct, activity, etc. which is done or maintained under the express authority of an authoritative statute, ordinance, or court ruling shall be declared a nuisance.

13.01.050 Responsibility for Nuisances.

Every Responsible Person(s) is responsible for abating any nuisances found on the Responsible Person's property pursuant to this ordinance, and every Responsible Person(s) is liable, both civilly and criminally, for any and all costs, fees, damages or penalties associated with such nuisance. Every successive owner or tenant of a property or premises who fails to abate a continuing nuisance upon or in the use of such property or premises caused by a former owner or tenant is responsible therefore in the same manner as the one who first created it.

13.01.060 Nuisance Abatement.

A. Administration. This ordinance shall be administered and enforced by the Community Development Department. In case of nuisances involving criminal violations, or violations of codes typically administered and enforced by the Police Department, this ordinance may also be administered and enforced by the Police Department.

B. Finding of Nuisance. If a Neighborhood Improvement Coordinator finds that a nuisance exists, they shall attempt to have the Responsible Person abate the nuisance. Although the Neighborhood Improvement Coordinator's first step in correcting or abating the nuisance will always be to seek voluntary compliance, the Neighborhood Improvement Coordinator may pursue any remedy or combination of remedies available pursuant to this ordinance, state law, or common law in order to abate the nuisance. Nothing in this section shall be interpreted to prohibit the City from engaging in its standard prosecution practices. Therefore, the City may prosecute violators of City ordinances or state laws without first having to comply with the provisions of this ordinance, even though the activity or conduct prosecuted may also constitute a nuisance under this ordinance. Nothing in this ordinance shall be interpreted to prevent the City from enforcing applicable City ordinances or codes without first treating the offending conduct, situation, activity, etc. as a nuisance pursuant to this ordinance.

C. Repeated Short-Term Nuisances. It is recognized by this ordinance that certain nuisances by their nature may occur for a short period of time such that at the time of contact with the Responsible Person by the Neighborhood Improvement Coordinator, the nuisance may not be occurring or evident. In such cases, the Neighborhood Improvement Coordinator shall document at least three such occurrences before initiating any action to abate the nuisance. Upon such documentation, the Neighborhood Improvement Coordinator

may proceed to abate the nuisance pursuant to the provisions of this ordinance, notwithstanding that the nuisance is not occurring or evident during the abatement process. In such case, the Neighborhood Improvement Coordinator shall determine that a reasonable probability exists that the nuisance will continue to occur periodically if abatement is not pursued.

D. Voluntary Correction.

1. Contact. Before taking other steps to abate the nuisance, the Neighborhood Improvement Coordinator shall make a reasonable attempt to secure voluntary correction or abatement of the nuisance by:

- a. contacting the Responsible Person(s), where possible;
- b. explaining the nuisance;
- c. requesting the Responsible Person(s) to abate the nuisance.

2. Voluntary Correction Agreement. If the Neighborhood Improvement Coordinator and the Responsible Person(s) agree to terms for abating the nuisance, they shall enter into and sign a Voluntary Correction Agreement. This agreement shall contain:

- a. the name and address of the Responsible Person(s);
- b. the street address of the nuisance, or a description sufficient to identify the building, structure, premises or land upon or within which the nuisance is occurring;
- c. a description of the nuisance;
- d. the necessary corrective action to be taken, and a date or time by which correction must be completed.

e. The Neighborhood Improvement Coordinator may grant an extension of the time limit for correcting or abating the nuisance if the Responsible Person has shown due diligence and/or substantial progress in correcting or abating the nuisance but unforeseen circumstances render abatement under the original conditions unattainable. If the Responsible Person complies with the terms of the Voluntary Correction Agreement, the City shall take no further action against the Responsible Person related to the nuisance described in the Voluntary Correction Agreement unless the nuisance recurs.

E. Non-Voluntary Correction.

1. No Agreement. If the Neighborhood Improvement Coordinator and the Responsible Person cannot agree to terms for correcting or abating the nuisance, the Neighborhood Improvement Coordinator may still abate the nuisance using one or more of the procedures set forth in this ordinance, state law, or common law.

2. Civil Actions. Either the City or any private person directly affected by a nuisance may bring a civil action as allowed by law to abate or enjoin the nuisance, or for damages for causing or maintaining the nuisance (including the cost, if any, of cleaning the subject property).

3. Criminal Actions. Criminal actions may be initiated by criminal citation from the Neighborhood Improvement Coordinator or by long form information.

a. Any Responsible Person who maintains or assists in maintaining a nuisance is guilty of a Class C Misdemeanor. No person shall be prosecuted under this subsection unless the Neighborhood Improvement Coordinator first attempts to obtain voluntary correction as provided in Section 13.01.060(D) of this ordinance.

b. If the alleged nuisance is also a violation of a provision of City Code (other than this nuisance ordinance) or state law, the Responsible Person may be charged under the specific provision of City Code or state law, even if the Neighborhood Improvement Coordinator did not first attempt to obtain voluntary correction as provided in Section 13.01.060(D) of this ordinance.

c. Any person who knowingly obstructs, impedes or interferes with the City or its agents, or with the Responsible Person, in the performance of duties imposed by this ordinance, or a Voluntary Correction Agreement, is guilty of a Class B Misdemeanor.

4. Abatement by Eviction. Whenever there is reason to believe that a nuisance under Section 13.01.030 is kept, maintained, or exists in the City, the City Attorney or any citizen(s) residing in the City, or any person or entity doing business in the City, in his, her, or their own names, may maintain an action in a court of competent jurisdiction to abate the nuisance and obtain an order for the automatic eviction of the tenant of the property harboring the nuisance. The eviction shall take place as specified in Utah law.

5. Lien for Costs. If a person fails to pay any fines or costs related to nuisance abatement when due, the City may record a lien on the property or premises of the full amount of the unpaid fines and costs.

6. Non-Exclusive Remedies. The City may take any or all of the above-mentioned remedies (administrative, civil or criminal) to abate a nuisance and/or to punish any person or entity that creates, causes, or allows, a nuisance to exist. The abatement of a nuisance does not prejudice the right of the City or any person to recover damages or penalties for its past existence.

13.01.030. Nuisances - Enumeration:

Without limiting or impairing the effect of other sections of this Code, the following, when they exist within the limits of the City, are specifically declared to be public nuisances:

A. All cellars, vaults, drains, pools, cesspools, privies, coops, pens, sewers, yards, grounds or premises which for any cause have become foul, nauseous or injurious to health or a menace to health or which give forth odors which are offensive to adjacent residents or to persons passing by;

B. All carcasses, decaying flesh, fish, fowl or vegetables and all deposits of manure or other unwholesome substances and all filthy or offensive water or slops in any private yard or premises which have been thrown or conducted into or upon any street, alley, public ground or any enclosure so as to be unwholesome or offensive or liable to become unwholesome or offensive;

C. The depositing of any filth or any foul, offensive, unwholesome, nauseous or injurious substances upon any sidewalk, street, alley, public thoroughfare or other public place or upon any private property within the limits of the City;

D. Sweeping or depositing any paper, trash, ashes, rubbish or debris into any drain or gutter or into any street, alley or public thoroughfare;

E. The burning of any hair, leather, rags or other substances of any kind which may cause or produce an offensive smell, smoke or odor which annoys or is offensive to persons living in the vicinity or to persons passing by on any sidewalk or public thoroughfare;

F. Defecating or urinating upon the streets, alleys or public places or any other place that may be seen from private residences or by persons passing along the streets, alleys or public thoroughfares;

G. Public toilets whereon appears filthy or indecent writing or caricatures; provided, that public toilets shall be construed to mean all toilets resorted to or used not only by the owners or proprietors of the building in which the same are located but also by renters, lessors or other persons or by the public;

H. The making, causing or emitting of any unnecessary noise, disturbance or vibration or the carrying on of any business or amusement in such a manner as to annoy or disturb the rest, peace or quiet of other persons;

I. The printing, posting or placing of any advertisement, handbill or placard or any printed picture or written matter on or about the streets or alleys or in public places within the City limits, provided, that any person who causes the distribution of such handbills, cards, papers or other advertising matter herein prohibited shall also be subject to the penalty provided;

J. Free distribution from house to house or upon the public streets, alleys or thoroughfares of any patent or proprietary medicine, washing or soap powders, tobaccos, yeast, patent or prepared foods;

K. Spitting or expectorating upon the floors of any public building or public conveyance or upon any sidewalk or street crossing;

L. Keeping or leaving upon or unprotected, after the necessity for the opening has ceased, of any cellar or trap door or the grating of any vault in or upon any sidewalk;

M. Any privy or pig sty erected nearer than fifty feet from the street line of any lot in the City, or within fifty feet of the residence of any person, and every barn, stockyard, chicken coop or offal yard erected or continued within fifty feet of any street line or the residence of any person, or any shavings or straw, chaff, hay, grain or forage placed within fifty feet of any dwelling or placed where fire is used;

N. Industrial plants from which smoke, dust or odor drifts or is blown by the wind into residential sections of the City so as to affect the health of the inhabitants or the growth of vegetation upon their premises or so as to offend the senses of such residents.

13.01.040. Nuisances - Failure of Property Owner, Etc., To Abate After Notice:

It shall be unlawful for the owner or tenant in possession of any lot, building or premises whereon any nuisance exists to fail to remove, abate or destroy any such nuisance after having been given five days' notice to do so by the board of health.

13.01.050. Erection of Outside Privies and Toilets Prohibited:

It shall be unlawful to erect within the corporate limits of the City any privy, toilet or outhouse used for depositing human excreta. Self-contained toilets at construction sites, etc. which are of a temporary nature are excepted from operation of this section.

Chapter 13.02. Noise.

13.02.010. Prohibited Acts Generally.

It shall be unlawful for any person to make, continue, or cause to be made or continued any excessive, unnecessary or unusual loud noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of Brigham City.

13.02.020. Prohibited Acts Specifically.

The following acts, among others, are declared to be loud, disturbing or unnecessary noises in violation of this ordinance, but said enumeration shall not be deemed to be exclusive, namely:

A. Horns, signaling devices, etc. The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary or unreasonable period of time. The use of any horn, whistle or other device operated by engine exhaust.

B. Radios, phonographs, etc. The using, operating, or permitting to be played, used or operated in residential areas any television, radio receiving set, musical instrument phonograph or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 10:00 p.m. and 6:00 a.m. in such a manner as to be plainly audible at a distance of thirty (30) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.

C. Loud speakers, amplifiers and other sound devices for advertising. The using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure without or in violation of a permit issued pursuant to Section 13.02.040 of this ordinance.

D. Yelling, shouting, etc. Yelling, shouting, whistling or otherwise creating noise on the public streets, particularly between the hours of 10:00 p.m. and 6:00 a.m., or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any dwelling, hotel, or other type of residence.

E. Dogs. The keeping of any dog which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity.

F. Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

G. Defect in vehicle or load. The use of any automobile, motorcycle, or other vehicle, which due to lack of repair or improper loading creates loud and unnecessary grating, grinding, rattling or other noise.

H. Loading and unloading of vehicles. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers.

I. Construction or repairing of buildings. The erection (including excavation), demolition, alteration or repair of any building shall be prohibited between the hours of 10:00 p.m. and 6:00 a.m., local prevailing time, except in case of urgent necessity in the interest of public health and safety, and then only with permit from the City.

J. Schools, courts, churches, hospitals, parks. The creation of any excessive noise adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital or in any park, which unreasonably disturbs the users thereof.

K. Pile drivers, hammers, etc. The operation between the hours of 10:00 p.m. and 6:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is usually attended by loud or unusual noise.

L. Power lawn mowers. The operation of any power mower, cultivator, or like or related device (except snowblowers) in an area zoned residential between the hours of 10:00 p.m. and 6:00 a.m.

M. Motor vehicle noise. The operation of any vehicle having more than two axles, upon any residential street or in any area zoned residential between the hours of 10:00 p.m. and 6:00 a.m.

13.02.030. Exceptions.

The following uses and activities shall be exempt from noise level regulations:

- A. Noises of safety signals, warning devices, and emergency pressure relief valves.
- B. Noises resulting from any authorized emergency vehicle, when responding to an emergency.
- C. Noises resulting from emergency work as defined in Section 13.02.020.
- D. Any other noise resulting from activities of a temporary duration permitted by law for which a license or permit therefore has been granted by the City in accordance with Section 13.02.040.
- E. Any aircraft or railroad equipment operated in conformity with, or pursuant to state statute, federal law, federal regulations and traffic control instruction used pursuant to and within the duly adopted state or federal regulations. Any aircraft operating under technical difficulties, in any kind of distress, under emergency orders of air traffic control or being operated pursuant to and subsequent to the declaration of an emergency under federal air regulations shall also be exempt.

13.02.040. Application for Special Permit.

Applications for a permit for relief from the noise level designated in this ordinance on the basis of undue hardship may be made to the City Council or duly authorized representative. Any permit granted by the Council hereunder shall contain all conditions upon which said permit has been granted and shall specify a reasonable time that the permit shall be effective. The City Council or duly authorized representative may grant a relief as applied for if they find:

- A. That additional time is necessary for the applicant to alter or modify the activity or operation to comply with this chapter; or
- B. The activity, operation or noise source will be of temporary duration and cannot be done in a manner that would comply with this chapter; and
- C. That no other reasonable alternative is available to the applicant.

The City Council, in granting such a special permit, may prescribe any conditions or requirements they deem necessary to minimize adverse effects upon the community of the surrounding neighborhood.

13.02.050. Penalty.

Any person violating any of the provisions of this title shall be deemed guilty of an infraction. Each occurrence when such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as a separate offense.

13.02.060. Additional Remedy - Injunction.

As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provisions hereof or which causes discomfort or annoyance to reasonable persons of normal sensitiveness or which endangers the comfort, repose, health or peace of residents in the area shall be deemed, and is declared to be, a public nuisance and may be subject to abatement as prescribed by law.

13.02.070. Severability.

It is the intention of the City Council that each separate provision of this ordinance shall be deemed independent of all other provisions herein, and it is further the intention of the City Council that if any provision of this ordinance be declared to be invalid, all other provisions thereof shall remain valid and enforceable.