

TITLE 16. MISCELLANEOUS OFFENSES

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Chapter 16.01. General.

16.01.010. Utah Criminal and Traffic Code Adopted

The Utah Criminal and Traffic Code, 2011 edition, and subsequent additions, as compiled, prepared and published as a code in book form by the Utah Department of Public Safety and as said uniform code may be subsequently amended by legislative act, executive order or otherwise, is hereby approved and adopted as the Criminal and Traffic Codes for this municipality, except as such codes may be altered or modified by the Ordinances of this municipality. One (1) copy of any subsequent editions shall be filed for use and examination by the public in the office of the municipal Recorder upon receipt by the City, and upon such filing, said subsequent editions shall thereupon become effective and shall thereafter be the Criminal and Traffic Codes for Brigham City.

16.01.020. Penalties.

Any person violating, causing or permitting violation of any provision of the Code hereby adopted shall be guilty of an offense classified as provided in said Code, provided that in the event said Code does not provide the appropriate classification, the same shall be determined by reference to the Revised Ordinances of Brigham City Corporation. In the event neither of said Codes provide for the classification of such an offense, then any person violating, causing or permitting violation of any provision of the Code adopted hereby shall be guilty of a class B misdemeanor. Any such violator, upon conviction, unless otherwise provided in said Codes, shall be punished by a fine of not more than \$1,000.00, for a class B misdemeanor and not more than \$750.00 for a class C misdemeanor and infraction, or by a jail sentence not to exceed six (6) months, or by both a fine and jail sentence, provided that minimum sentences and all other sanctions consistent with the aforementioned guidelines and contained in said 2011 Code Edition, and subsequent editions, are incorporated here in this Section by reference.

16.01.030. Separability.

Should any section, clause, or provision of this Ordinance, or the Criminal and Traffic Codes adopted hereby, be declared by a court of competent jurisdiction to be invalid, in whole or in part, the same shall not affect the validity of the Ordinance or the Codes as a whole, or any other part thereof.

16.01.040. Criminal Responsibility for Direct Commission of Offense Or for Conduct of Another.

Every Person, acting with the mental state required for the commission of an offense who directly commits the offense, who solicits, requests, commands, encourages, or intentionally aids another person to engage in conduct which constitutes an offense shall be criminally liable as a part for such conduct.

Chapter 16.02. Advertisements

16.02.010. Advertisements - Posting With Permission

It shall be unlawful for any person within the corporate limits of the City to print, paint, write, mark or in any way post up any notice, card, advertisement or other device upon any wall, fence, tree, post, building, bridge, sidewalk, street or other property, or cause the same to be done, without permission of the owner or agent thereof or the Mayor, if upon public property or the streets and sidewalks of the City.

16.02.020. Advertisements - Tearing Down or Defacing.

It shall be unlawful for any person, without lawful authority, to tear down or deface any ordinance, bill, notice, advertisement or other paper of a business or legitimate character, lawfully posted within the limits of the City, at any time before the object of such notice has been accomplished.

16.02.030. Awnings, Advertisements, Signs - Located in or Over the Public Right-of-Way.

A. It shall be unlawful for any person to erect or construct any sign, signpost, signboard, wood or metal awning, permanent advertisement, arch or any other structure above, over, in or around any part of any street or sidewalk within the public right-of-way in the City without first obtaining permission to do so from the Council or if located in a redevelopment project area, by the Redevelopment Agency. Application for such permission shall be in writing and shall contain the name of the person for whose benefit the same is made, the period of time for which such permit is so desired, the place where such structure is to be erected or constructed, the dimensions thereof, the material of which the same is to be composed and the manner of construction. The application shall be accompanied by a blueprint or drawing or tracing of such proposed sign or other structure.

B. No sign shall be erected on Main Street between First North Street and Second South Street and on Forest Street or First South Street between First West Street and First East Street supported by a pole or standard erected outside of the property line; provided, that nothing in this paragraph shall make necessary the removal of any sign or structure now in existence so long as it otherwise meets the requirements of this section.

C. Sandwich boards and other signs of similar construction are prohibited.

D. Additional signs shall not be added to any sign, pole or standard without permission from the Council, or if located in a redevelopment project area, by the Redevelopment Agency, as provided above, having first been obtained.

E. All signs must be erected under the supervision of the superintendent of streets and sidewalks. No cement abutment to the support of any sign shall be erected above the ground level on any street or sidewalk. All signs must be properly painted and maintained in a safe condition and a City official shall be appointed to make the provisions of this paragraph.

F. Awnings or canopies shall conform to the provisions of the Uniform Building Code and if incorporating signage, shall be bound by the maximum cumulative sign area as noted within the sign ordinance.¹

16.02.040. Classification of Offense Class C Misdemeanor.

Any violation of the provisions of section 16.02.010 through Section 16.02.030 above shall be classified as a class C misdemeanor.

Chapter 16.03. Offenses Against Public Order and Decency.

16.03.010. Discharge of Firearms, Air Guns, Bows and Arrows, Etc.

A. It shall be unlawful to discharge any firearm within the corporate limits of Brigham City except:

1. Officers of the law in the performance of their duty;
2. Any citizen when lawfully defending their person or a third party;
3. At a proper place authorized by the Chief of Police;
4. Discharge of a shotgun west of 1200 West (Watery Lane) when discharge can be accomplished without placing property or person at peril, and the discharge is not within 600 feet of a

¹ Ordinance No. 97-16, 7/31/97

house, dwelling, or any other building, or any structure in which a domestic animal is kept or fed, including a barn, poultry yard, corral, feeding pen, or stockyard, unless written permission is obtained from the owner or person in charge of the property.

B. It shall be unlawful for any person to discharge any air gun, sparrow gun, flipper, sling shot, bows and arrows, or other similar contrivance within the corporate limits of Brigham City except to persons engaged in target shooting or other recreational shooting at authorized times and places which authorization must first be received in writing and signed by the Brigham City Chief of Police or other authorized persons as may be designated by the Brigham City Council.

C. It shall be unlawful for any person to discharge any kind of dangerous weapon or firearm:

1. from an automobile or other vehicle;
2. from, upon, or across any highway.

D. Any violation of this section is a Class B misdemeanor. ²

16.03.020. Curfew for Minors.

A. It is unlawful for any minor under fourteen (14) years of age to remain or loiter on any of the sidewalks, streets, alleys or public places in the City between 10:00 p.m. and 5:00 a.m. immediately following.

B. It is unlawful for any minor under eighteen years of age to remain or loiter on any of the sidewalks, streets, alleys or public places in the City between twelve midnight and 5:00 a.m. immediately following.

C. It is unlawful for any parent, guardian or other person having legal care and custody of any minor dealt with respectively in subsections A and B of this section to allow or permit any such minor to remain or loiter on any of the sidewalks, streets, alleys or public places in the City within the times provided in subsections A and B respectively of this section except as provided in subsection D of this section.

D. The provisions of subsections A, B and C of this section shall not apply where the minors dealt with respectively in sections A and B are:

1. Married;
2. Accompanied by a parent, guardian, or other adult person having the care and custody of such minor;
3. Returning home from, going to or being in attendance at any religious or school function, civic, school or church³ organized dance, theater, sports event or other such associational activity; provided, however, that going to or from such activity shall be by a direct route and within a reasonable time of the commencement or termination of such event;
4. Engaged in a legitimate emergency errand;
5. Engaged in legitimate employment and can produce evidence of such employment; or
6. In a motor vehicle engaged in normal travel, while traveling to, from or through the City on an interstate trip.

16.03.030. Truancy for Compulsory School Age Minors.

A. Definitions. In this section:

1. "Assigned school location" means the location where a student would be assigned, registered, or released to attend during compulsory school time when the class or activity is in session, and the student is under the control or supervision of school authorizes or other recognized supervision. Further defined as the authorized presence, for a reasonable time or direct authorized passage to and from an area where the student would be involved in dealing with school or personal business.

2. "Authorization" means a permission slip given by a school authority to excuse a student from being in the usual assigned school location in accordance with school policy, or a note from the parent or guardian giving permission for the student to be absent from class. The permission slip must be in the immediate possession of the student whenever not at the expected school location.

3. "Compulsory school age minor" means a person between six and eighteen years of age that is not exempted and must be attending a public or regularly established private school during the school year of the district in which the minor resides pursuant to Utah Compulsory Education Requirements, Utah Code Ann.

4. "Emergency" means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

² Ordinance No. 07-04, dated 3/15/07.

5. "Establishment" means any privately-owned place of business operated for a profit to which the public is invited, including, but not limited to, any place of amusement or entertainment.

6. "Guardian" means:

- a) Person who, under court order, is the guardian of the person of a minor; or
- b) A public or private agency with whom a minor has been placed by a court.

7. "Minor" means any person under 18 years of age.

8. "Open Campus" means when a compulsory school age minor is allowed by school officials to leave school for lunch purposes.

9. "Operator" means any individual, firm, association, partnership, or corporation operation, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

10. "Parent" means a person who is:

- a) A natural parent, adoptive parent, or step-parent of another person; or
- b) At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

11. "Public Place" means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, the common areas of schools, hospitals, office and commercial buildings, public transit buses and property, and apartment houses.

12. "Remain" means to:

- a) Linger or stay; or
- b) Fail to leave premises when requested to do so by a police officer or the owner, operator or other person in control of the premises.

13. "Serious bodily injury" means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

14. "Truancy hours" means those hours in which a compulsory school age youth should be attending school in the district or jurisdiction in which the student attends school.

B. Offenses:

1. A compulsory school age minor commits an offense if he or she remains in any public place, is not in his assigned location at school, or is on the premises of any establishment within the corporate limits of Brigham City during truancy hours.

2. A parent or guardian of a minor commits an offense if he or she knowingly permits, aides, encourages or allows a compulsory school age minor, or minor, to remain in any public place or on the premises of any establishment within the City during truancy hours, or if a parent or guardian of a minor fails within 14 days to comply with the instructions to contact school authorities upon receipt of notification by certified letter from the City, that his or her child has received a truancy citation.

3. Any person commits an offense if he or she engages in any conduct for the purpose of, or resulting in, inducing any compulsory school age minor to leave or be absent from said compulsory school age minor's assigned school location during truancy hours.

C. Defenses:

1. It is a defense to prosecution under Subsection (B) that the compulsory school age minor was:

- a) accompanied by the minor's parent or guardian;
- b) involved in an emergency;
- c) following school policy regarding open campus for lunch, off campus school-approved classes and activities, or any other legitimate school sanctioned off-campus function, and has on his/her person legal authorization of permission by the school or his/her parent or guardian; or
- d) married or had been married or had disabilities of minority removed in accordance with state law.

2. It is a defense to prosecution under Subsection B.3 that the parent or guardian of a compulsory school age minor has met in cooperation with the proper school authorities within 14 days of notification in response to each certified letter from the City notifying them that their child has received a truancy citation.

3. It is a defense to prosecution under Subsection B.4 that the owner, operator, or employee of an establishment, or owner of a private residence, promptly notified the police department that a compulsory school age minor was present on their premises during truancy hours and refused to leave.

D. Enforcement:

1. Before taking any enforcement action under this section, an identified police officer shall ask the apparent offender's age and reasons for being in the public place. The City will notify the parent or guardian of a compulsory school age minor by certified letter when a truancy citation is issued to said minor. The letter will request that the parent and truant student meet in cooperation with school officials to

address their shared truancy concerns. Copies of the letter will be given to the school principal and the school resource officer.

E. Penalties:

1. Violation of this subchapter is an infraction. A person who violates a provision of this chapter is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense of a minor, upon conviction, is punishable by a fine of \$35 and/or service hours. A third offense requires mandatory court appearance. Each offense of an adult, parent, or guardian, upon conviction is punishable by a fine not less than \$35 or not to exceed \$500. A third offense by an adult is subject to the provisions of state law.³

16.03.040. Interfering With School Operation

Any person who comes into any school building or upon any school ground, or street, sidewalk, or public way adjacent to any school building or ground and whose presence or acts interfere with the peaceful conduct of the activities of any school or disrupt the school or its pupils or school activities, and who remains there, or who re-enters or comes upon the place within 72 hours, after being asked to leave by the chief administrative official of that school or his representative or agent is guilty of a misdemeanor.

16.03.050. Abandoned and Unlicensed Motor Vehicles.

A. It shall be unlawful for a person to abandon a vehicle upon any private property without the express or implied consent of the owner or person in lawful possession or control of the real property. For the purpose of this section, a vehicle shall be presumed to be abandoned if it is left unattended on private property for a period in excess of twenty-four (24) hours. Abandoned vehicle(s) situated on a person's private property and not owned by him may be removed upon the property owner's request provided proper City Licensing has been granted to the towing company. The costs for removal of the vehicle shall be the responsibility of the motor vehicle owner.⁴

B. It shall be unlawful for any person to cause or permit scrap, metal, junk, wrecked, abandoned, or unlicensed vehicles or vehicle parts to remain on any real property or premises, unless in connection with a lawfully situated and licensed business.

C. It shall be unlawful for any person to have more than two (2) unregistered vehicles on a parcel at any time. Any abandoned or unlicensed vehicles must be stored behind a legally constructed barrier from the view from street or adjoining properties.

D. Exemption: Vehicles used for agricultural purposes are excluded.

E. Violation of any provision of this chapter shall be a Class B Misdemeanor and shall be subject to the penalties provided for such offenses. A court shall also issue such orders as may be appropriate to enjoin, restrain and cease such violations. In addition to all other penalties, a part in violation shall be subject to all costs of enforcement, including attorney fees.⁵

16.03.060. Operation of Remote-Controlled Aircraft.

A. It shall be unlawful to fly any remote controlled aircraft within the corporate limits of Brigham City,

B. Definitions. Remote-controlled aircraft means any powered, fixed wing craft which flies and which is controlled by radio signals.

C. Violation of this chapter is an infraction.

16.03.070. Illegal to Possess Or Consume Alcoholic Beverages in Certain Public Places.

A. It shall be unlawful for any person to consume or possess any alcoholic beverage any public park or public school or at any City owned building open to the public unless a valid beer or liquor license has been issued for the premises.

B. Any person violating any of the provisions of this section shall be deemed guilty of an infraction and upon conviction thereof shall be fined in an amount not exceeding ~~\$299.00~~ \$500.00. Each occurrence when such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as a separate offense.

16.03.080. Public Display, When Permitted - Permit.

The City may, upon application in writing, upon the posting of a suitable bond, grant a permit for the public display of fireworks by the City, religious, fraternal or civic organizations, fair associations, amusement parks, or other organizations or groups of individuals, approved by the City Council and the

³ Ordinance No. 99-32, dated 11/29/99

⁴ Ordinance No. 07-19, dated 11/01/07

⁵ Ordinance No. 07-19, dated 11/01/07

City Council is authorized by resolution, to grant such permission when such display is to be handled by a competent operator, to be approved by the chiefs of police and fire departments. Such display shall be of such a character, and so located, discharged, or fired, as in the opinion of the chiefs of the police and fire departments, after proper inspection, shall not be hazardous to property or endanger any person or persons. After such permit shall have been granted sales, possession, use, and distribution of fireworks for such display shall be lawful for that purpose only.

16.03.090. Application for Permit.

All such applications for permits shall set forth the date, the hour, and place of making such display, and the place of storing fireworks prior to the display, and further, the name or names of the person, persons, firm partnership, corporation, association or group of individuals making the display; and the name of the person or persons, in charge of the igniting, firing, setting off, exploding or causing to be exploded such fireworks. The location of the storage place shall be subject to the approval of the chief of the fire department. No permit granted hereunder shall be transferable.

16.03.100. Bond.

The City Council may require a bond deemed adequate by the Council from the licensee in a sum not less than Five Hundred Dollars conditioned for the payment of all damages, which may be caused either to a person or persons or to property, by reason of the display so as aforesaid licensed, and arising from any acts of the licensee, his agents or employees. Such bond shall run to the City and shall be for the use and benefit of any person injured or the owner of any property damaged, who is authorized to maintain an action thereon, or his heirs, executors, administrator, successors or assigns.

16.03.110. Exceptions From Act.

Nothing in this act shall be construed to interfere with the manufacture, storage, or transportation of fireworks by any manufacturer, wholesaler, dealer or jobber selling at wholesale without the state or to municipalities, counties, religious, fraternal or civic organizations, fair associations, amusement parks, or other organizations or groups of individuals within the state authorized to possess and use fireworks under this act; or the sale or use of any fireworks or blank cartridges for a show or theater, or for signal purposes in athletic sports, or by railroads for signal purposes, or for use by the militia; or construed to prohibit the manufacture of aviation and railroad light flares.

16.03.120. Violation a Misdemeanor.

Any person violating the provisions of this act shall be guilty of a Class B Misdemeanor.