CHAPTER 8
USE OF PUBLIC SIDEWALKS

SECTION:

8-8-1: Purpose
8-8-2: Definitions
8-8-3: Unlawful to Obstruct Sidewalks
8-8-4: Mailboxes
8-8-5: Sidewalk Sales
8-8-6: News Racks, News Vending Machine, and Newsstands
8-8-7: Bus Stop Benches
8-8-8: Public Fixtures Allowed on Sidewalks

8-8-1: PURPOSE: The purposes of this Chapter are:

(A) To promote the general health, welfare and safety of all persons traveling over or
upon and otherwise using the public sidewalks within the City, especially those who benefit from
the provisions of the Americans With Disabilities Act, as amended.

(B) To ensure free and unrestricted access of every number of the public to the public
sidewalks and thoroughfares, residences and buildings abutting the same.

(C) To prevent personal injury and risk of bodily harm by objects being placed or
maintained upon the public sidewalk in a manner which is dangerous or unsafe.

(D) To facilitate the installation, repair and maintenance of public sidewalks and
thoroughfares and all public utilities, fixtures, signs, signals and other public structures, fixtures
or receptacles placed thereupon.

(E) To promote the safe movement of vehicular traffic and provide for unobstructed view
of the streets and public sidewalks for such vehicular traffic.

(F) To promote a clean, attractive and neat appearance of the public sidewalks and
thoroughfares and to prevent unreasonable accumulation of refuse and litter thereupon.
(Ord. 3003, 4-23-15;Ord. 3144, 11-21-2017)

8-8-2: DEFINITIONS: For the purposes of this Chapter, the following terms shall have the
meaning set forth below:

BUS STOP BENCH: Any bench designed and intended for use by persons who use any bus
service that provides transportation for the general public or any bus service operated by any
governmental agency or any contractor of a governmental agency.
DOWNTOWN AREA: the area within the City located east of and including Memorial Drive; south of and including “G” Street; west of Yellowstone Highway; and north of and including Broadway Avenue.

DWELLING: A building or portion thereof, containing one (1) or more dwelling units. The term dwelling does not include hotel, motel, boarding or rooming house, rest home, or recreational vehicle as defined herein.

FAMILY: One (1) or more individuals occupying a dwelling unit and living as a single household unit.

LOCATION: Any site upon a public sidewalk which is within fifteen feet (15’) of a designated public bus stop or designated bus stop of buses operated by a governmental agency or contractor of a governmental agency.

MAILBOX: A box or receptacle into which mail is delivered, especially one that is mounted on a post at or near the entrance to a mail recipient’s property or place of business.

MAIN BUS ROUTE STREETS: Means “arterial or collector streets” as defined in the Zoning Code, and shall also include the following streets within the City: Sunnyside Road from Rollandet Avenue east to Hitt Road, Elm Street from Yellowstone Avenue southeast to South Boulevard, 1st Street from Northgate Mile east to Woodruff Avenue, Grandview Drive from Washburn east to North Skyline Drive, North Skyline Drive from Pancheri Drive north to Broadway, and South Boulevard from Sunnyside Road north to 1st Street.

NEWS RACK: Any structure, stand, platform, stall, box, rack, booth or other structure or device used for the distribution of newspapers, magazines, or other printed news media, and includes news vending machines and newsstands.

RESIDENTIAL AREA: All real property within the City zoned RP, RP-A, R-1, R-2, R-2A, R-3, and R-3A.

SIDEWALK: The portion of a street or highway between the curb lines or the lateral lines of a roadway, and the adjacent property lines or a public access easement parallel to the street or highway and intended for use by pedestrians or non-motor vehicles (whether or not the surface is paved or otherwise improved). (Ord. 3003, 4-23-15; Ord. 3144, 11-21-2017)

8-8-3: UNLAWFUL TO OBSTRUCT SIDEWALKS: It shall be unlawful for any person to obstruct or allow to be obstructed temporarily or permanently any public sidewalk within the City (including by storage, installation, maintenance, or operation of any material, motor vehicle, vehicle, structure, trash or recycling container, fixture, or business), except as permitted by this Chapter, this Code, or Idaho Code. (Ord. 3003, 4-23-15; Ord. 3144, 11-21-2017)

8-8-4: MAILBOXES: Mailboxes may be installed, constructed, and maintained upon a public sidewalk, subject to the following restrictions and standards:
(A) The mailbox shall be permanently affixed on the top of a vertical metal pipe or bar with the bottom of the mailbox thirty-eight inches (38") above the top of the curb. The pipe or bar shall not exceed two inches (2") in diameter or two inches (2") on a side if rectangular.

(B) No part of the mailbox or structure shall protrude towards the street beyond the back edge of the curb or curb line nor extend towards the residence more than fifteen inches (15") from the back edge of the curb line.

(C) The foot of the pipe shall be grouted or otherwise securely embedded in a hole through the sidewalk not exceeding six inches (6") in diameter, the center of which shall be no more than eight inches (8") nor less than six inches (6") from the back of the curb edge or curb line.

(D) Spikes, decorations, metal works or other items shall not protrude from the structure in a manner which creates an unreasonable risk of bodily injury or harm to pedestrians.

(E) Barrels, cans, receptacles, stones, masonry, or other non-metallic materials supporting the structure are prohibited.

(F) Non-Conforming Mailboxes. All mailboxes installed prior to and in conformity with City Ordinance No. 1748, (February 23, 1984) shall be deemed to be in conformity with this Section; provided, however, if such mailbox is removed, any replacement thereof shall conform to the standards set forth in this Section. (Ord. 3003, 4-23-15; Ord. 3144, 11-21-2017)

8-8-5: SIDEWALK SALES:

(A) Goods, merchandise, food, and beverages may be sold or displayed from carts or other structures upon public sidewalks, subject to the restrictions and standards in this Chapter.

(B) Sidewalk Sales in Downtown Area. Any licensed merchant or other person conducting a lawful business may place tables, racks, stands, carts, or other similar structures upon a public sidewalk located within the Downtown Area for the purpose of selling or displaying goods, wares, merchandise, food, or beverages.

(C) Sidewalk Sales in Areas Other Than The Downtown Area. The Council may, by Resolution duly passed and adopted, declare a day or days during which licensed merchants or other persons conducting a lawful business may place tables, racks, stands, carts, or other similar structures upon a public sidewalk located outside the downtown area for the purpose of selling or displaying goods, wares, merchandise, food, or beverages.

(D) Standards. Any table, rack, stand, cart, or other similar structure placed upon any public sidewalk, as permitted by this Section, shall also comply with the following regulations and restrictions:

(1) All structures shall be placed parallel to the edge of the sidewalk furthest from the public street and at a distance no greater than four feet (4') from the back edge of the sidewalk.
(2) No such structure shall project on or over or be located in any part of any public street or alley; nor shall any such structure rest upon the public sidewalk in any area where a public alley or private driveway exits into a public street.

(3) No such structure shall be placed within fifteen feet (15’) of any fire hydrant.

(4) No such structure shall be placed within three feet (3’) of any marked crosswalk, street light pole, utility pole, traffic sign pole, fire call box, police call box or other emergency facility, designated bus stop or designated loading or unloading zone.

(5) No such structure shall have any spikes, decorations, or protrusions which create unreasonable risk of bodily injury or harm to pedestrian; nor shall any cords, ropes, wires or other materials or devices of any kind or nature be placed across the public sidewalk or in a manner which would cause or create an unsafe or dangerous condition.

(6) All goods, wares, merchandise, food, or beverages shall be placed upon a table, rack, stand, cart, or other permitted structure and shall not be placed directly upon the public sidewalk.

(E) Sidewalk dining may be allowed on portions of a sidewalk contiguous to the restaurant providing the food. The tables and chairs must be placed as far away from the public street as possible. The tables and chairs must leave at least four feet (4’) of walkway between the table and/or chairs and the edge of the sidewalk or other obstruction, such as a utility pole, fire hydrant, bus bench, planter, or newspaper rack. The tables and chairs must be portable. (Ord. 3003, 4-23-15; Ord. 3144, 11-21-2017)

8-8-6: NEWS RACKS, NEWS VENDING MACHINE AND NEWSSTANDS:

(A) News racks may be installed, used, or maintained upon public sidewalks, subject to the restrictions and standards in this Chapter.

(B) Encroachment on Public Streets Prohibited. No person shall install, use, or maintain any news rack which projects onto, into, or over any part of the roadway of any public street or alley, or which rests wholly or in part, upon, along, or over any portion of such roadway.

(C) Interference with Public Uses Prohibited. No person shall install, use, or maintain any news rack which, in whole or in part rests upon, in or over any public sidewalk when such installation, use or maintenance endangers the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other government use, or when such news rack unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic (including uses that provide access, ingress, and egress required to be available by the American With Disabilities Act, as amended), the ingress into or egress from any crosswalk, residence, place of business, or any legally parked or stopped vehicle, or the use of poles, posts, traffic signs, or signals, hydrants, mailboxes, or other public structures or objects installed at said location.
(D) Standards: Any news rack which in whole or in part rests upon, in or over any sidewalk, shall comply with the following standards:

(1) No news rack may exceed fifty inches (50") in height, thirty inches (30") in width or two feet (2') in depth.

(2) News racks may be placed only near a curb or adjacent to and parallel with the wall of a building adjoining the sidewalk or the edge of the sidewalk furthermost from a public street. News racks placed near the curb shall be placed not less than twelve inches (12") and not more than eighteen inches (18") from the back edge of the curb; however, in locations not adjacent to a parking stall, news racks may be placed not less than three inches (3") from the back edge of the curb. News racks placed adjacent to the wall of a building or back edge of the sidewalk shall be placed not more than six inches (6") from such wall or edge of the sidewalk. No news rack may be placed or maintained on a sidewalk in a location immediately opposite from another news rack.

(3) No news rack may be chained, bolted or otherwise attached to any fire hydrant, pole, bench, receptacle, or other public fixture.

(4) News racks may be chained or otherwise attached to each other side to side; however, no more than three (3) news racks may be joined together in this manner, and a space of not more than six inches (6") shall separate each news rack and a space of not less than eighteen inches (18") shall separate each group of three (3) news racks so attached.

(5) No news rack or group of attached news racks, in the aggregate, shall weigh, in excess of one hundred twenty-five (125) pounds when empty.

(6) No news rack shall be placed, installed, used or maintained:

(a) within three feet (3') of any marked crosswalk.

(b) within fifteen feet (15') of the curb return of any unmarked crosswalk.

(c) within three feet (3') of any street light pole, utility pole, fire hydrant, fire call box, police call box, or other emergency facility.

(d) within three feet (3') of any driveway.

(e) within three feet (3') ahead of, and fifteen feet (15') to the rear of any sign marking a designated bus stop.

(f) within three feet (3') of any designated loading or unloading zone.

(g) within three feet (3') of any publicly-owned bench.
(h) at any location whereby the clear space for the passage of pedestrians is reduced to less than five feet (5’); however, in the event the sidewalk is less than six feet (6’) in width, then the clear space shall not be reduced to less than four feet (4’).

(i) within three feet (3’) of any display window abutting the sidewalk in a manner which impedes or interferes with the reasonable use of such window for display purposes.

(F) Advertising Limitations. No news rack shall be used as advertising signs for publicity purposes other than as allowed by the Sign Code.

(G) Maintenance. Each news rack shall be maintained in a clean, neat, and attractive condition and in good repair at all times.

(H) Identification. Every person who places, maintains, or operates a news rack upon the public sidewalk shall have their name, address, and telephone number affixed thereto in a conspicuous place. (Ord. 3144, 11-21-2017)

8-8-7: BUS STOP BENCHES: Bus stop benches may be installed or placed upon public sidewalks, subject to the restrictions and standards in this Chapter.

(A) Installation of Bus Benches Prohibited. No person shall install or place any bus stop bench upon any public sidewalk located within the City, except as provided in this Section. Persons may install or place bus stop benches upon public sidewalks adjacent to streets in the downtown area of the City or adjacent to main bus route streets within the City only, upon obtaining a permit from the City for each location at which a bus stop bench will be installed or placed.

(B) Application Fee. Any person who desires to obtain a bus stop bench permit shall file a written application with the City Clerk. The application shall state the name, address, and telephone number of the person to whom the permit is to be used, the number of locations for which the permit is sought, and the street address of each such location. The number of benches at each location shall be limited to one (1) bench. Applications shall be accompanied by a non-refundable permit fee in an amount set from time to time by Resolution of the Council for each location for which the permit is sought. The application shall carry the written approval of the Chief of Police. No bus stop bench permit shall be issued without the approval of the Council.

(C) Term; Extension of Permit to Additional Locations; Fee. Bus stop bench permits shall be valid only for the location and the calendar year for which they are issued and shall expire on December 31 of the year for which they are issued. If the holder of a valid bus stop bench permit desires to install benches at locations not covered by his or her existing permit, he shall apply in writing to the Clerk to have the existing permit extended to cover additional locations. The application shall state the name, address, and telephone number of the permit holder, the number of the existing permit, the number of additional locations to be covered by the permit the street
address of each such new location and the number of benches to be installed at each such new location added to the permit. The application shall be accompanied by a nonrefundable fee in an amount set from time to time by Resolution of the Council for each additional location to be covered by the permit. Upon approval of the application by the Chief of Police and the Council, the permit holder's existing permit shall be extended to cover the additional locations.

(D) Permits Nontransferable. Bus stop bench permits shall not be transferable.

(E) Renewal and Fee. Bus stop bench permits may be renewed annually upon written request of the permit holder and payment of a nonrefundable renewal fee in an amount set from time to time by Resolution of the Council for each location covered by the permit. Requests for renewal must be filed with the Clerk prior to the date on which the existing permit expires. Requests for renewal shall be subject to the approval of the Chief of Police and the Council. Requests for renewal may be denied, in whole or in part, by the Chief of Police or the Council if the permit holder has failed to comply with the provisions of this Section.

(F) Failure to Renew Permit. Unless a written request for a renewal permit has been made, any bus stop bench installed or placed pursuant to a permit issued by the City shall be removed by the permit holder, at the permit holder's expense, not later than the expiration date of the permit. If the permit holder fails to comply with the requirements of this paragraph, the City may cause the bench or benches to be removed and shall charge the cost of such removal to the permit holder.

(G) Installation on sidewalks maintained by City. If a person desires to install a bus bench on a sidewalk maintained by the City (e.g. Sunnyside Road), the Director of the City Department that maintains the sidewalk shall give written consent to the installation of such bench. To reduce public maintenance costs, construction of pads for the benches or other measures may be required by the Department. Such written consent shall accompany the application and be considered in the approval of the location by the Chief of Police and the Council.

(H) Number of Locations. Except as otherwise provided in this Section, the total number of locations for which the City may issue bus stop bench permits, including renewal permits, shall not exceed sixty (60) in any one calendar year. Upon recommendation by the Chief of Police, the Council may, by Resolution duly passed and adopted, increase the total number of locations for which such permits may be issued.

(I) Permit Not A Property Right. The issuance of any bus stop bench permit or any renewal permit shall not be construed to give the permit holder any vested interest in or right to use or occupy any public property within the City.

(J) Compliance With Code. Bus stop bench permit holders shall comply with all provisions of this Section concerning the installation, location, maintenance and use of any bus stop bench upon public sidewalks within the City.

(K) Indemnification. Bus stop bench permit holders shall indemnify and hold harmless the City, its agents, officials and employees from and against any and all claims for personal
injury or for any loss or damage to property arising from the installation, placement, location or maintenance of any bus stop bench for which a permit is issued.

(L) Standards.

(1) Any bus stop bench installed or placed upon any public sidewalk as permitted by this Chapter shall comply with the regulations and standards set forth in this Section.

(2) No bus stop bench shall exceed eighty-four inches (84") in length, forty inches (40") in height or twenty-four inches (24") in depth. Any bus stop bench installed or placed in a "clear view zone", as defined by the Code, shall not exceed two feet (2') in height.

(3) Bus stop benches may be installed upon public sidewalks adjacent to streets in the downtown area of the City or adjacent to main bus route streets within the City only at locations approved by the Chief of Police. The Chief of Police shall have authority to disapprove any location that lies within any residential area of the City, whether or not such location is on a public sidewalk adjacent to a main bus route street. The Chief of Police also shall have authority to disapprove any location where the installation of a bus stop bench would unreasonably impede or interfere with the flow of pedestrian or vehicular traffic, endanger the safety of persons or property, or otherwise fail to comply with the provisions of this Section.

(4) No bus stop bench shall be installed upon any public sidewalk adjoining the front yard or side yard facing a street of any real property in the City on which a one-family or two-family dwelling is situated unless such owner or owners of the real property are notified of the request for installation of such bench at least fifteen (15) days prior to filing of the application with the Clerk. A copy of the notice to the property owner and proof of receipt shall be presented to the Clerk with the application.

(5) No bus stop bench shall be installed or placed in any manner that endangers the safety of persons or property, or at any location or site that is used for public utility purposes or other governmental use, or when such bench unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic, the ingress into or egress from any crosswalk, residence, place of business, or any legally parked or stopped vehicle or the use of any poles, posts, traffic signs or signals, hydrants, mailboxes, or other public structures or objects installed at said location.

(6) All bus stop benches shall be placed parallel to and along the inward edge of the sidewalk. Bus stop benches shall be located so that there is a clear space for pedestrian traffic of at least five feet (5') between the front edge of the bench and the curb line; however, if the sidewalk is less than seven feet (7') in width, the clear space may be reduced to not less than four feet (4').
(7) Bus stop benches shall be located within fifteen feet (15') of a designated public bus stop or designated bus stop for buses operated by a governmental agency or a contractor of a governmental agency.

(8) No bus stop bench shall be placed within fifteen feet (15') of any fire hydrant.

(9) No bus stop bench shall be placed within three feet (3') of any marked crosswalk, street light pole, utility pole, traffic sign pole, fire call box, police call box or other emergency facility, or designated loading or unloading zone.

(10) No bus stop bench shall be placed within three feet (3') of any display window abutting the sidewalk in a manner that impedes or interferes with the reasonable use of such window for display purposes.

(11) No bus stop bench shall project on or over or be located in any part of any public street or alley; nor shall any such bench rest upon the public sidewalk in any area where a public alley or private driveway exists into a public street.

(12) No bus stop bench shall have any spikes, decorations or protrusions which create an unreasonable risk of bodily injury or harm to pedestrians.

(13) No bus stop shall be affixed, anchored, bolted or otherwise attached to the public sidewalk.

(14) No bus stop shall have any bench be chained, bolted, or otherwise attached to any fire hydrant, pole, receptacle or other public fixture.

(M) Maintenance. Each bus stop bench shall be maintained by its permit holder, at the permit holder's own expense, in a safe, clean, neat and attractive condition. Such maintenance shall include, but not be limited to, snow removal from the area in which each such bench is located.

(N) Identification. The name, address and telephone number of the permit holder and the permit number shall be affixed in a conspicuous place to each bus stop bench.

(O) Advertising. Bus stop benches may be used by the permit holder for advertising signs or publicity purposes. Such signs shall be securely fastened to the bench. No advertising sign, advertising or publicity device or any other attachment shall extend beyond the dimensional requirements set forth in the Sign Code.

(P) Notice of Violation. The Chief of Police shall give notice in writing to the permit holder and owner, if known, of any bus stop bench that exists in violation of this Section. The notice shall be served by depositing it in the United States mail, first class postage prepaid, certified mail, return receipt requested, and addressed to the permit holder at the address shown on the permit or to the owner at the owner's last known address. The notice shall request the permit holder and owner of the bus stop bench remove such bench or bring it into conformity.
with the standards of this section within thirty (30) days of receipt of the notice. The notice shall be deemed received upon its deposit in the United States mail in the manner set forth in this section. Failure of a permit holder to comply with such notice shall be grounds for revocation of the permit. If any bus stop bench exists in violation of the provisions of this section and its permit holder or owner is unknown to the Police, such bench shall be deemed to be abandoned property and the Chief of Police shall have authority to confiscate such bench and to cause its immediate removal.

(Q) Revocation of Permit. Upon complaint of the Chief of Police and upon thirty (30) days written notice to the holder of a bus stop bench permit, the Council shall have the authority to revoke such permit, for all locations covered by the permit, for violations of the provisions of this Section or any regulations issued in connection therewith, or for any other good and sufficient cause. The decision of the Council in the matter of such revocations shall be final. Any revoked permit shall be immediately surrendered to the Clerk, and the permit holder shall, at his or her own expense, immediately remove benches from all locations for which the permit was revoked.

(R) Emergency Removal of Benches. The Police and the Fire Departments shall have the authority, without prior notice to the permit holder or owner, to cause the removal of any bus stop bench which wholly or in part rests on or projects over any part of a public street or alley, or which interferes with or impedes access to any fire hydrant, fire call box, police call box, utility pole or post, or other public fixture, or which unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic, or which creates any unreasonable risk of bodily injury or harm to persons or damage to property.

(S) Disclaimer. Nothing in this Section, including without limitation the approval of any bus stop bench location and the issuance of any permit, shall be construed as imposing upon the City, its agents, officials or employees any private duty or liability for any injury to persons, or for any loss or damage to property arising from the installation, placement or maintenance of any bus stop bench. Neither shall this Section be construed to create any liability or cause of action against the City, its agents, officials or employees for any injury to persons or for any loss or damage to property arising from the failure of any bus stop bench permit holder or owner to meet the standards of this Section. (Ord. 3003, 4-23-15; Ord. 3144, 11-21-2017)

8-8-8: PUBLIC FIXTURES ALLOWED ON SIDEWALKS: The City and the State of Idaho may install, place, and maintain utility poles and equipment, fire hydrants, traffic signs and signals, benches, receptacles for decorative trees and plants, bicycle racks, and any other publicly-owned fixtures or structures upon public sidewalks within the City, as permitted by law. (Ord. 3003, 4-23-15; Ord. 3144, 11-21-2017)