

CHAPTER 10
MAINTENANCE AND CONSTRUCTION OF SIDEWALKS AND CURBS

SECTION:

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- 8-10-9: Obstruction of a City Sidewalk, Street, Easement, Right-of-Way, or Other Public Way with Snow or Ice is Prohibited
- 8-10-10: Penalties

8-10-1: **DUTY OF PROPERTY OWNERS:** Every person who owns real property within the City shall remove any snow, ice and other obstruction or dangerous condition upon any sidewalk, curb and gutter abutting his or her property.

8-10-2: **ORDER FOR CONSTRUCTION OR MAINTENANCE:** The City may order any person who fails to perform his or her duty under this Chapter to remedy the violation upon a finding that such Sidewalk, curb and gutter have not been constructed or maintained in accordance with the provisions of this Chapter. The City shall serve a notice of the findings and order on the record owner and, if possible, on the tenant or occupier of the property when the violation occurs advising them of a violation of this Chapter. (Ord. 3003, 4-23-15; Ord. 3177, 04-12-18; Ord. 3336, 24-9-20)

8-10-3 NOTICE TO ABATE NUISANCE.

(A) Whenever a violation of this Chapter comprises a public nuisance, a notice shall be issued by the City to the owner(s), occupant(s), or person(s) in control of the premises requiring abatement of the nuisance identified in the notice.

(B) Such notice shall be served upon the owner(s) of the affected premises, as such ownership is shown on the last property tax assessment rolls of Bonneville County, Idaho, and upon any known occupant(s) or person(s) in control of the premises. Service of notice may be accomplished through personal service on the owner(s), occupant(s), or person(s) in control of the property, by United States mail, by hand delivery, by posting in a conspicuous place upon the premises, or by other delivery method reasonably calculated to give notice to the owner(s), occupant(s), or person(s) in control of the property.

(C) Such notice shall be in writing and shall clearly state that the property contains a public nuisance and that the owner(s), occupant(s), or controller(s) shall abate the nuisance

within twenty (20) calendar days; that the owner, occupant, or person in control of the property given the notice may, within five (5) business days following receipt of the notice, deliver in writing to the City Clerk his or her objections to abatement of the nuisance and request an appeal hearing before a panel comprised of three (3) members of the Board of Adjustment upon payment of a fee for the appeal in an amount established from time to time by the Council.

(D) Where the City determines that abatement of the nuisance requires construction or reconstruction of a Sidewalk, curb, or gutter, or a combination thereof, the Director may defer abatement of such nuisance; however, any appeal of such an abatement notice (along with the proper fee for appeal) shall be filed within five (5) business days following receipt of such notice. The Director's deferral of abatement shall be in writing and shall identify a date by which the nuisance shall be abated. Failure to abate the nuisance on or before the deferral date is a violation of this Chapter. (Ord. 3177, 04-12-18)

8-10-4 APPEAL.

Upon receipt by the City of intent to appeal and payment of the appeal fee, a person receiving notice to abate shall be heard by the Board of Adjustment panel within twenty (20) calendar days of the filing of the appeal, during which appeal time no action shall be taken by the City regarding the nuisance. At the appeal hearing, the appellant must show, by a preponderance of the evidence, that there is an exception to abatement of the nuisance removal under this Chapter. The decision of the Board of Adjustment panel shall be final. Unless the Board of Adjustment panel finds an exception to nuisance abatement, abatement of the nuisance shall take place within twenty (20) calendar days following the decision by the Board of Adjustment panel. (Ord. 3177, 04-12-18)

8-10-5 CITY ABATEMENT

(A) City is authorized to use public funds to abate a nuisance.

(B) If the property owner(s) or occupant(s) or person(s) in control of the property fails to abate the nuisance within twenty (20) calendar days following a final decision regarding the nuisance, the City may enter the property and commence abatement, pursuant to Idaho Code.

(C) If the City abates the nuisance, all costs and expenses related to abatement shall be billed and assessed against the property owner and, if unpaid, shall be collectible by any lawful means including, but not limited to, creation of a special assessment collectible against the subject property, pursuant to Idaho Code. (Ord. 3177, 04-12-18)

8-10-6: CONSTRUCTION SPECIFICATIONS: The construction of all Sidewalks and curbs and gutters shall be in accordance with the Standard Drawings and Specifications. (Ord. 3177, 04-12-18; Ord. 3186, 5-24-18)

8-10-7: PERMIT FOR TRAP DOORS: It shall be unlawful to construct, maintain or operate any trap door, opening, grating or other opening within or upon a public Sidewalk, without a permit issued by the Council. (Ord. 3177, 04-12-18)

8-10-8: OPENINGS IN SIDEWALKS: It shall be unlawful for any person to fail or neglect to maintain any trap door, opening or grating approved by the Council, or to fail or neglect to keep the same securely closed while any doors covering the same are not in use, or to take all reasonable and necessary safety precautions to prevent harm and injury to person or property. All openings for elevators, coal chutes, or service entrances or openings of any kind within a public Sidewalk shall be constructed and installed in such manner as to prevent entry of storm waters or floods from the street or Sidewalk. (Ord. 3177, 04-12-18)

8-10-9: COVERINGS UPON SIDEWALKS: All Sidewalk doors, coal chutes, and coverings and supports therefor shall be made of steel or cast iron, shall be placed flush with the Sidewalk surface, shall have a corrugated surface or other finish that will prevent slippage thereupon, and shall be so constructed as to support a load of not less than two hundred (200) pounds per square foot. (Ord. 3177, 04-12-18)

8-10-10 SIDEWALK, HAIL, SNOW, SLEET AND/OR ICE REMOVAL REQUIRED.

(A) Definitions:

- (1) *Precipitation Event.* Any product of the condensation of atmospheric water vapor (including hail, snow, sleet, and ice) that falls under gravity within City limits, as determined by the National Weather Service Station at the Idaho Falls Regional Airport.
- (2) *Sidewalk.* Any concrete, asphaltic paving or brick material adjacent to a City street, easement, right-of-way or other public way, whether within a public right-of-way or on private property, designated and/or used by pedestrians for travel.

(B) Duty to Remove Hail, Snow, Sleet and/or Ice Promptly.

- (1) Unless otherwise provided in this Section, it shall be unlawful for an owner, agent or lessee of real property to fail to remove or fail to cause to be removed hail, snow, sleet, and/or ice, from the entire length and breadth of every Sidewalk in the City within the twenty four (24) hour period immediately following the cessation of a Precipitation Event.
- (2) The duty imposed in this subsection (B)(1) shall not include snow placed onto Sidewalks by snow removal equipment of the City or its designee after it has been removed following a Precipitation Event. (Ord. No. 3145, 11-21-2017; (Ord. 3177, 04-12-18; Ord. 3332, 09-10-20)

8-10-11 OBSTRUCTION OF A CITY SIDEWALK, STREET, EASEMENT, RIGHT-OF-WAY, OR OTHER PUBLIC WAY WITH SNOW OR ICE IS PROHIBITED.

(A)

(1) It shall be unlawful to place snow or ice removed from private property (including a Sidewalk) upon any public Sidewalk, street, easement, right-of-way, or other public way, alleyway or Sidewalk.

(2) It shall also be unlawful to place snow or ice removed from Sidewalks, private driveways, driveway approaches, or other public places in or upon a public Sidewalk, street, easement, right-of-way or other public way, alleyway or Sidewalk in a manner that causes a hazard or obstruction to vehicular or traffic or any person travelling over or upon or otherwise using a public Sidewalk, street, easement, right-of-way or other public way, alley, or Sidewalk within the City, especially those who benefit from the provisions of the Americans with Disabilities Act as amended. (Ord. No. 3145, 11-21-2017; Ord. 3177, 04-12-18).

8-10-12 PENALTIES.

(A) Any person who violates Sections 8-10-10 of this Chapter is guilty of an infraction in an amount set from time to time by the Council.

(B) Any person who violates Sections 8-10-11 of this Chapter is guilty of an infraction for every twenty-four (24) hour period of a failure to comply with a duty imposed by such sections in an amount set from time to time by the Council. (Ord. No. 3145, 11-21-2017; Ord. 3177, 04-12-18).