

TITLE 12 STREETS, SIDEWALKS AND PUBLIC PROPERTY

Title 12 sets forth the provisions regulating construction, numbering, access, etc. relating to the City's streets and sidewalks.

For statutory provisions authorizing cities to remove encroachments on and construct, rebuild and repair public streets and sidewalks, see [Idaho Code §§50-311 to 50-317](#).

CHAPTER 12.01 SIDEWALK CONSTRUCTION

12.01.010 Sidewalks in all areas of the city

The City of Rexburg hereby adopts the policy of complete compliance with respect to the requirement that there be sidewalks in all areas within the city limits of Rexburg. It shall be the duty of the City Engineer or the Planning and Zoning Commission to determine that a proposed site plan, or plat drawings contain provisions for minimum 5' sidewalks, unless there is prior written approval of the City Building Inspector for any deviation from a 5' sidewalk. It shall further be the duty of the City Engineer or the Planning and Zoning Commission to decline to issue permits necessary for construction or occupancy in the event such sidewalk compliance is not met. ([Resolution No. 1994-4\(part\)](#))

12.01.020 Standard Drawings and Specifications

The City of Rexburg adopts the standards and specification set forth in the current edition of the City of Idaho Falls Standard Drawings & Specifications, as the City of Rexburg's minimum Standard Drawings & Specifications and any additions, amendments or addenda thereto established by the City Engineer. ([Resolution No. 1995-1\(part\)](#))

12.01.021 Standards for Public Works Construction and Supplemental Conditions

The City of Rexburg adopts the standards and specification set forth in the current edition of the Idaho Standards for Public Works Construction and Supplemental Conditions - Standard Drawings & Specifications, as the City of Rexburg's minimum Standard Drawings & Specifications and any additions, amendments or addenda thereto established by the City Engineer.

Any subdivision which shall request annexation into the City of Rexburg or any subdivision which is in the Rexburg Impact Zone and all lots less than one acre in size, must be in substantial compliance with the Rexburg Standard Drawings & Specifications prior to being annexed or approved, unless modified by an annexation or development agreement. The terms of this resolution, if in conflict with any existing Ordinances or Resolutions, shall be controlling. Specifically, this Resolution applies to [Ordinance No. 658](#) (Rexburg Subdivision Ordinance). ([Resolution No. 2008-17](#))

12.01.030 Subdivision annexation

Any subdivision which shall request annexation into the City of Rexburg or any subdivision which is in the Rexburg Impact Zone and all lots less than one acre in size, must be in substantial compliance with the Rexburg Standard Drawings & Specifications prior to being annexed or

approved, unless modified by an annexation or development agreement. (Rexburg Subdivision Ordinance).

12.01.040 Sidewalk minimum requirements

Streets shall have as a minimum:

1. 5' Wide Sidewalks on both sides
2. Concrete Curb & Gutter on both sides

Normal minimum grade = 0.40%

Absolute minimum grade = 0.30% can be used only under unusual circumstances with prior written approval of the City Engineer. ([Resolution No. 1995-1\(part\)](#)).

12.01.050 New Owners

Whenever a lot within the City of Rexburg which does not have an existing sidewalk changes ownership, a new sidewalk must be installed on said lot within thirty (30) days unless a written extension of time for installation is granted by the City Engineer. ([Resolution No. 1995-6\(part\)](#)).

12.01.060 Reconstruction

Whenever there is major street reconstruction (which includes, but is not limited to, replacement of curb, gutter, or asphalt overlay) then the adjoining lot owners shall be required to install sidewalks, if such are not already in existence. ([Resolution No. 1995-6\(part\)](#)).

12.01.070 Existing sidewalks

When there are existing sidewalks already in place on the same side of a street, all new or replaced sidewalks should be in conformity, as far as placement, with those in existence. The width of the sidewalks shall be five feet or more unless the majority of the sidewalks on the same side of the street have a narrower width. ([Resolution No. 1995-6\(part\)](#)).

12.01.080 Obstruction of sidewalks

It shall be unlawful for any person to obstruct any street, alley or public sidewalk within the corporate limits of the City of Rexburg ([Ord. 1019 Art I §2, 2009](#)).

12.01.090 Business upon public sidewalks

It shall be unlawful for any person to store, install, maintain or operate any material, vehicle, structure, fixture or business upon any public sidewalk within the City, except as permitted by Section 12.01.100 below. ([Ord. 1019 Art I §4, 2009](#)).

2.01.091 Advertisement on Sidewalks

It shall be unlawful to sell, display or advertise the sale of any goods, wares, merchandise, food or beverage upon or from any cart, rack, structure or vehicle situated upon any public sidewalk within the City, except as permitted by Section 12.01.100 below. ([Ord. 1019 Art I §5, 2009](#)).

12.01.100 Business upon public sidewalks – Exceptions

Notwithstanding Sections 12.01.060, 12.01.070, 12.01.080, 12.01.090, and 12.01.091 above, the City Council may by resolution duly passed and adopted, declare a day or days in the commercial areas of the City of Rexburg during which licensed merchants may display and sell goods, wares and merchandise in front of their respective places of business. The merchandise so displayed shall be confined within an area extending from the store front toward the street line no more than ½ the total width, and under no circumstance shall the display area extend any closer than five (5) feet from the street line, and shall not cover any more than a total of one half (1/2) of the total area of sidewalk in front of the business. Nothing herein contained shall allow for placement of merchandise in such a manner as to require, or encourage pedestrians to walk upon the street. ([Ord. 1019 Art I §6, 2009](#)).

12.01.110 Indemnifying liability

Any licensed merchant or other person conducting a lawful business in the commercial area, may for the purpose of displaying goods, wares and merchandise, petition the City of Rexburg for permission to engage in such conduct on a regular basis provided that said merchant, shall first be required to indemnify the City of Rexburg from any and all liability by reason thereof to the extent of \$500,000.00 for any one accident and to file proof with the City of such liability insurance indemnifying the City of Rexburg, and the same restrictions as set forth above in Section E shall apply as to placement. Provided that any such display of merchandise shall be removed at the end of each business day or during any period when the adjacent business is not open for business.

([Ord. 1019 Art I §7, 2009](#)).

12.01.120 Sidewalks less than six feet

At any location in the commercial area where the sidewalk is less than six feet in width, then the clear space for pedestrian passage shall not be reduced to less than four feet. ([Ord. 1019 Art I §8, 2009](#)).

12.01.130 Violation – Penalty

Any person, firm or corporation violating any provision sections 12.01.070-12.01.110 shall, upon conviction thereof, be guilty of a misdemeanor, and be punishable by a fine not to exceed Three Hundred Dollars (\$300.00) or by imprisonment for not more than six (6) months or by both such fine and imprisonment. In addition, the City shall have the right to remove the obstruction at their discretion, and the cost of so doing shall be added to the monthly utility billing sent out by the City to the appropriate property owner or account holder. ([Ord. 1019 Art III §3, 2009](#)).

12.01.140 Conformity with average setback

When fifty (50) percent or more of the lots on the same side of the street have been built, all buildings erected, established, or rebuilt shall be in conformity with the averaged setback of such buildings. In all Residential Zones all buildings erected, established, or rebuilt shall be required to place sidewalks and landscaping in any right-a-way which reasonably allows for placement of the sidewalk up to and including seven (7) feet of landscaping or as existing conditions dictate. In the Residential Zones the front yard setback would be changed to 20 feet. ([Ord. 802 §2, 1998](#)).

CHAPTER 12.02 OBSTRUCTIONS*

*Note to Chapter 12.02: For statutory provisions authorizing cities to remove all obstructions from sidewalks at the expense of the persons placing them there, see [Idaho Code §50-314](#).

12.02.010 Applicability of Sections 12.02.020 through 12.02.040

The provisions of Sections 12.02.020 through 12.02.040 shall apply to the streets and parts of streets within the following limits:

Main Street between the Oregon Short Line Railroad and the east line of Third East Street and College Avenue between Main Street and Second South Street. ([Ord. 300 §3, 1929](#)).

12.02.020 Construction or maintenance of pumps, tanks, appliances, signs, etc. – Restrictions

It is unlawful for any person, firm or corporation to install, build, erect, place or maintain upon any curb or sidewalk, or any place between the curblines and private property line on the streets and parts of streets within the limits designated in Section 12.02.010 of this chapter, any pump of any kind, or tank or any fixture or appliance for any purpose whatsoever, or any sign or other obstruction, or any planks, plank crossing, or driveway in or over any gutter within the defined limits within the city. ([Ord. 300 §1, 1929](#)).

12.02.030 Removal of certain objects required – Time limit – Abatement as public nuisance

All pumps, tanks, and other fixtures and appliances of every kind whatsoever, and all signs and other obstructions upon any curb or curbs, sidewalk, or any space between the curblines and private property line, and all planks and plank crossings and driveways over any gutter or gutters in the streets and parts of streets designated in Section 12.02.010, shall be removed before the first day of June 1950 and any and all such objects and obstructions not removed within the time in this section provided shall be and are hereby declared to be public nuisances, and same shall be abated as public nuisances. ([Ord. 300 §2, 1929](#)).

12.02.040 Violation of Sections 12.02.010 through 12.02.030 – Penalty

Any person, firm or corporation violating the provisions of Sections 12.02.010 through 12.02.030 shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable as set forth in [Chapter 1.02.020](#) of this code. ([Ord. 300 §4, 1929](#)).

12.02.050 Sidewalk obstruction prohibited – Exception

It is unlawful for any person or persons to obstruct any part of the sidewalks within the corporate limits of the city with building material or any other material without permission of the city council first obtained in writing. ([Ord. 5 §1, 1899](#)).

12.02.060 Excavations restrictions

It is unlawful for any person or persons to excavate the earth from the sidewalks or from under the plank sidewalks within the corporate limits of the city for cellars or pits, or for any purpose. ([Ord. 5 §2, 1899](#)).

12.02.070 Riding or driving animals on sidewalks prohibited

It is unlawful for any person or persons to lead, drive or ride any horse, mule or any other beast of burden upon any sidewalk within the corporate limits of the city. ([Ord. 5 §3, 1899](#)).

12.02.080 Injuring or obstructing streets deemed misdemeanor

Any person or persons who obstructs, injures or damages any of the streets or alleys of the city, either by placing obstructions thereon, by digging in or by deepening or deviating the water of any stream, or by placing any obstruction in any ditch or stream within or along any of the streets or alleys of the city, or by placing or constructing any obstruction, ditch or embankment upon their own or other lands so as to make or cause any water to flow upon or impair any of the streets or alleys of the city, or in any other manner injures or obstructs any of the streets or alleys of the city, is guilty of a misdemeanor. ([Ord. 5 §4, 1899](#)).

12.02.090 Railroad property – Malicious damage or destruction deemed misdemeanor

Any person or persons, who maliciously removes, displaces, injures or destroys any part of any railroad, whether for steam or horse cars, or any track of any railroad, or any branch or branchway, switch, turnout bridge, viaduct, culvert, embankment, station house or other structure or fixture, or any part thereof attached to or connected with any railroad, or places any obstruction upon the rails or tracks of any railroad or any switch, branch, branchway or turnout connected with any railroad within the corporate limits of the city is guilty of a misdemeanor. ([Ord. 5 §5, 1899](#)).

12.02.100 Violation of Sections 12.02.050 through 12.02.090 – Penalty

Any person or persons violating any of the provisions of Sections 12.02.050 through 12.02.090 of this chapter, upon conviction thereof, shall be deemed guilty of a misdemeanor and shall be punishable as set forth in [Chapter 1.02.020](#) of this code. ([Ord. 5 §6, 1899](#)).

CHAPTER 12.03 STREET NAME AND NUMBERING SYSTEM*

*Note to Chapter 12.03: For statutory provisions authorizing cities to provide for the naming of streets and numbering of houses, see [Idaho Code §50-318](#).

12.03.010 Street naming system described

All the streets and avenues, as platted in the several surveys of the city, shall be known by names as follows:

The street immediately south of Block 33, plat of Rexburg Townsite, running east and west to the eastern and western limits of the city, shall be known by the name of Main Street, and the next street south as First South Street, and so on in regular order of number to the southern limits of the city. The street immediately north of said Block 33, running east and west to the eastern and western limits of the city shall be known as First North Street, and the next street north as Second North Street, and so on in regular order of number to the northern limits of the city. The street immediately west of said Block 33, running north and south to the northern and southern limits of the city shall be known as Central Avenue, and the next street west as First West Street and so on in regular order of number to the western limits of the city. The street immediately east

of said Block 33, running north and south, shall be known as First East Street and so on in regular number order to the eastern limits of the city. ([Ord. 221 §1, 1919](#)).

12.03.020 College Avenue and Carlson Avenue designated

- 1) The street running south from Main Street to Second South Street through Blocks 38 and 49, plat of Rexburg Townsite, and Block 2 Parker Addition, shall be known as College Avenue.
- 2) The street running east from Central Avenue to College Avenue shall be known as Carlson Avenue. ([Ord. 221 §2, 1919](#)).

12.03.030 Directional prefixes for street names – System described

All numbers of houses on streets running east from Central Avenue shall have added thereto the letter E, signifying "east." All numbers of houses on streets running west from Central Avenue shall have added thereto the letter W, signifying "west." All numbers of houses on streets running south from Main Street shall have added thereto the letter S, signifying "south"; and all numbers of houses on streets running north from Main Street shall have added thereto the letter N, signifying "north." ([Ord. 221 §3\(part\), 1919](#)).

12.03.040 Numbers and letters required – Police Chief duties

It shall be the duty of the chief of police to furnish each owner of any house situate upon any street or avenue within the limits of the city a written copy of the correct number and letter to which said house is entitled; and each owner shall, within sixty days after such notice, cause a painted, carved or metal duplicate of such number and letter to be placed in a conspicuous position upon such house in a permanent and durable manner. ([Ord. 221 §4, 1919](#)).

CHAPTER 12.04 PARK REGULATIONS

12.04.010 Hours of operation

For additional information on this section please see [Ord. 968, §3, 2006](#).

12.04.020 Requirements concerning use of grounds and facilities

Each person, firm or corporation using the public parks and grounds shall clean up all debris, extinguish all fires when such fires are permitted, and leave the premises in good order, and the facilities in a neat and sanitary condition. ([Ord. 968, §1, 2006](#)).

12.04.030 Prohibited acts

It shall be unlawful for any person, firm or corporation using such Parks to either perform or permit to be performed any of the following acts:

For a complete list of these acts please see [Ord. 968, §2, 2006](#).

12.04.040 Some special activities prohibited

It shall be unlawful to engage in special activities including flying model airplanes, golf practice, games except at locations specifically designated for such activities by the City Council or designated agent of the City of Rexburg relative to Parks. Areas for such activities may be reserved by groups for use at specified times. ([Ord. 968, §6\(a\), 2006](#)).

12.04.050 Non-designated vehicles prohibited in parks

It shall be unlawful to drive or park any motor-driven vehicle except on a street, driveway or parking lot in any Park; or to park or leave any such vehicle in any place other than established for public parking, without a written permit from the City Council or designated agent of the City of Rexburg relative to Parks. ([Ord. 968, §6\(b\), 2006](#)).

12.04.060 Unleashed animals prohibited*

*Note to Section 12.04.060: See [Section 6.04.010](#) for leash requirements and other animal owner responsibilities.

It shall be unlawful for any person to bring or harbor any animal in the Parks, except as may be allowed pursuant to established leash laws for the City of Rexburg. ([Ord. 968, §6\(c\), 2006](#)).

12.04.070 Sales within any park prohibited without permission

It shall be unlawful for any person other than those designated by the City Council or designated agent of the City of Rexburg relative to Parks, to vend, sell, peddle, or offer for sale any commodity or article within any Park. ([Ord. 968, §6\(d\), 2006](#)).

12.04.080 Smoking restrictions

It shall be unlawful for any person to smoke within fifty feet (50) of any structure, bleacher, playground equipment or water facility within the Park. ([Ord. 968, §6\(e\), 2006](#)).

12.04.090 Alcoholic beverage restrictions

It shall be unlawful for any person to have in his or her possession, custody or control any alcoholic beverages of any kind whatsoever. ([Ord. 968, §6\(f\), 2006](#)).

12.04.100 Posting of signs etc. prohibited without permission

It shall be unlawful for anyone to paste, glue, tack or otherwise post any sign, placard, advertisement, or inscription whatever, or for any person to erect or cause to be erected any sign whatever on any public lands or highways or roads adjacent to a Park without first having obtained permission from the City Council or designated agent of the City of Rexburg relative to Parks. ([Ord. 968, §6\(g\), 2006](#)).

12.04.110 Violation a misdemeanor

Any person, firm or corporation who fails, neglects, or refuses to comply with the provisions of this ordinance shall be deemed to be in violation thereof and guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not less than twenty-five dollars and not more than three hundred dollars, or may be confined in jail for a period of not more than thirty days, either or both such fine and imprisonment may be imposed, and in addition thereto, any person so convicted shall pay such costs as the Court may assess. ([Ord. 968, §7, 2006](#)).

12.04.120 Exceptions for government officials

Provided that the provisions of sections 12.04.010 – 12.04.100 shall not apply to any properly authorized government official in pursuit of any official duty. ([Ord. 968, §6\(part\), 2006](#)).

CHAPTER 12.05 ACCESS TO STREETS, ALLEYS AND PUBLIC SIDEWALKS

12.05.010 Obstruction unlawful

It shall be unlawful for any person to obstruct any street, alley or public sidewalk within the city of Rexburg. ([Ord. 1019 Art I §2, 2009](#)).

12.05.020 Public use of sidewalk – Restricted

It shall be unlawful for any person to store, install, maintain or operate any material, vehicle, structure, fixture or business upon any public sidewalk within the city, except as permitted by Section 12.05.040. ([Ord. 1019 Art I §4, 2009](#)).

12.05.030 Selling, displaying or advertising of merchandise – Restricted

It shall be unlawful to sell, display or advertise the sale of any goods, wares, merchandise, food or beverage upon or from any cart, rack, structure or vehicle situated upon any public sidewalk within the city, except as permitted by Section 12.05.040. ([Ord. 1019 Art I §5, 2009](#)).

12.05.040 Public use of sidewalks – Exceptions

For additional information please see [Ord. 1019 Art I §6, 2009](#).

12.05.050 Liability insurance – Required

For additional information please see [Ord. 1019 Art I §7, 2009](#).

12.05.060 Clearance for pedestrian passage

At any location in the commercial area where the sidewalk is less than six feet in width, then the clear space for pedestrian passage shall not be reduced to less than four feet. ([Ord. 1019 Art I §8, 2009](#)).

12.05.070 Violation – Penalty

Any person, firm or corporation violating any provision of this chapter shall, upon conviction thereof, be punishable by a fine not to exceed three hundred dollars or by imprisonment for not more than six months or by both such fine and imprisonment for any single violation [Ord. 1019 Art III §1, 2009](#).

CHAPTER 12.06 PARADES AND PUBLIC ASSEMBLIES

12.06.010 Definitions

The following words and phrases when used in this chapter shall have the meaning set out in this section.

- 1) Chief of police: means the chief of police of the city of Rexburg or the chief's authorized designee.
- 2) City clerk: means the clerk of the city or the clerk's authorized designee. ([Ord. 810 §1, 1998](#)).

12.06.020 Application

- 1) A person seeking a permit shall obtain and file an application with the city clerk on forms provided by such officer.
- 2) An application for a permit shall be filed with the city clerk at least forty-five days and not more than one year before the parade or public assembly is proposed to commence. ([Ord. 810 §2, 1998](#)).

12.06.030 Fees

The city council may establish such fees as are necessary and reasonable by resolution. ([Ord. 810 §3, 1998](#)).

12.06.040 Standards for issuance

- 1) Only one permit will be granted for the same time and/or location. The city clerk shall issue a permit on a first-come, first- served basis.
- 2) Any other reasonable regulation or restriction deemed necessary by the chief of police for the protection and safety of the parade participants, viewing public or for the public health, safety and general welfare of the citizens of the city may be imposed by the chief of police. However, such additional regulations or restrictions shall be specified in writing to the applicant with all reasons therefore clearly enumerated. ([Ord. 810 §4, 1998](#)).

12.06.050 Notice of denial of application

The city clerk shall act promptly upon a timely filed application for an activity requiring a permit but in no event shall grant or deny a permit less than twenty days prior to the event. If the city clerk denies the application, the applicant shall be notified by either personal delivery or United States mail at least twenty days prior to the event of his action and state the reasons for the denial to the address or telephone number provided on the permit application. ([Ord. 810 §5, 1998](#)).

12.06.60 ternative permit

For additional information on this section please see [Ord. 810 §6, 1998](#).

12.06.070 Appeal procedure

Any applicant shall have the right to appeal the denial of a permit to the city council. The denied applicant shall make the appeal within five days after receipt of the denial by filing a written notice with the city clerk and a copy of the notice with the city clerk. The city council shall act upon the appeal at the next regularly scheduled meeting following receipt of the notice of appeal. ([Ord. 810 §7, 1998](#)).

12.06.080 Contents of permit

Each permit shall state at least the following:

- 1) Starting and approximate ending time; and
- 2) The portions of the streets that may be occupied by the activity requiring a permit. ([Ord. 810 §8, 1998](#)).

12.06.090 Duties of permittee

A permittee hereunder shall comply with all permit conditions and with all federal, state and local laws. ([Ord. 810 §9, 1998](#)).

12.06.100 Prohibitions and regulations

For additional information on the prohibitions and regulations for activities requiring a permit please see [Ord. 810 §10, 1998](#).

12.06.110 Violation – Penalties

Any person who violates or fails to comply with any of the provisions of this chapter or who, having obtained a permit hereunder, willfully fails to continue to comply with the conditions set forth in this chapter is guilty of a misdemeanor, and upon conviction thereof, may be fined in accordance with state statutes. ([Ord. 810 §11, 1998](#)).

12.06.120 Emergency cancellation/termination

The chief of police may order an activity requiring a permit to terminate and disperse in the event of a natural calamity or in the event public peace is breached and/or life and/or property is in eminent danger. ([Ord. 810 §12, 1998](#)).

12.06.130 Severability

The provisions of this chapter are severable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutional or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this chapter or their application to other persons or circumstances. It is declared to be the legislative intent that this chapter would have been adopted if such illegal, invalid or unconstitutional provision, clause sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the chapter or part thereof is held inapplicable had been specifically exempt therefrom. ([Ord. 810 §15, 1998](#)).

CHAPTER 12.07 SIDEWALK ACCESS

12.07.010 Sidewalk Access

For additional information on this section please see [Ord. 1019 Art I, 2009](#).

12.07.020 Sidewalk Standards and Specifications

For additional information on this section please see [Ord. 1019 Art II, 2009](#).

12.07.030 Penalties and Effective Date

- 1) Any person, firm or corporation violating any provision of this Ordinance shall, upon conviction thereof, be guilty of a misdemeanor, and be punishable by a fine not to exceed

Three Hundred Dollars (\$300.00) or by imprisonment for not more than six (6) months or by both such fine and imprisonment. In addition, the City shall have the right to remove the obstruction at their discretion, and the cost of so doing shall be added to the monthly utility billing sent out by the City to the appropriate property owner or account holder.

- 2) All ordinances or parts of ordinances in conflict herewith are hereby repealed. ([Ord. 1019 Art III, 2009](#)).