

**TOWN OF ELMIRA
SIDEWALK ORDINANCE**

**Snow and Ice Removal from Sidewalks;
Repair and Replacement of Sidewalks**

I. Purpose.

The purpose of this Ordinance shall be to preserve the public peace and good order in the town, to contribute to the public welfare, safety and good order of its people and to contribute to the safe conveyance of its people over the streets and sidewalks of the town by establishing certain regulations for the removal of snow and ice from the streets and sidewalks of the town that are consistent with the rights and privileges of other residents of the town. It is further noted that certain snow removal practices are a vexation and annoyance not only to the traveling public but also to the owners and occupants of adjoining lands. Further, this Ordinance is to establish a procedure and specifications for the replacement and repair of sidewalks within the town. It is for these reasons and others that the Town Board of the Town of Elmira is compelled to legislate upon the subject matter.

II. Duty to clear abutting sidewalk.

It shall be the duty of the owner and occupant, jointly, of every parcel of real estate adjoining a public sidewalk, whether the parcel of real estate is occupied by a structure or not, to keep such sidewalks adjoining such property free from snow and ice for the full paved width of such sidewalk

III. Time limit to remove snow and ice.

Snow and ice shall be removed within twenty-four (24) hours after the end of a snowfall. Sidewalks in front of commercial establishment and commercial parking lots shall be kept free of snow and ice at all times

IV. Use of sand or similar materials.

In case snow and ice on any sidewalk shall be frozen so hard that it cannot be removed without injury to the sidewalk, it shall, within the time specified in section III, be strewn and kept strewn with ashes, sand, sawdust or other suitable material so as to be no longer dangerous to life and limb. As soon as practical thereafter, the sidewalk shall be completely cleared of snow, ice and other materials strewn thereon as provided in this Ordinance.

V. Failure to comply; removal by town; costs.

Whenever the owner or occupant of every parcel of real estate adjoining a public sidewalk fails to remove the snow and ice from such sidewalk adjoining

such property within the time specified in this Ordinance or within twelve (12) hours after notice of the Superintendent of Highway or the Code Enforcement Officer or Police Officer of the Town of Elmira to remove the same, it shall be the duty of the Superintendent of Highways to remove or make arrangements for removal of said snow or ice from the sidewalk and notify the Town Clerk of the expense incurred by the amount of labor, equipment and materials used.

VI. Bill for removal by town; assessment; lien.

The Town Clerk shall promptly present to the owner or occupant of each parcel a bill for the removal of snow and ice as certified by the Superintendent of Highways. If not paid within thirty (30) days, the cost thereof shall be assessed against the property and become a lien thereon, collectible in the same manner as delinquent town taxes

VII. Ice, snow and water falling on sidewalks.

The owners or occupants of buildings adjacent to public sidewalks shall prevent the falling of snow, ice or water from such building upon said public sidewalks

VIII. Throwing snow and ice on streets.

No person, firm or corporation shall deposit, throw, place or strew nor shall any person, firm or corporation cause to be deposited, thrown, placed or strewn any snow or ice upon any street, avenue or roadway within the Town of Elmira.

IX. Prohibited acts; consequences.

A. No person, firm or corporation shall pile, gather up, plow up or in any way force any snow or ice upon any street, avenue or roadway within the Town of Elmira or from one street, avenue or roadway onto any other street, avenue or roadway within the Town of Elmira.

B. No person, firm or corporation shall pile, gather up, plow up or in any way force any snow or ice upon any terrace or parcel of land within six (6) feet of any street, avenue or roadway in such a manner as to cause the height of the snow and ice so piled, gathered, plowed or forced to exceed three (3) feet six (6) inches in height above the existing natural grade of said terrace or parcel of land within six (6) feet of said street, except that it shall be unlawful to cover a fire hydrant with snow or ice.

C. No person, firm, corporation, property owner or occupant shall remove snow or ice from any parcel of real estate and place it upon another parcel of real

estate without the express permission of the owner of the parcel of real estate upon which the snow or ice is to be placed.

D. Any person, firm or corporation piling, gathering or plowing up snow or ice on any public street, avenue or roadway or to an excess height as indicated in Subsection B shall forthwith remove the same at his or her or its expense upon the request of the Superintendent of Highways or Code Enforcement Officer or Police Officer of the Town of Elmira.

E. Whenever any person, firm or corporation neglects or refuses to remove any snow or ice piled, gathered or plowed up by him or her or it in violation of this section twelve (12) hours after a request to do by the Superintendent of Highways or Code Enforcement Officer or Police Officer of the Town of Elmira, it shall be the duty of the Superintendent of Highways to remove said snow or ice from such street or terrace and notify the Town Clerk of the expense incurred by the amount of labor, equipment and materials used.

F. The Town Clerk shall promptly present to the violator of this section a bill for the removal of snow and ice as provided for in Subsection E as certified by the Superintendent of Highways if not paid within thirty (30) days, in the case of a property owner, the cost thereof shall be assessed against the property and become a lien thereon, collectible in the same manner as delinquent town taxes.

X. Penalties for offenses.

Any person, firm or corporation who or which shall violate any of the provisions of this Article shall, upon conviction thereof be punishable by a fine in the amount of \$50.00.

XI. Obligations of Abutting Owner

A. The Town Board may adopt orders from time to time, directing the owners of the respective lots and parcels of land abutting on any street, or, towns of first class, with the consent of the County Superintendent of Highways or the State Commissioner of Transportation, as the case may be, abutting on a County or State highway within the town along which it is desired that sidewalks be built, relayed or repaired, to construct the same to conform with such Ordinance, rule or regulation as shall have been adopted by the Town Board, and specify the time within which the same shall be done.

B. No sidewalk shall be built, relayed or repaired or be permitted to be built, relayed or repaired along any road, street, highway or parkway in the Town of Elmira, whether or not such sidewalk is in or along a Town, County, State or private road, street, highway or parkway unless such construction shall conform to the conform to the lines and grades submitted by the owner of the lots or parcels involved and approved by the Town Superintendent of Highways and in

conformity with the specifications for sidewalk construction adopted by the Town Board of the Town of Elmira as set forth in this Ordinance, as the same may be amended from time to time and a copy of which is available in the Town Hall.

C. All sidewalks built, relayed or repaired on any privately owned road, street, highway or parkway shall be subject to these regulations and comply in all respects with the regulations covering streets, the title of which is vested in the Town.

XII. Permit

A. No sidewalk shall be built, relayed or repaired or work thereon commenced, until the owner of the abutting premises in front of which such sidewalk is to be built, relayed or the authorized agent of the owner shall have obtained a permit therefore. Applications for such permits shall be in writing, shall show the proposed lines and grades and shall contain such other information as may be required by the Town Superintendent of Highways. The Code Enforcement Officer shall issue the permit and attach a copy of the current sidewalk specifications to the permit.

If the location where sidewalks are to be built, relayed or repaired shall be upon a State or County highway, a permit shall first be obtained by the owner from the State Commissioner of Transportation or the County Superintendent of Highways.

B. Procedures for obtaining a sidewalk permit shall be as indicated below:

1) A property owner may obtain the permit for the sidewalk. This is only recommended when the property owners intend to complete the sidewalk repair/construction themselves. The property owner must comply with the specifications, procedures, and provisions of Sections XIV through XIX, inclusive. *

2) When a contractor is to be used for construction or repair of the sidewalk, the contractor shall have the responsibility for obtaining the permit. The specifications, procedures, and provisions of Sections XIV through XIX, inclusive, shall apply. *

***Note:** The permittee and/or the property owner is liable for any and all injuries and damages to person or property arising in any way as a result of work performed to install or replace the sidewalk.

The permittee is also responsible for contacting “Dig Safely New York” at 1/800-962-7962 or www.digsafelynewyork.com.

It will be the responsibility of the permittee to replace any survey markers disturbed during construction. This work shall be performed by a licensed land surveyor.

It is recommended that property owners should not pay for work completed until it has been inspected and approved by the Town of Elmira.

XIII. Notice for Construction or Repair of Sidewalk.

A. Whenever the Town Board adopts an order or orders directing the owners of the respective lots and parcels of land abutting on any street, or, in towns of the first class, with the consent of the County Superintendent of Highways or the State Commissioner of Transportation, as the case may be, abutting on a County or State Highway within the Town, along which it is desired that sidewalks be built, relayed or repaired, in accordance with the provisions of this Ordinance, the Town Board shall specify the time within which the same shall be done. The Town Clerk shall give notice thereof by registered mail addressed to each such owner at his address as it appears upon the assessment roll of such town or, in the alternative, by publication of a notice thereof in the official paper at least twice, the first publication of which shall be at least fifteen days before the time specified for the completion of the work. Within the time prescribed in the order and notice, the sidewalk required to be built, relayed or repaired shall not have been so built, relayed or repaired, then the board may cause the same to be done and audit and pay the expense of doing the same and assess the expense thereof against the property benefited as a whole, or any five or less annual installments, in the same manner as street improvements constructed pursuant to section two hundred of this chapter.

If such expense were assessed in installments, there shall be assessed as part of each installment, except the first, as interest, an amount not exceeding six per cent of such installment such rate to be fixed by the town board in the order providing for the assessment. The provisions of law applicable to the sale of tax liens shall apply to any unpaid assessed installment with interest thereon in the same manner as though such installment and interest had been assessed as an assessment payable as a whole. Unassessed installments shall be prepayable at any time with interest computed thereon at the aforesaid rate from the date of assessment of the first installment to the date of payment of the particular installment.

If such expense be assessed as a whole and the town board resolution assessing such expense against a particular piece of property shall so provide, the assessment against such property may be paid in five or less annual installments on the dates fixed by such resolution with interest, not exceeding six per cent of each such installment, fixed by such resolution.

XIV. Specifications and Standards for Repair and Replacement of Sidewalks.

A. The Town of Elmira requires that the permittee will build either a Portland cement sidewalk or an asphalt cement sidewalk. It will conform to the New York State Department of Transportation (NYSDOT) Standard Specifications for “Sidewalks” and also conform to line and grade designated by the Town of Elmira. Removal of the existing sidewalk shall not begin until the line and grade has been given.

Asphalt cement concrete may be used for the replacement of the sidewalk in the driveway section, otherwise, no patching or individual block replacement with asphalt concrete in a Portland cement sidewalk will be allowed.

No overlay of asphalt cement concrete on an existing Portland cement sidewalk will be allowed.

In the event that a citation is issued for a tripping hazard, patching to repair the hazard will be allowed after obtaining written permission from the Town of Elmira Code Enforcement Officer or Highway Superintendent. The patch material shall be Portland cement concrete. To allow for better bonding, $\frac{3}{4}$ ” diameter holes must be drilled 4” into the existing surface. A permit shall be required for patching of this type.

If a governmental agency shall replace a sidewalk for a property owner, the replacement material shall be of the same type as existed prior to the replacement.

B. Vandalism. Any vandalism (excluding that done to the curing compound) shall be the sole responsibility of the permittee and/or landowner.

C. Completion Date. No sidewalk work will be done after November 15 of the current year or before April 15 of the following year.

D. Sub-Base Course. Sidewalks shall be constructed on a well-compacted and graded granular base of at least four (4) inches. Granular base shall meet NYSDOT Standard Specifications Section on “Sub-base Course.” This applies for both Portland cement and asphalt cement concrete sidewalks.

The permittee is responsible for the quality of the sidewalk and any related work therein and shall guarantee this work against failure for a period of three (3) years. This guarantee does not cover damage resulting from accident, disaster, misuse, abuse, or modification of the sidewalk.

Note: Specifications and Standards not addressed in this document must meet the current NYSDOT Standards and Specifications for construction and materials.

XV. Portland Cement Sidewalks

A. Material. The requirements and composition shall comply with the specifications for Class “A” concrete in the NYSDOT Standard Specifications Section on “Portland Cement Concrete – General.” Concrete shall be proportioned in accordance with the aggregate weights specified for Class “A” concrete.

B. Methods of Construction. Sidewalks shall be four (4) inches in depth except in driveways where the sidewalk shall be six (6) inches in depth. Sidewalks shall have a normal cross-slope of one-fourth (1/4) inch per foot drop towards the street, except where permission to alter the slope is given by the Town of Elmira. The street edge of the sidewalk shall be at least one (1) inch higher than the top of the curb. Dummy transverse joints shall be placed at five (5) foot intervals and the joints shall be finished with a scoring tool. At intervals of twenty (20) feet, the transverse joint shall extend full depth and shall contain a one-half (1/2) inch thick pre-molded bituminous joint material. Joint material is also required where walks abut with curbs, pavements, buildings, adjoining walks or other rigid structures. This shall be an acceptable flexible expansion material approved by the Town of Elmira. The top surface should be scored at intervals of five (5) feet so that the finished walk will be marked in squares both longitudinally and transversely. Where adjacent walks are four (4) feet wide, a four (4) foot wide walk can also be built.

The concrete shall be laid in one course in acceptable forms and shall be worked and floated so as to give a smooth uniform surface free of holes and satisfactory to the Town of Elmira. No concrete shall be laid until the form installation and sub-base preparation is inspected and approved by the Town of Elmira. The concrete shall be finished to produce a smooth surface and then lightly broomed to a uniform texture. This broom finish shall be perpendicular to the walking flow in a straight line. Any other finish is not acceptable. Each flag will be edged giving a “window pane” effect, one (1) inch to three (3) inches in width.

C. Curing. At the permittee’s option, quilted covers, waterproof blankets or an approved sprayed or painted curing compound may be used. Except when a curing compound approved by the Town of Elmira is used, sidewalks shall be cured for a minimum of three (3) days. In any case, traffic will be prohibited for at least twenty-four (24) hours. All of the above curing methods shall meet NYSDOT Standards Specifications Section on “Portland Cement Concrete Curing.”

D. Transitions To Abutting Walks – See Section XIV. C.

XVI. Asphalt Concrete Sidewalks

A. Material. The material shall conform to NYSDOT Standard Specifications Section on “Hot Mix Asphalt Concrete.”

B. Methods of Construction. The asphalt concrete shall be laid in two courses. One binder course of two (2) inches thickness (compacted) and a top course of one (1) inch thickness (compacted). Both courses shall be laid hot and compacted with a mechanical roller or vibratory tamp.

The sidewalk shall be five (5) feet wide and laid true to line and grade as given by the Town of Elmira, with a normal cross-slope of one-fourth (1/4) inches per foot drop toward the street.

The street edge of the sidewalk shall be at least 1 inch higher than the curb.

Metal edging is available for sidewalk work, but is not a requirement. If not used, all outside edges must be tapered downward to a forty-five (45) degree angle.

C. Transitions to Abutting Walks. For both Portland and asphalt cement walks, if the sidewalk on the abutting property is not at the same grade as the new walk, a five (5) foot long transition slab shall be installed on the abutting property at the end of the new walk. The cost of this transition slab shall be at the expense of the property owner who is installing the new walk.

XVII. Safety Requirements

A. Safety is the sole responsibility of the permittee. All safety costs will be borne by the permittee.

On any construction that requires the street to be closed, it is the responsibility of the permittee to notify the Chemung County 911 Communications Center at (607) 735-8600 (non-emergency number). The police departments having jurisdiction may require sketches showing how traffic is to be re-routed. **Police agencies must be notified forty-eight (48) hours prior to construction.** The Police agency may reject the plan in which case construction cannot commence.

Safety and security of the area around the excavation will be the sole responsibility of the permittee. Every attempt shall be made to protect the public from hazardous conditions. Flashing lights, wood barricades, steel plates, etc. are examples of such protection. In those cases where unsafe conditions occur, as determined by the Town of Elmira, it may be necessary for personnel from the Town of Elmira Highway Department to correct the unsafe conditions such as adding additional barricades. In these cases, the cost shall be at the permittee's expense.

B. Traffic Protection. All requirements will meet O.S.H.A. guidelines as well as M.U.T.C.D. guidelines. (See, O.S.H.A. and M.U.T.C.D. Manuals).

C. Excavation Safety. All requirements will meet O.S.H.A. guidelines and M.U.T.C.D. guidelines, as well as the current NYSDOT Standards and Specifications for construction and materials. (See, O.S.H.A., M.U.T.C.D., and NYSDOT Manuals).

D. Personal Safety. All requirements will meet O.S.H.A. guidelines. (See, O.S.H.A. Manual).

Note: At no time will any employee of the Town of Elmira enter an excavation that does not meet O.S.H.A. Standards. This may affect proper inspection.

XVIII. Insurance Requirements.

The Town of Elmira requires the following insurance amounts and types for all permittees completing work in the town:

a) **Workers' Compensation Insurance and Disability Benefits Insurance** shall be obtained in accordance with the law of the State of New York.

b) **Public Liability and Property Damage Insurance**

1) Public Liability Insurance: Not less than one million (\$1,000,000) for injuries including accidental death to any one person, and subject to the same limit for each person, and in an amount not less than two million (\$2,000,000) on account of one occurrence.

2) Property Damage Insurance: Not less than two hundred fifty thousand (\$250,000) for damages on account of any one accident and in an amount not less than \$250,000 for damages on account of all accidents.

c) **Owner's Protective Liability and Property Damage Insurance** in amounts equal to that specified for public liability and property damage insurance to protect the Town against any and all claims arising from the operations of the permittee. Owner's Protective Liability Insurance policies should contain the following provisions:

1) The presence of the Town's agents and employees on the site of the work shall not invalidate the policy of insurance.

2) The policy shall not be invalidated by reason of any violation of any of the terms of any policy issued to the permittee.

d) All policies of insurance required of the permittee, except Workers' Compensation and Disability Benefits, insuring, indemnifying and saving harmless the Town of Elmira, shall be endorsed **naming the Town of Elmira and its officers and employees and agents, as an ADDITIONAL INSURED ON A PRIMARY BASIS.**

e) Proof of Coverage of Insurance: The permittee shall furnish the Town certificates of all insurance, each of which shall contain the following provision: Such insurance shall not be cancelled, terminated, modified, or changed by either the permittee or the insurance company, except on ten (10) days prior written notice sent by the insurance company via registered mail to the Town. Such notices shall be addressed to the Town of Elmira, New York.

XIX. Abbreviations.

A.D.B.E.	--	As Determined By Engineer
A.S.T.M.	--	American Standards for Testing Materials
DEG.	--	Degree
DIA.	--	Diameter
F.	--	Fahrenheit
Ft.	--	Feet
H.	--	Height of Fill over top of pipe
H.D.	--	Hub Diameter, outside diameter of pipe at bell/band
I.D.	--	Nominal Inside Diameter
In.	--	Inches
Max.	--	Maximum
Min.	--	Minimum
M.U.T.C.D.	--	Manual on Uniform Traffic Control Devices
N.T.S.	--	Not to Scale
NYSDOT	--	New York State Department of Transportation
O.D.	--	Outside Diameter
O.S.H.A.	--	Occupational Safety & Health Administration
R.O.W.	--	Right-of-Way
U.F.P.O.	--	Underground Facilities Protective Organization
W=Trench Width	--	2.0 ft. + H.D. for pipes 48" and less I.D. 2.5 ft. + H.D. for pipes greater than 48" I.D.

- 1.0 ft. Min. + O.D. for 18” & 24” polyethylene pipe
- > -- Greater Than
- < -- Less Than

XX. BIBLIOGRAPHY

Manual of Uniform Traffic Control Devices as adopted by NYSDOT from Codes, Rules and Regulations of the State of New York; Manual No. 3309.

Manual of Uniform Traffic Control Devices for Streets and Highways, Washington, D.C: Technical Data Center, Document ASA D6.1-1961, Part V, 1961.

Occupational Safety Health Administration Code of Federal Regulations, Labor 29, Part 1926 Revised as of July 1, 1990, Sub-part P-Excavation 1926.650: U.S. Government Printing Office, Washington, D.C., 1990.

Standard Specifications Construction and Materials – Office of Engineering, NYSDOT, January 2, 1990.

XXI. Curb Cuts, Driveways and Sidewalk Permits and Fees Required.

- (a) No sidewalk or curb within a public street or other public space shall be altered without a permit issued by the Town of Elmira Code Enforcement Office.
- (b) The fees for such permits are:
- (1) Permits for sidewalks, curb cuts in concrete, stone or asphalt curbs shall be based on the current Building Permit Fee Schedule.

XXII. Repeal.

All Ordinances or parts of Ordinances heretofore passed which are in conflict or are inconsistent with any provision or provisions of this Ordinance are hereby repealed.

XXIII. Effective Date.

This Ordinance shall take effect immediately upon adoption and published according to law. Adopted on May 9, 2005.