

CHAPTER 65

SIDEWALKS AND STREETS

[Adopted by the Common Council of the City of Dunkirk on 3-18-1993]

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§ 65-1. Definitions.

As used in this chapter, the following terms shall have the meanings listed herein:

CITY - the City of Dunkirk.

PERSON - any individual, partnership, firm, association, corporation, or any combination of the same.

PUBLIC SERVICE CORPORATION - any corporation regulated under the New York State Public Service Law.

§ 65-2. Numbering Of Buildings On Streets.

- A. All buildings erected or hereafter to be erected shall be numbered as directed by the Director of Public Works.
- B. No person owning a building shall fail to procure from the Director of Public Works the proper number or numbers assigned therefore, nor shall any such owner fail to place and maintain the same thereon as hereafter provided.
- C. Numbers shall be not less than two and one-half (2 1/2) inches in height, of proportionate width, of a color contrasting to that on which the numbers are installed, and shall be placed and maintained in a permanent and durable manner where they can be seen at all times from the street.

§ 65-3. Street Closings.

- A. The Director of Public Works may, when he/she deems it necessary for the performance of his/her duties, and the Chief of the Fire Department may, when necessary, for his/her fire-fighting purposes, close any street or part thereof to travel.
- B. No individual or corporation may close a street without authorization of the Director of Public Works, Police Chief and Fire Chief.

- C. The closing of streets for block parties or other special events may only be done by Common Council approval, under such terms and conditions as may be determined by the Common Council.

§ 65-4. Removal Of Safety Devices Or Survey Stakes.

No person, without authority from the Director of Public Works, shall remove, cause to be removed or in any manner interfere with any barrier, sign or guard erected for public safety or any survey stake or monument placed to locate the line of any street, sidewalk or public improvement in the City.

§ 65-5. Discharge Of Stormwater Onto Streets.

- A. No person or corporation shall cause to be discharged any stormwater or drainage onto any City street in a manner so as to cause damage or dangerous conditions to the street.
- B. All discharges shall be approved by the Director of Public Works prior to commencement.

§ 65-6. Street Or Sidewalk Obstruction - Time Limit.

No person shall stop a vehicle on any roadway or sidewalk in such a manner as to hinder or obstruct pedestrian or vehicular traffic thereon, except when necessary to load or unload therefrom, and then in such case for such time as shall be actually necessary, and in no case to exceed ten (10) minutes.

§ 65-7. Street Encumbrances.

- A. No person shall place or cause to be placed in a highway any building or other material or snow, grass, leaves or refuse from adjoining premises, or place or project into a highway any sign or encumbrance whatever without the prior written permit, revocable at any time, of the Director of Public Works.
- B. There is no charge for this permit.

§ 65-8. Street Encumbrance - Permit Conditions.

No person shall place, project or allow any such material or encumbrance to remain in a highway contrary to the terms or conditions of such permit.

§ 65-9. Street Encumbrance - Permit Applications.

- A. Applications for a permit must be in writing, particularly describing the structure and place and such other information as the Director of Public Works may require.
- B. The consent shall be in writing and shall state the character of the structure, the place, the manner of securing the same and such other conditions as the Director of Public Works may impose.

§ 65-10. Banners And Signs.

- A. No person shall hang or float over any public property, any temporary flag, banner or sign, without written permission from the Director of Public Works.
- B. Existing banners or signs extending more than three (3) feet into a public right-of-way, if removed, shall not be replaced.
- C. No person, partnership, corporation, joint-stock company, limited liability company, limited liability partnership, or syndicate shall deposit, place or caused to be deposited or placed into any right of way any sign or other obstruction or encumbrance, whether permanent or temporary in nature. **[Amended 7-20-1999 as L.L. #6 (Intro No. 5) 1999]**
- D. No advertising signs shall be permitted within the street right-of-way. **[Amended 7-5-2000 as L.L. #5 (Intro No. 7) 2000]**

§ 65-11. Public Service Corporations.

- A. The Director of Public Works shall have power to grant permits to public service corporations for opening, refilling and repaving streets, avenues and public places in the City for the constructing, laying, repairing and maintaining of mains, pipes, services, conduits, manholes, railroad and railway tracks and appurtenances thereto under the provisions of City laws and ordinances.
- B. Before any such permit is granted, the applicant shall file with the Director of Public Works such maps, plans, specifications and information regarding the proposed work as the Director of Public Works may require, and the Director of Public Works shall have power to prescribe such conditions and methods of doing the work as he/she may deem for the best interests of the City.

- C. After completion of the work, the applicant shall keep such pavement at all times free from defects and settlements caused by the work for which the permit was granted for a period of one year.
- D. Should the person or corporation to whom the permit was granted fail to properly repair the pavement within five (5) days after the written notice from the Director of Public Works, the Director of Public Works shall have the power to have such repairs made, and the expense therefore shall become a charge against such person or corporation to whom such permit was granted, or the sureties of his/her bond, except that, in an emergency, when the Director of Public Works deems the pavement to be in dangerous condition, the Director of Public Works may have such repairs made without notice, and the expense therefore shall become a charge against such person or corporation or their sureties.
- E. In case of nonpayment of bills for repairs, made as hereinbefore provided, the Director of Public Works may also withhold further permits from such person or corporation until such bills are paid.

§ 65-12. Work Within Street Right-of-Way-Permit.

- A. No person other than an authorized City employee shall dig in a right-of-way without the prior written permit, revocable at any time, of the Director of Public Works.
- B. Permits will be issued at the discretion of the Director of Public Works. The Department of Public Works will have the authority to determine whether the proposed work is extensive as to warrant the issuance of the permit.

§ 65-13. Work Within Street Right-of-Way-Restoration.

Any person, other than an authorized employee, who shall dig in a right-of-way, shall restore the same and maintain it for one (1) year thereafter.

§ 65-14. Work Within Street Right-of-Way-Insurance.

- A. As a condition for the permit, the Director of Public Works shall require the applicant to submit proof of liability insurance in the amount of Five Hundred Thousand Dollars (\$500,000.00) per individual and Five Hundred Thousand Dollars (\$500,000.00) per occurrence.
- B. The applicant shall also be required to execute a hold-harmless agreement indemnifying the City against loss, including costs and

expenses, resulting from injury to person or property as a direct or indirect result of the applicant's work. Such hold-harmless agreement shall be covered by a protective policy of insurance in the amount of Five Hundred Thousand Dollars (\$500,000.00) and shall be subject to the approval of the City Attorney.

- C. As a condition of the permit, a one (1) year maintenance bond will be required.
- D. The Director of Public Works may issue special requirements regarding work within the right-of-way including, but not limited to, excavation, backfill, pavement and landscape restoration and maintenance and protection of traffic.

§ 65-15. Maintenance and Protection Of Traffic.

- A. A person causing work in a right-of-way shall keep the same fenced, barricaded and guarded by a lighted lantern or lanterns approved by the Director of Public Works.
- B. A person making or causing an excavation or having an excavation on his/her premises within five (5) feet of the line of a highway shall keep the same protected by a fence approved by the Director of Public Works.
- C. The provisions of 17 NYCRR Part 300 are incorporated by reference herein.

§ 65-16. Moving Buildings.

No person shall move a building, or part thereof, upon a street, except by written permit of the Director of Public Works and then only upon the terms and conditions therein stated.

§ 65-17. General Obstructions.

No person, partnership, corporation, joint-stock company, limited liability company, limited liability partnership, or syndicate shall deposit, place or caused to be deposited or placed into any right-of-way any object, obstruction or encumbrance without the prior written approval of the Director of Public Works; such approval revocable upon notice to the permittee. **[Amended 7-20-1999 as L.L. #6 (Intro No. 5) 1999]**

No person shall interfere with or obstruct or use in any way not authorized by law any street, public park, public sidewalk, building, sewer, water carrier or watercourse. **[Amended 7-5-2000 as L.L. #5 (Intro No. 7) 2000]**

§ 65-18. Tree Cutting.

- A. No person shall cut down or trim any shade tree located in the street right-of-way limits of the City, unless the person shall have obtained a permit therefore from the Director of Public Works.
- B. The permit will provide that the person to whom it is granted will hold the City free from any liability that may result from the cutting down of such tree, either to the City or to any other person, firm or corporation.
- C. Insurance may be required under such limits as may be determined by the City Attorney.

§ 65-19. Curbs.

- A. No person shall construct or cut down any curb in any of the streets of the City unless the owner of the property in front of which it is proposed to construct, cut down or lower the curb shall have obtained a permit from the Director of Public Works.
- B. The permit shall provide that the work of cutting down, constructing or lowering such curb will be done in accordance with the requirements of the Director of Public Works.

§ 65-20. Parades.

- A. No person, society, show troupe or other organization shall conduct any parade in, along, over or through any of the streets in the City without first having secured a permit from the Common Council.
- B. The permit shall state the occasion for such parade, the streets over which the same shall pass, and such conditions as the Council shall deem necessary to prescribe.

§ 65-21. Local Improvement Assessments.

Local improvement assessments shall be made in accordance with §§ 2-5.51 – 2-5.59 of the City Code.

§ 65-22. Use And Location Of Sidewalks.

- A. The public sidewalks within the City shall be used solely for the passage over of persons on foot.

- B. Such sidewalks shall be constructed within the street lines of the public streets of the City.

§ 65-23. Sidewalk Measurements.

No person, shall construct or cause to be constructed any concrete sidewalk in the City upon a residence street without first obtaining from the Director of Public Works the proper sidewalk line and grade, nor shall any person construct upon any residence street in such City, or cause to be constructed, a concrete sidewalk which shall be less than five (5) feet in width, unless otherwise approved by the Director of Public Works.

§ 65-24. Sidewalk Materials.

No person owning or controlling any real property upon any street in the City shall construct or cause or permit the construction of a sidewalk in front of such property on such street of any material other than concrete, unless otherwise approved by the Director of Public Works.

§ 65-25. Sidewalk Repair And Maintenance.

- A. It shall be the duty of every owner of any property fronting on any public street or ground to keep the sidewalk of the same in good order and repair, and the owner shall allow no accumulation of refuse to remain thereon.
- B. The owner or agent of such owner with property so abutting and fronting upon any public street, ground or sidewalk(s) shall be liable for any injury or any damages caused to any person or property caused wholly or in part by the failure of said owner or agent to so maintain and repair said public sidewalk(s). Each such owner or agent of owner shall be liable to the City for all losses to the City or recoveries from the City for damages to persons or property of others caused by failure of owner or agent of owner to repair and keep in good order and reasonably safe condition all such sidewalks abutting and fronting such property upon any street, ground or sidewalk within the corporate limits of the city. **[Added as L.L. #5 (Intro No. 7) 2000]**

§ 65-26. Sidewalk Removal.

- A. No person owning or controlling real estate bordering on any street or highway within the City whereon there is constructed a sidewalk, shall remove or cause the removal of such existing sidewalk, except for purposes of replacement within twenty (20) days of

removal, without the written consent of the Director of Public Works.

- B. Sidewalk areas which have been removed contemplating replacement shall be barricaded to protect the general public.

§ 65-27. Notice To Owner To Repair; Cost Of Repairs By City.

- A. Whenever the Director of Public Works of the City shall find that any sidewalk has become dangerous or unsafe or has become a nuisance through heaving, settling or breaking, the Director shall serve a notice upon the owner thereof to immediately repair the sidewalk.
- B. In the event that the owner of such sidewalk shall fail to comply within sixty (60) days of the service of such notice, the Director of Public Works shall repair the same and the cost thereof shall be charged against the owner of such property. The Director of Public Works may reduce the compliance period for conditions deemed hazardous.
- C. Should the owner not pay such charge, it shall become a lien against the property and shall be billed with the next City tax.
- D. If payment is not forthcoming, then it shall be collected as are unpaid taxes.

§ 65-28. Sidewalk Repair Program.

- A. Funding.
 - (1) This program shall be contingent upon funds being made available by, or to, the City for such program.
 - (2) This program is expressly limited by the funds made available therefore in each City fiscal year.
 - (3) When the allocated or available funds for any given fiscal year are expended, the program shall be terminated for that year.
 - (4) The reimbursement rate per square foot shall be set by the Common Council.

- B. Applications For Program.
- (1)
 - (i) Application for this program shall be limited to owners of real property within the City.
 - (ii) Applications shall be made to the Department of Public Works on form provided for such purpose by the Department of Public Works.
 - (iii) All applications must be submitted between January 1, and May of any given year in order to receive consideration for a share of available funds during such year.
 - (iv) The Director of Public Works may extend the application period, should funding be available.
 - (v) Applications will not be carried over from year to year.
 - (2)
 - (i) This program shall only be applicable to sidewalk area within, or adjacent to, the City's right-of-way and running parallel thereto and considered the public way. Privately installed sidewalks, including, but not limited to, sidewalks between the sidewalk and curb, are not eligible.
 - (ii) A homeowner may apply for the replacement of a presently existing sidewalk or to have a sidewalk put in where one does not exist. For streets not having existing sidewalks, the Director of Public Works shall make the determination whether such sidewalk installation is in the best interest of the City.
 - (iii) Sidewalks replaced under this program shall be limited to five (5) feet, unless otherwise approved by the Director of Public Works.
 - (3)
 - (i) The Department of Public Works shall make an inspection of the applicant's sidewalk.
 - (ii) If the Department of Public Works determines that the applicant's sidewalk is eligible for participation in this program, then the applicant shall be so notified.

- (iii) The Department of Public Works shall make a determination of the estimated number of square feet to be allowed to the applicant under this program.
- (iv) No more than 1,000 square feet shall be allowed per property in any given year.

C. Responsibility For Work.

- (1)
 - (i) The owner of such real property is solely responsible for seeing that the work is done.
 - (ii) Such owner may either hire a contractor of the owner's own choosing, or replace the sidewalk himself or herself.
 - (iii) The City is not responsible for supplying any work, labor or services with regard to the replacement of such sidewalk.
 - (iv) The owner, either through the owner's contractor should one be utilized, or individually, shall be responsible for the removal of any old sidewalk and the disposal of such old sidewalk material.
 - (v) The City is not responsible for the removal or disposal of any old sidewalk material.
 - (vi) The owner shall comply with all requirements as outlined by the Director of Public Works.
- (2)
 - (i) No applicant under this program will be reimbursed for his/her allowable portion of the cost, until all old sidewalk material has been properly removed and disposed.
 - (ii) Sidewalks not installed in an approved manner may be ordered removed and replaced or may cause forfeiture of the reimbursement at the discretion of the Director of Public Works.

D. Payment by City.

- (1)
 - (i) Upon the completion of any sidewalk area under this program, the owner thereof shall notify the

Department of Public Works within a seven day period.

- (ii) The Department of Public Works shall then make a final inspection and verify the amount of square footage completed under the owner's applications.
- (iii) The City shall reimburse such owner for the final amount under the owner's application.
- (2) (a) All requests for reimbursement must be received on or before November 1 of the year in which the work is completed.
- (b) Failure to present requests for payment by that date shall cause the owner to forfeit his/her right to such reimbursement.

E. No Warranty By City.

- (1) (a) The City shall not be held responsible for liable for any workmanship or contractual obligations with any contractors with regard to this program.
- (b) The City expressly makes no warranties or promises of any nature with regard to such program.
- (2) The sole exception to Subsection E(1) herein shall be that the City agrees to reimburse the property owner for the agreed-upon amount of the owner's application upon the owner's compliance with all the terms of this chapter.

F. This section shall not limit the provisions of § 65-30 of this Code.

§ 65-29. Awnings.

A. Definitions.

As used in this section, the following term shall have the meaning indicated:

AWNING - A structure affixed to the face of a building which projects over property owned by the City, including sidewalks, and which shelters persons passing under the awning from sun, rain or snow.

- B. Approval.
1. Awnings located as defined above shall not be installed without written approval of the Director of Public Works.
 2. Awnings located as defined above shall be subject to the applicable provisions of the City's Zoning Code.

§ 65-30. Littering. [Added 12-2-1993]

- A. No person shall throw, leave, deposit or permit to be thrown, left or deposited in, or upon any public place or in any place not authorized by the owner of such place, any bottle, can, paper or other substance.
- B. No person shall upset or tamper with a public or private receptacle designed or used for the deposit of litter, or cause or permit its contents to be deposited or strewn in, or upon, any public place or private premises.

§ 65-31. Removal of snow and ice; marking of obstructions. [Amended 7-20-1999 as L.L. #6 (Intro No. 5) 1999]

A. Definitions.

The following definitions shall apply in the interpretation and enforcement of this section:

PARKWAY - The land lying between the street curb and the outer limits of the sidewalk running parallel with such street curb. The words "outer limits of the sidewalk" mean the outer or street side of any sidewalk. In localities where the sidewalk is not clearly visible because of a covering of cement or blacktop or otherwise, the "outer limits of the sidewalk" shall be determined to be a projection of the outer line of the sidewalk measured along the entire length of the street.

ROADWAY - That portion of a street or highway improved, designed or ordinarily used for vehicular traffic exclusive of the berm or shoulder.

SIDEWALK - That portion of the street between the curblines or the lateral lines of the roadway and the adjacent property lines intended for the use of pedestrians.

STREET or HIGHWAY - The entire width between the boundary lines of every way publicly maintained when any part thereof is open to use of the public for purpose of vehicular traffic.

- B. Every person, partnership, corporation, joint-stock company, limited liability company, limited liability partnership, or syndicate in charge or control of any building or lot of land within the City fronting or abutting on a sidewalk, whether as owner, tenant, occupant, lessee or otherwise, shall remove and clear away or cause to be removed or cleared away snow and ice from so much of the sidewalk as is in front of or abuts on said building or lot.
- C. The foregoing notwithstanding, in the event that snow and ice on a sidewalk has become so hard that it cannot be removed without likelihood of damage to the sidewalk, the person or entity charged with its removal shall cause enough sand or other abrasive to be put on the sidewalk to make travel thereon reasonably safe and shall then, as soon thereafter as weather permits, cause a path in said sidewalk to be thoroughly cleaned.
- D. No person, partnership, corporation, joint-stock company, limited liability company, limited liability partnership, or syndicate shall deposit or cause to be deposited any snow, gravel or stone or other debris or material on or against a fire hydrant or any sidewalk, highway, street or roadway or loading and unloading areas of a public transportation system, except that snow and ice may be pushed, brushed, blown, plowed, swept or shoveled to any parkway area within the City of Dunkirk where necessary to effect the removal of snow from sidewalks and driveways; provided, however, that such snow does not encroach onto the roadway or highway between the outside faces of the curb nor obstruct the view of vehicular traffic; and provided, further, that such snow does not obstruct any sidewalk nor impede, impair or obstruct any pedestrian traffic; and provided, further, that such snow does not obstruct any established terraced sidewalks.
- E. No person, partnership, corporation, joint-stock company, limited liability company, limited liability partnership, or syndicate shall leave any ditch, excavation of the highway or other hole or pile of dirt, material or building materials on the surface of the highway or sidewalk without having placed a barricade, fence, covered walk or other protection as may be required by the Director of Public Works or any law or regulation of the State of New York, including, but not limited to, the Vehicle and Traffic Law, and during the hours from sunset to sunrise display on and around the obstructed part or parts of the street or sidewalk such number and type of amber or red

lights as shall be deemed proper and necessary by the Director of Public Works.

- F. No person, partnership, corporation, joint-stock company, limited liability company, limited liability partnership, or syndicate shall deposit or cause to be deposited any snow, gravel or stone or other debris or material on, upon or against any property for which such party does not have ownership and/or control and/or authority to so deposit or cause to be deposited such material

§ 65-32. Complete Streets Policy. [Added 5-20-2014 as L.L. #2 (Intro No. 1) 2014]

- A. **Declaration of Policy.** In the interest of improving inter-modal transportation options, safety and accessibility for all users, the concept of *Complete Streets* has been recognized and adopted in numerous localities across the United States. The City of Dunkirk will make *Complete Streets* practices a routine part of everyday operations, will approach every transportation project and program as an opportunity to improve City streets, will incorporate all relevant existing and future planning documents approved or adopted by the Common Council, and will work in coordination with other departments, agencies and jurisdictions to achieve *Complete Streets*. *Complete Streets* design and practices include, but are not limited to, sidewalks, crosswalks, curb ramps, accessibility features for people with disabilities, paved shoulders for biking, designated bicycle lanes, off-road paths, signage and traffic-calming measures.
- B. **Designs and Practices.** *Complete Streets* designs and practices shall be incorporated in new construction and reconstruction projects in the City, except when the Director of the Department of Public Works demonstrates that one of the following conditions is met:
1. Bicyclists and pedestrians are prohibited by law from using the roadway. In this instance, bicyclists and pedestrians will be accommodated elsewhere within the right-of-way of within the same transportation corridor; or,
 2. The cost would be excessively disproportionate to the need based on the following factors: population density, land use, projected and current traffic volumes, projected and current bicycle and pedestrian use; or,
 3. The existing right-of-way does not allow for sidewalks, paved shoulders or other improvements, in which case potential

alternatives will include the appropriate use of lane re-striping, signage, traffic-calming measures and/or enhanced education and enforcement; or,

4. Where severe topographic or natural resource constraints prohibit such accommodations; or,
5. Where conditions or restrictions outside the purview of the City prohibit such actions.

- C. **Guidelines.** *Complete Streets* designs and practices shall be provided and maintained in accordance with guidelines adopted by the U.S. Department of Transportation (USDOT) and NYS Department of Transportation (NYSDOT), and with best practices identified by the City's Department of Public Works.

§ 65-33. Penalties.

The violation of any of the provisions of this chapter shall be considered an offense, and any person, upon being convicted of such offense, shall be punishable by a fine of not more than Two Hundred Fifty Dollars (\$250.00) or by imprisonment for a term not exceeding fifteen (15) days, or both