
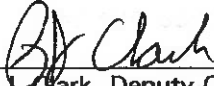


<b>To: MODIFIED BY EB 97-012</b> <b>EFFECTIVE 2/13/97</b> <b>SUPERSEDED BY EB 21-057</b> <b>EFFECTIVE 11/24/21</b>		<i>New York State</i> <i>Department of</i> <i>Transportation</i> <b>ENGINEERING</b> <b>INSTRUCTION</b>	<b>EI</b> <b>97-002</b>
<b>Title: SIDEWALK CONSTRUCTION AND MAINTENANCE POLICY FOR PROJECTS AND HIGHWAY WORK PERMITS ON STATE HIGHWAYS</b>			
<b>Distribution:</b> <input type="checkbox"/> Manufacturers (18) <input type="checkbox"/> Surveyors (33) <input checked="" type="checkbox"/> Main Office (30) <input checked="" type="checkbox"/> Consultants (34) <input checked="" type="checkbox"/> Local Govt. (31) <input type="checkbox"/> Contractors/AGC (39) <input checked="" type="checkbox"/> Regions/Agencies (32) <input type="checkbox"/> _____ ( )		<b>Approved:</b> <div style="text-align: center;">   <hr/>         P. J. Clark, Deputy Chief Engineer          Design Division       </div> <div style="text-align: right;">         01/10/97          Date       </div>	

**PURPOSE:** This Engineering Instruction establishes a revised sidewalk construction and maintenance policy for Department projects and highway work permits located along State highways where a town, village or city is responsible for sidewalk maintenance.

**EFFECTIVE DATE:** The revised policy is effective for projects with P.S.&E. dates over four months after this EI's date of issue. Nonetheless, judgement may be used to determine the reasonableness of applying the revised policy to projects nearing PS&E. Previous sidewalk maintenance arrangements for projects under construction should not be revised. However, the EI does not preclude a Region from installing sidewalks during construction if they were omitted from designs due to the inability to secure resolutions and agreements. Work to add sidewalks during construction should be by order on contract.

The revised policy is effective for highway work permit applications received on or after March 1, 1997.

**BACKGROUND:** Whenever anything is constructed as part of a capital project, or highway work permit, some provision must be made for its continued maintenance. In the case of sidewalks, snow and ice removal is important, especially as it relates to the Americans with Disabilities Act regulations requiring maintenance of accessible routes.

In the past, the Department requested municipalities to pass resolutions and enter into agreements assuring maintenance of sidewalks constructed along State Highways. **However, the Highway Law clearly requires towns, villages and cities to assure sidewalks are maintained along State highways within their jurisdictions, including removal of snow and ice. Therefore, sidewalk maintenance resolutions and agreements from these municipalities are not prerequisites to construction of necessary pedestrian facilities.**

The Department's Bicycle and Pedestrian Policy compels us to assure the construction of sidewalks considered necessary to address identified spot, corridor or area-wide needs for safe, convenient and accessible pedestrian travel. Therefore, the Department's Sidewalk Construction and Maintenance Policy is:

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The Department will construct sidewalks as parts of projects whenever they are determined to be necessary and consistent with needs identified in the project scoping and Design Approval Documents and the guidelines in the Highway Design Manual. The Department will also assure that sidewalks necessitated by highway work permit related projects are constructed under the terms of the work permits.

The Department will advise the affected municipality(ies) that sidewalks are judged necessary and will be constructed. In addition, the Department will advise the municipality(ies) that these are sidewalks where, in the Department's judgement, snow and ice must be removed. The Department will also advise the municipality(ies) of its (their) obligation to assure the sidewalks are maintained and that the obligation includes snow and ice removal.

The Department will assure that the only sidewalks it constructs, or requires permittees to construct, are judged necessary in accordance with the Highway Design Manual's guidelines for installing sidewalks.

The Department should 1) formally advise the municipality(ies) of the decision to construct sidewalks, 2) consult with appropriate municipal officials to ensure they are informed regarding the necessity for sidewalks, 3) discuss the maintenance considerations with them, and 4) document the discussions. A sample letter is attached.

### RELATED ACTIONS

1. Chapter 18 of the Highway Design Manual was recently revised. The revised chapter includes a discussion about sidewalk maintenance and provides guidelines for determining where sidewalks should be constructed.
2. Highway Design Manual Chapter 14 - Agreements and Resolutions is currently being revised. It will reflect the decision that municipal resolutions and agreements to maintain sidewalks are no longer necessary in order to construct sidewalks.
3. The Department's Policy and Standards for Entrances to State Highways is currently being revised by the Safety Program Management Bureau. It will reflect the need to assure that permittees construct sidewalks necessitated by their projects.

**COST:** Implementation of this Engineering Instruction will result in a slight increase in the cost of Department projects where sidewalks are judged necessary, but would not otherwise be constructed. Implementation will also result in additional costs for some highway work permit applicants and maintaining communities. However, implementation of this EI will also result in better service to the public including, improved mobility for pedestrians and persons with disabilities.

**CONTACT PERSONS:** Capital project specific guidance regarding this instruction may be obtained from Rich Ambuske of the Landscape Architecture Bureau at 518-457-4460. Highway work permit-related guidance regarding this instruction may be obtained from Chuck Riedel of the Safety Program Management Bureau at 518-457-3537.

## **SAMPLE LETTER**

*The following sample letter is only intended as a guide. The style and tone of letters actually sent to municipalities may vary but should reflect the previous discussions with the community. However, the sample outlines the basic content that should be included in letters regarding construction of sidewalks.*

**Mr. Richard A. Smith**  
**Town Supervisor [or Village/ City Mayor, Administrator,etc]**  
**30 North Spring Street**  
**Springwater, NY 10111**

**Dear Mr. Smith:**

**Re: PIN XXXX.XX**  
**ROUTE 12 OVER SPRINGWATER CREEK**  
**TOWN [OR VILLAGE/CITY] OF SPRINGWATER YORK**  
**COUNTY**

*This letter confirms our recent discussion and the Department's decision to construct sidewalks on the new bridge over Springwater Creek and its approach roadways.*

*As your know, the Department, the Town [Village/City] and the public have been involved in a number of discussions regarding the need to provide accommodations for pedestrians on the existing structure and its approaches. As we discussed, it is the Department's judgment that construction of sidewalks at this particular site is necessary and prudent. In general, the Department constructs sidewalks whenever the roadside development is such that pedestrians regularly move along the highway. Since this structure provides the only feasible pedestrian route over Springwater Creek between the Town's [Village's/City's] business district, schools and other destinations and the residential community east of Springwater Creek, the construction of sidewalks is justified.*

*As we also discussed, State Highway Law. Section 140, Article 7, Subsection 18, obligates towns [Section 46, villages or Section 349-c, cities] to maintain sidewalks along State highways within their jurisdictions. The obligation includes removal of snow and ice. The structural maintenance of sidewalks is generally minimal; and in many communities the responsibility for snow and ice removal is passed on to adjacent property owners by local ordinance. Maintenance of the sidewalks on the bridge is the responsibility of the State of New York.*

***I also want to remind the town that a resolution may be required to authorize the use of town funds for the purpose of snow and ice removal. [There is no such requirement for villages or cities. Therefore, this paragraph should not be included in letters to villages and cities.]***

***Should you have any questions regarding this matter, please do not hesitate to call me at 800-555-5555.***

***Sincerely,***

***J. J. Roe, P.E.  
Regional Design Engineer***

***cc: Regional Transportation Maintenance Engineer  
Resident Engineer, York County  
Project Manager***