

ORDINANCE NO. 2016-7

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE BOROUGH OF ELMER,  
SALEM COUNTY, STATE OF NEW JERSEY, AMENDING CHAPTER 20  
ENTITLED "STREETS AND SIDEWALKS" OF THE CODE OF  
THE BOROUGH OF ELMER

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**WHEREAS**, the Mayor and Council of the Borough of Elmer have determined that certain amendments to Chapter 20 entitled "Streets and Sidewalks" are necessary; and

**WHEREAS**, in all other respects Chapter 20 entitled "Streets and Sidewalks" shall remain in full force and effect;

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and Council of the Borough of Elmer, County of Salem and State of New Jersey, and it is hereby enacted and ordained by the authority of same as follows:

**Section 1.**

The text of §20-5 entitled "Construction and Improvement of Sidewalks" shall be amended as follows:

**20-5 NEW SIDEWALK CONSTRUCTION AND IMPROVEMENT REPAIR OF EXISTING SIDEWALKS.**

**20-5.1 Duty of Owner and Occupant to Maintain and Repair Existing Sidewalks.**

Where sidewalks exist adjacent and parallel to developed public roadways, it shall be the duty of all owners and occupants of lots bordering on streets within the Borough, of the property to grade, curb and pave maintain and repair the sidewalks in front thereof, and in so doing, the improvement shall be made to conform as nearly as practicable to the established grade. The cost of grading, curbing, and paving maintenance and repair shall be borne by the owner of the property.

**20-5.2 New Sidewalk Construction Standards; Exceptions.**

a. New S sidewalks shall be constructed and laid of good and substantial concrete cement or ~~concrete~~ hard brick with an appropriate base in workmanlike manner. Sidewalks shall be laid and constructed five (5) feet in width in a minimum width equal to adjacent or abutting sidewalks and the outer edge shall be at a distance of not more than thirty-six (36) inches from the face of the curb and made to conform as nearly as practicable to the established grade. If there exists no adjacent or abutting sidewalk, then the sidewalk shall be laid and constructed five (5) feet in width.

b. ~~If for good reason shown it shall appear to the Borough Council that the kind of material to be used or the width of sidewalk~~ requirements of this section should be impracticable, detrimental to historic or environmental value for any particular property, then the requirements of this section may be altered, upon resolution by the Borough Council.

### **20-5.3 Existing Sidewalk Maintenance and Repair Criteria and Exceptions**

a. Existing sidewalks that are adjacent and parallel to developed public roadways shall be maintained by the property owner in a manner that is safe to the public. If any existing sidewalk or section of sidewalk, as described in this section, is discovered by the Property Maintenance or Housing Officer during routine inspection to contain deficiencies listed in this sub-section (i. through vi.) there shall issue notification of repair to the owner(s).

i. The sidewalk is displaced with a vertical edge of one-quarter of an inch (1/4") or more;

ii. The sidewalk is depressed or raised more than three inches (3") from the existing line of grade at any place;

iii. The sidewalk section that has fully cracked into three (3) or more pieces, has cracks that are three-quarters of an inch (3/4") wide or greater or is missing a full depth piece of concrete or brick;

iv. A sidewalk section that has spalled over seventy-five percent (75%) of the surface.

v. The sidewalk has horizontal separations equal to or greater than three-quarters of an inch (3/4").

vi. Missing slabs of sidewalk.

b. Sidewalk reconstruction or repairs may be made in kind and conform to the existing type, grade, width and depth of the original installation.

c. If for good reason shown it shall appear to the Borough Council that the requirements of this section should be impracticable, detrimental to historic or environmental value for any particular property, then the requirements of this section may be altered, upon resolution by the Borough Council.

### **20-5.3 20-5.4 Repair by Borough.**

If any owner after notice is given as hereinafter provided, fails to ~~construct, reconstruct, pave, repave, curb, recurb, improve~~ or repair the sidewalk ~~or curb~~ within the time prescribed by the notice, the Borough Council shall may proceed to have the sidewalks ~~and curbs~~ ~~constructed, reconstructed, paved, repaved, curbed, recurbed, improved~~ or repaired, and the cost thereof shall be assessed against the owner or owners of the property affected, in accordance with State law.

**~~20-5.4~~ 20-5.5 Notice to Owner to Repair.**

Before the Governing Body proceeds to make any improvements to the sidewalks ~~and curbs~~ as provided above, it shall be the duty of the Governing Body to cause notice of the required ~~improvement~~ repair or reconstruction to be given to the owner of any lands affected thereby. Such notice shall contain a description of the property affected, sufficiently definite in terms to identify the same, as well as a description of the required improvement and a notice that unless the improvements shall be completed within ~~thirty (30)~~ ninety (90) days after the service thereof, ~~it is the intention of the Governing Body to~~ may make such improvements or cause the same to be done. Notice shall be served upon the owner or owner's residence in the Borough in person or by leaving the notice at their usual place of residence with a member of their family above the age of fourteen (14) years. In case any such owner shall not reside in the Borough, notice may be served upon him personally or mailed to his last known post office address, or it may be served upon the occupant of the property or upon the agent of the owner in charge thereof. In case the owner of any such property is unknown or service cannot for any reason be made as above directed, notice thereof shall be published at least once not less than thirty (30) days before the making of such improvement by the Borough, in the Elmer Times and/or the ~~Salem Sunbeam~~ South Jersey Times. There may be inserted in the advertisement, notice to the owner or owners of several different parcels of land.

**~~20-5.5~~ 20-5.6 Cost of Repair to be Lien.**

When any sidewalk ~~improvement~~ repair or reconstruction is made by the Borough, a true and accurate account of the cost and expense thereof shall be kept and apportioned among the several properties improved in proportion to the frontage of their respective lands. A true statement of such costs, under oath or affirmation, shall be filed by the officer of the Borough in charge of such improvement with the Clerk. The Borough Council shall examine the statement and if it is properly made, shall confirm it, and file such report with the Tax Collector who shall record the sidewalk assessments in the same book as other assessments and collect them in the same manner as is provided for the collection of taxes upon real estate.

**Section 2.**

A new §20-7 entitled "Violations and Penalties" shall be added to read in its entirety as follows:

**20-7 VIOLATIONS AND PENALTIES.**

Any person who shall violate the provisions of this Section shall, upon conviction, be liable to the penalty stated in Chapter 1, §1-5 entitled "General Penalty" of this Code.

**Section 3.**

**Repealer.**

All prior Ordinances or parts of Ordinances inconsistent with this Ordinance be and the same are hereby repealed to the extent of such inconsistencies.

**Section 4.**

**Severability.**

Should any section, clause, sentence, phrase or provision of this Ordinance be declared unconstitutional or invalid by a Court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

**Section 5.**

**When effective.**

This Ordinance shall take effect immediately upon final passage and publication in accordance with law.

**BOROUGH OF ELMER**

**ATTEST:**

**BY: \_\_\_\_\_  
Joseph Stemberger, Mayor**

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**Sarah D. Walker  
Acting Borough Clerk**

ROLL CALL VOTE as follows:

	<u>MOTION</u>	<u>SECOND</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Schneider	_____	_____	_____	_____	_____	_____
Davis	_____	_____	_____	_____	_____	_____
Nolan	_____	_____	_____	_____	_____	_____
Richards	_____	_____	_____	_____	_____	_____
Schalick	_____	_____	_____	_____	_____	_____
Zee	_____	_____	_____	_____	_____	_____

**NOTICE**

The Ordinance published herein was introduced and passed upon first reading at a meeting of the Mayor and Council of the Borough of Elmer, in the County of Salem and State of New Jersey, held on April 13, 2016. It will be further considered for final passage, after public hearing hereon, at a meeting of said Mayor and Council to be held in the Borough Hall, 120 South Main Street, Elmer, New Jersey 08318, on May 11, 2016 at 7:30 P.M. During the week prior and up to and including the date of such meeting, copies of said Ordinance will be made available at the Clerk's office at Borough Hall, 120 South Main Street, in the Borough, to the members of the general public who shall request the same.

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Sarah D. Walker, Acting Borough Clerk