

**CHESTERFIELD TOWNSHIP
MACOMB COUNTY, MICHIGAN
BOARD OF TRUSTEES
Ordinance 194**

**AMENDMENT OF CHAPTER 14 AND CHAPTER 30 OF THE CHARTER
TOWNSHIP OF CHESTERFIELD CODE OF ORDINANCES**

TITLE

AN ORDINANCE amending Chapter 14 (Buildings and Building Regulations) and Chapter 30 (Engineering Design Standards) of the Chesterfield Township Code of Ordinances, as amended, to provide for the installation of sidewalks and other non-motorized facilities as required by Chapter 76 (Zoning) and setting forth engineering design standards for the construction of sidewalks and non-motorized facilities, and repealing any and all Ordinances or Resolutions in conflict therewith.

**THE TOWNSHIP BOARD OF THE CHARTER TOWNSHIP OF
CHESTERFIELD, MACOMB COUNTY, MICHIGAN, ORDAINS:**

SECTION 1. Amendment

1.1 Section 14-223 (Sidewalks Required) of Chapter 14 (Buildings and Building Regulations) of the Chesterfield Township Code of Ordinances is hereby repealed in its entirety and the following substituted therefore:

Sec. 14-223 Sidewalks and other non-motorized facilities required.

(a) Installation. Sidewalks and other non-motorized facilities shall be installed as required in the Charter Township of Chesterfield Zoning Ordinance, being Ordinance No. 110, as amended, and codified at sections 76-1 through 76-781 of the Charter Township of Chesterfield Code of Ordinances and Section 30-155 of the Charter Township of Chesterfield Code of Ordinances.

(b) Locations. Side paths shall be constructed in place of sidewalks, sidewalks shall be constructed, and bike lanes shall be constructed at the following locations:

SIDE PATHS, BIKE LANES AND SIDEWALKS - LOCATIONS				
	Segment		Treatment	
Road Name	Start	End	West Side	East Side
Gratiot Avenue	West Twp. Line north of M-59	26 Mile Road	Shared Use Path 10'	Sidewalk 5'
Baker	23 Mile Road	Washington	Sidewalk 5'	Shared Use Path 10'
Baker	Washington	Hobarth	Shared Use Path 10'	Sidewalk 5' (north of 25 Mile road)
County Line	25 Mile Road	26 Mile Road	Sidewalk 5'	Shared Use Path 10'
Hooker	Jefferson	Bellaire/Callens	Bike lane and 5' Sidewalk (both sides)	
Sugarbush	Jefferson	Callens	Bike lane and 5' Sidewalk (both sides)	
Callens	23 Mile Road	Salt River Nature Center	Sidewalk 5'	Shared Use Path 10'
Foster	23 Mile Road	24 Mile Road	Shared Use Path 10'	Sidewalk 5'
Chesterfield	Gratiot Avenue	26 Mile Road	Sidewalk 5'	Shared Use Path 10'
Washington/New Haven Road	26 Mile Road	East Twp. Line	Sidewalk 5' On Southwest Side	Shared Use Path 10' On Northeast Side
Road Name	Start	End	North Side	South Side
Jefferson Avenue	East Twp. Line	Rosso Highway	Shared Use Path 10' On Northwest Side	Sidewalk 5' On Southeast Side
William Rosso Hwy.	Jefferson Avenue	West Twp. Line	Shared Use Path 10'	NA
21 Mile Road	West Twp. Line	Jefferson	Shared Use Path 10'	Sidewalk 5'
23 Mile Road	West Twp. Line	Jefferson	Shared Use Path 10'	Sidewalk 5'
24 Mile Road	Foster	East Twp. Line	Sidewalk 5'	Shared Use Path 10'
26 Mile Road	West Twp. Line	County Line	NA	Shared Use Path 10'
Sugarbush	Callens	21 Mile Road	Bike lane and 5' Sidewalk (both sides)	
Cotton Road	Jefferson	Gratiot	Bike lane and 5' Sidewalk (both sides)	
County Line Crossings Collector	Hobarth	County Line Road	Bike lane and 5' Sidewalk (both sides)	
All Other Streets			Sidewalk 5' on Both Sides	

(c) Permit required. No person shall construct or repair a sidewalk, side path or other non-motorized facility without a permit or authorization granted in connection with another township permit.

1.2 Section 30-155 (Sidewalk Standards) of Chapter 30 (Engineering Design Standards) of the Chesterfield Township Code of Ordinances is hereby repealed in its entirety and the following substituted therefore:

Sec. 30-155. Sidewalk and non-motorized facility standards.

Sidewalks shall be constructed completely across the project where it abuts existing or proposed public and private streets. Non-motorized pathways (side paths) shall be constructed in place of sidewalks in certain locations based on the requirements of Section 14-223, which are based on goals, objectives and strategies in the Chesterfield Township Master Plan.

- (a) Sidewalks and non-motorized pathways (side paths) within the public right-of-way shall be located such that the property side edge of the sidewalk or side path is one foot inside the right-of-way line as located in accordance with the ultimate street width as planned by the Township or County Department of Roads. Should the existing right-of-way and the planned right-of-way not coincide and thus require the sidewalk or side path to be built on private property outside the existing right-of-way, the applicant shall grant the Township a permanent easement for sidewalk or side path and utility purposes for land located between the existing public right-of-way and the ultimate planned right-of-way.
- (b) Sidewalks and side paths shall be constructed of concrete having a test of 3,000 pounds per square inch compressive strength and shall be five feet (sidewalks) or 10 feet (side paths) in minimum width and four inches in thickness except where under driveways where they shall be six inches thick. Tooled construction joints shall be spaced five feet apart and one-half-inch-thick premolded expansion joints shall be spaced not more than 50 feet apart. A sidewalk adjacent to parking which is subject to vehicle overhang shall be seven feet wide. For side paths, the Township may permit the use of asphalt in place of concrete if the Township determines that it is a suitable material for the proposed location and in consideration of other side paths along the same route.
- (c) Sidewalks and side paths shall be set at a grade of 3/8 inch per foot above the adjacent top of street pavement curb. If no curb exists, the Township Engineer shall review the applicant's proposed sidewalk or side path grade shown on the plans.
- (d) All sidewalks, side paths and driveway approaches between the lot line

and the street curb, except crosswalks at intersections, shall be repaired and maintained by the abutting property owner and shall comply with all requirements set forth in this section.

- (e) All sidewalks and side paths within the Township shall be kept and maintained in good repair by the owner of the land adjacent to and abutting upon it. If any owner shall neglect to keep and maintain the sidewalk and/or side path along the front, rear or side of the land owned in good repair and safe for use of the public, the owner shall be liable to the Township for any damages recovered against the Township sustained by any person by reason of such sidewalk or side path being unsafe and out of repair.
- (f) Bike lanes, where required, will require coordination with road agency to facilitate large segments being construction at the same time. Material and construction standards will be established based on the standards for the adjacent roadway.
- (g) Sidewalks shall be provided in mobile home parks and multifamily projects with private street systems. They shall meet the width and construction standards established in this ordinance. The Township may permit sidewalks to be placed at the back of roadway curb where road easement width is limited.
- (h) Administrative deferral.
 - (1) Deferral agreement. The Township Supervisor, upon the request of the owner of land, may administratively defer the requirement for the installation of sidewalks, side paths and other non-motorized facilities and execute an agreement on behalf of the Township with such owner for such deferral, provided that each of the requirements of this section are satisfied.
 - (2) Deferral requirements.
 - a. Application with reasons. Deferrals are discouraged; however, if the owner submits an application to the Building Department requesting such administrative deferral, it may be granted for any of the following reasons:
 - 1. Physical characteristics of the area where the sidewalks or other non-motorized facility would be installed make installation unusually difficult in either design or construction;
 - 2. The absence of other sidewalks or other non-motorized facility for a distance of one mile along the same road right-of-way in both directions and on the

same side where the sidewalks would be installed, except that on major road frontages if located within 1/2 mile of an approved development for which sidewalks have been approved but not constructed;

3. The sidewalk or other non-motorized facility would be constructed along an unpaved road or one that lacks drainage improvements;
 4. The sidewalk or other non-motorized facility would be constructed in a subdivision that was platted prior to the effective date of the ordinance from which this article is derived and no other sidewalks or other non-motorized facility exist in that subdivision; or
 5. The existence of practical difficulties or unnecessary hardships to such owner if the sidewalks or other non-motorized facility were required to be installed.
- b. Certification of reasons. The Building and Zoning Administrator and the Planning Director certifies to the Township Supervisor one or more of the reasons set forth in Subsection (h)(2)a of this section do exist.
 - c. Agreement to construct when requested. The execution of an agreement in recordable form by all persons who hold a fee simple or equitable interest in the property in relation to which sidewalk or other non-motorized facility installation is otherwise required by this article, to construct the sidewalks when the Township shall determine such sidewalks or other non-motorized facility be installed in the interest of the health, safety or welfare of the residents of the Township. The agreement must contain language to include the Township's ability to install said sidewalks or other non-motorized facility in the event the owner fails to do so upon the Township's request. The agreement must also provide the Township authority to place a lien upon the property in the event the Township installs the sidewalk or other non-motorized facility. Upon request of the Township pursuant to Section 30-155(b), where the right-of-way width varies along a roadway, the property owner shall provide an easement to the Township to provide compatible alignment with other existing and future sidewalks and other non-motorized facility along the same roadway.

- d. Payment of fees. Payment of any fees as may be established by resolution of the Township Board.
- (3) Recording of agreement and/or easement. The property owner shall record the agreement and/or easement with the County Register of Deeds. The Building Department shall maintain a record of all administrative deferrals granted pursuant to Subsection (h)(1) and (2) of this section.
- (4) Annual review by staff. Such deferrals shall be reviewed by the Building and Planning Departments the first week in February of each year to determine whether sidewalks should be installed in accordance with the term of the agreements.
- (i) Appeals to Zoning Board of Appeals.
 - (1) Variance or waiver grant after hearing. The Zoning Board of Appeals shall be empowered to grant variances to or waive the requirements of this article upon a hearing held in compliance with the Open Meetings Act, Public Act No. 267 of 1976 [MCLA § 15.261 et seq., MSA 4.1800(11) et seq.].
 - (2) Appeal procedure. Any person seeking an appeal from the provisions of this article shall submit an application for appeal upon a form provided by the Zoning Board of Appeals and pay any fee established by resolution of the Township Board within the following time requirements:
 - a. In the event of an appeal to vary or waive the requirement for installation of a sidewalk or other non-motorized facility or portion of a sidewalk or other non-motorized facility, such appeal shall be made within 10 days of the application for a building permit or site plan approval, or denial of an administrative deferral.
 - b. An appeal relating to the requirements of this article to repair or remove encroachments shall be made within 10 days from date of mailing or personal service of the defective sidewalk notice.
 - (3) Factors to be considered. In making its determination, the Zoning Board of Appeals shall consider the following:
 - a. Any recommendation submitted by the Building Department;

- b. The provisions, intent and purpose of this article;
 - c. The character and use of land and buildings in the general and immediate vicinity;
 - d. The effect of the proposed variance or waiver on the general and immediate vicinity;
 - e. The number of persons residing or working in the general and immediate vicinity;
 - f. The presence or absence of underground facilities beneath the area where the sidewalks would be installed and whether plans exist to install or repair underground facilities in such area;
 - g. Physical characteristics of the area, which make the installation of sidewalks or other non-motorized facility unusually difficult in design or construction;
 - h. The existence of practical difficulties or unnecessary hardship if sidewalks were required to be installed; and
 - i. Any other relevant evidence it may determine to be necessary and pertinent to its determination.
- (4) Indefinite postponement of installation. If the Zoning Board of Appeals determines that the installation of sidewalks or other non-motorized facility be postponed, it shall condition such determination on the applicant complying with the provisions of Section 30-155(h)(2)c through d.

Zoning Board of Appeals power limitation. The Zoning Board of Appeals shall not be empowered to vary, modify, alter or waive any provision of Section 30-155(h)(1) and (2).

SECTION 2. REPEAL OF CONFLICTING PROVISIONS

All resolutions, ordinances, or parts thereof in conflict with the provisions of this Ordinance Amendment are, to the extent of such conflict, hereby repealed.

SECTION 3. SEVERABILITY

If any section, paragraph, clause or provision of this Ordinance Amendment is for any reason held to be invalid or unconstitutional, the invalidity or unconstitutionality of

such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance Amendment.

SECTION 4. PUBLICATION

This Ordinance Amendment shall be published twice in accordance with MCL 42.20. Publication shall be made by posting the Ordinance Amendment in the office of the Chesterfield Township Clerk and on the Chesterfield Township website. In addition, a notice of posting prescribing the purpose or nature of the Ordinance Amendment and location of the places where posted shall be published in a newspaper of general circulation within the Charter Township of Chesterfield within seven (7) days after posting pursuant to MCL 42.8(4).

SECTION 5. EFFECTIVE DATE

This Ordinance Amendment shall take effect thirty (30) days from and after the date of publication of a notice of posting as set forth in Section 4.

CERTIFICATE OF TOWNSHIP CLERK

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the Township Board of the Charter Township of Chesterfield, Macomb County, Michigan, at a meeting held on the **23rd** day of **November 2021**.

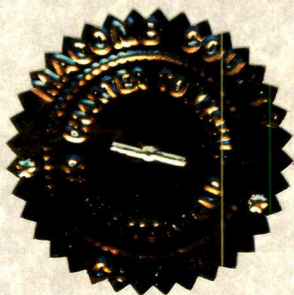
I hereby further certify that the following Township Board Members were present at the meeting: Supervisor Kersten, Treasurer Elliott, Trustee Anderson, Trustee DeMuynck, Trustee Joseph and Trustee Vosburg

and the following Township Board members were absent: Clerk Berry

I further certify that Member **DeMuynck** moved for the adoption of the Ordinance, and that motion was supported by Member **Kersten**.

I further certify that the following Township Board Members voted for the adoption of the Ordinance: **Supervisor Kersten, Treasurer Elliott, Trustee DeMuynck and Trustee Vosburg**

and that the following Township Board Members voted against adoption of the Ordinance: **Trustee Anderson and Trustee Joseph.**



A handwritten signature in cursive script, appearing to read "Cindy Berry", is written over a horizontal line.

Cindy Berry,
Chesterfield Township Clerk