



OAKLAND TOWNSHIP SAFETY PATH & BOARDWALK POLICY

Adopted: November 10, 2020

I. Purpose & Intent

The purpose of this document is to inform citizens and Charter Township of Oakland ("Township") staff of the process for decommissioning, removing, relocating, or otherwise modifying safety paths or boardwalks. The intent of this Policy is to describe the process and approximate timeframe for safety path and boardwalk "modification" requests.

The majority of paths within the Township, including safety paths and boardwalks, are maintained by homeowners associations ("HOA's") by way of formal agreements with residents or their predecessors, including Master Deeds, Association Bylaws, Site Plans, Planned Unit Development Documents, etc. (collectively referred herein as "Condominium or Association Documents"). Such paths are an integral element in shaping the community. Safety paths within the Township promote a healthy lifestyle for residents; strengthen community social connections; and provide safe access to parks, regional trails, churches, shopping centers, and community facilities. For these reasons, it is in the public's and the Charter Township of Oakland's best interest to give due consideration to safety path modification when necessary.

The right of an HOA to decommission, remove, relocate, or modify safety paths and boardwalks may be prohibited in the applicable Master Deed, Bylaws, PUD Agreement, or other Association Documents. If an HOA's Condominium or Association Documents do not allow for the elimination, modification, or relocation of such paths without Township approval, the documents may be amended consistent with this Policy and Township Board approval. Therefore, it is the policy of the Township to approve the amendment of Condominium or Association Documents for the removal, relocation, or other modification of safety paths when it is demonstrated that it is necessary to achieve a significant public benefit and is otherwise consistent with this Policy.

II. Review Process for Removal / Relocation

A. Approval Process with Prior Co-Owner Approval

Prior to submitting a formal request to the Board of Trustees to consider an Application to amend an HOA's Master Deed, Bylaws, PUD agreement or other controlling documents of the Association, an HOA must obtain an affirmative vote of the necessary owners, members, mortgagees and/or co-owners as provided for in its Association or Condominium documents

(usually not less than 2/3 of the votes of the co-owners and mortgagees). It is the responsibility of the HOA to obtain the requisite number of votes required under its Association or Condominium Documents and to provide evidence to the Township of same. An HOA must notify its members of the proposed amendments at least ten (10) days prior to the meeting to vote on the proposed amendments to the Master Deed and Bylaws. See MCL 450.2412; MCL 559.190(1)-(8). The HOA must provide evidence to the Township that it has obtained the requisite number of votes under its Association or Condominium Documents and compliance with all applicable laws and ordinances.

B. Board of Trustees Approval

The process for a Homeowners Association to obtain Board of Trustees' final approval begins when an HOA submits a formal request to the Township Board of Trustees requesting the Township consider an amendment to its Association or Condominium or Documents to allow the HOA to decommission, remove, relocate or modify a safety path. It is the applicant's responsibility to demonstrate in its application the location of the proposed safety path to be decommissioned, relocated, removed, or otherwise modified, and to set forth the reason(s) why the modification is necessary. It is the HOA's burden to show the public has no further need or interest to retain the safety path and/or boardwalk and that its removal or relocation is necessary to achieve a significant public interest. At this stage, the HOA shall provide materials that will allow the Board of Trustees to make its determination. Those materials may include but are not limited to the Township's "Request to Amend Condominium Documents" application form, the condominium site plan, site photographs, all relevant Condominium or Association documents, and proof that the HOA has obtained the requisite number of votes under its Condominium or Association documents, etc.

The Township Board of Trustees shall make a determination to approve the amendments to the Condominium or Association documents based on the completeness of the documents provided to it by the HOA and if it finds that the safety path or boardwalk meets all of the following mandatory conditions:

- The proposed safety path provides little to no public benefit.
- The proposed safety path is rarely or never used by the public.
- The proposed safety path stands alone and otherwise does not connect to any other system of safety paths or trails and is unlikely to be connected to any other system of trails in the future.

The Board may also decide to approve amendments if the safety path or boardwalk is determined to be a danger, hazard, or blight, which cannot be remedied.

C. Costs and Expenses

The Township shall bear the cost of the initial internal administrative review of an HOA request under this Policy. However, the Township's direct expenses or costs, which are in excess of the typical administrative review, shall be the HOA's responsibility.

D. Final Step

If an HOA obtains sufficient approval from the co-owners, first mortgagees, and the Township Board of Trustees, it may proceed to the final step. The amendments to the Master Deed, Bylaws or Subdivision Plan become effective when recorded with the Register of Deeds. See MCL 559.191(a). The HOA must supply a copy of the recorded amendments to each co-owner of the condominium. MCL 559.191(b).



**REQUEST TO AMEND CONDOMINIUM DOCUMENTS
FOR PURPOSES OF “MODIFYING”
A SAFETY PATH OR BOARDWALK**

The signers of this Application request the Township Board of Trustees hold a hearing to consider an amendment to the provisions of the Condominium or other necessary Association Documents (collectively referred to herein as “Association Documents”) for purposes of allowing the Homeowners Association (the “HOA”) to decommission, remove, relocate, or otherwise modify a safety path or boardwalk located within the development known as: _____.

This request includes an amendment of the following documents (circle all that apply):

Master Deed Bylaws Site Plan PUD Agreement Development Agreement

Other (please specify) _____ I am applying for an amendment to Section(s) _____ of the following documents: _____ for purposes of being authorized **to remove / relocate / modify (circle) a Boardwalk / Safety Path (circle)** located at _____ (attach depiction).

In submitting this Application, I certify all of the following:

_____ I have received the requisite number of votes under my Condominium Documents, Association Documents, Development’s Agreement(s), Master Deed and/or By-Laws to amend same. **See attached evidence of Association vote of approval.**

_____ I have provided all documents required by State Law, Ordinance, and the Township’s Safety Path & Boardwalk Policy to obtain approval for my request. **Please attach a list of documents provided.**

_____ I certify that **all of the following** conditions apply to the safety path or boardwalk at issue (**please attach a written explanation, photographs, drawings, or other evidence in support of each condition**):

- _____ provides little to no public benefit.
- _____ is rarely or never used by the public.
- _____ stands alone and otherwise does not connect to any other system of safety paths or trails and is unlikely to be connected to any other system of trails in the future.
- _____ or the safety path or boardwalk is a significant danger, hazard, or blight, which cannot be remedied

HOA: _____

Date: _____

Dept. Head Signature: _____

Date: _____

Supervisor Signature: _____

Date: _____

