



# Albemarle County

## Legislation Details (With Text)

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**Type:** Resolution      **Status:** Action Items  
**File created:** 4/9/2020      **In control:** Board of Supervisors  
**On agenda:** 5/6/2020      **Final action:**  
**Title:** Sidewalk Maintenance Agreements.

**Sponsors:**

**Indexes:**

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**Attachments:** 1. Att.A - County-VDOT Agreement for Sidewalk Maintenance, 2. Att.B - Old Trail Sidewalk Maintenance Agreement, 3. Att.C - Chesterfield Sidewalk Maintenance Agreement, 4. Att.D - Resolution for VDOT Agreement, 5. Att.E - Resolution for Pass Through Agreements

Date	Ver.	Action By	Action	Result
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**AGENDA DATE:** 5/6/2020

**TITLE:**

Sidewalk Maintenance Agreements

**SUBJECT/PROPOSAL/REQUEST:** Consideration of (a) a Comprehensive Sidewalk Maintenance Agreement between the County and VDOT and (b) agreements between the County and Responsible Parties for sidewalk maintenance

**ITEM TYPE:** Regular Action Item

**STAFF CONTACT(S):** Richardson, Walker, Kamptner, Herrick, Filardo, Pohl, McDermott

**PRESENTER (S):** Kevin McDermott, Andy Herrick, Frank Pohl

**LEGAL REVIEW:** Yes

**REVIEWED BY:** Jeffrey B. Richardson

**BACKGROUND:** Objective 4 of the Transportation Chapter (Chapter 10) of the County's Comprehensive Plan is to "(s)trenghen efforts to complete a local transportation system that includes access to pedestrian and bicycle facilities." Specific strategies provide additional detail on construction and funding of pedestrian facilities. This item is being brought to the Board of Supervisors to further those efforts.

The County frequently works with developers through the public street approval process to ensure that new streets are accepted for maintenance by the Virginia Department of Transportation (VDOT). VDOT's policy and design standards are detailed in its Secondary Street Acceptance Requirements (SSAR). The SSAR requires adequate pedestrian facilities ("sidewalks") on most secondary streets. In most cases, those sidewalks are located within rights-of-way dedicated to the County and ultimately maintained by VDOT. County staff routinely directs developers toward this preferred alternative.

However, circumstances occasionally place those sidewalks outside of a VDOT-maintained right-of-way. Many projects have already undergone a series of reviews, or possibly construction, with sidewalks located outside of the right-of-way, and cannot be altered without significant cost to the developer.

In these circumstances, VDOT also accepts maintenance of streets whose sidewalks are outside rights-of-way as long as sufficient agreements can ensure the sidewalks' proper maintenance. In those cases, VDOT requires that the locality "assures the burden and all costs of inspection, construction, maintenance, and future improvements to these pedestrian facilities, or other costs related to the placement of the facilities outside of highway right-of-way and such funds shall be provided from sources other than those administered by VDOT." To ensure that the County does not ultimately bear maintenance costs and responsibility, the County would in turn require "pass through" agreements with a responsible party or parties (such as a developer or property owners' association). Under these agreements, the responsible party would actually perform or arrange and pay for maintenance of the sidewalks in its respective development(s). If the responsible party failed to do so, the County could perform needed maintenance and then demand re-payment from the responsible party. Under the "pass through" agreements, the responsible party would be required to hold the County harmless as to the identified sidewalks.

Though not preferred, these agreements, and sidewalks outside of VDOT-maintained rights-of-way generally, would occur only when necessitated by environmental constraints, previous County approvals, or arduous circumstances. For all future projects in which the County would enter into these agreements, public access easements would ensure public access to these sidewalks.

**STRATEGIC PLAN:** Infrastructure Investment: Prioritize, plan, and invest in critical infrastructure that responds to past and future changes and improves the capacity to serve community needs.

**DISCUSSION:** Under VDOT's standard agreement (Attachment A), VDOT would require the County to assume responsibility for maintenance of sidewalks outside of VDOT-maintained right-of-way. If the County were to move forward with this agreement, it would remove the need to enter into separate individual agreements with VDOT each time a separate development included sidewalks outside of a VDOT-maintained right-of-way. In turn, the County would require separate agreements with the developer or property owners' association, the first examples of which are Attachments B and C.

This issue has arisen in two pending projects whose sidewalks are outside of platted rights-of-way: certain phases of Old Trail and Chesterfield Landing. In both cases, street plans were approved before VDOT began strictly requiring local maintenance agreements. Drafts of proposed "pass through" agreements are included as Attachment B (Old Trail) and Attachment C (Chesterfield Landing). Staff is recommending that the Board authorize the County Executive to execute these agreements, once finalized, and future similar agreements with the appropriate responsible parties, when similar situations arise.

Staff will continue to direct that sidewalks be included within publicly-dedicated rights-of-way, to minimize the need for outside sidewalk maintenance and agreements. However, when sidewalks outside the right-of-way are deemed necessary, the proposed agreement with VDOT (Attachment A), together with "pass through" agreements similar to Attachments B and C, would allow the County to continue provide appropriate pedestrian accommodations and protect the County financially in a manner that allows flexibility and responsiveness.

**BUDGET IMPACT:** Under the County-VDOT agreement (Attachment A), VDOT requires localities to assume ultimate responsibility for sidewalk maintenance outside VDOT-maintained rights-of-way. The proposed "pass through" agreements shift those costs to other responsible parties. However, staff recognizes that if a "responsible party" defaults, legal action likely would be required to protect the County from assuming the costs of sidewalk maintenance in affected development(s).

**RECOMMENDATION:**

Staff recommends that the Board adopt: 1) the attached Resolution (Attachment D) to authorize the Board of Supervisors Chair to execute the agreement with VDOT; and 2) the attached Resolution (Attachment E), to authorize the County Executive to execute “pass through” agreements with a responsible party or parties (such as a developer or POA) that would shift the responsibility for maintenance of its sidewalks.

Staff would also welcome any feedback from the Board regarding the draft “pass through” agreements attached as Attachments B and C, which would be the first “pass through” agreements under this authority.

**ATTACHMENTS:**

- A - County-VDOT Agreement for Sidewalk Maintenance
- B - Old Trail Sidewalk Maintenance Agreement
- C - Chesterfield Landing Sidewalk Maintenance Agreement
- D - Resolution authorizing Board Chair execution of VDOT Agreement
- E - Resolution authorizing County Executive execution of Pass Through Agreements