



**#1** City for Families  
by FamilyCircle® 2011

May 21, 2013

**Subject: 2013 MFT City of St. Charles Service Sidewalk Removal Program**

Dear Resident:

In 2012, the City of St. Charles City Council adopted a new policy which was developed to provide clear direction to property owners and to guide City staff regarding the ownership, installation, removal, replacement and maintenance of service sidewalks. A service sidewalk is referred to as a "sidewalk, approach type" and is defined as "A parkway structure intended for pedestrian use usually extending from the curbing or edge of pavement. This approach sidewalk is intended primarily for the private convenience of the adjacent lot or parcel." Per the City's Municipal Code Section 12.04.217-C, "It is the responsibility of the owner of the lot or parcel privately served by a sidewalk, approach type, to maintain and repair such sidewalk, approach type."

You are being notified at this time because your property is adjacent to one of the service sidewalks which were found to be adjacent to public sidewalk or street curb that are scheduled to be replaced as part of this year's 2013 MFT Street Rehabilitation program.

As identified in the recently approved Policy, you as a homeowner adjacent to a service sidewalk found to be in poor condition, have a couple of options to consider as follows:

1. **Remove service sidewalk** – June, 2013 - The City of St. Charles MFT contractor will begin to remove the service sidewalk which is adjacent to curb or public sidewalk that will require removal and replacement. These service sidewalks will be replaced with turf (grass) at **NO** cost to the adjacent homeowner. If you do not have any desire to keep the service sidewalk which is adjacent your property, then no further action is needed from you. We will send you a construction notification letter closer to the time of removal with more specific information about the process.  
**NO ACTION NEEDED.**
2. **Keep service sidewalk** – If you would like the service sidewalk adjacent to your property to remain in place, then the City of St. Charles is requiring you to repair the service walk following the City contractor's repair of the public walk or curb. Prior to your service walk repairs being completed, homeowners are asked to contact our Public Works Engineering

RAYMOND P. ROGINA *Mayor*

BRIAN TOWNSEND *City Administrator*

Department within 15 days of date on this letter. As part of this work property owners will be required to submit an application for a Right-of-Way Permit which would include the completion of a covenant within 30 days of the date on this letter. Right-of-way permits can be obtained at the City Building & Code Enforcement Division located in the Municipal Building at 2 E. Main Street.

We have included a sample Right-of Way Permit Application and covenant for your convenience.

**ACTION NEEDED, PLEASE SEE BELOW.**

Again, if you have no objection to the City removing the service sidewalk adjacent to your property then no further action is needed at this time. If you would like to choose option #2, with the service sidewalk to remain, we ask that you please submit a Right-of-Way Permit to the Building & Code Enforcement Division by **no later than June 20, 2013**. The Public Works Engineering Department will assume that if you have not contacted them prior to June 5, 2013, then your service sidewalk will be scheduled for removal with dirt and sod replacement.

We appreciate your understanding in this matter and apologize for any inconvenience that this process may cause. Please be informed that the City of St. Charles is taking active steps to beautify and create a safer condition on our right-of-ways. If you have any questions, concerns or would like to discuss the program in more detail, please feel free to contact Gary Long, Public Works Engineering Coordinator at (630)-327-5884 or James Bernahl Public Works Engineering Manager at 630-443-3709.

Sincerely,



Gary E. Long  
Public Works Engineering Coordinator

**COVENANT RUNNING WITH THE LAND - RECORD**

THE DECLARATION OF COVENANTS made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ (individually or collectively, the "Declarant(s)");

**WITNESSETH THAT**

WHEREAS, the Declarant(s) is/are the owner(s) in fee simple of certain real estate (the "Property") in St. Charles, Illinois, legally described as follows:

\_\_\_\_\_

Parcel Number: \_\_\_\_\_

Commonly known as: \_\_\_\_\_

WHEREAS, the City of St. Charles ("City") regulates the public rights-of-way within its boundaries; and

WHEREAS, the Declarant(s) wish to install a private service walk in the ("Private Service Walk") in a public right-of-way; and

WHEREAS, the City is willing to allow such installation pursuant to the terms and conditions set forth in this Declaration.

NOW, THEREFORE, THE DECLARANT(S) DECLARE AS FOLLOWS:

1. The Declarant(s), their assigns and successors in title hereby shall install the Private Service Walk in full compliance with the laws, ordinances, resolutions, rules and regulations of the City of St. Charles, Kane County, the State of Illinois or any other governmental unit or agency having jurisdiction, applicable thereto as amended from time to time. The Private Service Walk shall be constructed and installed by the Declarant(s) at their expense and in strict accordance with plans and specifications that must be submitted and approved by the Development Engineering Department prior to the commencement of any construction and/or installation.

2. Upon construction and installation or removal of said Private Service Walk, the Declarant(s) shall restore the surrounding area to its original condition immediately prior to construction and installation or removal. In the event the Declarant(s) do not restore the surrounding area, the City may restore the surrounding area and charge the costs thereof to the Declarant(s). Any such expense incurred by the City in connection with this paragraph shall create a lien against the Property.

3. The Declarant(s) and their assigns and successors in title hereby agree to and do hereby release the City, its officers, agents and employees from any obligation as a result of damages to the Private Service Walk which may occur in the course of the installation, removal, maintenance or repair of any utility within said right-of-way, or as the result of street construction/repair, snow removal, or street cleaning by the City.

4. The Declarant(s), their assigns and successors in title hereby agree to indemnify and hold the City of St. Charles and the public utilities which are from time to time authorized to use said easements and public rights-of-way, and both groups' officers, agents and employees, harmless from any damages, injuries, and costs including damages to the utility equipment or public right-of-way, occasioned by the installation, maintenance, location, repair of the Private Service Walk, said costs to include attorney fees and costs of litigation.

5. The Declarant(s), their assigns and successors in title hereby agree to indemnify and hold the City, its officers, officials, employees and agents harmless from any and all claims and causes of action (including, but not limited to, those brought, asserted or alleged by third parties), and liabilities or expenses, including judgments, costs and damages, and including any and all attorney's fees and costs

incurred by the City, alleged to have occurred from the installation, construction, repair, maintenance, continued existence, or removal of the Private Service Walk.

6. The Private Service Walk shall at all times remain the property of the Declarant(s) and the City shall not be responsible for the continued maintenance or repair of the Private Service Walk; provided, however, should the Declarant(s) fail to properly maintain or repair the Private Service Walk, the City may at its option, perform the required maintenance or repairs and charge the Declarant(s) the costs and expenses incurred therein. Any such expense incurred by the City in connection with this paragraph shall create a lien against the Property.

7. This Declaration shall not give rise to any right of ownership in the City right-of-way to the Declarant(s); said right-of-way shall continue to be a public property held by the City in trust for the general public.

8. The Private Service Walk shall be constructed, installed, maintained and used so as to not interfere with either the public use of the City right-of-way or the rights of abutting and adjoining land owners.

9. Should the City determine, in its sole discretion, that the Private Service Walk should be removed, the Declarant(s), at their expense, shall remove the Private Service Walk. If the Declarant(s) fail to do so within twenty one (21) days from notice of the City's determination the City may at its option, remove the Private Service Walk and charge the Declarant(s) the costs and expenses incurred therein. Any such expense incurred by the City in connection with this paragraph shall create a lien against the Property.

10. Declarant(s) understand and agree that the City, public utilities and/or cable television companies, and their successors and assigns, may also have certain rights in, over, under, upon or across the City right-of-way and that this Declaration does not affect or diminish the rights of those parties and that the construction, installation, repair, maintenance and/or use of the Private Service Walk will not affect or diminish such rights.

11. Prior to installing the Private Service Walk, the Declarant(s) shall deliver to the City a recorded copy of this Declaration.

12. This Declaration shall be binding upon and inure to the benefit of the respective heirs, successors and assigns of the parties hereto.

13. The provisions of this Declaration shall be enforceable by the City and any costs related to such enforcement, including attorney fees and court costs, shall be paid by the Declarant(s).

14. This Declaration shall not be terminated or modified without the written consent of the City.

IN WITNESS WHEREOF, the undersigned have executed this Declaration at \_\_\_\_\_, Illinois

\_\_\_\_\_  
Print Full Name

\_\_\_\_\_  
Print Full Name

\_\_\_\_\_  
Property Owner's Signature

\_\_\_\_\_  
Property Owner's Signature

STATE OF ILLINOIS                    )  
  ) SS.  
COUNTY OF                            )

I, \_\_\_\_\_, a Notary Public in and for said County, in the State of Illinois, do hereby certify that \_\_\_\_\_, personally known to me to be the same person(s) whose name(s) is/are subscribed in the foregoing instrument, appeared before me this day in person and acknowledged that \_\_\_\_\_ signed, sealed and delivered said instrument as his/her/their free and voluntary act for the uses and purposes therein set forth.

Given under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

THIS DOCUMENT PREPARED BY  
AND RETURN TO:

\_\_\_\_\_  
City of St. Charles  
Development Engineering Office  
630.443.3677  
**Return to:**  
Building & Code Enforcement Division  
Two East Main Street  
St. Charles, IL 60174  
Phone: 630.377.4406