

April 10, 2015

Mayor Joseph Peterson and City Council Members:

Re: Request for City Ordinance Allowing Safe and Reasonable Access to Property

Dear Mayor and City Council:

I approach the Mayor and Council Members today with a request for a City Ordinance that will allow safe and reasonable access upon the property of a neighboring resident in cases where repairs/painting/improvements, etc. may need to be carried out on one's property and where it is impossible to do so without stepping on or temporarily utilizing the driveway or side yard of another resident.

Many communities have these types of ordinances where the residences are within close proximity of each other and Wyandotte certainly has many, many homes that are within feet, and in some case even inches, of each other.

In the situation where a resident is having major work such as a roof replacement, siding or painting, the contractor may need to use the driveway or side yard of a neighbor to complete the work and this requires stepping on the property other than that owned by the person having the work done. Technically, this could be considered trespassing. It is my understanding upon contacting the City of Wyandotte that NO current ordinance of this type exists.

If the permission and cooperation of the next door neighbor is required and if the neighbor happens to be an unreasonable neighbor (and we unfortunately know first hand of examples of this within this City) who decides to deny the contractor access, the homeowner is left with few options to complete the work or have it completed. In short, if an unreasonable neighbor blocks his/her property or says "no", the homeowner has no way to perform repairs or have work done. This is not to imply that the neighbor of residents should not be given notice - notice should always be required out mere politeness, however, this ordinance would grant relief for those homeowners looking to have work performed who may be dealing with a vacant/missing homeowner or simply a neighbor who doesn't want to or won't cooperate. An ideal city ordinance would include:

1) Criteria on which safe and reasonable access onto another resident's property would be granted, i.e., having contractual or repair work done, painting, window replacement, chimney repair, siding, etc.

2) The manner in which the homeowner having the work done shall notify the city and its neighbors that work is being done and MAY require access to the other resident's property.

3) The consequences for failing to notify neighboring residents that their property may be accessed during work performed.

4) The consequences for the party to whom the request/notification is given for failing to allow contractors reasonable and safe access on one's property while they are attempting to perform repairs or other general upkeep on the property of another neighbor.

5) That "safe and reasonable access" shall include but not be limited to: Making sure any driveways or side yards are free of vehicles or movable structures that may inhibit the ability of crews to perform the necessary work.

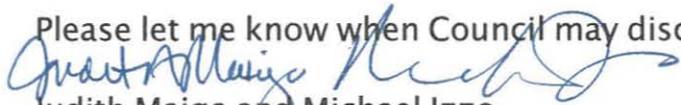
6) A provision that the person/company performing the work (and/or the homeowner) shall be liable for any damage which may occur during the work process or in the alternative the homeowner signs a form accepting liability and responsibility for any damages that may occur.

I have attached a copy of a sample of such an ordinance, however, in the attached ordinance it is required that a license be applied for to grant access, which may be a bit extreme, unless the license comes at a very nominal cost and can be granted by the city and not a Judge.

I think it imperative that violation of this ordinance carry a consequence. If a reasonable person is notified that a contractor or person performing work MAY need access and fails to provide it, it will be detrimental to both residents and contractors attempting to perform work in the city. Residents are already required to grant this type of access to city and state employees and there is no reason they should not be required to do so, when given notice.

I thank you in advance for your consideration. One would hope that in a perfect world people could just get along and this type of ordinance would not be necessary, but we all know this is simply not always the case. In speaking to several contractors I have heard many horror stories of neighbors blocking or refusing access for repairs or where the owner of the adjacent property could not be located to grant permission for entry. Homeowners should be confident in a city with narrow lots such as ours that they will be able to have improvements or repairs performed without relying on permission of neighbors who may not be willing to cooperate for no real reason other than to be difficult.

Please let me know when Council may discuss this proposed idea.

A handwritten signature in blue ink, appearing to read "Judith Maiga and Michael Izzo", is written over the printed text.

Judith Maiga and Michael Izzo
128 Cedar Wyandotte MI 48192

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Real Property Actions and Proceedings

§ 881. Access to adjoining property to make improvements or repairs. When an owner or lessee seeks to make improvements or repairs to real property so situated that such improvements or repairs cannot be made by the owner or lessee without entering the premises of an adjoining owner or his lessee, and permission so to enter has been refused, the owner or lessee seeking to make such improvements or repairs may commence a special proceeding for a license so to enter pursuant to article four of the civil practice law and rules. The petition and affidavits, if any, shall state the facts making such entry necessary and the date or dates on which entry is sought. Such license shall be granted by the court in an appropriate case upon such terms as justice requires. The licensee shall be liable to the adjoining owner or his lessee for actual damages occurring as a result of the entry.

Section: [Previous](#) [811](#) [812](#) [813](#) [815](#) [817](#) [821](#) [831](#) [833](#) [841](#) [843](#) [851](#) [853](#) [861](#) [871](#) [881](#)

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- Oregon
- Pennsylvania
- Texas
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- Washington

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- 1 USC - General Provisions
- 2 USC - The Congress

- 7 USC - Agriculture
- 8 USC - Aliens and Nationality
- 9 USC - Arbitration
- 10 USC - Armed Forces
- 11 USC - Bankruptcy
- 12 USC - Banks and Banking
- 13 USC - Census
- 14 USC - Coast Guard
- 15 USC - Commerce and Trade
- 16 USC - Conservation
- 17 USC - Copyrights
- 18 USC - Crimes
- 19 USC - Customs Duties
- 20 USC - Education
- 21 USC - Food and Drugs
- 22 USC - Foreign Relations
- 23 USC - Highways
- 24 USC - Hospitals
- 25 USC - Indians
- 26 USC - Internal Revenue Code
- 27 USC - Intoxicating Liquors
- 28 USC - Judiciary
- 29 USC - Labor
- 30 USC - Mineral Lands
- 31 USC - Money and Finance
- 32 USC - National Guard
- 33 USC - Navigation
- 34 USC - Navy (repealed)
- 35 USC - Patents
- 36 USC - Patriotic Societies
- 37 USC - Uniformed Services
- 38 USC - Veterans' Benefits
- 39 USC - Postal Service
- 40 USC - Public Property
- 41 USC - Public Contracts