

ORDINANCE NO. 41 -84

By: Conrad H. Hause

An Ordinance to establish rules and regulations for the installation of underground sprinkler systems by private property owners where such improvements protrude or encroach upon public property, or upon easements or rights-of-way granted to the City of Bexley for public purposes.

WHEREAS, various private property owners in the City of Bexley have installed or intend to install underground sprinkler systems in their yards to facilitate the maintenance of their lawns and shrubs; and

WHEREAS, in many cases, the "yard" and the "lawn" of the property owner extends into the duly dedicated right-of-way of the City of Bexley, which is, in fact, owned by the City of Bexley and although not presently used for street purposes, is used for various utility purposes including electrical lines for street-lighting purposes; and

WHEREAS, such "yards" and "lawns" are traditionally maintained by the property owners as their own property and the City has no desire, nor interest, to assume exclusive control over such property nor to limit the beneficial use of such property to the adjacent owner, but does desire to preserve its rights to the property, and to protect itself from claims arising out of the use of such property by private individuals; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY, OHIO:

Section 1. That upon application of the adjacent owner and upon showing that such owner's "yard" or "lawn" extends onto public property, or upon an easement or right-of-way granted to the City for public purposes, such property owner be granted permission to construct improvements, such as an underground sprinkler system, on the property in question.

Section 2. That such improvements be constructed and repaired at no cost to the City of Bexley and that such improvements be so constructed so as to not impede nor interfere with, in any way, the use of the sidewalks and streets by other citizens.

Section 3. That the applicant, his successors and assigns, as a condition precedent to the approval of his application, execute a hold harmless agreement with the City of Bexley, to save the City harmless from any and all damages which may arise from or grow out of the construction, repair, maintenance operation or use of such improvement and further agree, on behalf of himself, his successors and assigns to defend, at his own expense, every suit in which the City of Bexley shall be made a party, brought and prosecuted for the recovery of any such damages.

Section 4. That the applicant, further agree, as a condition precedent to the grant of permission to use such property, that such occupancy is permitted solely as an accommodation to the applicant, and that no right, title, or interest of the public, is waived or abridged in any way, and that upon notice, duly authorized by the Council of the City of Bexley, the applicant shall remove said improvement and shall yield to the City all rights to occupy the space used for such improvement.

Section 5. That said improvement be so constructed as not to interfere with or damage any utility facilities, and that any additional costs or expenses incurred by the City for the installation, maintenance, repair or replacement of utility services occasioned by the location of the improvement in the easement/right-of-way area be the obligation of the property owner, his successors or assigns.

Section 6. That the Mayor and Auditor are hereby authorized to enter into a Consent and Hold Harmless Agreement with such property owner, conditioned upon the satisfaction of the terms of this Ordinance.

Section 7. That this Ordinance shall go into full force and effect upon its passage and approval by the Mayor, after the earliest period allowed by law.

Passed: July 24, 1984.

John H. Brink
President of Council

ATTEST: John H. Brink
Clerk of Council

June 26, 1984 - First reading
July 10, 1984. Second reading
July 24, 1984. Third reading

APPROVED July 24, 1984
David H. Madison
DAVID H. MADISON, Mayor