

ORDINANCE NO. 40-94BY: John H. Offenberg

An Ordinance authorizing the Mayor and Auditor to sign a Consent and Hold Harmless Agreement on behalf of the City of Bexley with the property owner at 864 Montrose Avenue (Lot Number 276; Rider's Addition) regarding improvements to be made upon and within the City owned right-of-way of Montrose Avenue.

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

Section 1. That the property owner at 864 Montrose Avenue (Lot Number 276; Rider's Addition) has requested approval to construct a six inch high timber retaining wall upon and within the City owned right-of-way of Montrose Avenue.

Section 2. That the Mayor and the Auditor be, and they hereby are, authorized to enter into a Consent and Hold Harmless Agreement with the property owner, in form and substance satisfactory to the City Solicitor, authorizing the timber retaining wall as proposed in accordance with the submitted request on the condition that the property owner assume all responsibility for damage, loss, and injury arising out of the location of said timber retaining wall including any additional cost to the City of Bexley incurred in connection with its use of the right-of-way occasioned by the location of the structure.

Section 3. That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: July 26, 1994

John M. Brennan
President of Council

Attest: John H. Offenberg
Clerk of Council

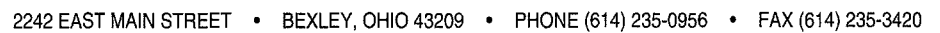
Approved: 7/26, 1994

David H. Madison
David H. Madison, Mayor

June 28, 1994 - 1st reading
July 12/15, 1994 - 2nd reading
July 26, 1994 - 3rd reading
Adopted

864mont

This is to inform you that a public meeting will be held by the Council of the City of Bexley, Ohio, at 7:00 P.M., Tuesday, July 26, 1994, at Bexley City Hall, 2242 East Main Street, to consider adoption of Ordinance No. 40-94. This Ordinance, if approved, will allow a 6" timber wall to be constructed on City right-of-way in the front yard of 864 Montrose Avenue. All interested persons are invited to attend.



CONSENT AND HOLD HARMLESS AGREEMENT

The undersigned property owner and the City of Bexley, Ohio (the "City") agree as follows:

The owner has sought and obtained permission from the City to erect a six inch high timber retaining wall as indicated below on the property described below and in the easement/right-of-way as described. Approval of the proposed retaining wall and use of the easement/right-of-way area is conditioned upon this Agreement.

Eric L. McInturf, his successors and assigns, shall save the City harmless from any and all damages which may arise from, or grow out of, the construction and installation of the retaining wall, and said grantee, his successors and assigns, shall defend, at their own cost, every suit in which the City shall be made a party, brought and prosecuted for the recovery of any such damages; that the occupancy of public property is hereby permitted merely as an accommodation to the said grantee and that no right, title or interest of the public is waived or abridged in any way thereby; that said grantee, his successors or assigns, shall at all times maintain the retaining wall in a manner satisfactory to the City; that said grantee, his successors or assigns, upon notice from the City of Bexley, Ohio duly authorized by the Council of the City, shall forthwith remove said retaining wall and shall yield to said City all rights to occupy the space used for such structure, whenever said City shall determine the same to be necessary or desirable; that said structure shall be so constructed as to not interfere with or damage any utility facilities and in the event that changes become necessary to construct and accommodate said retaining wall, said grantee, his successors and assigns, shall pay the entire cost of the necessary changes, relocation's or rearrangements thereof.

This Agreement shall not be construed as in any way limiting the rights presently held by the City in the easement/right-of-way area, or the use thereof for public purposes, except to promote the construction and maintenance of the below mentioned structure in the easement/right-of-way.

864 Montrose
Address of Property

Street Right-Of-Way
Type of Easement/Right-Of-Way

Lot Number 276; Rider's Addition
Lot Number or Other Description

Timber Retaining Wall
Building or Structure

25 Feet Measured from Center of Montrose Avenue
Easement/Right-Of-Way Width
Property Location

2.5 Feet
Maximum Encroachment Into
Easement/Right-Of-Way

Street, Sidewalk & Public Utilities
Services Existing in Easement/
Right-Of-Way

Ordinance No. 40-94
Approving Authority

July 29, 1994
Date of Agreement

July 29, 1994
Date of Agreement

This Agreement shall be binding on and for the benefit of the parties hereto and their respective successors and assigns.

STATE OF OHIO, COUNTY OF FRANKLIN:

SS:

The foregoing instrument was acknowledged before me this 1st day of August, 1994 by David H. Madison, Mayor of the City of Bexley, Ohio, and John W. Hornberger, Auditor of the City of Bexley, Ohio.

Jan Yapple
Witness

David H. Madison
Mayor

Karen M. Sluder
Witness

John W. Hornberger
Auditor

STATE OF OHIO, COUNTY OF FRANKLIN:

SS:

The foregoing instrument was acknowledged before me this 29th day of July, 1994 by Eric J. McInturf

Sharon R. Patterson
Witness

Eric J. McInturf
Property Owner

Witness

Property Owner

Sharon R. Patterson
Notary Public

SHARON R. PATTERSON
Notary Public, State of Ohio
My Commission Expires Nov. 9, 1998