

ORDINANCE NO. 45-84

BY: *J. Lochmest*

An Ordinance authorizing the Mayor and Auditor to sign a Consent and Hold Harmless Agreement on behalf of the City of Bexley with the Bexley Board of Education regarding improvements to be made upon and within the City owned right-of-ways.

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

Section 1. That the Bexley Board of Education has requested approval to erect telephone cable from the Cassingham School to the Montrose and Maryland Elementary Schools which would utilize existing utility poles upon and within the City held right-of-ways.

Section 2. That the Mayor and the Auditor be, and they are hereby, authorized to enter into a Consent and Hold Harmless Agreement with the Bexley Board of Education, a copy of which is attached hereto and made a part hereof as if fully rewritten, authorizing the encroachment as proposed in accordance with the submitted site plan on the condition that the Bexley Board of Education assume all responsibility for damages, loss, and injury arising out of the location of said telephone cable 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 is an emergency measure necessary for the immediate preservation of the public peace, health and safety, and shall go into effect upon its passage and approval by the Mayor.

Passed: *July 24*, 1984

John Ubag
President of Council

Attest:

John H. Huggins
Clerk of Council

Approved: *July 24*, 1984

David H. Madison
David H. Madison,
Mayor

*July 24, 1984 - First reading
Rules suspended*

C O N S E N T

H O L D H A R M L E S S A G R E E M E N T

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

The owner has sought and obtained permission from the City of Bexley to erect telephone cable as indicated below on the property described below and in the easement/right-of-way as described. Approval of the proposed telephone cable and use of the easement/right-of-way area is conditioned upon this Agreement and construction in accordance with the site plan.

The Bexley Board of Education, its 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 telephone cable, and said grantee, its successors and assigns, shall defend, at its own cost, every suit in which the City of Bexley, Ohio 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, its successors and assigns, upon notice from the City of Bexley, Ohio duly authorized by the Council of Bexley, Ohio, shall forthwith remove said telephone cable 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; 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 telephone cable, the grantee, its successors and assigns, shall pay the entire cost of the necessary changes, relocations or rearrangements thereof.

The 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 area.

<u>348 South Cassingham Road</u> Address of Property	<u>Public street</u> Type of Easement/Right-of-Way
<u>N/A</u> Lot No. or Other Description	<u>Private telephone cable</u> Building or Structure
<u>Various, please see site plan</u> Easement/Right-of-Way Width- Property Location	<u>Various, please see site plan</u> Maximum Encroachment Into Easement/Right-of-Way
<u>Public street, utilities</u> Services Exisint in Easement/ Right-of-Way	<u>Ordinance No. 45-84</u> Approving Authority (Council)
<u>July 26, 1984</u> Date of Agreement	<u>July 24, 1984</u> Date of Agreement

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

WITNESSES:

CITY OF BEXLEY, OHIO

Albert E. Tuck
Karen Mitcham
CR Baker
A. Meyer

By: David H. Madison
 Mayor
John W. Hornberger
 Auditor
Christopher A. Essman
 Property Owner Treasurer
Loren Thompson
 Property Owner Superintendent

STATE OF OHIO, COUNTY OF FRANKLIN: SS:

On this 26th day of July, 1984, before me,
 personally appeared David H. Madison, Mayor, and
John W. Hornberger, Auditor, and
Christopher A. Essman and Loren Thompson,
 Property Owners, who acknowledged the execution of this consent
 and agreement and that the same is their free act and deed.

IN WITNESS WHEREOF, I have hereunto subscribed my name and
 affixed by official seal on the day and year last aforesaid.

Betty A. Hottenrott
 NOTARY PUBLIC

THIS INSTRUMENT PREPARED BY:

David H. Bodiker
 City Solicitor
 150 East Broad Street
 Columbus, Ohio 43215

BETTY A. HOTTENROTT
 NOTARY PUBLIC - STATE OF OHIO
 MY COMMISSION EXPIRES FEB. 26, 1984