

ORDINANCE NO. 46 -88

BY: Joanne H. Rarft

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 owners at 2520 Maryland Avenue (Lot Number Acreage: part of block 34; Second Ruhl Place) regarding improvements to be made upon and within the City owned rightof-way of Maryland Avenue and Northview Drive.

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

Section 1. That the property owners at 2520 Maryland Avenue (Lot number acreage: part of block 34; Second Ruhl Place) have requested approval to install an invisible fence in the front yard and side yard setback of said property, which, as proposed, would encroach upon and within the Maryland Avenue and Northview Drive rightof-way owned by the City of Bexley;

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 owners, 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 property owners assume all responsibility for damages, loss and injury arising out of the location of said invisible fence 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 go into immediate force and effect upon its passage and approval by the Mayor.

Passed: December 13, 1988

Albert Meyer
President of Council

Attest: John W. Hildner
Clerk of Council

Approved: Dec 13, 1988

David H. Madison
David H. Madison, Mayor

June 14, 1988 - 1st reading

June 28, 1988 - 2nd reading

July 12, 1988 - 3rd reading
tabled

Dec. 13, 1988 - Adopted

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 owners and the City of Bexley, Ohio agree as follows:

The owners have sought and obtained permission for the City of Bexley to install an invisible fence as indicated below on the property described below and in the easement/right-of-way as described. Approval of the proposed fence and use of the easement/right-of-way area is conditioned upon this Agreement and construction in accordance with the plot plan.

James M. and Mary Ann Tobin, their 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 invisible fence, and said grantees, their successors and assigns, shall defend, at their 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 grantees and that no right, title or interest of the public is waived or abridged in any way thereby; that said grantees, their successors or assigns, upon notice from the City of Bexley, Ohio duly authorized by the Council of Bexley, Ohio, shall forthwith remove said invisible fence and shall yield to said City all rights to occupy the space used for such structures, whenever said City shall determine the same to be necessary; that said structures 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 invisible fence, the grantees, their successors and assigns, shall pay the entire cost of the necessary changes, relocations 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.

2520 Maryland Avenue
Address of Property

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

Lot No. Acreage: Part of
Block #34; Second Ruhl Place
Lot No. or Other Description

Invisible Fence
Building or Structure

30' Measured from Center of
Maryland Avenue & 30' Measured
from Center of Northview Drive
Easement/Right-Of-Way Width -
Property Location

Maximum Encroachment Into
Easement/Right-Of-Way

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

Ordinance No. 46 -88
Approving Authority (Council)

Date of Agreement

Date of Agreement

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

ORDINANCE NO. 46 -88

BY: James H. Ruff

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President of Council

Attest: _____
Clerk of Council

Approved: _____, 1988

David H. Madison, Mayor

June 14, 1988 - 1st reading
June 28, 1988 - 2nd reading
July 12, 1988 - 3rd reading
Adopted
Dec. 13, 1988 - Adopted

STATE OF OHIO, COUNTY OF FRANKLIN: SS:

The foregoing instrument was acknowledged before me this
_____, day of _____, 1988,
by _____,
_____, Mayor of the City of Bexley, Ohio,
and,
_____, Auditor of the City of Bexley,
Ohio.

Witness

Mayor

Witness

Auditor

Notary Public

STATE OF OHIO, COUNTY OF FRANKLIN: SS:

The foregoing instrument was acknowledged before me this
20th day of December, 1988,
by

James M. Tobin and Mary Ann Tobin

Sandra K. Shearn
Witness

James M. Tobin
Property Owner

Sandra L. Smith
Witness

Mary Ann Tobin
Property Owner

Sandra L. Smith
Notary Public

SANDRA L. SMITH
NOTARY PUBLIC STATE OF OHIO
MY COMMISSION EXPIRES OCT 30, 1990