

ORDINANCE NO. 1430

AN ORDINANCE granting to the Oregon Electric Railway Company, a corporation, its successors and assigns, the franchise to lay, construct and maintain railway tracks and lines and to transport passengers, mail, baggage, freight and express thereon, and to erect, construct, maintain and operate power, telephone and telegraph lines in the City of Albany.

THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

SECTION 1. That there by and hereby is granted to the Oregon Electric Railway Company, a corporation, its successors and assigns, the franchise or right to lay, construct and maintain a single track railway of standard gauge and such spurs, siding, switching, connections and other equipment as may be necessary or convenient, and to change, alter, modify or reconstruct existing tracks as to operate upon and over said tracks, cars, passenger trains or freight trains thereover, and to transport passengers and to do all other business incidental to the operation of a railroad, and also to transport freight of all kinds whatsoever, including logs and other forest products and to do all business incidental to the operation of freight trains and to carry on generally all commercial railroad business upon the conditions hereinafter specified, upon the following named streets and places in the City of Albany, to-wit:

Beginning at the Eastern boundary line of the City of Albany, where Water Street intersects Geary Street, thence along said Water Street westerly to the western end thereof, thence in a southwesterly direction to a point of connection with what was formerly the main line of the Oregon Electric Railway at or near the Junction of Fifth and Yukon Streets. Also commencing at the Western boundary of the City of Albany where said boundary is intersected by Fifth Street, thence Easterly along Fifth Street to the west line of Elm Street.

SECTION 2. That it be and is hereby granted to said Oregon Electric Railway Company, its successors and assigns, the franchise or right to lay, construct and maintain street car tracks or other railway tracks or to change, alter or reconstruct, existing street car tracks or other railway tracks owned by it, and to operate thereover cars or passenger trains or freight trains over private property and private rights of way, which said Company may now have or hereafter acquire, and to connect the same with the tracks mentioned in Section 1 of this ordinance, and for such purposes said tracks may be constructed across any and all intervening streets and sidewalks at such points as may be necessary or convenient to make said connections, and said tracks and crossings at such intervening streets shall be constructed and maintained in substance in the same manner as in this ordinance provided as to the tracks mentioned in Section 1 of this ordinance.

SECTION 3. That there be and is hereby granted to said Oregon Electric Railway Company, its successors and assigns, the right to lay, construct and maintain side tracks, switches and other equipment from the track or tracks hereinbefore mentioned into, upon and over such private properties as it may now hold or hereafter acquire for use for car barns, power houses, roundhouses, shops, terminal and other purposes, or into, upon and over any property contiguous to said tracks, provided that where such track or tracks shall cross said walks the same shall be planked or otherwise laid and maintained as ordered by the council and so as not to unnecessarily interfere with or damage said sidewalks.

SECTION 4. The Oregon Electric Railway Company, its successors and assigns, shall lay, construct and maintain said tracks so as to conform to the grade of said streets and in such manner as not to unnecessarily interfere with the public use thereof; provided, however, that if the grades of any of said streets shall not have been previously established, the city council, upon the request of the Oregon Electric railway company, its successors and assigns, prior to the commencement of construction or reconstruction of any of said tracks, will establish said grades; and it shall be the duty of the city engineer, at the request of said grantee, to furnish it a written certificate of any street grade, and said certificate shall be conclusive between the city and the grantee as to the correctness of the grade so certified.

SECTION 5. Said Oregon Electric Railway Company, its successors and assigns, shall have the right to do all necessary excavating or grading for the construction and reconstruction and repair for the maintenance of said tracks, but all portions of said streets so excavated or graded must be replaced in as near the original condition as practicable; and said company, its successors and assigns, shall, during the term of this franchise, keep the portions of said streets upon which tracks are maintained, including the space within the wyes, for the full width of said railways between the rails of each track and to the end of the ties outside of the rails of each track, said distance to be not less than one foot, and between the main track or tracks and all tracks parallel therewith in as good condition and repair as the remainder of said streets are maintained by the city; and shall pave and repave, reconstruct or otherwise improve or repair or maintain in good condition and in the manner directed by the Council the whole or any portion of the street

ORDINANCE NO. 1430

lying between the two tracks. In the event that the Oregon Electric Railway Company, its successors and assigns, shall forthwith remove its tracks and other property therefrom, and on removal thereof, restore, repair or reconstruct that portion of the street which under this franchise is to be kept in repair by the Oregon Electric Railway Company, its successors and assigns, so that it shall be placed in such condition as may be required by the Council. If the Oregon Electric Railway Company, its successors and assigns, shall within a reasonable time fail to comply with any of the provisions or conditions of this franchise, the City may declare an immediate forfeiture of such franchise; and if the Oregon Electric Railway Company, its successors and assigns, shall fail, neglect or refuse, after thirty day's notice given by the Council, to repair, improve or maintain as above set out the portions of the street above described, then the City may, at its option, do such work and the cost of the same, as ascertained and declared by the Council, shall be entered in the docket of city liens and enforced in like manner and like effect as a general tax upon real or personal property of the Oregon Electric Railway Company, its successors and assigns, after delinquency.

SECTION 6. That there shall be and it is hereby granted to said Oregon Electric Railway Company, its successors and assigns, the franchise or right to erect poles and construct and maintain telephone or telegraph lines upon the streets and places hereinbefore mentioned; all poles, wires and equipment to be so placed and maintained as not to unnecessarily interfere with public travel upon said streets, and subject to the approval of the City Council; and if electrical currents are used or employed in or about the use of said franchise or the grant connected therewith, then the Oregon Electric Railway Company, its successors and assigns, shall provide and put in use such means and appliances as will control and effectually contain such currents in their proper channels, and on its own wires, tracks and other structures so as to prevent injury to the property, pipes and other structures belonging to the City of Albany or to any persons, firm or corporation within said City, and shall repair and renew said means and appliances from time to time, change and improve the same as may be necessary to accomplish said purposes, all at its charge and expense and at its own risk, electing and adopting such means and appliances as shall prevent injury to the property, pipes and other structure belonging to the said City of Albany, or to any other person, firm or corporation.

SECTION 7. The motive power employed may be electricity, steam, internal combustion engines or any other form of motive power which the Oregon Electric Railway Company, its successors and assigns, may consider necessary and proper for the operation of the trains and the exercise of the rights herein granted.

SECTION 8. The rate of speed on all cars and trains shall not exceed eighteen miles per hour within the corporate limits of the City of Albany, and cars and trains shall not be stopped at crossings so as to obstruct the streets of said city to any extent greater than shall be reasonably necessary in the operation of trains and cars upon said tracks.

SECTION 9. This franchise shall be subject to the terms and conditions of Section 98, Article V, Chapter IV of the Charter of the City of Albany.

SECTION 10. All of the rights herein granted shall continue and be in force and effect for twenty-five years from and after the date of the final approval of this ordinance.

SECTION 11. All franchises and rights herein granted are upon the condition that the said Oregon Electric Railway Company, its successors and assigns, shall, within sixty days from the time this ordinance is approved by the Mayor or otherwise takes effect, file at the office of the City Recorder, a written acceptance of its provisions.

SECTION 12. This franchise or right is given with the understanding and agreement on the part of the Oregon Electric Railway Company that at any time the City of Albany deems it expedient to put in any sewer in said city across the line of said railway, the same may be put under the tracks of said railway Company, the city doing no damage to the property of said company.

SECTION 13. In the construction, operation and maintenance of its railway tracks mentioned in this franchise, permission is hereby granted unto the Oregon Electric Railway Company, its successors and assigns, to put in bridge crossings constructed of timber or other material over and across the water courses intersecting said tracks at Thurston Street and between Oak and Sherman Streets and between Cleveland and Harrison Streets; said railway company, its successors or assigns, may at their discretion either bridge or fill the same provided that as to each of said crossings, except said Thurston Street crossing, the city may require the bridge or fill for the same to extend the full width of the street and the cost thereof shall be paid by the railway company and whenever two or more railway lines cross any of said water courses on the same street, the cost thereof shall be divided equally between such railway companies and paid by them in equal portions; provided, however, that it shall be incumbent upon the City of Albany to compel the owners of or those in control of the water courses owned by the Mountain States Power Company, or its successors or assigns,

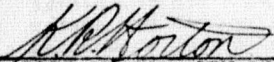
ORDINANCE No. 1430

to consent to such crossings. All bridges or fills aforesaid shall be maintained by the railway company, its successors and assigns at its own expense and for the benefit of the public.

PASSED BY THE COUNCIL OCTOBER 13, 1937 .

APPROVED BY THE MAYOR OCTOBER 13, 1937 .

C.R. ASHTON
MAYOR



RECORDER OF THE CITY OF ALBANY.

STATE OF OREGON)

COUNTY OF LINN)

ss. I, K.R. Horton, Recorder of the City of Albany, Linn County, Oregon, hereby certify that the annexed and foregoing copy of Ordinance #1430, has been by me carefully compared with the original Ordinance Bill # 1535, on file in my office, and that it is a true and correct copy of all of said bill, passed by the Council, October 13, 1937, and approved by the Mayor, October 13, 1937.

Witness my hand and official signature and the seal of the City of Albany, this 20th day of October, 1937.



RECORDER OF THE CITY OF ALBANY.