

Ord 143

Ordinance No. 143.

An Ordinance to extend and enlarge the right of way through the streets of the City of Albany to John A. Crawford, to convey water by means of canals or ditches through said streets and to approve ratify and confirm to him, the rights, franchises and privileges granted by Ordinance No. 28, entitled "Ordinance" No. 28, relating to the right of way of the Albany and Santiam Water ditch, approved November 3rd 1873.

The People of the City of Albany do ordain as follows.

Section 1. That there be and hereby is granted to John A. Crawford his heirs and assigns, at his instances and request, as the predecessor, and assignee of the Albany and Santiam Water Ditch or Canal Company, the right of way through and along the streets of the City of Albany in Lane County Oregon to dig, keep, repair and maintain a Canal along and through the streets of said City, and to cause water to flow in and along the same perpetually, so that the water shall not overflow the banks of said Canal, as follows, to wit: Commencing at the Southern end of Vine street, thence down the center or middle of Vine street to the Calopocia river, also commencing at the intersection of Vine and Eighth street, thence along 8th street to a point where said Canal strikes lot 6, in block (17) seventeen, thence to Thurston street, thence along Thurston street to the Willamette river, also commencing at the intersection of Water and Thurston streets, thence to Lafayette street, thence in a southerly course, along Lafayette street to First street, thence along First street to Madison street, thence along Madison street to the Willamette river; also commencing at the intersection of Thurston and Water streets in said City, and running thence along the center of Water street to Railroad street, and from thence to Robinson and West Row mill, and Cherry's Foundry, and from those points in two channels, crossing Water street to the Willamette river; also commencing at the intersection of Eighth and Lyon streets in said City, and from thence along Lyon street to the Willamette river; also commencing at the intersection First and Lyon

streets, thence along First Street to Basin Street,
 thence along Basin Street to the Willamette river;
 Also commencing at the intersection of Water
 and Jones Street, thence westward to a point of point
 the center of lot 2, in block C, thence north to the
 Willamette river; Also commencing at the intersection
 of 8th and Ferry Streets in said City and running
 thence along Ferry Street to the Willamette
 river; Also commencing at the intersection
 of Eighth and Broadalbin Streets in said City
 and running thence along Broadalbin Street to
 the Willamette river, the said several canals along
 said streets, to remain and continue where they
 now are so long as said Crawford or his assigns
 may use them for the purpose of conveying water.
 And the said rights privileges and franchises
 heretofore granted to the said Albany and Canton
 Water ditch or Canal Company by the said ordinance
 no. 28 are hereby fully approved ratified and con-
 firmed to said John A. Crawford his heirs or assigns.
 And the said several rights of way, privileges and
 franchises herein enumerated and granted to the
 said John A. Crawford shall operate and have the
 relative to the times when said several branches of
 said canal were actually constructed through and
 along the streets of said City, and be valid and
 binding to all intents and purposes as if previously
 or made at the time, and the said John A. Crawford
 his heirs and assigns are hereby authorized and
 empowered to continue to use and occupy so
 much of said several streets for said purposes, as
 he now occupies therefore.

Section 2. That the said grant of the right of way for said
 canal and its branches along the said streets of
 the City of Albany where the same is now located
 and said rights and privileges and franchises
 granted John A. Crawford his heirs and assigns
 by the said City of Albany as in section one of this
 ordinance provided is upon the following conditions,
 viz:

Section 3. That said canal at the place of beginning at
 the place south end of Vine Street to the intersection of
 Vine and Eighth Streets shall not exceed forty
 feet in width at the top surface of the ground, and
 from said intersection of Vine and Eighth Streets to

The Calapooia Creek shall not exceed thirty-six feet in width at the top surface of the ground, and from said intersection at Vice and Eighth Streets, to Houston Street, and thence to the Willamette river it shall not exceed thirty-six feet in width at the top surface of the ground, and all the branches of said Canal described in said section one, shall not be enlarged at the top surface of the ground, but the Canal and all its branches may at any time be made deeper, as the said John A. Crawford his heirs or assigns may desire.

Section 4. That the said John A. Crawford his heirs and assigns shall construct suitable and safe flumes, bulkheads and embankments along the line of said Canal and its branches through low places, troughs and aqueducts on said streets where the same shall be necessary, and when the water of said Canal and its branches flows over the banks of the Willamette river into said river, and over the banks of the Calapooia Creek into the said creek, and keep the same safe and secure so that the water flowing through said Canal and its branches flumes and bulkheads shall not overflow the same onto the streets or property in said City.

Section 5. That the said John A. Crawford his heirs and assigns may at all times turn into and cause to flow through said Canal and its several branches flumes and bulkheads continually such quantity of water as the said Canal, its branches flumes, bulkheads and its banks will hold and convey without overflowing the same onto the streets or property in said City.

Section 6. That said John A. Crawford his heirs and assigns may at all times when necessary enter upon the streets of said City for the purpose of repairing said Canal and its branches flumes bulkheads and banks without doing any unnecessary injury or damage to the streets, sidewalks, crosswalks or bridges over said Canal, or over its flumes, or embankments or bulkheads in said City, and shall make all such repairs with as little delay as possible.

Section 7. That the said John A. Crawford his heirs and

assigns shall within a reasonable time after making the repairs on said Canal its branches flumes bulkheads and embankments, repair all damage done to the property streets sidewalks, crosswalks and bridges over said Canal and its branches flumes and bulkheads in or with, or otherwise caused by reason of the making of such repairs within said City.

Section 8. That the said John A. Crawford his heirs and assigns shall in case said Canal or any of its branches shall at any time be made deeper as in this ordinance provided remove all the earth rock and other substances taken from the same in said City to such place or places in said City as may be designated by the street Commissioners of the City of Albany, and shall within a reasonable time thereafter repair all damages done to the streets sidewalks, crosswalks and bridges over said Canal and flumes and bulkheads and embankments, public squares and property in said City caused by deepening said Canal or any of its branches or by removing the earth rock or other substances therefrom as in this section provided.

Section 9. That at all places where said Canal its branches flumes embankments or bulkheads cross a Slough Swale or low place in said City the said John A. Crawford his heirs and assigns shall provide a way for all water that may flow in such Slough Swale or low place, to either pass into or under said Canal and its branches flumes and bulkheads so as not to cause an overflow of the water in such Slough Swale or low place onto any street or property in said City.

Section 10. That the said John A. Crawford his heirs and assigns shall pay all damages that said City may sustain by reason of the water in said Canal or its branches, flumes, embankments, bulkheads, swales Sloughs or low places overflowing the same or any part of the same onto the streets, sidewalks crosswalks squares or any property in said City.

Section 11. That the said John A. Crawford his heirs and assigns shall keep said Canal and its branches flumes, embankments and bulkheads in said City in good repair and condition so as to keep the water therein from over-

flowing the same, and shall repair all damages to property, sidewalks, crosswalks and public squares streets and bridges over the same in said city caused by the overflow of the water of said canal, or its branches flumes bulkheads or embankments within three days after such damage shall accrue, and in case of failure or neglect to make such repairs within three days after such damage shall accrue the said city may make such repairs at the cost and expense of the said John A. Crawford his heirs and assigns, and the cost and expense of such repairs so made by said city shall at once as soon as made become and be a lien on said canal, its branches flumes embankments, bulkheads, and all the rights privileges and franchises granted by this ordinance for the security of the payment of all such cost charges and expenses. And the said John A. Crawford his heirs or assigns shall pay to said city of Albany all damages it may be liable or compelled to pay to any person or persons by reason of any injury to person or property caused by reason of any carelessness or neglect on the part of said John A. Crawford his heirs or assigns in the making or causing to be made any repairs to said canal or any of its branches flumes bulkheads or embankments, and the said John A. Crawford his heirs or assigns shall at all times display lights during the night time whenever and wherever said ditch or any of its branches flumes, bulkheads or embankments, are or may be in dangerous condition or under going repairs.

Section 12. That the said John A. Crawford his heirs and assigns shall pay said city all damages and costs charges and expenses it may be liable or compelled to pay any person or persons on account of any injury to person or property caused by the water in said canal its branches flumes embankments or bulkheads overflowing the same onto the streets sidewalks crosswalks bridges or squares in said city and thereby rendering the same unsafe or dangerous to public use in said city.

Section 13. That the said city of Albany in consideration of the rights privileges and franchises granted said John A. Crawford his heirs and assigns as provided in this ordinance shall at all times have

the right and privilege free of charge to use the water in said Canal or any of its branches flumes and bulkheads for the purpose of extinguishing fire in said City in any manner that the fire department of said City may deem best for that purpose, and also the right and privilege at all times to take the water free of charge from said Canal or any of its branches flumes and bulkheads by means of pipes and fire engine pumps, and conduct the same thence to the fire systems in said City for the use of said City in extinguishing fire, and said City shall at all times have the right and privilege to take water from said Canal and any of its branches flumes and bulkheads in the same manner and free of charge when said water is not used for other purposes, and conduct the same in pipes into the sewers and gutters of said City and use said water for the purpose of flushing out and cleaning said sewers and gutters when the quantity of water so taken shall not interfere with the propelling of machinery propelled by the water in said Canal and its branches flumes and bulkheads in said City; but in case of fire the fire department shall be allowed to take and use free of charge such amount of water as may be deemed necessary for the purpose of extinguishing ^{such} fires.

Section 14. That the people of the City of Albany shall at all times have the free use of the water in said Canal, and any of its branches flumes, bulkheads and embankments for all fire and sanitary purposes.

Section 15. That the said City of Albany shall at all times construct and keep in good repair and condition all necessary bridges over said Canal, and its branches flumes, bulkheads and embankments in said City, but in the event said Canal or any of its branches flumes, bulkheads or embankments shall be changed or widened so that the bridges as they now stand would be insufficient for any reason whatever, it shall be the duty of said John A. Crawford his heirs or assigns to make good and sufficient new bridges at his or their own proper cost and expense.

Section 16. That it shall not be lawful for said John A.

to or for, his heirs or assigns, or any person to cast or deposit into said Canal or any of its branches or flumes or bulkheads within the limits of said City any dead animal or filth or any rubbish whatever.

Section 17. That any person violating the provisions of Section sixteen of this ordinance shall be liable to prosecution therefore before the Recorder of said City, and upon conviction thereof shall pay a fine of not less than \$50 nor more than \$250 and costs of prosecution.

Section 18. It shall be the duty of the said John A. Crawford his heirs and assigns in all cases where said Canal or any of its branches flows under any sidewalk in said City to cause the same to be enclosed so as to prevent the washing of the streets and securely boxed up to said sidewalk, and also to keep said Canal and its branches securely and safely covered where the same are now covered or may be hereafter covered, so that travel may securely pass over the same.

Section 19. That all ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

Section 20. This ordinance shall take effect and be in force from and after its approval by the Mayor.

Passed the Council May 12th 1886

Approved May 19th 1886.

J. B. Washburn
Mayor

Attest:

W. J. Henton
Recorder of the City of Albany