

ORDINANCE NO. 1456

AN ORDINANCE granting to the Southern Pacific Company, its successors, lessees, or assigns, the franchise or right to lay, construct, reconstruct and maintain railway tracks in, along, over and across certain designated streets in the City of Albany, Oregon, and to operate cars thereover, and to transport passengers, freight, mail, baggage and express thereon.

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

Section 1. That there be and is hereby granted to the Southern Pacific Company, a corporation created by and existing under laws of the State of Kentucky, its successors, lessees or assigns, the franchise or right to lay, construct, reconstruct and maintain railway tracks of standard gauge and to operate cars thereover, and to transport passengers, freight, mail, baggage and express thereon, upon over and across the following named streets in the City of Albany, Oregon, to-wit:

A wye track on Lafayette Street and on Fifth Street commencing at the intersection of the center line of Lafayette Street and the south line of Fourth Street; thence running Southeasterly on a curve to the left the radius of which is 450 feet to approximately the Southwest corner of Block 38; thence Southeasterly across Fifth Street on the same degree of curvature to a point in the South line of Fifth Street which is 35 feet more or less easterly from the Northwest corner of Block 39.

A wye track across Madison Street and on 6th Street, commencing at a point on the West line of Madison Street 25 feet more or less northerly from the south east corner of Block 39; thence running easterly on a curve to the left, the radius of which is 450 feet, across Madison Street to approximately the Southwest corner of Block 46; thence continuing in an easterly direction on a curve to the left, the radius of which is 450 feet, along and southerly of North line of Sixth Street to a point on the north line of Sixth Street 170 feet, more or less, easterly of the Southwest corner of said Block 46.

A spur track across Jackson Street- commencing at a point on the East line of Jackson Street 91 feet more or less, Northerly from the Southwest corner of Block 20; thence running westerly across Jackson Street to a point on the West line of said street 91 feet, more or less, northerly from the Southeast corner of Block 17.

A spur track across Railroad Street- commencing at a point on the East line of Railroad Street 91 feet, more or less, Northerly from the Southwest corner of Block 17; thence Westerly across Railroad Street to a point on the west line of said street 91 feet, more or less, northerly from the southeast corner of Block 8.

Section 2. The Southern Pacific Company, its successors, lessees and assigns, shall lay, construct, reconstruct 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 grade of any of said streets shall not have been previously established, the City Council upon request of the said Southern Pacific Company, its successors, lessees or assigns prior to the commencement of construction 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 to it a written certificate of any street grade and said certificate shall be conclusive between the said City and the grantee as to the correctness of the grade so certified.

Section 3. Said company, its successors, lessees or assigns, shall have the right to do all necessary excavating or grading for the construction and repair or 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 or assigns shall during the term of this franchise keep the portions of said street upon which tracks are maintained in as good condition and repair as the remainder of said streets is maintained for the whole width of said railway between the rails of each track and for a distance of one foot on the outside of the rails of each track; and in case said streets shall be improved by said City, the cost of improving the portions of such streets last above described shall be borne by the Railway Company, its successors, lessees or assigns.

Provided, however, that the right is hereby reserved to the said Southern Pacific Company, its successors, lessees or assigns, to make such improvements on its own account at its own cost and expense, but in accordance with the plans and specifications to be adopted by said City.

Section 4. Nothing in this Ordinance shall be construed to prevent the municipal authorities of the City of Albany from sewerage, grading, paving, plank, macadamizing, improving, altering, or repairing any of the streets over which the tracks hereby authorized are constructed; but all such work shall be done so as to cause as little obstruction or hindrance as possible to the passage of cars and locomotives and the operation of said railways, and the owner or owners of said railways shall have the privilege of raising or shifting the tracks so as to avoid as much as possible obstruction to the operation of cars during the

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progress of the street sewerage, grading, paving, planking, macadamizing, improving, altering, or repairing.

Section 5. All the rights herein granted shall continue and be in force and effect for a period of twenty (20) years from and after the date of the final approval of this ordinance.

Section 6. All franchises or rights herein granted are upon the condition that the Southern Pacific Company shall within sixty (60) days from the date of approval of this Ordinance file with the City Recorder a written acceptance of its provisions.

Passed by the Council this 10th day of August, 1938.

Approved by the Mayor this 11th day of August, 1938.

G.R. ASHTON
Mayor

ATTEST: [Signature]
Recorder of the City of Albany, Oregon.

STATE OF OREGON)
COUNTY OF LINN) ss.
CITY OF ALBANY)

I, K.R. Horton, Recorder of the City of Albany, Linn County, Oregon, do hereby certify that the annexed and foregoing copy of Ordinance # 1456, has been by me carefully compared with the original Ordinance Bill # 1557, and that it is a true and correct copy of the whole of said Ordinance Bill # 1557, passed by the Council, August 10th, 1938, and approved by the Mayor August 11th, 1938.

Witness my hand and official signature and the seal of the City of Albany, this 11th day of August, 1938.

[Signature]
Recorder of the City of Albany, Oregon.