

ORDINANCE No. 1534

AN ORDINANCE granting to Oregon Electric Railway Company, a corporation, its successors and assigns, a franchise or right to maintain railway tracks and to operate cars thereon and to transport freight thereon and to maintain equipment for power purposes on Hill Street in the City of Albany, Oregon.

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

Section 1. That there be and is hereby granted to Oregon Electric Railway Company, a corporation, hereinafter referred to as the "Railway Company," its successors and assigns, a franchise or right to maintain a single track railway spur or siding of standard gauge as heretofore constructed, and to operate and run cars thereover and to transport freight thereon, upon the conditions hereinafter specified, upon the following named streets in the City of Albany, Oregon, to wit:

Commencing at a convenient point of connection with the track of the Railway Company on Water Street between Madison and Hill Streets, and running thence Northerly on and across that part of Hill Street north of Water Street to the east side of said Hill Street; thence Northerly to the North end of Hill Street,

said track being so located as to conveniently serve industries in Block 131 Hackleman's Addition to the City of Albany, Oregon.

There is also hereby granted to the Railway Company, its successors and assigns, a right to maintain poles, wires, and other necessary and convenient equipment on the above described streets for the purpose of conveying power for the operation of said cars, together with all necessary and convenient feed and service lines in connection therewith, all as heretofore constructed and maintained in said streets.

Section 2. The Railway Company, its successors and assigns, shall maintain said tracks so as to conform to the grade of the streets and in such manner as not to unnecessarily interfere with the public use thereof.

Section 3. The Railway Company, its successors and assigns, shall, during the term of this franchise, keep the portions of said streets upon which said tracks are maintained, including the space within the wyes, in good condition and repair and corresponding to the condition in which the remainder of the streets is maintained, for the whole width of the railway between the rails of each track and for the width of one foot on the outside of the rails of the track.

Section 4. The motive power employed for operating cars upon said tracks shall be electricity or any power other than steam, provided that steam may be used for operating cars temporarily in case of accident or emergency.

Section 5. The Railway Company, its successors and assigns, shall provide and keep in use such means and appliances as will control and maintain its electric currents in their proper channel and on its or their own wires, tracks, or other structures so as to prevent injury to property, pipes, and other structures belonging to the City of Albany or to any person, firm or corporation within said City, and shall repair and renew the said means and appliances from time to time and change and improve the same as may be necessary to accomplish said purpose at its own cost and expense and at its or their own risk in selecting and maintaining such means and appliances as shall prevent injury to the property, pipes, and other structures belonging to the said City of Albany or to any other person, firm, or corporation.

Section 6. All rights herein created shall continue and be in force and effect from and after the date of the final approval of this ordinance and until the 26th day of February 1961, and the City of Albany hereby reserves the right to alter, change, or amend this ordinance or any of its provisions at any time.

Section 7. In further consideration of the rights, privileges, and franchises hereby created, the Railway Company, its successors and assigns, shall annually pay to the City of Albany during the term of this franchise the sum of one dollar.

Section 8. In the event any street or portion of a street granted by this franchise and used by said Railway Company, its successors or assigns, shall during the life of this franchise be abandoned or cease to be used for one year by said Railway Company or its successors or assigns, said Railway Company or its successors or assigns shall forthwith remove its tracks and other property therefrom and on the removal thereof restore, repair and reconstruct that portion of the street which under this franchise was to be kept in repair by the said Railway Company, its successors and assigns, so that it shall be placed in such condition as may be required by the City Council, and a failure to comply within a reasonable time with any of the provisions or conditions of this franchise shall authorize the City to declare an immediate forfeiture of this franchise and in such case, the road or track maintained hereunder shall be forfeited to the City, or, in case of failure, neglect or refusal of the said Railway Company, its successors and assigns, after thirty days' notice given by the City Council, to repair, improve, or maintain the portions of the streets above described in this franchise, then the said 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 with like effect as a general tax upon real or personal property of the said Railway Company, its successors or assigns, after delinquency; and if any street covered by this franchise be abandoned by the said Railway Company,

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its successors or assigns, that portion of this franchise under which said street was used by the said Railway Company or its successors or assigns shall thereafter be null and void and shall be forfeited without any further action on the part of the City.

Section 9. The said Railway Company, its successors and assigns, shall allow any other railroad company to use in common with it the track or tracks maintained pursuant to this franchise upon such other company obtaining the consent of the Council expressed by ordinance, and in the event such other company desires such common user, it shall pay an equitable and proper portion of the costs and expense for the maintenance and repair of the tracks and appurtenances maintained and operated under this franchise and used by such railroad companies jointly.

Section 10. At the expiration of the term of this franchise, the City of Albany, at its election and upon the payment therefor of a fair valuation thereof, may purchase and take over to itself the property of the said Railway Company, its successors or assigns, which may be maintained and operated under this franchise and which may be situated on or in any of the above described and named streets and places, and should the said City of Albany, upon the expiration of this franchise, exercise such right of purchase, said property of the Railway Company its successors or assigns, shall be and become the property of the City of Albany upon an ordinance duly enacted authorizing the same and upon the City of Albany paying to the said Railway Company, its successors or assigns, the valuation thereof, which valuation shall be of all appurtenances, appliances, equipment, structures, and tracks used by the said Railway Company, its successors and assigns, under this grant, basing such valuation upon the fair market value of the property to be taken as it is then located ready for actual use, and such valuation shall be arrived at by the City of Albany appointing one appraiser, the Railway Company, its successors or assigns, appointing one appraiser, and these two appraisers appointing a third appraiser, which three appraisers shall have the power and authority to employ expert valuers to aid them in arriving at the value of said property.

Section 11. Said Railway Company, its successors and assigns, shall, within thirty days after this ordinance shall be in force, file in the office of the City Recorder a written acceptance of the same, and a failure on the part of said Railway Company, its successors and assigns, to file such written acceptance within the time specified shall be deemed an abandonment and rejection of the rights and privileges hereby granted and this ordinance shall thereupon become null and void.

Passed by the Council February 26, 1941.
Approved by the Mayor February 26, 1941.

A.G. Senders
Mayor

ATTEST K.R. Horton
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 foregoing copy of Ordinance # 1534, has been by me carefully compared with the original Ordinance Bill # 1654, now on file in this office and that same is a true and correct copy of said Ordinance Bill # 1654, as passed by the Council of the City of Albany, on the 26th day of February, 1941, and approved by the Mayor on the same date.

Witness my hand and official signature and the seal of the City of Albany, Oregon, this 27th day of February, 1941.

K.R. Horton
Recorder of the City of Albany, Oregon.