

Ordinance No. 13053.

An Ordinance granting to The Oregon Water Power and Railway Company, and its successors and assigns, the right and privilege to construct and to maintain and operate railways in the City of Portland.

The City of Portland does ordain as follows:

Section 1: That the right and privilege is hereby granted to The Oregon Water Power and Railway Company, a corporation, incorporated and existing under the laws of the State of Oregon, and having its principal office and place of business at the city of Portland therein, its successors and assigns, to lay down, construct, maintain and operate a single or double track railway, at the option of said railway company, its successors and assigns, with necessary and convenient switches, cross-overs, side-tracks, and turn-outs, and to operate cars for the transportation of freight and passengers for hire over, in and upon the following streets:

To cross the intersection of East Third and East Lincoln Streets in a southeasterly direction:

To cross East Grant Street between East Third Street and Union Avenue:

To cross East Sherman Street near the west line of Union Avenue:

To run in and upon Union Avenue from the intersection of Union Avenue with East Lincoln Street to the south line of Clinton Street:

To cross Ellsworth Street approximately four hundred (400) feet west of the west line of East Sixth Street:

To cross Center Street approximately four hundred and sixty (460) feet west of the west line of East Eighth Street:

To cross Poplar Street approximately one hundred and twenty (120) feet east of the east line of East Eleventh Street:

To run in and upon Garfield Avenue and East Eleventh Street at and near the intersection of said streets, in a general southwesterly direction:

To cross South Avenue between East Tenth and East Eleventh Streets:

To cross East Tenth Street and a street running approximately east and west in the P. J. Martin Tract at and near their intersection:

To cross a street running approximately east and west in the P. J. Martin Tract between East Tenth Street and the Willamette River:

To cross Spokane Avenue in Sellwood between Grand Avenue and the Willamette River:

To cross Tacoma Avenue near the west line of Grand Avenue:

To run in and upon Grand Avenue from its intersection with Tacoma Avenue to and across the intersection of Marion Street and East Eighth Street:

To cross Linn Avenue and East Ninth Street at and near their intersection:

To cross East Tenth Street between Linn Avenue and Ochoco Avenue:

To cross East Eleventh Street between Linn Avenue and Ochoco Avenue with main line and turn-out line:

To cross East Twelfth Street between Linn Avenue and Ochoco Avenue with main line and turn-out line:

To cross Linn Avenue near East Thirteenth Street and connect with main line in East Thirteenth Street:

To cross Ochoco Avenue near East Thirteenth Street and to connect with line in East Thirteenth Street:

To run in Ochoco Avenue from a point between East Twelfth and East Thirteenth Streets to the intersection of East Twentieth Street:

To cross East Fourteenth Street between Ochoco Avenue and Linn Avenue:

To connect turn-out line crossing East Fourteenth Street with main line at the intersection of East Fifteenth Street and with main line in East Thirteenth Street:

To cross East Twentieth Street near Ochoco Avenue:

To cross East Twenty-second Street between Linn Avenue and Ochoco Avenue:

To cross East Twenty-third Street and Linn Avenue at and near their intersection:

All within the limits of the City of Portland, in the County of Multnomah, in the State of Oregon.

Section 2: Said The Oregon Water Power and Railway Company, its successors and assigns, may operate and propel cars over and upon the railway tracks constructed under authority of this Ordinance, by means of overhead or underground electrical power, storage batteries, compressed air, or by cables or other improved mechanical power, and may at any time change the motive power and mode of operating and propelling all cars operated by it under this franchise; and for the purpose of carrying and conveying electrical currents from one point to another, may put up, erect, maintain and use upon and over, and put down, construct, maintain and use in and under, the streets which this franchise covers, poles and overhead wires, and underground slots and conduits and underground wires and cables for the purpose of operating, conducting and maintaining the railway and railways and shops of the said The Oregon Water Power and Railway Company.

Section 3: The railway tracks constructed by authority of this Ordinance shall be laid as nearly as may be practicable in the center of the street and flush with the grade of the street as given by the City Engineer.

Section 4: For the purpose of laying down, constructing, repairing and reconstructing the railway tracks authorized by this franchise, The Oregon Water Power and Railway Company, its successors or assigns, shall not obstruct any street for a greater continuous distance than the length of five blocks at any one time or for a longer period than two weeks, excepting in case of strikes, riots, accidents or casualties, but the Common Council may extend such time at its discretion.

Section 5: The cars used by said The Oregon Water Power and Railway Company, its successors and assigns, shall be of approved construction for comfort, convenience and safety, and shall be provided with brakes or other necessary apparatus for stopping the same.

Section 6: Said The Oregon Water Power and Railway Company, its successors and assigns, may operate their cars under this franchise at a rate of speed not exceeding twelve miles per hour, and no car shall be allowed to stop or remain still upon any intersection of streets, and any conductor, motorman, gripman, or other employe of said railway company, its successors or assigns, in charge of any such car which may be run at a greater speed than twelve miles per hour, or be stopped or allowed to remain still upon any street intersection of said city, shall be deemed guilty of a misdemeanor and upon conviction thereof before the municipal court shall be punished by a fine of not less than five dollars nor more than twenty-five dollars for each and every offense.

Section 7: Said The Oregon Water Power and Railway Company, its successors and assigns, may charge and collect from each passenger traveling upon its railways a fare of five cents, and no more, for traveling each continuous trip in any one direction within the limits of the City of

Portland over the line of railway constructed by authority of this ordinance and its other lines of railway within the limits of said City.

Section 8: All rights, privileges and franchises granted to or conferred upon said The Oregon Water Power and Railway Company, its successors or assigns, by this Ordinance shall continue, exist and remain in force for the term and period of Twenty-five years from and after the approval of this Ordinance.

Section 9: It shall be unlawful for any person or persons to obstruct the railways of said The Oregon Water Power and Railway Company during the construction or operation of the same, and any person or persons who shall violate the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof before the municipal court of the City of Portland shall be punished by a fine of not less than five dollars nor more than twenty-five dollars for each and every offense.

Section 10: Any conductor, motorman, or other employe of or upon the railways of said The Oregon Water Power and Railway Company, or any passenger thereof or other person on or about the cars belonging thereto or being operated thereon, who shall by offensive, indecent, opprobrious, profane or abusive language, or otherwise insult, abuse or maltreat any passenger on said cars or any conductor, motorman or employe of said The Oregon Water Power and Railway Company, its successors or assigns, thereon or about the same shall be deemed guilty of a misdemeanor, and upon conviction thereof before the municipal court of the city of Portland shall be punished by a fine of not less than five dollars nor more than twenty-five dollars for each and every offense.

Section 11: Nothing in this Ordinance or any right, privilege or franchise granted by this ordinance shall be construed to prevent the municipal authorities of the City of Portland from grading, paving, planking, macadamizing, improving, altering or repairing any of the streets granted under this franchise, but all such work shall be done so as to afford as little obstruction or hindrance as possible to the passage of cars and the operation of said railways, and the owner 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 progress of street grading, paving, planking, macadamizing, improving, altering or repaving.

Section 12: Said The Oregon Water Power and Railway Company, its successors and assigns, owner or owners of the railway tracks constructed under authority of this Ordinance, shall plank, pave, repave, reconstruct, or otherwise improve or repair, whenever, and in such manner as the municipal authorities may direct, the whole or any portion of the street or streets along and over which the said tracks shall be constructed the whole width of said railways between the rails and between the tracks and for the width of one foot on the outside of said rails, and also pay its proportionate share of the repair or reconstruction of any bridge or elevated roadway along or over which said railways shall be laid. It is expressly understood that if said The Oregon Water Power and Railway Company, its successors or assigns, owner or owners of the railways constructed under this Ordinance shall, after written notice from the municipal authorities so to do, fail, neglect, or refuse for thirty days to plank, pave, repave, reconstruct or otherwise improve or repair or maintain in good condition the whole or any portion of street or streets along or over which said railways shall be constructed, the whole width of said railways between the rails, between the tracks and for the width of one foot on the outside of said rails, then and in that event the City of Portland may, and it is hereby authorized to make such pavement, repavement, reconstruction, repair, or other improvement, as aforesaid, and the cost and expense thereof shall become a charge and lien upon said railway and the railway franchise to be enforced by suit or action as the Com-

men Council shall elect.

Section 13: The laying down and the construction of the railway and the poles, wires and underground conduits and cables authorized by this Ordinance shall be subject to the approval of the Board of Public Works, or its successors, as provided and required by the Charter of the City of Portland, and it is hereby provided that the said The Oregon Water Power and Railway Company, its successors and assigns, shall be required to maintain its proportion hereinbefore specified of the streets over and upon which the railway tracks constructed under authority of this ordinance are laid down as required by the Common Council or Board of Public Works, or its successors, of the City of Portland, and for a failure so to do, the right hereby granted to construct and maintain said railways and operate cars thereon may be declared forfeited by the Common Council.

Section 14: Said The Oregon Water Power and Railway Company, its successors and assigns shall pay annually to the City of Portland as a license upon each passenger car run by it or them over their railways constructed under this ordinance the sum of twenty-five dollars for each car with twelve foot car body, and the sum of fifty dollars for each car with thirty foot car body, and the sum of One Hundred dollars for each car with car body exceeding thirty feet in length, but no additional license shall be charged for operating over the tracks authorized to be constructed by this Ordinance any car upon which the license has been paid for operating the same over any of the other railway tracks of said The Oregon Water Power and Railway Company.

Section 15: Said The Oregon Water Power and Railway Company, its successors and assigns, shall commence the construction of the railways authorized to be constructed by this Ordinance within six months from and after the final approval of this Ordinance, and shall complete the construction thereof and commence the operation of cars thereon within two years thereafter. The failure of said Railway Company to construct any portion of the railway authorized to be constructed by this ordinance, within the time above specified, shall constitute forfeiture of the rights hereby granted.

Section 16: Said The Oregon Water Power and Railway Company, shall within thirty days after the final approval of this Ordinance file in the office of the Auditor of the City of Portland its written acceptance of this Ordinance and the rights and privileges by this Ordinance granted to and conferred upon it, its successors and assigns, subject to the terms, restrictions and conditions in this Ordinance contained; failure of said The Oregon Water Power and Railway Company, to accept this Ordinance within thirty days from the approval thereof shall be deemed and held to be an abandonment of all the rights and privileges by this Ordinance conferred upon said company.

Section 17: Whenever the municipal authorities of the City of Portland shall improve the street or streets along and on which railways shall have been constructed under authority of this Ordinance with wooden blocks, stone blocks, asphalt, brick, or other hard surface pavement on a concrete, stone or brick foundation, the said The Oregon Water Power and Railway Company, its successors and assigns, shall be required, on direction of the municipal authorities so to do, to put down on and along said railway where said streets are so improved, rails of not less than six inches in depth and weighing not less than sixty pounds per yard and of such pattern and laid on foundation to be approved by municipal authorities, and shall repave the streets between the tracks the same as the remainder of said street.

Passed the Common Council, November 5, 1902,

Thos. C. Devlin, Auditor,

Approved, November 10th, 1902,

Geo. E. Williams, Mayor,

Approved by the Board of Public Works, November 11th, 1902,

A. L. Mills, Chairman,

ATTEST:

Thos. C. Devlin, Clerk.

A C C E P T A N C E.

TO THE HONORABLE MAYOR AND COMMON COUNCIL
AND THE HONORABLE BOARD OF PUBLIC WORKS
OF THE CITY OF PORTLAND, OREGON.

Gentlemen:-

Pursuant to the requirements of Section 16 of an Ordinance of the City of Portland, Oregon numbered 13,053 entitled "An Ordinance granting to The Oregon Water Power and Railway Company, and its successors and assigns, the Right and Privilege to Construct and to Maintain and Operate railways in the City of Portland", passed the Common Council November 5th, 1902, approved by the Mayor of said City November 10th, 1902, and approved by the Board of Public Works of said City, November 11th, 1902, the said The Oregon Water Power and Railway Company, a corporation, does hereby accept said ordinance and the franchises, rights and privileges therein granted to and conferred upon it, its successors and assigns, subject to the terms, restrictions and conditions in said ordinance contained.

IN WITNESS WHEREOF, the said The Oregon Water Power and Railway Company, pursuant to resolution of its Board of Directors, duly passed authorizing the same, has caused these presents to be executed by its President and Secretary and its corporate seal to be hereunto affixed this 21st day of November, 1902.

(Corporate)
(Seal.)

THE OREGON WATER POWER AND RAILWAY COMPANY,

By W.H. Hurlburt, President,

By Wm. T. Muir, Secretary.
