

12010

ORDINANCE NO.

An Ordinance granting a revocable permit to Oregon-Washington Railroad & Navigation Company, its successors, lessees and assigns, to construct, equip, maintain and operate an industry spur track upon East Third Street, between East Alder Street and East Morrison Street, and declaring an emergency.

The City of Portland does ordain as follows:

Section 1. That a revocable permit be and the same is hereby granted to Oregon-Washington Railroad & Navigation Company, its successors, lessees and assigns (hereinafter referred to as the grantee) to construct, equip, maintain and operate an industry spur track upon East Third Street, between East Alder Street and East Morrison Street, the center line of said track being more particularly described as follows:

Beginning at a point in the center line and at the end of the spur track authorized by Ordinance No. 45219, dated July 16, 1924, on East Third Street, between East Alder Street and East Morrison Street, thence South, parallel to and thirteen (13) feet East of the center line of the East Third Street Industry Lead of the grantee, fifty (50) feet to a point, which point is the end of this description. The curb and sidewalk shall be cut back to allow for 6 feet of clearance between the center line of the proposed spur track and the face of the curb.

Section 2. The grantee shall file in quadruplicate with the City Engineer complete plans showing the exact location within the street lines of all proposed work, and no work hereunder shall be done until the City Engineer shall have approved same, one of the copies of the plans so to be approved to be returned to the said grantee. All work shall be done in a good and substantial manner and to the satisfaction of the City Engineer.

Section 3. This permit is conditioned that the grantee will at its own cost and expense during the exercise of the privileges hereby granted, pave, repave, repair or otherwise improve, maintain and adjust in like manner or as directed by the City Engineer, any part or parts of the roadway and sidewalk areas, as well as catch basins, inlets, underground construction and any other construction within the street lines which by reason of laying the above mentioned track, shall, in the opinion of the City Engineer, require repairs, adjustments or construction. The grantee shall pay the City any additional costs of construction, reconstruction, altering, repairing or maintaining any municipal utility now existing or which may hereafter be built, caused by the construction and maintenance of said spur track and its appurtenances, the equitable amount of such costs to be determined by the City Engineer.

The grantee shall fill in to the established grade, plank, pave, repave, reconstruct or otherwise improve or repair and keep in good condition from time to time whenever and in the manner directed by the City of Portland, those portions of the street between the rails of the above mentioned track and those portions outside of the rails extending to the ends of cross-ties, provided, that in no case shall the portion outside of the rails be less than one (1') foot in width, measured from the outside of the rail.

Section 4. This permit is granted upon the condition that the grantee shall allow any other company, including any municipal belt line, commercial railroad that may hereafter be authorized, operated or maintained by the City of Portland and including railroad companies operating engines, locomotives or cars by electrical current, steam or gas power, to be used in common with the grantee, the tracks herein authorized to be laid, upon obtaining the consent of the Council of the City of Portland, expressed by ordinance or by the people by the initiative, each user paying a proper and equitable proportion for the construction and repair of the tracks so used jointly.

Section 5. This permit so granted to said Oregon-Washington Railroad & Navigation Company by this ordinance shall not in anywise or manner interfere with or prevent the City of Portland from granting permits or franchises to other corporations or individuals for the construction of other tracks crossing the track which may be constructed under this ordinance and for the maintenance and operation of such tracks.

Section 6. The permit hereby granted is revocable at any time at the pleasure of the Council of the City of Portland, and no expenditure of money thereunder or lapse of time or other act or thing shall operate as an estoppel against the City or be held to give the grantee any vested or other rights. Upon the revocation hereof, the grantee shall, within thirty days, remove all tracks and appurtenances constructed under said permit and shall put those portions of the streets affected by such removal in a condition as good as are the adjoining portions of said street at the time of removal; all to be done as directed by and to the satisfaction of the City Engineer.

Section 7. This ordinance shall not exempt the grantee from taking out licenses or permits required by existing ordinances for any operations or construction carried on under the permit hereby granted.

Section 8. The permit hereby granted shall not become effective until there is filed by the grantee with the City Auditor a document satisfactory to the City Attorney accepting the terms and conditions hereof.

Section 9. Inasmuch as this ordinance is necessary for the immediate preservation of the public health, peace and safety of the City of Portland in this: In order that switching facilities may be provided for an important industrial concern; therefore, an emergency is hereby declared and this ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council, _____

Mayor of the City of Portland

Attest: _____

Auditor of the City of Portland