

ORDINANCE NO. 73235

An Ordinance granting a revocable permit to the Oregon-Washington Railroad & Navigation Company, and its Lessee, Union Pacific Railroad Company, their successors and assigns, to construct, equip, maintain and operate a new spur track and to shift and relocate a portion of an existing spur track, each in the street area of Southeast Second Avenue and crossing Southeast Market Street between a point approximately 50 feet south of the south line of Southeast Clay Street and the south line of Southeast Market 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 the Oregon-Washington Railroad & Navigation Company and its Lessee, Union Pacific Railroad Company, their successors and assigns (hereinafter collectively referred to as the Grantee) to construct, equip, maintain and operate a new standard gauge industry spur track and to shift and relocate a portion of an existing spur track in the street area of Southeast Second Avenue and crossing Southeast Market Street between a point approximately 60 feet south of the south line of Southeast Clay Street and the south line of Southeast Market Street, the center line of the new industry spur track being more particularly described as follows:

Beginning at a point in the center line of industrial lead track in S.E. 2nd Avenue, which point is in center of S.E. 2nd Avenue and 50 feet North of North line of S.E. Market Street; thence Southerly through a No. 6 turnout to the left a distance of 74.5 feet; thence on a curve having a radius of 286.84 feet, to the right a distance of 5.5 feet to a point in the Southerly line of S.E. Market Street.

The portion of the existing spur track to be shifted and relocated is as follows:

The turnout now located at 25 feet north of the north line of S.E. Market Street on the center line of S.E. Second Avenue shall be moved north a distance of 34.7 feet and thence through a No. 7 turnout to the right, the present spur track shall be shifted westerly to a maximum distance of three feet for a length of approximately 78 feet.

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 the same, and one of the copies of the plans so to be approved is 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 catchbasins, inlets, underground construction and any other construction within the street lines which by reason of the laying of the above mentioned tracks, 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 tracks and those portions outside of the rails extending to the ends of crossties, provided, that in no case shall the portion outside of the rails be less than one foot (1 ') 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 or 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 use 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 of the cost of construction and repair of the tracks so used jointly.

Section 5. This permit so granted to said Oregon-Washington Railroad & Navigation Company and said Union Pacific Railroad Company 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 tracks 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 revocation hereof, the grantee shall within thirty (30) 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 authority for the construction of said industry spur tracks may be granted without undue delay; therefore, an emergency is hereby declared to exist, and this ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council DEC 14 1939

JOSEPH K. CARSON, Jr.

Mayor of the City of Portland

ATTEST:

Will E. Gibson.

Auditor of the City of Portland

Com'r Bowes

LEE

A P P O V E D

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DEC 8 1939
By L.G. Apperson
Chief of Bureau of Construction

APPROVED

DEC 9 1939

Ben S. Morrow
City Engineer

THURSDAY

W.A.B.

Bowes

THE FOLLOWING IS THE OFFICIAL VOTE ON THE FORGOING ORDINANCE		
	YEAS	NAYS
BENNETT	1	
BOWES	1	
CLYDE	1	
RILEY	1	
CARSON	1	

DEC 15 1939

Will E. Gibson
Mayor of the CITY OF PORTLAND
By Elbert G. Roff Deputy