

AN Ordinance authorizing the Oregon Railroad and Navigation Company its successors and assigns, to lay railway tracks upon certain streets in the City of Portland, and to run cars and locomotives over the same.

WHEREAS, by Ordinance No. 510, passed by the City Council of the City of East Portland on the 17th day of April 1892, the Oregon Railway and Navigation Company was authorized to lay railway tracks and run cars over the same within the then City of East Portland subject to the conditions and upon the terms stated in said Ordinance, the first section whereof is as follows, to-wit:

"Section 1. The Oregon Railway and Navigation Company of Portland, Oregon, is hereby authorized and permitted to lay a railway track and run cars over the same, along the line of the located road of said Company through the city of East Portland, through what is known as "Sullivan's Gulch", crossing all streets running north and south from Eighteenth street to Water street inclusive, and also the following streets running east and west, to-wit: Holladay Avenue, Pacific, Oregon, Willamette, Salem, "A", "B", "C" and "D" streets, and First, Cedar, Elm, Maple and Laurel streets in Holladays Addition, and First street in McMillen's Addition, and also along Second street from where the same intersects "D" street, southerly to Jefferson street and also crossing Jefferson street, Adams, or Washington street west of Second street to the Willamette River as shown, designated and described upon the plat of said Oregon Railway and Navigation Company's located line of its railroad, filed with the Recorder of the City of East Portland on March 20, 1892, and the right of way over, along and across all of said streets as shown upon said map is hereby granted to the said Oregon Railway and navigation Company for the purpose of laying a railway track thereon, running cars over the same, and using the same for all legitimate railroad purposes. Said Oregon Railway and Navigation Company shall not cut away, grade down or occupy any portion of First street in McMillen's Addition opposite Block No. 2 and 3 in said Addition further east than a line parallel with and forty (40) feet west of the west line of said Blocks, nor any portion of said First street north of the north line of said Block No. 2 east of a line commencing forty (40) feet west from the northwest corner of said Block No. 2 and running thence to the south-east corner of the warehouse purchased by said company of Geo. W. Shaver, nor any part of said First street in front of fractional block 4 east of a line drawn from the southwest corner of said fractional block No. 4 to a point forty feet west from the southwest corner of block No. 3 in said McMillen's Addition; and provided further, that said company, before cutting down or occupying that portion of First street in front of said fractional block No. 4, shall purchase and dedicate for the purposes of a street, all that part of said fractional block No. 4 west of a line commencing at a point forty feet east from the southwest corner of said fractional block No. 4, and running thence to the southwest corner of block No. 3 in said McMillen's Addition; and provided further, that said company shall erect and thereafter maintain upon and along the foresaid designated line upon the top of the bank a substantial fence; and, provided further that said company shall, at its own cost and expense protect said First street east of the line aforesaid, from caving or being washed away, and so that the slope of the cut of the excavation made by said company shall not encroach east of the line hereinbefore described."

WHEREAS, after the passage of the said Ordinance and prior to the ninth day of July 1896, the Oregon Railway and Navigation Company constructed railway tracks over, along and across a portion of the streets mentioned in the first section of said ordinance including a track along what was Second East street in the city of Portland now East Second street in the city of Portland, to what was C street in the city of East Portland now East Couch street in the city of Portland, but did not exercise the right conferred upon it by said ordinance to construct tracks further south on what was Second street in the City of East Portland; and

WHEREAS, after the passage of said ordinance and on or about the ninth of July 1898, all of the franchises, railways, properties, rights and privileges of the Oregon Railway & Navigation Co. were, under a decree of the United States Circuit Court for the district of Oregon, in a suit commenced by the Farmers' Loan & Trust Company against the Oregon Railway & Navigation Company and others, sold to A. Marcus, Chas. S. Fairchild and Charles T. Beaman and were afterwards, to-wit, on August 17, 1898, sold and conveyed by the said Marcus, Fairchild and Beaman to The Oregon Railroad & Navigation Company, a corporation duly organized and existing under and by virtue of the laws of the State of Oregon; and

WHEREAS, a doubt may exist as to the right of The Oregon Railroad & Navigation Company to exercise the right and privilege to lay tracks on East Second street in the City of Portland south of East Couch street conferred by the said Ordinance of the City of Portland upon the said Oregon Railway & Navigation Company; therefore,

The City of Portland does ordain as follows:

Section 1. That the Oregon Railroad & Navigation Company, a corporation organized and existing under the laws of the state of Oregon, and hereby is granted the right and privilege to lay railway tracks and run cars over the same along East Second street from where the same intersects the East Couch street, southerly to East Grant street and thence along said East Grant street to the Willamette River, crossing all streets running east and west from East Couch street to East Grant street inclusive, and the right of way over, along and across all of said streets is hereby granted to the said The Oregon Railroad & Navigation Company for the purpose of laying railway tracks thereon, running cars and locomotives over the same and using the same for all legitimate railroad purposes.

Section 2. That the right and privileges is hereby granted to the said The Oregon Railroad & Navigation Company to lay, maintain and operate along East Second street, side tracks of standard gauge to connect with the said track of the said The Oregon Railroad & Navigation Company for the purpose of furnishing loading facilities to persons owning and occupying property along or adjacent to said Second street.

Section 3. All of the tracks mentioned in the first and second sections of this Ordinance shall be laid and maintained flush with the established grades of the streets along or upon or across which said tracks are constructed.

Section 4. The said The Oregon Railroad & Navigation Company and its successors shall during the life of this franchise, pave, repave, plank, replank, construct or reconstruct, repair from time to time whenever directed by the Common Council, the portion of the street used by said railroad company and the portion of the street between parallel lines extending two feet beyond the outer rails and shall during the life of this franchise maintain all such portions of said streets as required by the Common Council and Board of Public Works.

Section 5. The Common Council of the City of Portland reserves the right to make and alter regulations at any time as it may deem proper, fixing the rate of speed of railway cars and locomotives upon any and all of the tracks mentioned in this Ordinance and providing for the operation of the said tracks so as to prevent the obstructions by the cars and locomotives of the said Company of any of the streets crossed by the tracks mentioned in this Ordinance.

Section 6. The written acceptance of the terms of this Ordinance shall be filed by the said The Oregon Railroad & Navigation Company with the Auditor of the City of Portland before laying any track mentioned in this Ordinance and within thirty (30) days after the approval thereof.

Section 7. The said Oregon Railroad & Navigation Company its successors and assigns, shall commence the construction and have the said line completed by November 1st 1899; provided however that in case the said Railroad company should have to condemn the right of way, or should be enjoined from

constructing said line, that the said line shall be completed within six months from the time said injunction is disposed of, or condemnation proceedings shall have finally been terminated.

Passed the Common Council, January 13, 1899.

A. N. Gambell, Auditor

Approved, January 20, 1899.

W. S. Mason, Mayor.

The above Ordinance was approved by the Board of Public Works, this 21st day of January 1899.

A. N. Gambell, Clerk.

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