

ORDINANCE NUMBER 150.

An ordinance granting to the portland & Oregon City Railway Company, its successors and assigns, the right, privilege and ~~franchise~~ franchise to lay, construct and maintain railway tracks, and appurtenances thereto, and to operate cars thereover, and to transport passengers, freight, mail, baggage and express thereon, and to erect, construct, and maintain poles, wires, and underground conduits in the Town of Milwaukie, Clackamas County, Oregon.

MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. That there be, and is hereby granted, subject to the terms, restrictions and provisions in this ordinance contained, to the Portland and Oregon City Railway Company, a corporation of the State of Oregon, its successors and assigns, the franchise, right and privilege to lay down, relay, construct, reconstruct, repair, maintain, equip, operate, have, hold, use and enjoy lines of a Standard gauge railway, either single or double track, except as hereinafter set forth, with convenient switches, turnouts, crossovers, connections, spur tracks, and side tracks, for a railway line for the transportation of freight, passengers, mail, baggage and express, in, ever, along, and upon the following streets, avenues and highways in the Town of Milwaukie, Oregon, to-wit; Beginning on the east line of 35th Street, near the intersection of Sellwood Street; and thence running ~~thence~~ across 35th Street, and across Sellwood Street, to 34th Street; thence along 34th Street to Flmer Street; thence along Flmer Street to 29th Street; thence along 29th Street in a north-westerly direction to the end of 28th Street; thence in a northwesterly direction across Harrison Street at a point approximately 250 feet east of the intersection of 28th Street and Harrison Street.

Manner of Laying Tracks.

Section 2. All tracks laid under the authority of this ordinance shall conform to the established grade of the streets upon which they are constructed, so as to interfere as little as possible with the public use of the Streets. The rails laid in hard surface ~~streets~~ paved streets shall be steel rails weighing not less than seventy pounds to the yard and of a pattern to be approved by the Town Council,

and rails laid in other than hard surface paved streets shall weigh not less than sixty pounds to the yard. In laying, repairing, or reconstructing the said tracks, the grantee shall not obstruct any street for a greater distance nor for a longer time than is reasonably necessary and in carrying on said work the same shall be subject to the control of the Town Council or other lawfully constituted authority of the Town of Milwaukie.

Street improvements.

Section 3. Nothing in this ordinance, nor any right or privilege granted by this ordinance shall be construed to prevent the municipal authorities of the Town of Milwaukie from grading, sewerage, paving, planking, macadamizing, improving, altering or repairing any of the streets over which the tracks authorized by this ordinance are constructed or operated, but all such work shall be done so as to cause as little obstruction or hinderance as possible to the cars and operation of said railway, and the grantee shall have the privilege of running and shifting tracks so as to avoid as much as possible obstruction to the operation of cars during the progress of street improvements, ~~altering~~ ^{altering} grading, planking, macadamizing, improving, altering or repairing. The grantee shall fill in and grade to the established grade and plank, pave, repave, reconstruct, or otherwise improve and repair and keep in good condition from time to time, whenever directed by the Council, and in such manner as the municipal authorities may direct, those portions of the streets ^{or} streets or other public places along and over which the said tracks are, or shall hereafter be constructed, the whole width of said tracks between the rails and also between the tracks, and for a width of one foot on the outside of the outermost rail.

Motive Power.

Section 4. The grantee may operate and propel cars over and upon the streets mentioned in Section One of this Ordinance by

means of overhead or underground electrical power; provided, however, that cars may be propelled by gas or gasoline power for a period of three years from the approval of this ordinance by the Mayor; provided further that oil burning steam locomotives may be used for a period of three years from the approval of this ordinance by the Mayor, for propelling freight cars only, but not more than two freight trains shall be operated in each direction through the Town of Milwaukie in each twenty-four hours. And for the purpose of operating said railways and conveying power and electrical current for its own use may put up, erect, maintain and use poles and overhead trolley wires for supports therefor, and lay down, construct, maintain and use underground slots and conduits, and underground wires and conduits. The grantee may at any time change its motive power or mode of operating and propelling cars for any more improved method than electrical power, excepting steam locomotives shall not be used. The Town reserves the right at any and all times to regulate the location of poles in the streets, and said poles may be used free of cost by the municipality for telephone lines, street signs and fire signal system.

Operation.

Section 5. Cars shall be operated on said railway continuously hereafter, and at least six passenger trains shall be operated between the Town of Milwaukie and Portland, Oregon, in each direction each day during the life of this franchise granted by this ordinance, and the cars used shall be of the type and kind approved by the Railroad Commission of the State of Oregon. The first car out of Milwaukie for Portland shall leave not later than 5:15 o'clock A. M. of each day. And in the event that any street or portion of a street or other public place used by the grantee, shall, during the life of this franchise be abandoned by the grantee, it shall forthwith remove its tracks and other property therefrom, and on such removal, restore, repair, or reconstruct that portion ~~thereof~~.

of the street, which under this franchise, is to be kept in repair by the said grantee, so that it will be placed in such condition as may be required by the Council, and this franchise as to such street or portion of street or other public place so abandoned shall be null and void; and shall be forfeited without any further action on the part of the Town.

Forfeiture.

Section 6. The failure of the grantee to comply within a reasonable time with any of the provisions or conditions contained in this franchise shall authorize the Town of Milwaukie to declare by ordinance an immediate forfeiture of the franchise granted hereby.

Common User.

Section 7. This ordinance and franchise hereby granted is upon the condition that the said grantee shall allow any other railroad company to use in common with it the track or tracks hereinmentioned, upon obtaining the consent of the Council, expressed by ordinance, each paying an equitable and proper proportion of the construction and repair of the tracks and appurtenances used by said railroad companies jointly. The rules and regulations for the common user of said tracks shall be prepared by the grantee herein, and in case dispute arises as to the same, the matter in controversy shall be determined upon by the Council by ordinance.

Duration of Franchise.

Section 8. The right, privilege and franchise granted or conferred upon the grantee by this ordinance shall continue and remain in full force and effect for a period of Twenty-two (22) years from and after the approval of this ordinance by the Mayor.

Fares and Charges.

Section 9. In consideration of the rights, privileges and franchise granted herein, the Portland and Oregon City Railway Company, its successors and assigns, agree to charge and collect a rate of fare not to exceed five (5) cents from each passenger

travelling upon its railways for each trip travelled by the passenger in any one general direction either wholly within the Town of Milwaukie, or from or to any point in the Town of Milwaukie to or from any point embraced within the five (5) cent fare limits or distances over the lines of railway or railways of said grantee or joint line or lines used by said grantee by agreement or otherwise within the corporate limits of the City of Portland, Oregon.

Said grantee shall, on or before the date cars are operated on the railway herein mentioned, file a passenger tariff with the Railroad Commission of Oregon, for its approval, showing the aforesaid rates to be in force and effect.

Regulations.

Section 10. The right is hereby reserved to the Town of Milwaukie, by its Council, to make reasonable regulations for the public interest in regard to location of stations or stopping places for the taking on or letting off of passengers or freight, signals at street crossings, rate of speed, and all other matters within the police power of the Town of Milwaukie. Said Grantee shall not permit leaf cars or motors to stand in any street covered by this franchise, and said grantee shall at all times use all reasonable diligence to avoid ~~any obstruction~~ ^{obstruction} to travel thereon.

Opening Streets across right of way.

Section 11. The Town of Milwaukie hereby reserves the right to lay out and establish, across the private rights of way of the grantee herein, and within said Town, such streets as the Council or other authority may deem necessary without being liable in damages to the grantee for land so taken for street purposes, provided, however, that the said Town shall bear all expenses incurred in laying out and constructing such streets.

Penalty.

Section 12. If the grantee, or its successors and assigns, or its agents or employees, or any of them shall violate any of the provisions of this ordinance, such grantee, its successors or

assigns, or its agents or employees, shall upon conviction thereof before the Recorder of the Town of Milwaukie, forfeit and pay into the Town Treasury for ever such violation or refusal a sum not less than \$25.00 nor more than \$100.00, but the provisions of this section shall not be construed as a waiver of the right of forfeiture reserved by the Town in Section Six of this ordinance.

Acceptance.

Section 13. The grantee shall within thirty (30) days from the approval of this ordinance by the Mayor file in the office of the Recorder of the Town of Milwaukie, a written acceptance of this ordinance and of the rights, privileges, and franchise herein granted, and shall at the ~~time~~ ^{said} same time file with the Recorder satisfactory proof that it has provided and equipped its road with oil burning locomotives for the purpose of propelling freight cars, as herein provided. Failure on the part of the grantee to file such written acceptance, and said proof, within the time specified shall be deemed an abandonment and rejection of the provisions and rights herein conferred, and this ordinance shall thereafter be null and void. The acceptance provided for by this section shall be unqualified, and shall be an acceptance of all the terms, conditions, and restrictions contained in this ordinance.

Defining term "Grantee"

Section 14. Where the word "grantee" is used in this ordinance, the same shall be construed to include the said grantee, its successors and assigned.

Passed the Council this 19 day of June, 1917.

Approved by the Mayor this 21st day of June, 1917.

John M. Snyder
Mayor

Attest: D. P. Mathews
Recorder.

State of Oregon,) ss
County of Clackamas.)

I, D. P. Mathews do hereby certify that I am the Recorder of the Town of Milwaukie, Oregon, and that the foregoing is a true and correct copy of ordinance No. 150, ~~with the seal hereof~~, as the same appears in ~~the office~~ of the Recorder of said Town.

D. P. Mathews
Recorder.