

ORDINANCE NO. 4420

TITLE: AN ORDINANCE AMENDING ORDINANCE NO. 3887, GRANTING TO THE OREGON ELECTRIC RAILWAY COMPANY, A CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE RIGHT AND PRIVILEGE TO LAY DOWN, CONSTRUCT, MAINTAIN, OPERATE, AND USE A RAILROAD TRACK AND TO OPERATE CARS AND LOCOMOTIVES THEREOVER IN AND THROUGH THE CITY OF ALBANY AND AUTHORIZING ERECTION AND CONSTRUCTION OF ALL EQUIPMENT AND APPLIANCES NECESSARY FOR THE OPERATION AND MAINTENANCE THEREOF.

THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: Ordinance No. 3887 is hereby amended to read as follows:

Section 1: There be and hereby is granted to Oregon Electric Railway Company, a corporation, its successors and assigns, the franchise, right, and privilege to erect, maintain, equip, and operate a single railroad or railway track with sidings, switches, turnouts, crossovers, curves, and connections and to run and operate locomotives, passenger, freight, mail, baggage, and express cars along and upon the following named streets and places in the City of Albany, Oregon, to wit:

Beginning at the northeasterly boundary line of the City of Albany, said boundary line being the center line of Cox Creek; thence running southwesterly to Water Street; thence westerly along said Water Street to the west end thereof; thence in a southwesterly direction to the west boundary of the City of Albany, said west boundary being the east line of Umatilla Street extended northerly.

ALSO, beginning at the northeasterly boundary line of the City of Albany, said boundary line being the center line of Cox Creek; thence running southwesterly parallel to and northerly to the right-of-way of the Southern Pacific Company to Main Street.

All track or tracks to be constructed under the provisions of this ordinance shall be laid flush with the grade of the streets, where said streets have an established grade, when track is laid upon a street where no grade has been established, the track shall be brought to a grade whenever such grade shall be established by the City of Albany and when any established grade shall be changed by the City of Albany, the track shall be changed so as to conform with the grade as so established.

Section 2: Said Oregon Electric Railway Company, its successors and assigns, may construct, operate, equip, and maintain telegraph, telephone, power lines, and underground communications systems over, along, and under said streets for the purpose of transmitting messages or power over said lines and systems. For said purposes and for the practical enjoyment of said franchise, said Oregon Electric Railway Company, its successors and assigns, is hereby authorized to erect poles and string wires or conductors upon poles or other fixtures above the ground or said wires and communications systems may be laid underground in pipes, conduits, or otherwise protected.

Section 3: It shall be lawful for said Oregon Electric Railway Company, its successors and assigns, to make all needful and convenient excavations in any of said streets under the conditions hereinafter named for the purpose of establishing and maintaining said railway, telegraph, telephone, power lines, and underground communication systems, provided that if said excavation shall disturb any of said streets, the same shall be restored to good order and condition as soon as practicable and without unnecessary delay. Oregon Electric Railway Company, its successors, lessees, and assigns, shall, during the term of this franchise, keep the track portion of each street in as good condition and repair as the remainder of the street. In case such street shall be improved by the City, the cost of improving the track portion of such street shall be borne by the Oregon Electric Railway Company. For the purposes of this section, the term "track portion of the street" means the space between the rails and spaces eighteen (18) inches in width running parallel with and adjacent to the outside flange of each rail.

Section 4: That there be and is hereby granted to said Oregon Electric Railway Company, its successors and assigns, the right to maintain and operate cars over all private tracks and private property now occupied by it.

Section 5: Said Oregon Electric Railway Company, its successors and assigns, do further agree that in consideration of the grant of the franchise herein given, that should it become necessary at any time in the future to construct or install protective devices in any grade crossing within the area defined in Section 1 hereinabove, then and in that event the said Oregon Electric Railway Company agrees to bear any cost of said protective device that might be assigned by the Public Utility Commissioner or any other agency to the City of Albany. Protective device means a sign, signal, gate, or other device to warn or protect the public installed at a railroad-highway grade crossing, provided, however, that the City of Albany shall cooperate with the said Oregon Electric Railway Company to obtain and utilize all state and federal funds available for such projects. Also, in the event of the passage of a law by the State of Oregon providing for the apportionment of the cost of maintenance of protective devices, the said Oregon Electric Railway Company shall have the advantage and benefit of such law. The City of Albany shall maintain any required advance warning signs and pavement markings.

Section 6: Said Oregon Electric Railway Company, its successors and assigns, shall have the right to do all necessary excavating or grading for the repair and maintenance of said streets and all portions of said streets so excavated or graded must be replaced in as near the original condition as practicable, and said company, its successors and assigns, shall, during the term of this franchise, keep the portions of said streets upon which tracks are maintained, in as good condition and repair as the remainder of said street is maintained, for the whole width of said right-of-way between the rails of each track, and for the width of eighteen (18) inches on the outside of the rails of each track; and in case such street shall be improved by the said City of Albany, the cost of improving the portions of said streets last above described shall be borne by the said Oregon Electric Railway Company.

Section 7: The motive power employed for operating cars and locomotives upon such tracks shall be of diesel or diesel electric.

Section 8: The rate of speed of all cars shall not exceed 20 miles per hour between grade crossings within the limits of the City of Albany.

Section 9: In the event the City of Albany is required by public necessity to lay any sewer pipe, water pipe, or other public utility service along or across any street or part thereof on which the Oregon Electric Railway Company is hereby granted the privilege to maintain the railroad tracks and appurtenances thereto, the said Oregon Electric Railway Company, its successors, lessees, and assigns will pay to the City of Albany the additional cost which the City of Albany may incur by reason of said railroad tracks being located in and upon said streets. Any expense incurred by Oregon Electric Railway Company in the maintenance of its railroad tracks and appurtenances thereto, which may be incurred during the time that the City of Albany is laying any public utility hereinbefore mentioned, shall be at the expense of the Oregon Electric Railway Company.

Section 10: All the rights herein granted shall continue and be in force and effect five (5) years from and after the date of the final approval of this ordinance.

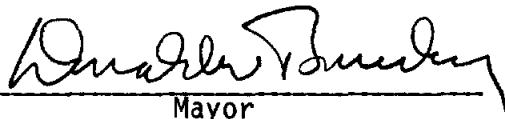
Section 11: All the rights, privileges, and franchise herein set forth are granted upon the condition that the said Oregon Electric Railway Company, its successors or assigns, shall, within sixty (60) days from and after the date of the passage of this ordinance and its approval by the Mayor, file with the City Recorder its written acceptance of its provisions.

Section 2: Inasmuch as this ordinance is necessary for the immediate preservation of the peace, health, and safety of the City of Albany, Oregon, an emergency is hereby declared to exist; and this ordinance shall be in full force and effect immediately upon passage by the Council and approval by the Mayor.

Passed by the Council: May 27, 1981

Approved by the Mayor: May 27, 1981

Effective Date: May 27, 1981



Mayor

ATTEST:



City Recorder

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