

## ORDINANCE NO. 1323

AN ORDINANCE amending Ordinance No. 575 of the City of Albany, Oregon, entitled:

"An ordinance granting to Oregon Electric Railway Company, a corporation, its successors and assigns, the franchise, or right to lay, construct and maintain street car tracks or other railway tracks, and to operate street cars, or other cars thereover, and to transport passengers, mail, baggage and express thereon, and also freight upon certain conditions, and to erect, construct, maintain and operate power, telephone and telegraph lines in the City of Albany." Passed by the Council April 10, 1912, and approved by the Mayor April 12, 1912.

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

Section 1. That Ordinance 575, entitled: "An ordinance granting to Oregon Electric Railway Company, a corporation, its successors and assigns, the franchise or right to lay, construct and maintain street car tracks or other railway tracks, and to operate street cars or other cars thereover, and to transport passengers, mail, baggage and express thereon, and also freight upon certain conditions, and to erect, construct, maintain and operate power, telephone and telegraph lines in the City of Albany." Passed by the Council April 10, 1912, and approved by the Mayor April 12, 1912, be and the same is hereby amended by adding Sections 18, 19 and 20 thereto to read as follows, to-wit:

Section 18. Said Oregon Electric Railway Company, its successors and assigns, may abandon its tracks on Fifth Street from the west side of Elm Street to the east side of Main Street, (hereinafter designated as Fifth Street track) its side track on Fifth Street in front of passenger depot between Ellsworth and Baker Street, (hereinafter designated as depot side track) and the Wye track running from Fifth Street track south on Baker Street, (hereinafter designated as Baker Street Wye track), and may cease to maintain or operate said Fifth Street track, depot side track, and Baker Street Wye track, and/or to run trains thereon, on the following conditions, to-wit:

(1) Said Oregon Electric Railway Company, its successors or assigns, shall on or before the 9th day of November, 1929 file with the City Recorder (a) Notice of its intention to abandon and to cease to use and/or operate said tracks, and (b) its acceptance of conditions of abandonment as in this ordinance specified.

(2) Said Oregon Electric Railway Company, its successors and assigns, on or before the 1st day of June, 1930, but not until and after it has filed said notice of intention and acceptance of the conditions of abandonment as specified in the preceding sub-division (1) of this ordinance, and as an imperformance of the conditions upon which it may abandon said Fifth Street track, depot side track and Baker Street Wye, shall:

- (a) Remove all rails and all brick on outside of each rail and one line of brick next to each rail on inside from said Fifth Street track and from the portion of depot side track which is west of the east line of Lyon Street.
- (b) Remove all loose and/or broken brick in track area.
- (c) All ties shall remain, except where rotten, which shall be removed, and all loose ties shall be made tight by underfilling or otherwise, with black-top or other street paving material.
- (d) All of the abandoned Fifth Street track area, including area in that part of depot side track west of east line of Lyon Street, shall be filled and paved with blacktop or asphalt concrete, in such a way and to such a width as will merge into the adjacent pavement without leaving any holes or depressions.
- (e) No rails or brick either between or outside of rails shall be required to be removed, unless loose and/or broken, from that part of depot side track east of east line of Lyon Street, or from Baker Street Wye track, but flanges between rails and bricks shall be securely and evenly filled in with black top or asphaltic concrete and tamped, and if practicable, remaining brick coated with black top or asphaltic concrete.
- (f) None of the above work shall apply to that part of Fifth Street track intersecting Main Street, and as to such Main Street track area Oregon Electric Railway Company shall be required to remove its rails and ties and bring vacated track area up to grade with gravel.
- (g) All overhead trolley lines, guy wires and connections along abandoned track shall be removed, but poles carrying high voltage transmission line may remain and continue in use.
- (h) All of the above work to be done in a good and workmanlike manner, and subject to the approval of the Superintendent of Streets. All black top to be according to City of Portland specifications.

Section 19. Oregon Electric Railway Company in and by its acceptance of the conditions of abandonment as hereinabove provided shall promise and agree to assume the maintenance of the area vacated by its said tracks and the work done by it, and to guarantee to maintain and keep same in repair and in good condition as the remainder of the adjacent Fifth Street up to and until April 12, 1937.

Section 20. Nothing herein contained shall in any manner be held to prejudice, affect or interfere with any of the rights, privileges and franchises of the Oregon Electric Railway Company, its successors and assigns, as granted and established

**ORDINANCE NO. 1323**

under and by said ordinance No. 575, or otherwise, except as expressly set forth, limited and contained in this ordinance.

Passed by the Council this 9th day of Oct., 1929

Approved by the Mayor this 9th day of Oct., 1929


VIRGIL L. CALAVAN,  
Mayor.

Attest:  
F.P. Nutting,  
Recorder.

STATE OF OREGON,  
County of Linn,

ss. I, F.P. Nutting, Recorder of the City of Albany, Linn County, Oregon, do hereby certify that the foregoing and annexed copy of Ordinance No. 1323, has been by me carefully compared with the original Ordinance Bill No. 1430, now on file in my office, and that it is a true and correct copy of all of said Ordinance Bill No. 1430, passed by the Council October 9, 1929 and approved by the Mayor October 9, 1929.

WITNESS my hand and official signature and the seal of the City of Albany, this 10th day of October, 1929.

  
Recorder of the City of Albany, Or.

-----

**ACCEPTANCE BY OREGON ELECTRIC RAILWAY COMPANY OF PROVISIONS AND CONDITIONS OF ABOVE ORDINANCE, NO. 1323.**

Oregon Electric Railway Company, a corporation, hereby accepts the provisions and conditions of that certain ordinance of the City of Albany, No. 1323, passed by the Council of said City on the 9th day of October, 1929, and approved by the Mayor of said City on the 9th day of October, 1929, and entitled:

"An Ordinance amending Ordinance No. 575 of the City of Albany, Oregon, entitled:

"An ordinance granting to Oregon Electric Railway Company, a corporation, its successors and assigns, the franchise, or right to lay, construct and maintain street car tracks or other railway tracks, and to operate street cars or other cars thereover, and to transport passengers, mail, baggage and express thereon and also freight upon certain conditions, and to erect, construct, maintain and operate power, telephone and telegraph lines in the City of Albany."

Passed by the Council April 10, 1912, and approved by the Mayor April 12, 1912." and hereby notifies the City of Albany of its intention to abandon and to cease to use and operate said tracks, all in accordance with the terms and provisions of said ordinance No. 1323.

Dated this 8th day of November, 1929.

OREGON ELECTRIC RAILWAY COMPANY  
By W.F. Turner, President  
Attest: Rob't Croebie,  
Secretary

(L.S.)

Mem.--Original on file in office of the City Recorder.