

ORDINANCE NO. 76

AN ORDINANCE GRANTING TO THE TEXAS & PACIFIC RAILWAY COMPANY THE RIGHT TO CONSTRUCT AND MAINTAIN A SWITCH OVER ALONG AND ACROSS NORTH SECOND STREET, PLUM STREET AND NORTH THIRD STREET IN THE CITY OF ABILENE.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF ABILENE:

SECTION ONE: That the Texas & Pacific Railway Company, a corporation operating a line of railroad within the State of Texas, County of Taylor and City of Abilene, be and the same is hereby granted the right and privilege of laying and maintaining a standard gauge railway track over, along, across and upon the following described streets in The City of Abilene, Taylor County, Texas, to-wit:

SECTION TWO: This franchise is granted to the Texas & Pacific Railway Company, and accepted by its subject to the following conditions and restrictions, to-wit:

That the tracks laid on the streets above named shall conform as nearly as practicable with the general level of said streets, and shall be constructed under the direction and supervision of the City Engineer of The City of Abilene.

SECTION THREE: Should the said street upon which this franchise is granted, in the future be ordered paved or otherwise improved by The City of Abilene, then the said Texas & Pacific Railway Company agrees to pave or improve that portion of the street so occupied by its tracks under this franchise, and 24 inches outside the rails, with the same kind and character of pavement, or shall construct the same character of improvement as The City of Abilene has seen fit to construct or order constructed or laid along other portions of aid streets immediately adjoining that portion of the streets occupied by said Texas & Pacific Railway Co. under this grant; and the said company shall place such foundation or foundations under its tracks on said streets as ordered by The City of Abilene, at a point occupied by the said Railway Company, such rails and construction in and about its tracks, and such culverts in and about its tracks and in said street so occupied, as the Board of Commissioners of The City of Abilene shall specify; and failing to comply with these conditions, The City of Abilene is in power to perform such work at the expense of the said Texas & Pacific Railway Company. The said Texas & Pacific Railway Company further agrees that in constructing any line of road under this grant that it will not obstruct the drainage of water along said streets, but will make ample provisions for the passage of the ordinary flow of water along said streets.

SECTION FOUR: That the said Texas & Pacific Railway Company is to hold The City of Abilene harmless from any and all damages whatever that may arise by reason of the construction, operation and maintenance of said track or switch over, along or across said streets, as well as from damages arising from defects and construction of said track or switch, if any, and also from any and all damages to abutting property upon said streets that may be occasioned by the construction of said switch or track over and along said streets.

SECTION FIVE: The Texas & Pacific Railway Company agrees and obligates itself to maintain such street crossings on said streets of such length and construction, and in such points and in such manner as may be designated and specified by the Board of Commissioners of The City of Abilene, after reasonable notice, and the said Texas & Pacific Railway Company agrees to keep such crossings in good condition.

SECTION SIX: The City of Abilene is to have the right to control and regulate the speed of trains over said track or switch, and is to have the right to prescribe such rules and regulations for the operation of cars thereon as it may deem advisable, and The City of Abilene reserves the right-of-way through and under said tracks for the purpose of laying of necessary water, gas, sewer pipes, and underground conduits, and The City of Abilene further reserves the right to grant to any other line of railroad, now operating in The City of Abilene, or which may hereafter build a line of railroad in The City of Abilene, the right to construct and maintain a road or switch across the said track laid under this grant at any point or points that the said City may deem advisable.

SECTION SEVEN: This franchise is granted to the Texas & Pacific Railway Company and accepted by it subject to The City of Abilene, through its Board of Commissioners, by proper ordinance passed, to permit any other Railway Company hereafter constructing a line of standard gauge railroad in The City of Abilene, to operate its trains or cars over or along any track or line of road which may be constructed by the Texas & Pacific Railway Company under this grant, and subject to the right of The City of Abilene to permit any other Railway Company hereafter so building into the City of Abilene to construct its main line or any necessary switch or spurs across any track which may be constructed by the Texas & Pacific Railway Company under this grant, and to permit said railway company, in the necessary use and occupation of any track so laid by it, to stand its engines, cars and trains across any track or switch constructed by the Texas & Pacific Railway Company under this grant, for any reasonable length of time which may be necessary to the exercise of the right of such railway company which may construct a line of railroad as foresaid.

SECTION EIGHT: This right and franchise is granted for the period of Twenty-five (25) years from the date of the passage of this ordinance, and the granting of this ordinance shall not be construed as exempting said Railway Company, its successors or assigns from paying to The City of Abilene all taxes that may be levied and assessed against it upon the value of its franchise and grant, and for the privilege herein granted the said Texas & Pacific Railway Company agrees to pay to the City of Abilene annually, the sums herein set out, as follows:

For the first five years the said Railway Company shall pay to The City of Abilene the sum of \$10.00 annually; for the second five years, the sum of \$15.00 annually; for the third five years, the sum of \$25.00 annually; for the Fourth five years the sum of \$35.00 annually, and for the Fifth period of five years the sum of \$50.00 annually. The payment of the above stipulated amounts shall be made to the City of Abilene annually, as in the case of other taxes.

SECTION NINE: The failure of the Texas & Pacific Railway Company to exercise the rights granted under this ordinance for a period of six months after the final passage hereof shall and will work a forfeiture of the rights herein granted, without any future acts on the part of The City of Abilene.

SECTION TEN: This franchise and right-of-way is granted subject to all ordinances of The City of Abilene now existing or that may be enacted regulating the construction, operation and maintenance of railroads within said City.

PASSED AND APPROVED this the 20th day of August, 1914.

ATTEST:
P.L.Kirk, City Secretary

E.N.Kirby, Mayor

APPROVED AS TO FORM this the 20th day of August, 1914.

H.N.Nickman, Corporation Counsel.