

Ordinance No. 157

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An Ordinance.

Granting to Horace K. Devreux and Eugene A. Sunderlin their heirs and assigns, the right, privilege and franchise, to erect, construct, operate and maintain a street railway on certain streets, avenues, alleys and public places of and within the City of Grand Junction, and to use the same for such street railway purposes.

Be it ordained by the City Council of the City of Grand Junction:

Section I.

That upon the written consent, heretofore submitted to the City Council and filed with the City Clerk, of the owners of the land representing more than one-half of the frontage of the following described portions of streets, avenues, alleys and public places sought to be used for railroad purposes, the right, privilege and franchise be and it hereby is granted to Horace K. Devreux and Eugene A. Sunderlin, their heirs and assigns (hereinafter termed the grantees), to lay down railroad tracks and erect, construct, operate and maintain a street railway with all necessary or convenient passing or side tracks, switches, spurs, turnouts, turn tables, power and operating lines, poles, wires and appurtenances, with right to acquire or construct and operate and maintain power houses, substations and car barns on private property and to connect the same with said railway by spur tracks and power and operating lines, for and during the full and complete term of twenty-five years from the date of the passage and publication of this Ordinance on, over across and along the following described portions of streets, avenues, alleys and public places of and within said City of Grand Junction, and to use the same for such street railway purposes, that is to say:

North avenue; Grand avenue between Seventh Street and Twelfth Street; Main Street between First Street and Twelfth Street; Ute Avenue between First Street and Second Street; Pitkin Avenue between Second Street and Third Street; Pitkin Avenue between Eleventh Street and Twelfth Street; South avenue between Third Street and Eleventh Street; First Street between Ute Avenue and North

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avenue; Second Street between Pitkin Avenue and Main Street; Third Street between South Avenue and Pitkin Avenue; Seventh Street; Ninth Street between South Avenue and the center line of the alley between South Avenue and First Avenue; Eleventh Street between South Avenue and Pitkin Avenue; Thirteenth Street between Pitkin Avenue and North Avenue.

Section 2.

Said railway may be of single or double track for all or any part of its length. All tracks shall be standard gauge of regular rail section laid with upper surface of the rail even with the surface of the ground at established grade, in such manner as not unnecessarily to impede the passage of vehicles, and shall maintain same. Said grade shall have been determined by the City Engineer and approved by the City Council before the track is laid, and where streets are paved, the Grantee shall pave between the rails and two feet outside of rails using same material as used by City for such paving or other material as used by City for such paving or other material equally as good, same to be approved by the City Council.

Where double track is laid or contemplated, each track shall be laid at such distance from the center line of the street as to make said center line the center line between the tracks. All turn-out shall be constructed between cross streets.

at street crossings all tracks shall be macadamized or planked between the rails and for a space of two feet outside of outer rail. All tracks shall be laid with suitable bridges, drain pipe or culverts at all ditches or gutters so as to permit free and unimpeded flow of water in said ditches or gutters.

Section 3.

all poles shall be placed on curb lines, and, where practicable, on the intersection thereof by lot lines prodeduced, except that where double track is laid or contemplated poles may be placed on the center line of the street but not in street crossings. Poles may be of wood or metal, shall be at least twenty feet in height and securely planted in the earth, and all wooden poles shall be peeled and painted. Right is reserved for city fire and police alarm wires on all poles.

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4.

Said grantees shall commence construction work by October 15th. 1908, and shall cause three miles of track to be laid and poles erected by July 15th. 1909, and operation shall be commenced by October 15th. 1909, and in the event that said Grantees or their assigns shall default in the work as above provided, the City of Grand Junction shall have the right to declare all rights, privileges and franchise hereby granted, forfeited and of no effect. At least one mile additional of said railway shall be constructed, equipped and put in operation in each succeeding period of two years, until said railway is completed and in operation throughout the full length for which franchise is hereby granted. If at the expiration of ten years from the passage and publication of this Ordinance any section of the above described portions of streets, avenues, alleys and public places constituting the line or right of way of said railway shall not have been utilized by the construction and operation thereon of said railway, all right, privilege and franchise hereby granted as to said unutilized section shall thereupon be forfeited and thereafter be of no force or effect.

The said Grantees or their assigns shall protect and save harmless the City of Grand Junction from any and all damage suits arising from or growing out of the work of constructing said railway, during the period of construction.

Section 5.

Said railway shall be operated by electric power. The operation shall be as nearly continuous as practicable with at least one round trip per hour during the usual hours of day traffic. Said railway shall be used for the transportation of passengers with their ordinary hand baggage, and may be used for the transportation of freight, express, parcels and mail and interurban traffic, excepting that no freight shall be hauled on that portion of Seventh Street lying between the south line of North Avenue and the north line of Ute Avenue; on that portion of Second Street lying north of Pitkin Avenue; on Main Street except where crossed by First and Twelfth Street; or on Grand Avenue except where crossed by Twelfth Street. Said railway shall be equipped and maintained with good passenger cars supplied with modern

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improvements for the comfort and convenience of passengers. No license fee shall be required by the City of Grand Junction for any car operated on said street railway, except as hereinafter provided.

Section 6.

The rate of fare for each passenger, including his ordinary hand baggage, shall not exceed five cents for any one continuous trip in one direction within the corporate limits of the City of Grand Junction, and that when transfers become necessary, the Grantees shall provide same without extra cost to passengers.

Section 7.

The operation of said railway within said corporate limits shall be in conformity with the following regulations:

(1) No car shall be operated at a rate of speed greater than eighteen miles per hour;

(2) No car shall stop or cross walks in the space of intersection with cross streets, except to avoid collision or injury to persons or property, or to take on or let off passengers.

(3) All proper care shall be used by conductors and motormen to prevent injury to persons and property;

(4) All cars after sunset shall be provided with proper signal lights.

Section 8.

The cars operated on said railway shall at all times be entitled to the use of the tracks, and any wagon or other vehicle about to meet or be overtaken by a car shall give place to such car. No person shall wilfully or maliciously obstruct, hinder or interfere with any car by causing or permitting any wagon or other vehicle to be driven at slow pace or stopped, or any obstacle whatever to be placed across, upon or near any track of said railway, after being notified by the conductor or motorman of said car, by ringing of the car bell or otherwise, to cease such obstruction or hindrance.

Any person violating any provision of this section shall upon conviction thereof before any Police Magistrate in said City of Grand Junction, be fined not less than five dollars nor more than twenty five dollars for each such offense.

This section shall not apply to the laying of hose and movement of fire apparatus in case of fire, or to funeral processions crossing said tracks.

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Section 9. The City Council of the City of Grand Junction shall pass and the City shall enforce all ordinances which may be necessary or proper for the protection of the grantees in the enjoyment of the rights, privileges and franchise hereby granted, and for the safety and convenience of the public in making use of said railway.

Section 10. The right to construct, operate and maintain pipes, mains and conduits under the tracks of said railway for water, gas, sewerage and wires is reserved by the City of Grand Junction.

Section 11. Nothing in this ordinance shall restrict or limit the right and power of the City of Grand Junction to properly control and regulate all matters concerning its streets, avenues, alleys and public places, to prohibit the commission of any nuisance in the construction and operation of said railway, and to provide by ordinance and enforce adequate penalties for the violation of any provision of this ordinance.

Section 12. Said Grantees or their assigns shall, after twelve and one-half years of the period for which this franchise is granted, pay yearly into the Treasury of the City of Grand Junction the sum of One Thousand (\$1000.00) Dollars.

Section 13. This ordinance shall be in force from and after its passage and publication as required by law.

Passed July 17th, 1908.
J.R. Newcomb
 Mayor.

attest:
John M. Conley
 City Clerk.

Approved July 21st, 1908.

J.R. Newcomb
 Mayor.

State of Colorado }
 County of Mesa } SS.
 City of Grand Junction }

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I hereby certify that the foregoing ordinance entitled "an Ordinance Granting to Horace K. Devereux and Eugene A. Sunderlin, their heirs and assigns, the right, privilege and franchise, to erect, construct, operate and maintain a street railway on certain streets, avenues, alleys and public places of and within the City of Grand Junction, and to use the same for such street railway purposes, was introduced and read in full at the time of its introduction at a regular meeting of the City Council of Grand Junction, Colorado, held on June 9, 1908, there was presented to such council proof of compliance by Horace K. Devereux and Eugene A. Sunderlin with Section 2 of an act of the Legislature of the State of Colorado entitled "an act concerning the Initiation, Introduction, Publication and Passage of Ordinances Granting Franchises or Licenses for Street Railways, Electric Light works, Telegraph and Telephone Systems in Incorporated Towns and Cities of the First and Second Class and Repealing all Acts and parts of Acts in conflict herewith." approved April 6, 1905. Said proof being in the form of an affidavit of J. N. Bunting, Editor of the Daily Sentinel, a daily newspaper of general circulation published in the City of Grand Junction, showing the publication in that newspaper daily from May 25, 1908 to June 9, 1908, inclusive, of a notice of the intention of said Horace K. Devereux and Eugene A. Sunderlin to apply to the City Council of the City of Grand Junction at its regular meeting to be held on June 9, 1908, for the passage of an ordinance entitled as aforesaid, granting the franchises and licenses described therein, which notice specified the names of the applicants therefor, a general description of the rights and privileges to be applied for and the time for and terms upon which such franchises and licenses were desired. All as more fully shown in said printed notice.

I further certify that at an adjourned session held on June 19, 1908, of the aforesaid regular meeting of the said City Council the aforesaid ordinance was by said Council ordered to be published daily for a period of two weeks in The Daily Sentinel, a daily newspaper of

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general circulation published in said City of Grand Junction, and that in pursuance of such order the said ordinance was published in full daily for a period of two weeks in the said The Daily Sentinel, the first publication thereof being on June 20th, 1908, and the last publication thereof being on July 7th, 1908.

I further certify that at an adjourned regular meeting held upon July 17th, 1908, of said City Council of said Grand Junction, the said ordinance was again read in full, and thereupon at said last mentioned adjourned regular meeting the said ordinance was duly and regularly passed by the said City Council and was upon July 21st, 1908, approved by Honorable J. R. Wentworth, Mayor of said City.

In Testimony Whereof I have hereto set my hand and affixed the seal of the City hereto this 21st, day of July, 1908.

John M. Conley
City Clerk.

TO THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO:

The undersigned, Horace K. Devereux and Eugene A. Sunderlin, grantees named in Ordinance No. 152 of your City passed July 17, 1908, approved July 21, 1908 and published July 22, 1908, hereby make and file with the City Clerk of the City of Grand Junction, Colorado, their acceptance of the provisions of said ordinance and the right, privilege and franchise thereby granted to the undersigned, their heirs and assigns.

IN WITNESS WHEREOF the said Horace K. Devereux and Eugene A. Sunderlin have hereunto set their hands and seals this 28th day of July, 1908.

Eugene A. Sunderlin (SEAL)

Horace K. Devereux (SEAL)

STATE OF COLORADO)
) ss.
COUNTY OF EL PASO)

I, Kate Kennish, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Horace K. Devereux and Eugene A. Sunderlin who are personally known to me to be the persons whose names are subscribed to the annexed instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument of writing as their free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 28th day of July, A. D. 1908.

My Commission expires January 7, 1912.

Kate Kennish
Notary Public