ORDINANCE NO. 170.

An ordinance granting to Fred J. Chamberlain, his heirs, executors, administrators and assigns, a franchise to build, equip, operate and maintain a street railway, operated by electric or other motive power, except steam, upon certain public highways in the Town of Kent, County of King, State of Washington.

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF KENT:

Section 1. That there be and is hereby granted to Fred J. Chamberlain, his heirs, executors, administrators and assigns, the right, privilege, franchise and authority to lay down, construct, equip, maintain and operate by electric or other motive power, except steam, a single or double track electric railway line, with necessary switches, turnouts, connections and other necessary appliances for the operation of the same, including the erecting, maintaining and operating of such poles and wires with their attachments as may be necessary for operating said railway, over, on and along and across streets, alleys and highways in the town of Kent as follows, to wit:

On Second Street in the plat of Kent, from the south boundary limits of the town to Harrison Street. On said Harrison Street from Railroad Avenue to Central Avenue produced to the south. On Central Avenue from its south terminal to Smith Street. On Smith Street from Central Avenue to Railroad Avenue; following on said named streets practically the center line of the street.

On Railroad Avenue from said Harrison Street to the north terminal of said Railroad Avenue, the east line of said railway along said Railroad Avenue to be at least 40 feet from the east marginal line of the said Avenue. Provided, 1st. That before construction of the said railway shall be begun through the said town the owner of this franchise, his successors in interest or assigns
shall elect whether he or they will follow the route along Central Avenue and Smith Street or the route along Railroad Avenue and file such election in writing with the clerk of the said Town.

2nd. That if the owner of this franchise elect to use the route along Railroad Avenue from Harrison Street to the north terminal of said Railroad Avenue then and in that event, the council, of the said Town reserves the right, at its discretion, to have the tracks of the said railway laid along or near the center of the said Railroad Avenue; 3rd. That upon the occupation of either of the said routes by the said railway this franchise shall become void as to the streets and alleys upon the other route described; 4th. That nothing in this ordinance contained, shall be deemed or construed to amount to a warranty on the part of the said town of Kent, that any part of the above described routes are upon legally established streets or existing streets, but said town of Kent, hereby grants the right to construct and operate said railway line, subject to the conditions, provisions and reservations herein set forth, only insofar as the said town now has or may hereafter have control over said streets, and the routes hereinbefore designated, subject always to any and all rights of any owners of private property lying within the said routes or abutting upon said streets.

Section 2. That the track or tracks of the said railway shall be of standard gauge, and the rails thereof be of steel and so laid that the tops thereof shall be as nearly as practicable on the level with the surface of the street or alley where they are laid, at the established grade thereof, and the space between the rails and tracks, and for a distance of one foot on each side of the track shall be planked or gravelled or paved, so that vehicles of any and all kinds can easily cross the same at any and all points, and whenever and to whatever extent the town of Kent, shall cause any street or streets, in or on which any part of the said.
railway track shall be laid, to be paved, planked, gravelled or macadamized the said owner of this franchise shall at the same time at his or their own proper expense, pave, gravel, plank or macadamize in like manner between the tracks and rails and for a distance of one foot on each side of the said track or tracks, and upon the same grade and of the same materials used by the said town upon the abutting portions of the said street or streets.

All trains operated upon the said railway shall make regular stops at the stations in rent.

Whenever the track or tracks of the said railway shall be crossed by the track or tracks of any other line of railway, the rails of each shall be altered or cut so as to permit the cars of each to pass without obstruction.

The owner of this franchise, his successors in interest and assigns, shall not tear up the streets or obstruct the travel thereof more than is unavoidable in constructing, operating and maintaining the said railway, and shall at all times keep the said railway in good repair, and upon the completion of the construction, and of any repairs thereon, shall leave the streets and alleys torn up, or obstructed, thereby, in as good a condition for travel and in as good repair as they were in before such construction or repair work was done.

All poles and wires and all appliances connected therewith, and the material and construction of the road bed shall be such as to interfere as little as practicable with any other public work or public use of the streets, and both material and workmanship shall be of first class kind and quality.

Section 3. Whenever and wherever the owner of this franchise, his successors in interest or assigns, shall disturb any street of the said town in the laying or building of the said tracks of the said railway, or in grading or excavating for the same, or any construction work thereon, he or his successors in interest or as-
Signs shall so improve the remainder of the street abutting on
the said track or tracks as to leave equally good facilities for
travel and traffic by the general public as the street afforded
before being so disturbed.

Section 4. Whenever in the opinion of the council of the
Town of Kent, it is necessary for the proper drainage of the Streets
that drains should be excavated across or under the tracks of the
said railway, the said owner of this franchise and his successors
in interest and assigns, upon thirty days notice in writing from
the clerk of the said town, shall place or caused to be placed under their tracks and across the street, drains culverts
of such capacity and at such points as shall be required by such
notice.

Section 5. Nothing in this ordinance contained shall be
construed to deprive the said town of any rights, powers or privi-
ileges which it now has or may hereafter receive to regulate the
use and control of the streets and alleys of the said town; and noth-
ing herein contained shall be construed so as to prevent the
town from sewerage, grading, paving, planking or macadamizing, altering or improving any of the said streets, nor shall the said town
be liable to the owner of this franchise or the said railway for
any damages he may suffer by reason of the performance of any such
work of street improvement, or by the exercise of any right in
this section reserved. Provided, that such work of improving shall
be so done as to offer the least obstruction to traffic upon the
said railway, consistent with the practical and economical pro-
gress of the work, and the owner or owners of the said railway shall
have the privilege of raising or shifting their rails or their
track temporarily, to avoid such obstruction during the progress
of street repairing, altering or improvement.

Section 6. That in the operation of the said railway, the
owners thereof shall use the most modern and approved means of
applying power, and no power shall be employed or used, which in its nature, appearance or mode of application or use shall substan-

tially and unreasonably interfere with or peril public travel on

the said streets or any of them or encroach upon the rights of the public in and upon the said streets. The cars and all roll-
ing stock and all personalty shall be of proper construction and

all cars shall be equipped with brakes of modern and approved patterns and all necessary appliances to insure safety of oper-

ation.

Section 7. That whenever any person shall have obtained

permission from the town of Kent, to use any street of said town for the purpose of moving any building, the said grantee of this franchise, his successors in interest or assigns shall, upon 48 hours notice in writing from the mayor of the said town raise or remove any of the wires or the said railway which may obstruct the removal of such building, so as to allow the passage of such build-

ing across, but not along, any street or streets on which the trolley or other wire or wires of the said railway may have been placed; Providing, that such building shall be moved across the said track or tracks at such reasonable hour of the night and in such reasonable manner as shall cause the least interference with the traffic of said railway.

Section 8. The said Fred J. Chamberlain by accepting the benefits of this ordinance, covenants to and with the said town of Kent, for himself and his heirs, executors and assigns, that he will and they shall keep and have the said town harmless, at all times, from and against any and all loss, liability, damage, costs and expense which may at any time arise or occur by reason of the construction, maintenance, operation, or repair of said railway or any part or portion thereof, or by reason of anything done or caused to be done by the owner of this franchise or of the said railway by virtue of this ordinance.
Section 9. Before the track of the said railway shall be laid down along, over or across any of the said streets or alleys, all damage to the owners of property abutting on the said streets or alleys or any occasioned by the building, locating, maintaining and operation of the said railway shall be ascertained and compensation made therefor to such owners by the owner of this franchise or the said railway, in the manner provided by law.

Section 10. The Town of Kent reserves the right to regulate by ordinance the rate of speed at which cars shall be run by the said railway in the city limits of the said town.

Section 11. The fare for one continuous passage over said railway from any one point in the said town to any other point therein shall never exceed five cents, and the payment of fare shall entitle the passenger to a transfer to any other line or system of lines within the said town, which may give and receive transfers to and from the system of lines operated under this franchise.

Section 12. Construction work upon the said railway shall be begun within six months after the time that the said Fred J. Chamberlain shall have filed his acceptance of this franchise, and the line shall be completed and in operation as a system within two years after the said acceptance of this franchise.

Section 13. Transfer. This franchise may be assigned by the said Fred J. Chamberlain, but no assignment of the same shall become operative so far as the said town is concerned until written notice thereof shall be filed with the clerk of the said town.

Section 14. Whenever the owner of this franchise or of the said railway shall fail to operate the said railway system as a whole, or shall fail to operate that portion of it lying within the City limits of the Town of Kent, or any part thereof, for a period of Thirty days, provided that such failure to operate is
not caused by riots, strikes, civil sections, acts of the elements
or other causes over which the said owner of this franchise or
of the said railway has no control, then and thereupon, all rights,
privileges, authorities and franchises granted by this ordinance
may at the option of the said town of Kent, be forthwith termina-
ted by ordinance of said town as to so much of the streets or sys-
tem as the owner of the said railway shall fail to operate upon
or over, and if such failure to operate be of the system as a
whole, then this franchise to be so terminated by the said town,
in toto.

Section 15. That before the owner of this franchise shall
disturb the surface of any of the streets of the said town for the
purpose of laying down or constructing any railway track or
tracks, he shall file with the council of the said town complete
plans and specifications, showing the intended location of such
track or tracks in and across streets and alleys, the kind of
ties and rails to be used, and shall secure the approval of the
said council in writing, to such plans and specifications.

Section 16. That the said Fred J. Chamberlain and his heirs
executors and assigns shall be deemed to have abandoned all rights
and privileges conferred by this ordinance, unless he or they shall
within thirty days after its passage and approval, file in the
office of the clerk of the said town a written acceptance of the
rights, privileges and franchises granted by this ordinance, sub-
ject to the conditions herein set forth, and unless he or they
shall begin construction of the said system within six months from
and after the acceptance of the franchise herein granted, and
complete and begin to operate the said railway system within two
years from and after the date of the acceptance hereof.
Section 17. Failure upon the part of the said Fred J. Chamberlain, his heirs, executors or assigns, to conform to the requirements and conditions of this ordinance shall work a forfeiture of all of the rights, privileges and franchises herein granted.

Section 18. The rights, privileges and franchises by this ordinance granted shall be in force and continue for the period of fifty years from and after the date this ordinance goes into effect.

Passed Nov. 20th, 1906
Approved Nov. 26th, 1906

Attest: G. G. Cornelius
Town Clerk.