AN ORDINANCE of the City of Kent, Washington, granting to the Burlington-Northern Railroad Company, its successors and assigns, the right, privilege and authority to construct, maintain and operate a railroad spur track upon and across South 208th Street in the City of Kent, King County, Washington.

WHEREAS the Burlington-Northern Railroad Company has petitioned City of Kent for franchise to construct, maintain and operate a railroad spur track at common grade upon and across South 208th Street in the City of Kent in Section 7, Township 22, Range 5 E.M., located in King County Washington, and

WHEREAS a separation of grade of said crossing is neither practicable nor justified, and

WHEREAS Burlington-Northern Railroad Company has filed with the City of Kent acceptable plans for said crossing, and said plans have been approved;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DO HEREBY ORDAIN AS FOLLOWS:

Section 1. The City of Kent, hereinafter called "the City" does hereby grant to the Burlington Northern Railroad Company, its successors and assigns, hereinafter called "the Grantee" the franchise and privilege of constructing, maintaining and operating a railroad spur track at common grade upon and across South 208th Street in the City of Kent, Washington, described as follows:

That portion of the East 20.00 feet of the West 710.00 feet (more or less) of the Southwest quarter of the Southwest quarter of Section 6, Township 22 North, Range 5 East, W.M., AND that portion of the East 20.00 feet of the West 710.00 feet (more or less) of the Northwest quarter of the Northwest quarter of Section 7, Township 22, Range 5 East, W.M., in King County, Washington, lying within South 208th Street.

provided that the construction of said track at common grade on and across said avenue shall be completed in a manner satisfactory to the Kent City Engineer and any other applicable authority.
Section 2. The Grantee shall pay the entire cost and expense of constructing and maintaining said track across said street as it now exists or as it may be changed from time to time; provided, however, that nothing contained herein shall prevent the Grantee from charging any other railroad company, or companies to which Grantee may grant or assign an interest in said track, or the franchise hereby granted, a portion of the cost and expense of constructing and maintaining said track.

Section 3. The Grantee shall pay the entire cost and expense of constructing, installing and maintaining advance warning signs and whatever crossing and protective devises Grantee may be required to install, whether by agreement between City and Grantee or as required by applicable public authorities; provided, however, that nothing contained herein shall prevent the Grantee from charging any other railroad company, or companies, to which which Grantee may grant or assign an interest in said track or the franchise hereby granted, a portion of the cost and expense of constructing and maintaining said advance warning signs and crossing protective devises.

Section 4. Said track shall be laid and maintained at common grade with said avenue as said grade now exists, or as said grade may be hereafter changed by the City of Kent, and the Grantee shall plank the travel portion of said avenue between the rails and for one foot on each side thereof and shall maintain said planking in good repair.

Section 5. The Grantee shall not store cars within or upon said avenue nor shall said Grantee stop cars on said avenue for switching operations, and further, said Grantee shall not use said track in such a manner as to unreasonably interfere with travel upon and along said avenue, and shall have personnel available to direct traffic during the use of the crossing; and further, the Grantee shall not conduct switching operations on said spur track across said avenue during the hours of 6:00 a.m. to 9:00 a.m. and 3:00 p.m. to 6:00 p.m. daily.

Section 6. The franchise hereby granted shall not be taken to restrict the rights of the City to enter upon that portion of said avenue where said track is located for the purpose of locating, re-locating, constructing, maintaining, repairing, or removing any public works, utilities, or facilities under or
over said track. All such work shall be done, if possible, in such a manner as not to obstruct, injure or prevent free use and operation of said railroad track by the Grantees, and shall meet the Grantees' engineering specifications.

Section 7. The Grantee shall hold the City harmless from any and all liability and damage occasioned by the construction and operation of said track, or by the operation of any engine, train, railway, car or cars upon said track; provided that the Grantee shall not be required to indemnify or protect the City against liability for damages arising out of the City's own negligence.

Section 8. The grades on all crossings referred to in this franchise shall be according to the standards established by the City of Kent.

Section 9. Prior to exercising the franchise privileges granted herein, the Grantee shall obtain any permits necessary to operate said spur line from applicable public authorities.

Section 10. The franchise privileges granted herein shall be effective for ten (10) years from and after the final passage of this Ordinance.

Section 11. This Ordinance shall not take effect until it is passed upon during a regular Council meeting subsequent to its introduction at a previous regular Council meeting; once it has received the favorable votes of a majority of the members of the Kent City Council it shall thereafter take effect five (5) days after its passage, approval and publication as provided by law.

ATTEST:

ISABEL HOGAN, MAYOR

APPROVED AS TO FORM:

DONALD E. MIRK, CITY ATTORNEY
PASSED the 2 day of February, 1980.
APPROVED the 4 day of February, 1980.
PUBLISHED the 9 day of February, 1980.

I hereby certify that this is a true copy of Ordinance No. 224, passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

MARIE JENSEN, CITY CLERK
(SEAL)