ORDINANCE No. 36.

An ordinance authorizing the Kent Lumber Company, its successors or assigns, to construct, lay down, operate and maintain a railroad track, over, along, across and upon Smith Street, in the Town of Kent, and property owned by the Town of Kent.

BE IT ORDAINED by the Council of the Town of Kent;

Section 1. That there be and hereby is granted unto the Kent Lumber Company, a corporation organized and existing under the laws of the State of Washington, its successors or assigns, the right, privilege and authority to locate, construct, lay down, operate, and maintain a railroad track over, along, across and upon Smith Street, in the Town of Kent, from the point of its intersection with the easterly boundary line of the right of way of the railroad now operated and controlled by A. F. Burleigh, as receiver for the Northern Pacific Railroad Company, thence in an easterly direction along the entire length of said Smith Street and across that certain tract, lot, or parcel of land, purchased by the said Town of Kent from Wm. Clark and Laura S. Clark, on the 10th day of April, 1892, and conveyed by quitclaim deed No. 98148, which deed is recorded in volume No. 153 of deeds, on page 59, of the records of the Auditor's Office, King Co., Wash.

Section 2. That the center line of said railroad track shall be sixteen feet north of, and parallel to, the south line of said Smith Street and the south line of hereinbefore described tract; lot, or parcel of land, excepting such portion thereof as shall be necessary to diverge therefrom in making requisite curves in said track where the same enters or leaves said Smith Street or said tract, lot or parcel of land; and that the tops of the rails on said road shall be, as nearly as practicable, at the height of the establishment in the center of said Smith Street and said tract of land.

Section 3. That in the operation of said railroad tract, the said Kent Lumber Company, its successors or assigns, shall have the right to use steam power, horse power, electricity, or any other motive power, or any or all of them, so that it or its successors or assigns may deem best.

Section 4. That the said Town of Kent reserves and shall reserve and retain the same control over the said Smith Street and said tract of land as it has or shall have over any and all other streets or streets of said town; provided, that said grant herein shall have the right to construct and maintain a trench along the north side of, and adjacent to, said railroad track, provided with box drains from said trench to the main ditch on the south side of said tract, in such a manner as to provide good and sufficient drainage for the said railroad tract, and for that portion of the south half of Smith Street and said tract of land which lies north of the
said railroad track. And the said town reserves and shall retain the right to regulate the speed of trains and cars upon said railroad; and in the operation thereof, the said grantee herein shall provide suitable alarms and signals to warn the public at all streets and other crossings, of the approach of cars or trains; and shall be held strictly liable for any and all damages resulting from the neglect to provide such alarms and signals; and for any and all negligent or wrongful operation of the said railroad, the parties owning, controlling or operating the same shall be held liable for any injuries or damages resulting therefrom; and the owners, operators and controllers of the said railroad shall further be liable for any damages resulting from the faulty or negligent manner of constructing said railroad, or from want of care in protecting the public against injury from excavations or structures made, erected or employed in the execution, laying down, maintenance or repair of the said railroad track, whether such damage be to the said town or to any person or property whomsoever or whatsoever.

Section 5. That all and singular the rights, privileges, authorities and franchises by this ordinance granted, shall be in force and continue for a period of seven years and three months from the date of the passage of this ordinance, except that the same and all thereof may, at any time upon the failure of either or any of the following specified conditions, or within sixty days there after, upon thirty days notice to said grantee, its successors or assigns, to make good its or their default in respect to such conditions or to show cause why forfeiture should not be declared by the Council of the Town of Kent, be declared by said Council to be forfeited, and thereupon, and thereby shall be come forfeited, that is to say:

1st. Unless within ten days from the passage of this ordinance the said grantee herein shall file in the office of the clerk of the Town of Kent, its written relinquishment of all the rights and privileges which it has or may claim to have by virtue of ordinance No. 63, and its written acceptance of the rights and reservations herein named.

2nd. Unless the said grantee herein shall within eighty days from the taking effect of this ordinance, remove its railway from its present road bed held by virtue of ordinance No. 63, remove all ties and other obstructions therefrom, fill all holes, and level the same to correspond with the adjacent portions of Smith Street and said tract of land.

3rd. Unless the said grantee herein shall, immediately upon the laying of its track across any street or alley, construct crossings thereon of plank, of such thickness that their upper surfaces shall be even with the tops of the rails used on said railroad, and said crossings shall extend the full width of all such streets and alleys, and shall have easy approaches also of plank, and shall be built on a good and sufficient found-
ation and in a thorough and workmanlike manner.

4th. Unless the said grantee herein shall, within ten days from receipt of written notice from the Council of the Town of Kent, construct crossings at any and all points on the road-bed granted by this ordinance, where, in the judgment of said council, said crossings are necessary; and said crossings shall be constructed in like manner as those required by article three (3) of this section, except that they shall extend to the side walk line on the south side of said Smith Street and said tract of land, and shall be of the width designated in said notices.

5th. Unless the said grantee herein shall keep in good repair all crossings named in this section.

6th. Unless the said grantee herein shall furnish lumber to box the ditch along the south line of above described tract of land whenever, in the judgment of the Council, it becomes necessary to do so on account of any damage which may have been done to said ditch by the operation of said railroad.

7th. That the said grantee herein shall obstruct travel and traffic on said Smith Street and said tract of land as little as possible during the performance of the conditions mentioned herein.

Section 6. Ordinance No. 63 is hereby repealed.

Section 7. This ordinance shall be in force and effect from and after the filing by the said grantee herein of the written relinquishment and acceptance mentioned in section 5 and the publication of this ordinance by printing or posting.

Passed the council this fourth day of May 1896.

Approved by me this fifth day of May 1896.

Mayor

Attest

Clerk.

Published this sixth day of June 1896.
Ordinance No. 80.

Passed May 4th, 1896.
Approved May 5th, 1896.
Published June 6th, 1896.
Authorizing Kent Lumber Co. to
construct a
maintain RR
track along
Smith Street

Repealing Ord. No. 63