

ORDINANCE NO. 15,504

AN ORDINANCE amending an ordinance entitled “An ordinance granting right-of-way to Des Moines and Knoxville Railroad Company on Elm Street,” and granting to the grantees, successors and assigns of said company the rights vested in it by said ordinance as hereby amended.

WHEREAS, by Ordinance No. 157, passed March 7, 1879, by the City Council of the City of Des Moines, and accepted by the Des Moines and Knoxville Railway Company, the City of Des Moines granted certain rights to said Des Moines and Knoxville Railway Company; and

WHEREAS, by Ordinance No. 1067, passed January 2, 1900, the above ordinance was amended to reflect Chicago, Burlington and Quincy Railroad’s rights as lessee of the Des Moines and Knoxville Railroad Company; and

WHEREAS, the majority of the railroad right-of-way established pursuant to the above ordinances has been abandoned by both Des Moines and Knoxville Railway Company and Chicago, Burlington and Quincy Railroad, and their successors and assigns; and

WHEREAS, only a small segment of Elm Street remains in use for active railroad purposes by the Burlington Northern Santa Fe Railway, as successor in interest to the Des Moines and Knoxville Railway Company and the Chicago, Burlington and Quincy Railroad;

WHEREAS, for the benefit of the public, it is desirable that modifications be made to Ordinance No. 1067 to more accurately reflect the current active railroad right-of-way within Elm Street by excluding the portions of Elm Street where the railroad right-of-way has been abandoned.

BE IT, AND IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA:

That Section One of said Ordinance No. 1067, passed January 2, 1900, and entitled “An ordinance amending an ordinance entitled ‘An ordinance granting right-of-way to Des Moines and Knoxville Railroad Company on Elm Street,’ and granting to the grantees, successors and assigns of said company the rights vested in it by said ordinance as hereby amended,” be and the same is hereby repealed.

That there be enacted in lieu thereof the following:

That the right-of-way be and is hereby granted to the Burlington Northern Santa Fe Railway, as successor in interest to the Des Moines and Knoxville Railway Company and the Chicago, Burlington and Quincy Railroad, over and along a segment of East Elm Street, between the east right-of-way line of SE 7<sup>th</sup> Street to the east right-of-way line of SE 9<sup>th</sup> Street, with the right to lay down a double or single track, with side-tracks, turn-outs and switches on said East Elm Street, and to run such locomotives and trains of cars over the same as may be necessary and at such reasonable rates of speed as may be from time to time fixed by the City Council;

provided that said grant is hereby made upon the express condition that the City hereby reserves to itself the right to grant to any other railroad company rights in the said street not inconsistent with the rights now held by or those hereby granted to said Burlington Northern Santa Fe Railway. The rights granted herein shall extend to the lessees, successors and assigns of Burlington Northern Santa Fe Railway.

This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

Lisa A. Wieland, Assistant City Attorney

T. M. Franklin Cownie, Mayor

Attest:

I, Diane Rauh, City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance (Roll Call No. 16-1553), passed by the City Council of said City at a meeting held September 12, 2016 signed by the Mayor on September 12, 2016 and published and provided by law in the Business Record on September 30, 2016. Authorized by Publication Order No. 9720.

Diane Rauh, City Clerk