

ORDINANCE NO. 18

AN ORDINANCE PROVIDING FOR THE VACATING OF A PORTION OF 3rd STREET, AND A PORTION OF CEDAR STREET, AND IMPROVING A PORTION OF 2nd STREET, IN THE VILLAGE OF CARLTON, IN CARLTON COUNTY, IN THE STATE OF MINNESOTA.

WHEREAS, The Eastern Railway Company of Minnesota owns and operates its line of railroad over and across 4th street, 3rd street and 2nd streets, in the Village of Carlton, Minnesota, and over and across a street and highway between south 3rd street and 2nd street being and extension of Cedar Street in the Village of Carlton, and

WHEREAS, It is necessary and will in the future be necessary for said railway company to operate over and across all of said streets and territory a great number of trains and cars daily, thereby rendering public travel over and across said 4th street, 3rd street and 2nd street and Cedar Streets aforesaid highly dangerous to life and property, and it being desirable that the said Eastern Railway Company of Minnesota should have the free use of its tracks in the said village and especially have the unobstructed use of its yards and tracks where the same crosses 3rd street, and where the wagon road commonly called Cedar Street runs over and across the said railway company's tracks and

WHEREAS, a petition in writing has been duly presented to the Village Council of the Village of Carlton, Minnesota, asking that these portions of south 3rd Street and of Cedar Street herein described be vacated and discontinued.

THEREFORE, THE VILLAGE COUNCIL OF THE VILLAGE OF CARLTON, MINNESOTA DO ORDAIN AS FOLLOWS:

- Sec. 1. In consideration of the abandonment and vacation by the Village of Carlton, Minnesota, of all of that portion of 3rd street in the village of Carlton, aforesaid, where the same extends and is laid out and traveled over and across all of the right of way and tracks of the Eastern Railway Company of Minnesota in the village of Carlton, Minnesota, the Eastern Railway Company of Minnesota agrees that it will at its own cost and expense build and construct for the use and benefit of the Village of Carlton, aforesaid, an underground water pipe extending from Otter Creek on about a southerly line of the said railway company's land and right of way on said 3rd street, said pipe to be laid on 3rd street and to follow the grades of said 3rd street north to the northerly line of said railway company's land and right of way on said 3rd street and there the same shall end. The said railway company shall build such pipe of suitable and sufficient size to afford the passage of water from said Otter Creek through the said pipe in such quantities as will meet the present needs of the fire department of the Village of Carlton, such pipe however not to be smaller than 8 inches in diameter, and said railway company shall place the same at a suitable depth in the ground as to insure the said water reasonably from freezing.

The said Eastern Railway Company of Minnesota further agrees that it will build its own cost and expense at the northern terminus of such pipe on 3rd street a cistern or tank of such size as will reasonably store sufficient water for the needs of the Carlton Fire Department. The said cistern to be built on about the same plan and to be as good a cistern as the one now used and owned by the Village of Carlton aforesaid for fire purposes; and said railway company further agrees that it will build and provide at its own cost and expense a proper intake at the southern terminus of said pipe and will complete the work of laying said pipe and building said cistern and intake on or before the 15th of June, 1899.

- Sec. 2 In consideration of the covenants and agreements herein contained, the said railway company agrees on its part to build and grade at its own cost and expense for the benefit of the village of Carlton, a roadway twenty feet in width extending along about the center of 2nd street and commencing at about the Northern Pacific Depot at the foot of 2nd street in the said village of Carlton, and thence extending north on said 2nd street to the north line of south street in the village of

of Carlton aforesaid. The said railway company agrees to build and grade such roadway in said street and leave the same in suitable condition for public travel by teams or otherwise and to complete the same on or before June 15, 1899.

Sec. 3

In consideration of the agreement of the Eastern Railway Company of Minnesota, as expressed in the foregoing sections of this ordinance that it will at its sole cost and expense build the said water pipe and cistern and intake on said 3rd street and grade the roadway on said 2nd street and complete the same on or before June 15, 1899, the said Village of Carlton, Minnesota does on its part agree that it will vacate, abandon and discontinue and at once take the necessary, proper and legal steps to legally vacate, abandon and discontinue all of that portion of 3rd street in the village of Carlton, that crosses the lands, tracks and right of way of the said railway company in the said village, or more specifically that portion of 3rd street that commences on the south line of the land and right of way of the said railway company near Otter Creek in the village of Carlton, and extends north to the north line of the said railway company's land and right of way in the village of Carlton, and for the same consideration, agreements and covenants the village of Carlton does by this ordinance ordain,

That of that portion of Cedar Street in the village of Carlton, that now crosses and that is and upon the said right of way, land and tracks in the said village of Carlton, the said village of Carlton agrees that it will at once take the necessary, proper and legal steps to cause the lawful abandonment, vacation and discontinuance of the said portion of Cedar Street in the Village of Carlton.

IT IS FURTHER ORDAINED, that no portion of south third street shall be discontinued, vacated, abandoned or closed to the use by the public until the water pipe, cistern and intake shall have been built and put in proper condition and are in good working order, and that no portion of the street commonly known as Cedar Street between south third street and second street shall be discontinued, vacated, abandoned or closed to use by the public until said second street shall have been opened, graded and put in suitable condition for public travel between south street and the Northern Pacific depot; but that after said pipe, cistern and intake shall have been built and put in proper condition by said railway company and said second street opened and graded suitable for use by the public as is provided in this ordinance; then that portion of south third street and that portion of Cedar Street herein provided for shall be deemed to be vacated for all purposes of use by the public, pursuant to the action taken by the village council of said village of Carlton, on the 7th day of March, 1899, as more fully appears from the minutes of the proceedings of said council for the above date.

PROVIDED, that if at any time the water pipe connecting Otter Creek with the cistern aforesaid is not in good working order and the Fire Department of said village or the general public are unable by reason of said water pipe being out of order to get a sufficient supply of water from said cistern then, and then only it shall be lawful for said Fire Department and the general public to cross the tracks and right of way of said Eastern Railway Company of Minnesota on said south third street for the purpose of obtaining water from Otter Creek.

Sec. 4

The provisions of this ordinance shall constitute a contract between the village of Carlton, Minnesota, and the said railway company in writing within thirty days after its final passage and adoption by the Village of Carlton, and the provisions of this contract and ordinance when so accepted shall be held to be a compromise and adjustment of all disputes between the Village of Carlton and the said railway company in respect to all matters therein provided for, subject to the provisions and qualifications therein contained.

PASSED AND ADOPTED BY THE VILLAGE OF CARLTON, this 7th day of March, 1899

Attest: William J. Watt, Village Recorder

James Dunphy, Village President