

CHAPTER 22

RAILROADS

Sec. 22-1. Speed limit of trains.

It is unlawful for any railway company to operate, run, manage or aid, abet or assist in the operation, running or management of any locomotive, diesel engine, or any other railway vehicle, car or train of cars within the limits of the city, at a greater speed than twenty-five (25) miles per hour. (Code 1976, § 12-701)

Sec. 22-2. Maintenance or repair of railroad crossings.

- (a) It is hereby declared necessary in the interest of public welfare and safety, that at certain locations within the city where railroad tracks now exist or may hereafter be constructed, said tracks be repaired, improved and otherwise made safe. It shall be the duty of all railroad or railway companies having a track upon any street, boulevard, sidewalk, alley, avenue or thoroughfare in this city, where such tract intersects or crosses any street, boulevard, sidewalk, alley, avenue or thoroughfare within the city, to grade and construct such crossing to a minimum standard of rubberized crossing pads subject to approval of the city engineer.
- (b) Any railway or railroad company proposing to install new crossings over and/or upon any street, boulevard, sidewalk, alley, avenue or thoroughfare within the city, shall submit plans to the city engineer at least thirty (30) days prior to the beginning of any installation work.
- (c) Any existing railway or railroad crossing which intersects or crosses any street, boulevard, alley, sidewalk, avenue or thoroughfare within the city, which shall be found, upon inspection by the city engineer, to be substandard, shall, upon the city engineer's recommendation and subsequent approval by the city council, be improved to at least the minimum standards required for new crossings.
- (d) All material, labor and other costs for removal and installation work pertinent to accomplishing the heretofore mentioned crossing improvements shall be the responsibility of the owners and/or operators of the trackage involved.

- (e) Any direction of traffic or provisions for the safety of motorists or pedestrians, while the installation work on the crossing or its approaches is underway, shall be the sole responsibility of the railway or railroad company making said improvement and shall be done to the satisfaction of the city engineer.
- (f) When the president, vice-president, secretary, general manager or any other officer of any railway or railroad company, after such railway or railroad company has been served with notice in writing to make its track conform to the above subsections, has, for thirty (30) days after the service of such notice, failed, neglected or refused to do the same, the city engineer is hereby directed to proceed to have such work performed, and costs of such work shall be and become a lien upon the property of said railway or railroad company, and said costs shall be assessed and taxed against its property in the same manner as other taxes are levied and collected. (Ord. No. 715, §§ 1-4, 9-20-76; Ord. No. 947, § I, 10-3-83)

Sec. 22-3. Obstruction of railroad crossings prohibited; exceptions; complaint procedure; penalties.

- (a) Each and every railway or railroad company operating a railroad within the city is hereby prohibited from allowing trains, locomotives, engines, cars or other appliances operated by it or over the operation of which it is exercising control, to remain standing on, to obstruct the passage over, or to cause to be activated warning lights or cross-arms upon or at, any road, avenue, alley or street crossing for a longer period than five (5) minutes at any one time; provided, however, that this section shall have no application to a continuously moving train or appliances activated thereby, which because of length, cannot reasonably pass over a public road or street crossing within the time herein prescribed.

For purposes of this section, a train and appliances activated thereby which are engaged in switching operations shall not constitute a moving train.

It shall be a defense to a charge of violation of this section that such obstruction or standing was unavoidable due to emergency, the avoidance of accident, or other situation where the railroad company was not at fault.

(b) No railway or railroad company shall be found guilty of violating the foregoing solely by reason of the fact that it owns such engines, cars or other appliances, or the roadbed or tracks upon which such trains, locomotives, engines, cars or other appliances are traveling. If such a railroad company, having received a complaint and notice to appear for violation of this section, asserts that another railroad company or companies operated or had control over the operation of the train involved in the alleged violation, the following procedures shall be followed:

- (1) *Relief from obligation to appear and defend complaint and notice to appear.* On order of the municipal court, the ticketed railroad company shall be relieved of the obligation to appear and defend the complaint and notice to appear. Such order may be made if there is received by the clerk of the court an affidavit, sworn to by the railroad company operating or having control over the operation of the train, and stating that such company operated or had control over the operation of the train involved in the alleged violation; provided, however, that such an affidavit is received by the clerk no later than one day before the date the complaint is set for court appearance. Such an affidavit shall not constitute an admission of guilt of the alleged violation.
- (2) *Notification to complainant.* If such an affidavit or other proof of responsibility for the train is received by the clerk, and the complaint is dismissed by the court, notification of the same shall be given to the complainant, and the complainant shall be notified that he or she may make a complaint against the railroad company or companies operating or having control over the operation of the train involved in the alleged violation.
- (3) *Joinder of other railway or railroad company or companies.* If no such affidavit or other proof of responsibility is received by the clerk, or the complaint is not dismissed by the court, the ticketed railroad may make a complaint against the railroad company or companies it alleges operated or had control over the operation of the train involved in the alleged violation. All complaints involving the same incident shall, if possible, be heard at the same time.

(c) Violation of any provision of this section shall be a misdemeanor and shall be punished by a fine of between one hundred dollars (\$100.00) and one thousand, five

hundred dollars (\$1,500.00). In determining the amount of fine, the court may take into consideration such factors as, including but not limited to, the length of time constituting the violation, the number of previous violations, and the nature of the violation. (Code 1976, § 12-702; Ord. No. 946, § 1, 10-3-83)

Sec. 22-4. Running trains backwards.

It shall be unlawful for any engineer, conductor or other person managing or controlling any railway locomotive or train of cars to drive the same backwards in or through said city without providing for a watchman or other person on the rear of such train. (Code 1976, § 12-703)