

Chapter 22

RAILROADS*

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***Cross reference(s)**--Businesses, ch. 8.

State law reference(s)--Powers of home rule charter cities, Mo. Const. art. VI, § 19(a);
railroads, RSMo ch. 389.

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Sec. 22-1. Duty to light streets and alleys.

(a) Every railroad company owning or operating a line of railroad in or through the city shall erect and maintain suitable lights in such streets, boulevards and alleys along, through or over which its tracks may run, as may be designated and required by the director of public works and transportation or the director of parks and recreation, as the case may be, and at such locations thereon as such officer may approve.

(b) The lights provided for in this section shall be approved by the director of public works and transportation as to candlepower, height over the street or alley and type, and the lights shall be kept in good condition and burning at the same times that the general street lighting system of the city is being operated.

(Code 1969, § 18-1)

Sec. 22-2. Removal of lights.

No lights being maintained as provided in section 22-1 shall be removed by any railroad company without the consent of the director of public works and transportation or the director of parks and recreation, as the case may be.

(Code 1969, § 18-2)

Sec. 22-3. Moving trains over unlighted streets.

No conductor, engineer, fireman, brakeman or other person shall move or cause or allow to be moved any locomotive, tender or car over, along or upon any street, sidewalk or alley unless such street, sidewalk or alley is well lighted in accordance with the provisions of section 22-1.

(Code 1969, § 18-3)

Sec. 22-4. Tracks.

(a) *Laying and maintaining to grade.* All railroad tracks laid upon any part of any public street shall be laid, relaid, maintained and kept to the grade of such street, as may be established or reestablished by ordinance.

(b) *Notice.* Whenever it may appear that the tracks of any railroad company are not laid to the grade of the street, the director of public works and transportation shall notify the local agent of the company owning, leasing or using such tracks that the tracks are not laid to the grade of the street. If after the expiration of 20 days from the notice such tracks have not been brought to the established grade or steps are not being taken to bring such tracks to the established grade, no engineer, conductor or fireman in charge of any locomotive, engine, tender, car or train of cars shall move or cause to be moved or assist in moving any such locomotive, tender, car or train of cars over such tracks until they have been

made to conform to the grade of the street where they are laid.

(c) *Exceptions.* This section shall not apply to any tracks which do not conform to the established grade if, in the opinion of the director of public works and transportation or the director of parks and recreation, as the case may be, compliance with this section would require the raising or lowering of tracks to such an extent that reasonable operations over such street, alley, boulevard or other thoroughfare would be impractical.

(Code 1969, § 18-4)

State law reference(s)--Railroad crossings, RSMo 389.610 et seq.

Sec. 22-5. Maintaining street surface between railroad tracks.

(a) All railroad companies owning, leasing, using or operating along or across any street, alley, boulevard or other public thoroughfare within the corporate limits of the city shall construct, repair and maintain the surface between the rails of each track and 18 inches outside of each rail thereof, in such manner and of such materials as may be ordered and approved by the director of public works and transportation or the director of parks and recreation, as the case may be, and as will result in providing a smooth and satisfactory surface for the passage of persons and vehicles, in the opinion of such officer.

(b) When more than one track crosses a street, alley or boulevard and the distance between the closest rails of adjacent tracks is not greater than seven feet, it shall be the duty of the owner thereof to construct, repair and maintain the surface between such rails in the same manner and of such material as the surface between the rails of the tracks themselves are constructed or maintained. If such tracks are owned by more than one company, the cost shall be apportioned properly between the various owners. In all cases the entire width of the street, alley, highway or boulevard between property lines at crossings shall be constructed, repaired and maintained.

(Code 1969, § 18-5)

State law reference(s)--Railroad crossings, RSMo 389.610 et seq.

Sec. 22-6. Notice to construct, repair, renew paving or surface.

(a) *Required.* When the director of public works and transportation or director of parks and recreation, as the case may be, deems it necessary to construct, repair or renew any of the paving or surface of any railroad owned and maintained by any person, as provided for in section 22-5, he shall serve a written notice upon the local representative of such railroad.

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(b) *Contents.* This notice shall state the nature of repairs necessary, the time within which such repairs must be completed, which time shall be fixed by the director of public works and transportation or director of parks and recreation, as the case may be, shall be signed by such officer and shall be noted as a matter of record.

(c) *Service.* The leaving of this notice at the office of the person representing the person as specified in this section, by a representative of the director of public works and transportation or director of parks and recreation, as the case may be, shall be deemed proper service of such notice.

(d) *Compliance.* Upon the receipt of notice to construct, repair or renew, it shall be the duty of the person owning or having control of such railroad crossing to proceed to construct, repair or renew the crossing as ordered by the notice and complete the work within the time designated in such notice. The work shall be done under the direction and supervision of the director of public works and transportation or the director of parks and recreation, as the case may be.

(Code 1969, § 18-6)

State law reference(s)--Repair of railroad crossings by city, RSMo 389.630.

Sec. 22-7. Removal of tracks, utilities when impeding construction of improvement.

Every railroad company owning, leasing, using or otherwise controlling railroad tracks along or upon any street, boulevard, alley or other public thoroughfare, and any poles, wires, gas or water pipes or mains or any similar installations above, upon or under the right-of-way occupied thereon by such tracks shall, when the tracks or utility lines obstruct or impede the necessary construction of any sewer, viaduct or other public improvement constructed along or upon any street, boulevard, alley or other public thoroughfare by the city, the state or the United States government, after reasonable notice served upon the local representative of such railroad company by the director of public works and transportation, shall remove such obstruction, temporarily or permanently, if it is necessary.

(Code 1969, § 18-7)

Sec. 22-8. Flagman.

(a) *Required.* All railroad companies owning or operating railroads within the limits of the city are required to station, keep and maintain at their own expense, at each and every crossing where their tracks intersect at grade any street, boulevard or other public thoroughfare used for public travel in the city, a flagman, whose duty it shall be to signal persons traveling in the direction of any such crossing and warn them of the approach of any locomotive, engine, car or other traffic on the tracks whenever the tracks are in actual use for switching

purposes. The flagman provided for in this section may be a member of the train crew involved in such switching operation.

(b) *Exception.* A flagman shall not be required at any crossing where an approved warning signal device is maintained and in operation.
(Code 1969, § 18-8)

Sec. 22-9. Protection of public at grade crossings.

(a) *Flagman.* All railroad companies owning or operating railroads within the limits of the city or using, leasing or otherwise lawfully operating rolling stock on tracks within the city shall, wherever such tracks cross or intersect at grade any street, boulevard or other public thoroughfare generally used for public travel in the city, keep and maintain at all times at their own expense, at each and every such street, boulevard or public

thoroughfare, a flagman to warn anyone approaching the tracks of any impending danger by virtue of the approach of a locomotive, engine, train, car or other rail traffic. Danger will be deemed to be impending when such locomotive, engine, train, car or other rail traffic reaches a point at least 300 feet from the crossing. This subsection shall not be construed to apply to the flagman required in section 22-8 pertaining to switching operations.

(b) *Warning signals.* In lieu of the flagman provided for in subsection (a) of this section, any railroad company to which the provisions of this section may apply and may, upon an application duly filed with the director of public works and transportation or director of parks and recreation, as the case may be, be authorized to locate, establish and maintain a warning signal device, to be approved by such director.

(c) *Plans, etc., for warning signals.* Any such railroad company filing the application mentioned in subsection (b) of this section for an order of the director of public works and transportation or director of parks and recreation, as the case may be, to locate, establish and maintain an approved warning signal device shall attach to the application and furnish the director of public works and transportation or director of parks and recreation, as the case may be, with complete plans and specifications for such approved warning signal devices. The plans and specifications shall include a plat of the crossing involved; the proposed location of such device; the construction; method of operation; distance of warning; and any other pertinent data which will enable such officer to issue a permit for such installation with full information on which such officer can determine whether such installations will fully protect the public safety.
(Code 1969, § 18-9)

Sec. 22-10. Exemption from requirements of section 22-9.

(a) *Application.* Any railroad coming within or affected by the provisions of section 22-9 may file with the director of public works and transportation or director of parks and recreation, as the case may be, an application to be exempted from the duty imposed in this chapter to maintain a flagman or approved warning signal device at any one or more crossings within the city.

(b) *Data to accompany application.* Such application shall be accompanied by a plat or map showing the tracks and street or other thoroughfare for which exemption is claimed and shall be accompanied by a statement disclosing the existing condition with respect to whether a flagman or warning signal device is maintained and shall include a statement of the reasons for which such application should be granted.

(c) *Action on application.* The director of public works and transportation or director of parks and recreation, as the case may be, shall consider the application for exemption and shall submit such application for exemption, together with his recommendations thereon, to the city council for final approval or rejection. The city council shall, by resolution duly adopted, approve or reject such application.
(Code 1969, § 18-10)

Sec. 22-11. Moving train over crossing without flagman, signal device.

It shall be unlawful for any conductor, engineer, fireman, brakeman or other person to move or cause or allow to be moved any locomotive, engine, train, car or other traffic by rail over or upon any street, alley, boulevard or other public thoroughfare intersecting with railroad tracks whenever the flagman or approved warning signal devices required in this chapter are not present or in operation at such crossing.
(Code 1969, § 18-11)

Sec. 22-12. Switches within public thoroughfares.

(a) No railroad company owning, leasing or otherwise controlling railroad tracks within the city shall place, install or maintain within or upon any street, boulevard, sidewalk or other public thoroughfare any switch stand or other moving part of any railroad switch. Switch rails shall not be constructed or maintained on sidewalk crossings unless approved by the director of public works and transportation or director of parks and recreation, as the case may be.

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(b) Such railroad company may, however, install and maintain a plain ground throw switch stand in alleys if authorized so to do by the director of public works and transportation or director of parks and recreation, as the case may be, and if such plain ground throw stand shall be countersunk below the existing surface of the alley and covered by a steel plate, firmly and substantially hinged in place, the design to be approved by such officer.
(Code 1969, § 18-12)

Sec. 22-13. Trains obstructing streets, traffic.

(a) *Time limit.* No conductor, engineer, fireman, flagman or other person in charge of any locomotive, tender, car or train of cars shall obstruct or cause to be obstructed any street, boulevard or sidewalk within the limits of the city or in any manner obstruct or cause to be obstructed the free and clear passage for vehicles and pedestrians along the street, boulevard or sidewalk for longer than five minutes when any such locomotive, tender, car, train or other rail traffic is not moving nor for longer than ten minutes when in motion.

(b) *Scope.* This provision shall apply with equal force whether more than one railroad company or track occupies the same or an adjacent right-of-way intersection by a street, boulevard, alley, sidewalk or other public thoroughfare.

(c) *Responsibility for violation.* No yardmaster, superintendent of terminals or other officer or principal of any railroad shall run or manage or cause, permit, order or direct to be run or managed any such locomotive, tender, car, train or other rail traffic in such a manner as to cause a violation of this section.

(Code 1969, § 18-13)

State law reference(s)--Liability of train crewmen for violations, RSMo 71.013.

Sec. 22-14. Reserved.

("Speed of Trains" was repealed by G.O. 1209, 8-15-94)

Sec. 22-15. False signals at railroad crossing.

(a) It shall be unlawful for any person to cause to operate or to operate in the warning mode at the crossing of any railroad track and street:

- (1) A flashing or steady lighted or sound-emitting signal designed to give warning to street traffic of the immediate approach or passage of a train.
- (2) A crossing gate which is lowered to give warning to street traffic of the immediate approach or passage of a train.

- (3) Any combination of subsections (a)(1) and (2) of this section.

This subsection shall not apply unless a train shall actually be approaching within 1,320 feet of such crossing or shall actually occupy such crossing.

(b) The penalty for first conviction of this section shall be a fine of not less than \$100.00; for the second conviction the penalty shall be a fine of not less than \$200.00; and for all subsequent convictions the penalty shall be a fine of not less than \$300.00. Nothing in this subsection shall be construed to prevent the imposition of a larger fine or a jail sentence consistent with section 1-14 of this Code.

(c) Service of summons for a violation of this section shall be served upon any railroad company, corporation, partnership or joint venture by leaving a copy of such summons at any business office of such railroad with the person having charge thereof or by delivering the summons to its registered agent or any other agent authorized or required by law to receive service of process.
(Code 1969, § 18-15)

Sec. 22-16. Headlights on moving cars.

It shall be unlawful for any conductor, engineer, fireman, brakeman or other person in charge of any locomotive, tender, car or train of cars to

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run or move or cause or allow to be run or moved, for any purpose whatever, within the city, between sunset and sunrise, any locomotive, tender, car or train of cars without having at least one headlight or lantern conspicuously displayed and lighted in front of the locomotive, tender, car or train of cars, facing the direction in which the locomotive, tender, car or train of cars may be moving, whether running forward or backward.

(Code 1969, § 18-16)

Sec. 22-17. Boarding or alighting from cars in motion.

No person shall get on or off or attempt to get on or off any railroad engine or car while in motion or just before starting. This section shall not apply to employees of any railroad company.

(Code 1969, § 18-17)