TITLE 9

RAILROADS

CHAPTER 1 – IN GENERAL

9-101 Franchise to occupy streets

9-102 Conformity with regulations required

9-103 Crossings, construction

9-104 Electric Lights

9-105 Bumping Posts as Switches

9-106 Signal lights, gongs, gates, and watchmen

9-107 “Stop” Signs

9-108 Obstruction to view; standing locomotives or cars near crossings

9-109 Obstruction of railway tracks or interference with operation of trains

9-110 Removal or melting of snow from railway tracks

9-111 Speed of trains

9-112 Blowing whistle or ringing bell

9-113 Obstructing by engines or cars; backing; freight trains

9-114 Jumping on or off moving train

9-115 Trespass on railroad property

CHAPTER 1 – IN GENERAL

SECTION 9- 101 FRANCHISE TO OCCUPY STREETS

 No license, permit, contract, or grant shall be granted to any railroad company to occupy any street within the Town unless it clearly appears that the public will derive some convenience or benefit therefrom, and that the occupation will not destroy the street or any portion thereof as a public thoroughfare. No additional tracks, switches, fills or other construction shall hereafter be allowed to be constructed by any railroad corporation in the Town along or across any of the public streets or highways in the Town until the company shall first have procured a permit or license therefor from the Town council issued in compliance with the applicable provisions of this chapter.

 Every railroad company now operating, or which may hereafter operate within the Town limits shall conform to the regulations in the chapter in regard to crossings and the operation of its railroad within the Town limits.

SECTION 9-103 CROSSINGS; CONSTRUCTION

 At every point where the tracks or switches or a railroad company cross any unpaved public throughfare or street, it shall be the duty of the railroad company to construct proper crossings and approaches thereto on such a grade that it shall not exceed two percent, and under the direction and accordance with plans and surveys made by the Town engineer if so required by the Town council. Each of such crossings shall be covered the full width of the street between curb lines and for ten feet on each side of the tracks with crushed stone of such strength and size (not to exceed stone that will pass through a two inch ring) as may be required by the street commissioner, to a depth of at least twelve inches, but the street commissioner may, if conditions warrant it, allow a less depth of crushed stone down to six inches deep and a base of a coarser stone. The stone filling shall continue to the entire distance on each side of the railroad tracks to which the original grade of the street was disturbed for a greater length than the ten feet on each side of the track. At all points for one foot on the on the outside of each rail and the entire space between the rails, the entire width of the between burbs and the ties shall be covered with substantial boards not less than two and one half inches thick and not less than six inches wide, except where a narrower board is necessary to fill out some crack less than six inches wide; and in the event that there is more than one track on each such street crossing, then the whole space between each set of tracks shall be constructed to boards in the same manner herein provided for the space between the rails. In the event the rails of the company run parallel with the street and along any part thereof, the ties between the rails and the space for eighteen inches on either side of the rail shall be covered with boards of the size and construction prescribed for crossings. All such board filling at crossings and along public streets occupied by the railroad tracks shall be kept in good repair and condition, securely spiked down at all times, and no rotten boards, loose ends or split or damaged boards shall be permitted which in the judgment of the street commissioner might cause an injury to any animal, vehicle or person traveling along or across the tracks on the public street. Whenever any street is paved by the Town up to a line parallel with the property line of the railroad companies right of way on both sides of the railroad crossing, it shall be the duty of the railroad company forthwith to proceed to pave the crossing the entire distance of its right of way with the same materials and in the same manner that the rest of the street on either side of the crossing is paved or with other materials to be approved by the Town engineer. It shall be unlawful for any railroad company to delay the completion of such work for a longer time than twenty days after the completion of the paving on both sides of the crossing, such paving to be done according to plans and specifications and on grades to be approved by the Town engineer and the town council. The town council may require any well recognized and reasonable special construction, guards, or other devices along the rails to provide a smooth passage thereof for vehicles using condition at all times.

SECTION 9-104 ELECTRIC LIGHTS

 All persons operating railroads within or through the town are required to place a good and sufficient arc electric light at any and all points where the railroad crossing any public street or throughfare, after ten days’ notice from the town council so to do, these lights to be equal in power of the arc lights usually used by the town to light its streets.

SECTION 9-105 BUMPING POSTS AT SWITHCES

 All persons operating railroads within the town shall provide suitable bumping posts at the end of each switch of sufficient strength to prevent the derailment of any car which may approach the end of such switch with such momentum that but for such post it would run off into the street or yard.

SECTION 9-107 “STOP” SIGNS

 Wherever the tracks of any person operating a railroad cross a public street at grade, it shall be the duty of any such person, if the street be paved, to cause the work “STOP” to be clearly printed in white paint in letters not less than thirty inches high upon the surface thereof at each side of its tracks, and a white line four inches in width shall be painted underneath the word “STOP”, extending from curb to curb; and if such street not be paved, suitable signs shall be erected at each side thereof, of such design and at such heights as to be read easily, upon which shall be inscribed in letters at least ten inches high the word “STOP”. All such signs and lines provided by this section shall be painted, erected, and maintained in good readable condition by and at the expense of the railroad company, under the supervision of the Chief of Police.

SECTION 9-108 OBSTRUCTION TO VIEW: STANDING LOCOMOTIVES OR CARS NEAR CROSSING

 It shall be the duty of every person operating a railroad in the town to keep its tracks and right of way clear of objects obstructing the clear view of the tracks by travelers at grade crossings and it shall be unlawful for any such person to permit its locomotives, trains, or cars to remain standing on its tracks within one hundred feet of any such crossing for longer period than five minutes. It shall be unlawful for any officer or employee whose duty it shall be to carry out any provision of this section to fail to do so, or for any other person to violate this section.

SECTION 9-109 OBSTRUCTION OF RAILWAY TRACK OR INTERFERNCE WITH OPERATION OF TRAINS

 It shall be unlawful for any person within the Town to place any obstruction upon or near the track or any railway, or to displace any switch or remove, disturb or injure anything pertaining to the track, wires, poles, cars, engines or anything necessary for the operation of any such railway or in anywise to prevent or endanger the passage of any locomotive, except that this section shall not be construed as covering hose or other obstruction placed on or over the track in case of fire.

SECTION 9-110 REMOVAL OR MELTING OF SNOW FROM RAILWAY TRACKS

 It shall be unlawful for any person in removing snow from the tracks of any railway in the town to do so in such a manner as to obstruct the free passageway of any street or roadway. And no person shall sprinkle salt or other decomposing substance upon any railway tracks or rails in the town for the purpose of melting snow or ice thereon or for any purpose unless a permit is granted therefor by the street commissioner.

SECTION 9-111 SPEED OF TRAINS

 It shall be unlawful within the town limits for any person or the agent or employee of any such person to run any locomotive, engine, car or train of cars at a rate of speed exceeding fifteen miles an hour across any public street which has not been provided with automatic gates and at which such gates are not operated, but where such automatic gates are in operation, a speed not exceeding twenty miles per hour may be attained across any such streets.

SECTION 9-112 BLOWING THE WHISTLE OR RINGING BELL

 It shall be unlawful for the engineer or fireman or any other person having charge of any locomotive within the limits of the town to blow the whistle or the horn of the engine in his charge, or to ring the bell unnecessarily of any such engine, except so far as may be required in giving such signals as are required by the laws of the state for warnings at railroad crossings, and when signals are given with the whistle or bell that are required by such laws, they shall be only short blasts of sufficient length to give the notice or warning required by law, no longer. The use of the whistle of any locomotive for the purpose of calling in brakemen, calling for signals from the train dispatcher or conductor, notifying the public or tradesman of the approach or presence of such engine is absolutely prohibited.

SECTION 9-113 OBSTRUCTING BY ENGINES OR CARS; BACKING; FREIGHT TRAINS

 It shall be unlawful for any person operating a railroad company within the town limits to obstruct any street crossing by allowing engines or cars to stand therein for longer period than five minutes, and it shall be the duty of all trainmen to cut the train into sections at teach crossing, with part of the train on one side of a cross street and part on the other side of the cross street, when it shall be necessary for them to remain a the crossing for a longer period than five minutes, and to cut such train at each crossing obstructed thereby for such length of time. In the event any train shall be unexpectedly delayed on a crossing for a period of five minutes or longer and any person has been waiting at the crossing for longer than five minutes to cross, the trainmen shall forthwith cut the train so as to allow the person to pass if he demands such action. When shifting cars or pulling or backing any train in any yard which necessitates crossing public streets, the bell of the engine shall be kept constantly ringing whenever approaching any such street crossing, and if any locomotive, car or caboose be backing within said limits, a man shall be stationed on the end farthest from the engine, that is, on the end nearest the street crossing it is approaching, to give signals and warn any person using the crossing of his danger. After twilight, the man stationed on the approaching end of a backing train, car or locomotive shall carry a lighted lantern. No freight train shall be moved across any street in the town unless it is equipped with an adequate number of experienced brakemen, who shall be stationed so as to see the danger signals and hear the danger signals from the engine. It shall be unlawful for any person in charge of any engine or train to “knock” or otherwise propel any car across any public throughfare unless there be a man stationed on the end of the car first approaching the crossing and shall have the car fully under control so that he can promptly stop same in the event of danger.

SECTION 9-114 JUMPING ON OR OFF MOVING TRAIN

 It shall be unlawful for any person who is not employed to work upon such trains to climb upon or jump off of any moving engine or train within the town limits, while it is in motion, or running into or through the town.

SECTION 9-115 TRESPASS ON RAILROD PROPERTY

 No unauthorized person shall loiter, walk, or ride, drive or otherwise trespass upon any @2there is a walkway provided for pedestrians, which walkway or passageway must be separated from the tracks of a railroad by a partition, or upon locomotives or cars operated on tracks of any railroad company in the town.

SECTION 9-116 PENALTIES

 Anyone who violates any section of the above stated law will be liable for a fine in the amount of no more than $200.00 or 30 (thirty) days in jail.

 For charter provisions as to authority of town council, whenever in its opinion the safety of the public so requires to authorize or require by ordinance any railroad company operating railroad tracks upon or across any public street or streets of the town, to construct and maintain overhead or undergrade crossings wherever the tracks of said company are laid upon or across the public streets of such town, and to apportion according to general law between any such railroad company and town the cost of such construction an maintenance and the cost of acquisition of the necessary property and rights of way and the damages to abutting properties between any such railroad company and town…. To have control of all streets, etc., and grounds for public use and to regulate the use thereof;… an to protect the health, property, and lives of the inhabitants. For state law as to authority of town council to regulate the use of the streets, etc., and public places belonging to the town, and to protect and promote the public safety, health, and welfare, see W.VA. Code 8-12-5 subsecs. (4) and (44). As to railroad companies, see W.Va. Code, 31-2-1 to 31-2-15.

The following is an ordinance to be adopted into the Municipal Code of the Town of Danville.

9-117: It shall be unlawful for any railroad company, except in an emergency, to operate its system so that a warning crossing gate block the passage of vehicular traffic over the railroad crossing of any public street, road, or highway, for a period of longer than ten minutes. In the event any railroad warning crossing gate shall stay down or delay the crossing of vehicular traffic for longer than ten minutes, the railroad company shall station a man or woman at such crossing, to direct vehicular traffic and warn any person using the crossing of his danger, after twilight, the man or woman stationed on such railroad crossing shall carry a lighted lantern.

This section does not apply to an obstruction of any such street, road or highway caused by a moving train or caused by circumstances wholly beyond the control of the railroad, but does apply to all other obstructions as aforesaid, including but not limited to, those caused by an inoperative warning gate. Provided that, if any warning gate is within the jurisdiction limits of the municipality of the Town of Danville which now has or here after shall have in force and effect an ordinance limiting the time a railroad crossing may be blocked by a warning gate, such ordinance shall govern, and provisions of this article shall not be applicable.

Penalties:

9-116 Anyone who violates any section of the above stated law will be liable for a fine in the amount of no more than two hundred dollars ($200.00) or thirty (30) days in jail.

Submitted by the Mayor and the Council of the Town of Danville, first reading will take place at the council meeting on January 6,1987, second reading will take place at the council meeting on February 3, 1987. Any objection may be filed in City Hall.

Mark A. McClure, Mayor