

ORDINANCE 9

Granting Permission To The Johnstown And Gallitzin Railway Company To Construct And Operate a Street Railway On And Along Certain Streets And Highways In The Borough Of Lilly.

Section 1. Be it enacted and ordained by the Town Council and the Burgess of the Borough of Lilly, and it is hereby enacted and ordained by the authority of the same, that the consent of the said Borough of Lilly be and the same is hereby granted to the Johnstown and Gallitzin Railway Company, its successors and assigns, to construct, reconstruct and operate by electricity a single track railway, with the necessary switches, turnouts, sidings, loops and turn tables, on, along and over the following named streets, to wit: Beginning at the intersection of the southerly Borough line and Portage street; thence on said Portage Street to Cleveland Street; thence on Cleveland Street to Main Street; thence on Main Street to Church Street; thence on Church Street and private property to Railroad Street; thence on Railroad Street to the northerly boundary line. The said company to have the right to erect, and re-erect, the necessary poles, wires, and mechanical contrivances to enable it to operate it's cars by electricity along and on the foregoing route, all poles shall be painted with two coats of paint, and be placed and maintained under the direction of the Street Commissioner

Section 2. The gauge of the tracks shall be four feet eight and one half inches and the rail to be used shall be determined by the Borough Council, and such decision shall be made within twenty days after being notified by the Company of its intentions to lay the track, which shall be laid under the direction of the Borough Engineer, as to the location on the street lines.

Section 3. The said company in constructing and maintaining the railway shall conform to the lines and grades of the several streets, avenues, and highways traversed including the sidewalks, as such lines and grades are now or may hereafter be established by the said Borough.

Section 4. The said company shall grade Portage Street, the entire width thereof between curb lines, and shall macadam said street between its rails and twelve inches on the outside of each rail; on Cleveland Street, Church Street, and Railroad Street with good paying brick. It shall pave also Main Street between Cleveland Street and Church Street from the southerly line of Church Street to the northerly line of Church Street with good paving brick between the curb lines--- All paving with brick shall be done under the direction and subject to the approval of the Borough Engineer. The said company on the line as now laid as it progresses with the construction and reconstruction of it's railway, shall replace the streets, avenues and highways in the same as good a condition as when the said company commenced the construction or reconstruction of it's said railway, paving with the same kind of material as the streets, avenues, and highways were placed at time of commencement of the construction or reconstruction of the railway, or where the streets, avenues, and highways were not or are not paved, the said company shall pave with brick, or other such material as the Borough of Lilly may elect, the space between the tracks and the space between the rails of each track, and twelve inches on the outside of each outside rail; and shall keep in repair so much of the bridge floors, avenues, streets and highways traversed by the said railroad as may lie between the lines drawn at a distance of twelve inches on the outside of the outer rail of it's railway, and shall also keep the said portion of the said streets clean of all the dirt caused by the said company and remove therefrom all such dirt and obstructing deposits of snow and ice; nor shall said company cause to be shoveled, or by means of mechanical contrivances throw, push, sweep, or cast ice or snow from its tracks upon any street, avenue, or highway so as to obstruct travel; providing that where the street is not graded at the time of the original construction of the said railway and the laying of the tracks, the said company shall grade the streets from and between both lines of the curb in accordance with the directions of the Borough Engineer and the Street Commissioner. The Borough shall furnish sewer pipe on the ground before construction begins, not exceeding fifteen inches in diameter to replace the sewer now in use on Cleveland Street Between Main And Portage Streets, and the company shall lift the sewer now there and do the necessary excavating in the taking up of the present sewer and the laying and covering of the new sewer.

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Section 5. In all paving and repairing the said company shall conform to the specifications of the Borough of Lilly in the mode of laying the same in each particular street at the time of laying, relaying or changing the grade of its railway.

Section 6. If at any time, the said Railway Company shall remove any portion of its track, switches, turnouts, sidings, turntables or loops, from any bridge, street, avenue or highway traversed by said railway, the said company shall replace the same where such removal is made in good condition for travel, paving the openings to correspond with the street. No loop, turnout, or siding on any street, avenue, or highway shall be used as a storage place for cars or any material, but only for the purpose of running cars or waiting for passengers or to accommodate large crowds or gatherings of people.

Section 7. Permission is hereby given to the said railway company to abandon any portion of the said railway herein authorized or laid under this grant, but in such the said company shall remove the old tracks and stringers, and place the streets from which the same is removed in good condition, or remain liable to pay the expense incurred by the said Borough in removing the track and timbers and paving the streets.

Section 8. The Borough of Lilly reserves the right to lay, relay, or remove and make connections with any sewer or sewers; and to grant to any citizens or property owners to make connections therewith on the line of any highway traversed by said Railway Company, and to grant permission to lay any kind of pipe, or electrical conduits to any company or corporation or by the Borough to make connections therewith and to repair thereto, under and along tracks of said company, or for any purpose whatsoever for which the Borough of Lilly may grant a permit, said work to be done in such a way as will not unnecessarily interfere with the traffic of said railway or cause any unnecessary injury to the same, and the Borough of Lilly shall in nowise be responsible for any damage caused to said company by reason of such excavations, but where any excavation is made for the purpose herein specified the party making the excavation shall solidly refill the excavations and repave the same without expense to the said company. Reasonable notice shall be given to the said company by any contractor or corporation intending to lay pipes or sewers under the tracks so as to enable the said railway company to secure its tracks and see that the refilling and repaving is duly done.

Section 9. The Borough of Lilly reserves the right to lay stone crossings or stepping stones or other kind of crossings on any of the streets not paved as herein before provided, subject, however, to the approval of said company as to the dimensions thereof, and when constructed such shall maintain and keep in repairs between the rails and for a distance of twelve inches on the outside of each outer rail by and at the proper expense of said company.

Section 10. Neither the Borough of Lilly or any person or corporation shall be liable for damages incurred by the cutting of wires of said company, or for the suspension or said travel on said railway, when the same is down for the purpose of the suppression of any fire or fires within the limits of the Borough of Lilly.

Section 11. The Borough of Lilly shall not grant any permit for the removing of house or building bodily along the line of any highway on and along which the trolley wires are strung, so as to interfere with or injure the said wires or obstruct the cars; but permits may be granted to cross the lines of the railway in the removal of houses or buildings, bodily; provided that said buildings or houses shall be removed across the tracks between the hours of twelve midnight and five o'clock A.M. and of which the said company shall have twelve hours notice to enable it to remove its wires during the time of said permit, and the party to whom the said permit is granted shall in such case reimburse said company for removing and replacing said wires.

Section 12. Nothing contained in this ordinance shall limit the power to impose taxes, nor prohibit the Borough of Lilly from enforcing and adopting any proper police regulations relating to the streets, alleys, avenues, or highways of the Borough which shall be applicable to the said company or its employees.

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Section 13. The said company hereby assumes the payment of all damages of any nature or character arising from the location, erection and construction of the said railway, the operation and maintenance of the same.

Section 14. The Borough of Lilly reserves the right to place upon the poles of the said company the fire alarm boxes with wires connected thereto, for the purpose of installing a fire alarm system throughout the Borough of Lilly.

Section 15. The said company shall begin the work of the construction of the said railway within eighteen months from the date of the approval of the ordinance, and shall complete it and have cars running thereon on a schedule of not less than one car in two hours, for a fourteen hour day within three years after the said date. Should the said railway company fail to commence the work of construction of its railway in the Borough of Lilly or complete it within the time and in the manner above stipulated then this ordinance shall be null and void and no effect whatever and all rights, privileges, and franchises granted herein shall accordingly lapse, cease and determine.

Section 16. Nothing herein contained shall limit the power or right of the Borough of Lilly to grant to another corporation the right to use the streets, alleys, highways, etc., covered by the foregoing ordinance: provided that the same shall not in any way interfere with that portion of the street upon which the tracks of the said railway company shall be built and constructed.

Section 17. It is hereby expressly understood that the term for which this ordinance and all the rights, privileges, and franchises granted hereunder is for and during the period of ninety-nine years next succeeding its final passage. The said company for its rights and privileges herein granted and given shall pay all the expenses incurred in the preparation, enactment and publication of this ordinance.

Section 18. The said Railway Company may use a sufficient quantity of salt on the rails to melt the ice or snow, but shall not use the same in such quantities as shall be objectional to the Street Commissioner acting under their authority, nor shall it be used between the rails or outside the rails for the purpose of melting snow or ice.

Section 19. This ordinance shall not take effect unless the said company shall file with the Borough Clerk or Secretary within thirty days within the final passage of this ordinance, a written acceptance under the Seal of the said corporation, of this ordinance, and the same shall henceforth be obligatory upon the Borough of Lilly and the said company its successors and assigns.

Section 20. That all ordinances and parts thereof inconsistent herewith, be and the same are hereby repealed.

Passed finally in Council this fourth day of May A.D. 1909.

J.R. Kelly
President of Council

Attest: W.S. Dougherty
Secretary of Council

Approved this 4th day of May A.D. 1909.

E.J. Duffy
Burgess

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Cambria County

Borough of Lilly, S.S.

I hereby certify that the foregoing ordinance was duly recorded in the Ordinance Book of said Borough, at page 49 (in old ordinance book) and was personally signed therein by the Burgess, President of Council and Secretary, and that the same was published in the Lilly Signal on the 7th day of May A.D. 1909, and that at least twelve copies of said ordinance were posted according to law in the most public places within the said Borough.

W.S. Dougherty
Secretary.

State of Pennsylvania,
County of Cambria,

Borough of Lilly, S.S.

Be it known that I, William S. Dougherty, Secretary of the Borough of Lilly as aforesaid, do hereby certify that the records of the said Borough are in my possession, and that the herein copy of an ordinance and record are a true and correct copy of the same as they appear on the books and records thereof.

Witness my hand and Seal of the said Borough of Lilly duly affixed hereto, this 8th day of May, A.D. 1909.

W.S. Dougherty,
Secretary.

To the President and Town Council of the Borough of Lilly, Cambria County, Pennsylvania.

Gentlemen:-

At a meeting of the Executive Committee of the Johnstown and Gallitzin Railway Company, held the 21st day of May, 1909, the following resolution was duly passed: Be it resolved: That the Ordinance granted the Jonstown and Gallitzin Railway Company a franchise in Lilly Borough, passed on the fourth day of May, 1909, be and the same is, hereby accepted, and that the President and Secretary be, and they are hereby, authorized to file this acceptance with the said Borough Authorities.

A true extract from the minutes.

Alvin Sherbine
Secretary.

Pursuant to the foregoing resolution the said acceptance is hereby transmitted to the said Borough Authorities for the purpose of being filed.

Alvin Sherbine
Secretary.

Wallace Sherbine
President.

I, W.S. Dougherty, Clerk of Council for the Borough of Lilly, Cambria County, Pennsylvania, do certify that the within acceptance has been duly filed on the records of said Borough agreeable to the requirements of said ordinance, this 29th day of May A.D. 1909.

W.S. Dougherty
Clerk of Council.

Resolved that the time for beginning the construction in the Borough of Lilly of the Johnstown and Altoona Railway Company the successors of the Johnstown and Gallitzin Railway Company and to its successors and assigns be and the same is extended to the first day of August A.D. 1911., from the time as stated in the ordinance passed on the fourth day of May 1909. provided that the same Company shall begin construction of its railway before the first day of June A.D. 1911.

The above resolution passed Council November 3, 1910.

M.P. Kearney: Clerk.

J.R. Kelly: President.

Approved by Burgess November 3, 1910.

M.P. Kearney: Borough Secretary

E.J. Duffy: Burgess