

ORDINANCE NO. 6-2014

**AN ORDINANCE AMENDING CHAPTER 13, MOTOR
VEHICLES AND TRAFFIC, OF THE EVERGREEN PARK
MUNICIPAL CODE, BY ADDING ARTICLE XIV,
RAILROAD OCCURRENCES**

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Mayor

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Trustees

CATHERINE T. APARO
Village Clerk

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Village Attorney

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AN ORDINANCE AMENDING CHAPTER 13, MOTOR VEHICLES AND TRAFFIC, OF THE EVERGREEN PARK MUNICIPAL CODE, BY ADDING ARTICLE XIV, RAILROAD OCCURRENCES

WHEREAS, the Village of Evergreen Park is a home rule municipality duly existing under the Constitution of the State of Illinois;

WHEREAS, there exists two (2) railroad lines traversing through the corporate boundaries of the Village of Evergreen Park with ten (10) highway-railroad grade crossings;

WHEREAS, 95th Street, which has two (2) highway-railroad grade crossings, has an average daily traffic count of 25,800 vehicles east of Kedzie Avenue and 39,500 vehicles west of Kedzie Avenue;

WHEREAS, 87th Street, which has two (2) highway-railroad grade crossings, has an average daily traffic count of 27,200 vehicles east of Kedzie Avenue and 20,600 vehicles west of Kedzie Avenue;

WHEREAS, Kedzie Avenue, which has one (1) highway-railroad grade crossing, has an average daily traffic count of 21,300 vehicles north of 95th Street and 21,800 vehicles south of 95th Street;

WHEREAS, 95th Street, 87th Street, and Kedzie Avenue provide access to Little Company of Mary Hospital and Christ Hospital;

WHEREAS, the ten (10) highway-railroad grade crossings within the Village of Evergreen Park are within the immediate vicinity of public and private elementary and high schools;

WHEREAS, the Village of Evergreen Park has experienced 106 occurrences of trains blocking a highway-railroad grade crossing, gates remaining down after a train has proceeded through a highway-railroad grade crossing, and/or false activations of gates, lights, bells, warnings, or other signals (collectively "safety devices") at a highway-railroad grade crossings (collectively, "railroad occurrences") from July of 2013 through January of 2014;

WHEREAS, the highway-railroad grade crossings affected by the railroad occurrences are located in vulnerable areas with significant pedestrian and vehicle traffic including areas next to schools and hospitals;

WHEREAS, due to the unique location of highway-railroad grade crossings affected by railroad occurrences, the public has responded in ways that pose a risk to the health, safety and welfare of persons and property such as the lifting of gates, pedestrians passing through or under trains, vehicles and pedestrians disregarding safety devices, and an overall disrespect for the warnings the safety devices are intended to provide; and,

WHEREAS, the Village deems it necessary and desirable to deter, eliminate or mitigate the risk to the health, safety and welfare of persons and property resulting from railroad occurrences, and defer the expense of its response from the taxpayers of the Village of Evergreen Park to a responsible party.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Board of Trustees of the Village of Evergreen Park, Cook County, Illinois, as follows:

Section 1

The recitals set forth above are hereby adopted as the findings of the Mayor and Board of the Trustees and are expressly incorporated by reference as though fully set forth herein.

Section 2

That Chapter 13, Motor Vehicles and Traffic, of the Evergreen Park Municipal Code, be amended by adding Article XIV, Railroad Occurrences, to read as follows:

ARTICLE XIV. RAILROAD OCCURRENCES

Sec. 13-601. Definitions.

The following words, terms and phrases shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

Highway-railroad grade crossing means the intersection of a railroad track and a highway, street, roadway, sidewalk or other public way, or any combination of the above, designated or intended for vehicle or pedestrian traffic, at the same grade level.

Railroad occurrence means: 1) the activation of a safety device at a highway-railroad grade crossing indicating the presence or impending presence of railroad traffic when no train is present and is not promptly anticipated at the intersection (*i.e.*, false activation); 2) the continued activation of safety devices after a train has left the vicinity of a highway-railroad grade crossing and no other train is present or impending immediate arrival at the intersection; or 3) a train is present in the highway-railroad grade crossing but has stopped moving.

Railroad occurrence response expense means any expense for personnel and equipment involved in responding to a railroad occurrence. Responses include, but are not limited to, police services, auxiliary services, firefighting services, emergency rescue services, emergency medical services, technical rescue teams, public works services, and the services performed by a private contractor responding to a railroad occurrence at the request of the Village of Evergreen Park.

Safety device means any gate, light, bell, warning, or other signals at a highway-railroad grade crossing which is meant or designed to give warning of impending or present railroad traffic.

Responsible party means any person or entity owning, controlling, using, operating, maintaining, having custody over, or conducting any activity upon any land, infrastructure, facility, equipment, safety device, vehicles, cars or trains, causing or contributing to a railroad occurrence.

Sec. 13-602. Railroad occurrence response.

In the event of a railroad occurrence, the Chief of Police, or his or her designee, shall immediately attempt to contact a responsible party to advise of the railroad occurrence. Thereafter, or in conjunction therewith, personnel and equipment shall be dispatched to the highway-railroad grade crossing that is the site of the railroad occurrence to deter, eliminate or mitigate the risk to the health, safety and welfare of the public. Village officials from other departments shall cooperate with the police department to provide personnel and equipment deemed reasonably necessary to secure the highway-railroad grade crossing.

Sec. 13-603. Responsible party liability.

It shall be the duty of any responsible party to reimburse the Village of Evergreen Park for its railroad occurrence response expenses no later than twenty (20) days after the issuance of an invoice detailing said expenses. The liability of a responsible party shall be joint and severable.

Sec. 13-604. Railroad occurrence response expenses.

The Village of Evergreen Park shall be reimbursed for its railroad occurrence response expenses at the following hourly rates: \$250 per hour, or any portion thereof, for fire apparatus, equipment, ambulances or emergency response vehicles; \$75 per hour, or any portion thereof, for other motor vehicles, including police squad cars, responding to the occurrence; and \$60 per hour, or any portion thereof, for personnel. All other expenses shall be billed at their reasonable and customary rate.

Sec. 13-605. Administration.

Any responsible party violating the provisions of Section 13-603 shall be subject to a judgment in the amount of the Village of Evergreen Park's railroad occurrence response expenses. Violations of Section 13-603 may be administered through the provisions of Chapter 12, Miscellaneous Provisions and Offenses, Article X, Administrative Adjudication of Non-Vehicular Regulations Violations, of the Evergreen Park Municipal Code, or by any other means permitted by law. Nothing in this Article shall be interpreted to limit the remedies or penalties available to Village of Evergreen Park.

Section 3

This ordinance was passed pursuant to the home rule powers of the Village of Evergreen Park.

Section 4

If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this ordinance.

Section 5

All statutes of the State of Illinois or any parts thereof which are in conflict with the provisions of this Ordinance are hereby superseded by this ordinance enacted under the home rule power of the Village of Evergreen Park.

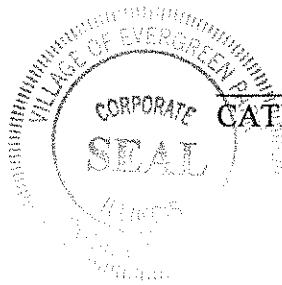
Section 6

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed insofar as they conflict herewith.

Section 7

This ordinance shall be immediately in full force and effect after passage, approval and publication. This ordinance is authorized to be published in pamphlet form.

This ordinance was passed and deposited in my office the 3rd day of March, 2014.



Catherine T. Aparo

CATHERINE T. APARO, Village Clerk

APPROVED by me this 3rd
day of March, 2014.

James J. Sexton

JAMES J. SEXTON, Mayor

I DO HEREBY CERTIFY that this ordinance was, after its passage and approval, published in pamphlet form by authority of the Village of Evergreen Park, in accordance with law, this 3rd day of March, 2014.

Catherine T. Aparo

CATHERINE T. APARO, Village Clerk