

CITY OF BROOK PARK, OHIO

P/O _____
CA _____
1st R _____
2nd R _____
3rd R _____
B/C _____
Sp. Caucus 7/31/14
Sp. Council 7/31/14

ORDINANCE NO: 9926-2014

INTRODUCED BY: COUNCIL PRESIDENT PATTEN and
Council Members Higgins, D'Amico, Burgio, Salvatore, Mencini, Troyer,
Powers, Mayor Coyne

AN ORDINANCE
AMENDING SECTION 553.01
OF THE BROOK PARK CODIFIED ORDINANCES, ENTITLED
'OBSTRUCTING STREETS BY RAILROAD COMPANIES
AND/OR THEIR EMPLOYEES OR AGENTS,'
AND DECLARING AN EMERGENCY.

NOW THEREFORE, BE IT ORDAINED, by the Council of the City
of Brook Park, State of Ohio, that:

SECTION 1: Section 553.01 of the Brook Park Codified
Ordinances, passed by Ordinance No. 4762-1975, passed
April 15, 1975, and reading as follows:

553.01 OBSTRUCTING STREETS BY RAILROAD COMPANIES AND/OR
THEIR EMPLOYEES OR AGENTS.

(a) No railroad company or private railroad conductor of
a train of railroad cars, locomotive or railroad car, or other
agent or servant of a railroad or private company operating a
railroad track across a public road, street or highway, shall
obstruct, unnecessarily a public road or highway of this
Municipality by permitting a train or cars, locomotive or
railroad car to remain upon or across it for longer than five
minutes to the hindrance or inconvenience of travelers or a
person passing along or upon such road or highway.

No such aforesaid company, agent or servant shall fail at
the end of each five-minute period of such aforesaid obstruction
of a public road, street, or highway, to cause the railroad car,
locomotive, or other obstruction to be removed for sufficient
time, no less than five minutes, to allow passage of persons and
vehicles waiting to cross.

This section does not apply to a continuously moving train
or caused by circumstances wholly beyond the control of the
railroad company, private railroad, conductor of a train of
railroad cars, locomotive or railroad cars, but shall apply to
all other obstruction including without limitation those caused
by stopped trains and trains engaged in switching or loading or
unloading operations.

(b) Whenever a police officer or law enforcement officer determines that a railroad train, locomotive or railroad car is in violation of this section, he shall proceed as follows:

(1) The officer shall order the train crew to open such train;

(2) After such train is opened, the officer shall make a physical arrest of the conductor, or such other person in charge of such train of railroad cars, locomotive or railroad car and cause such person to post bond in accordance with the degree of misdemeanor of which he is guilty.

(c) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

is hereby amended to read:

553.01 OBSTRUCTING STREETS BY RAILROAD COMPANIES AND/OR THEIR EMPLOYEES OR AGENTS.

(a) No railroad company or private railroad conductor of a train of railroad cars, locomotive or railroad car, or other agent or servant of a railroad or private company operating a railroad track across a public road, street or highway, shall obstruct, unnecessarily a public road or highway of this Municipality by permitting a train or cars, locomotive or railroad car to remain upon or across it for longer than five minutes to the hindrance or inconvenience of travelers or a person passing along or upon such road or highway.

No such aforesaid company, agent or servant shall fail at the end of each five-minute period of such aforesaid obstruction of a public road, street, or highway, to cause the railroad car, locomotive, or other obstruction to be removed for sufficient time, no less than five minutes, to allow passage of persons and vehicles waiting to cross.

This section does not apply to a continuously moving train or caused by circumstances wholly beyond the control of the railroad company, private railroad, conductor of a train of railroad cars, locomotive or railroad cars, but shall apply to all other obstruction including without limitation those caused by stopped trains and trains engaged in switching or loading or unloading operations.

(b) No railroad company or private railroad, conductor of a train of railroad cars, locomotive or railroad car, or other agent or servant of a railroad or private company shall permit any locomotive to stand for longer than thirty (30) minutes while within one hundred (100) feet of the property line of any residential property while its engine is running or idling.

(c) Whoever violates Section 553.01 is guilty of a misdemeanor of the first degree and shall be fined one thousand dollars (\$1,000.00).

SECTION 2: Former Section 553.01 of the Brook Park Codified Ordinances, as passed by passed by Ordinance No. 4762-1975, April 15, 1975, is hereby expressly repealed.

SECTION 3: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 4: This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of public peace, health, safety and welfare of said City, and for the further reason to amend Section 553.01 of the Brook Park Codified Ordinances; therefore this Ordinance shall take effect and be in force immediately from and after its passage and approval by the Mayor.

PASSED: July 31, 2014

Dennis P. Patten
PRESIDENT OF COUNCIL

ATTEST: Michelle Blazak
Clerk of Council

APPROVED: [Signature]
MAYOR

7/31/2014
DATE

I HEREBY APPROVE THE WITHIN INSTRUMENT AS TO LEGAL FORM AND CORRECTNESS

[Signature]
DIRECTOR OF LAW

CERTIFICATE

Michelle Blazak, Clerk of Council, of the City of Brook Park, Ohio, do hereby certify that the foregoing is a true and accurate copy of Ordinance/Resolution No. 4762-2014

passed on the 31st day of July 2014 by said council.

Michelle Blazak
Clerk of Council

I, Michelle Blazak, Clerk of Council for the City of Brook Park, State of Ohio, do hereby certify that there is no newspaper of general circulation in the municipality and that publication of the foregoing ordinances/resolutions was made by posting true copies at six of the most public places in said municipality as determined by Ordinance No. 4838-1975; location City Hall 6161 Engle Road, Police Station 17401 Holland Road, #1 Fire Station 5590 Smith Road, #2 Fire Station 22530 Ruple Parkway, #3 Fire Station 17401 Holland Road, Brook Park Library 6165 Engle Road, for a period of fifteen days.

commencing August 4, 2014
Michelle Blazak
MICHELLE BLAZAK
Clerk of Council