ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING ARTICLE II, "NOISE CONTROL," OF CHAPTER 12, "OFFENSES – MISCELLANEOUS," BY ADDING A NEW SUBSECTION (14) ENTITLED "TRAIN WHISTLE OR HORN NOISE" TO SECTION 12-56 ENTITLED "NOISES PROHIBITED" TO PROVIDE FOR CONFLICTS; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, the Leon County Board of County Commissioners enacted the "Noise Control" ordinance on April 8, 2008 in an attempt to control noise which are serious hazards to the public health, safety, and welfare, and a source of annoyance to the populace; and

WHEREAS, the existing "Noise Control" ordinance in the Leon County Code of Laws does not prohibit train whistle or horn noise during certain times; and,

WHEREAS, it is in the best interest of the citizens of Leon County that such amendment to Chapter 12 "Public Nuisances" be adopted; and,

WHEREAS, the Board of County Commissioners desires to enact an ordinance amending Chapter 12 of the Leon County Code of Laws, relating to Public Nuisances.

BE IT ORDAINED by the Board of County Commissioners of the County of Leon, Florida, as follows, that:

Section 1. Chapter 12 of the Code of Laws of Leon County, Florida, is amended by adding a new subsection (14) to Section 12-56, which shall read as follows:

(14) *Train Whistle or Horn Noise:*

(A) It shall be unlawful and a public nuisance for any person, business or corporation operating a railroad train of a railroad company wholly within the state to blow, activate or in any way permit or cause the blowing or activation of train whistles or

horns from railroad trains between the hours of 10:00 p.m. and 6:00 a.m. on any day, when that train is traveling within Leon County.

(B) All persons approaching a railroad-highway grade crossing shall exercise treasonable care for their own safety and for the safety of railroad train crews as well as for the safety of train and vehicle passengers.

(C) This subsection relates only to public at-grade railroad train crossings having train-activated automatic traffic-control devices, which shall include flashing lights, bells and crossing gates on both sides of the railroad tracks.

(D) Within a reasonable time after the enactment of this subsection, Leon County shall post signs at each railroad crossing in Leon County announcing that trains arte prohibited from the sounding of whistles or horns between the hours of 10:00 p.m. and 6:00 a.m.

(E) At all appropriate public railroad-highway grade crossings within the City, the City shall cause to be erected advanced railroad warning signs and pavement markings in accordance with the uniform system of traffic-control devices if the City has maintenance responsibility for that particular highway or street.

Section 2. Conflicts.

All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict, except to the extent of any conflicts with the Tallahassee-Leon County 2010 Comprehensive Plan as amended, which provisions shall prevail over any parts of this Ordinance which are inconsistent, either in whole or in part, with the said Comprehensive Plan, and, further, that this Ordinance shall not repeal, amended, or replace the provisions found in Section 4-36 of the Leon County Code of Laws.

Section 3. **Severability.**

If any provisions or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

Section 5. **Effective Date.**

This Ordinance shall have effect upon becoming law.

DONE, ADOPTED AND PASSED by the Board of County Commissioners of Leon County, Florida this _____ day of _____, 2009.

LEON COUNTY, FLORIDA

By:_____
Bryan Desloge, Chairman
Board of County Commissioners

ATTESTED BY:
BOB INZER, CLERK OF THE COURT
LEON COUNTY, FLORIDA

By:_____
Bob Inzer, Clerk of Court
Leon County, Florida

APPROVED AS TO FORM:
COUNTY ATTORNEY'S OFFICE
LEON COUNTY, FLORIDA

By:_____
Herbert W. A. Thiele, Esq.
County Attorney

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