ORDINANCE NO. 05-____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING CHAPTER 17 OF THE CODE OF LAWS OF LEON COUNTY, FLORIDA, ENTITLED "TRAFFIC"; CREATING A NEW ARTICLE I ENTITLED "UNMUFFLED COMPRESSION OR AUXILIARY EXHAUST BRAKES PROHIBITED"; CREATING A NEW SECTION 17-1 ENTITLED "DEFINITIONS"; CREATING A NEW SECTION 17-2 ENTITLED "PROHIBITION OF UNMUFFLED COMPRESSION OR AUXILIARY EXHAUST BRAKES"; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Leon County Board of County Commissioners has received complaints from citizens regarding the loud and excessive noise created by vehicles using compression or auxiliary exhaust brakes to slow their vehicles while traveling, during the late night hours, on roadways located in Leon County; and

WHEREAS, the loud and excessive noise created by the use of unmuffled compression or auxiliary exhaust brakes interferes with the peace and tranquility of the citizens of Leon County; and

WHEREAS, the Board desires to adopt such an ordinance to prohibit such brakes for the purpose of protecting the public health, safety and welfare of Leon County residents;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, THAT:

Section 1. Chapter 17 of the Code of Laws of Leon County, Florida, is hereby amended to create a new Article I, which shall read as follows:

ARTICLE I. UNMUFFLED COMPRESSION OR AUXILIARY EXHAUST BRAKES PROHIBITED

Sec. 17-1. Definitions.

Auxiliary exhaust brakes shall mean a compression release engine brake used by large diesel trucks or tractor-trailers.

Compression brakes shall mean the use of the engine and transmission by the operator to retard the forward motion of a motor vehicle by compression of the engine.

Sec. 17-2. Prohibition of Unmuffled Compression or Auxiliary Exhaust Brakes.

(a) *Prohibition.* During the time period from 10:00 p.m. to 6:00 a.m. eastern time, no person shall operate a motor vehicle using unmuffled compression or auxiliary exhaust brakes that when applied results in excessive, loud or explosive noise from such vehicle while driving the vehicle on Highway 27 North in Leon County.

(b) *Exceptions.* This section shall not apply to the following:

(1) Emergency situations. It shall be an affirmative defense that said compression or auxiliary exhaust brakes were applied in an emergency and were necessary for the protection of the person and/or property.

(2) Vehicles of any fire or emergency medical services department, whether or not responding to an emergency.

(c) *Signs.* The Leon County Public Works Department shall post, at reasonable locations within the boundaries of the County, visible and conspicuous signs stating "Unmuffled Compression or Auxiliary Exhaust Brakes Prohibited."

(d) *Enforcement.* The Leon County Sheriff's Office is hereby authorized to enforce compliance with this Article.

(d) *Penalty.* Violation of this section shall constitute a civil infraction and shall be punishable by a maximum fine of $500 per violation.

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 part of this ordinance which is inconsistent, either in whole or in part, with the said Comprehensive Plan.

Section 3. **Severability.** If any word, phrase, clause, section or portion of this ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 4. **Effective date.** This ordinance shall have effect upon becoming law.

DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon County, Florida, this 12th day of April, 2005.

LEON COUNTY, FLORIDA

By:_____
Cliff Thaell, Chairman
Board of County Commissioners

ATTESTED BY:
BOB INZER, CLERK OF THE COURT

By:_____
CLERK

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

By:_____
HERBERT W.A. THIELE
COUNTY ATTORNEY