

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF CEDAR PARK, TEXAS, ESTABLISHING A QUIET ZONE WITHIN THE CITY LIMITS OF CEDAR PARK, TEXAS, FROM APPROXIMATELY ONE HALF MILE NORTH OF NEW HOPE DRIVE TO APPROXIMATELY 1.5 MILES EAST OF BMC DRIVE, IN WHICH TRAIN HORNS ARE PROHIBITED FROM SOUNDING EXCEPT IN CASE OF EMERGENCY; PROVIDING A PENALTY; PROVIDING SEVERABILITY, EFFECTIVE DATE, AND OPEN MEETINGS CLAUSES; AND PROVIDING FOR RELATED MATTERS.

WHEREAS, as outlined in Section 222 of Title 49 of the Code of Federal Regulations (FRA), train horns are required to be sounded when approaching all at-grade highway rail crossings that have not yet been authorized as being within a Quiet Zone; and

WHEREAS, the City Council of the City of Cedar Park, Texas, “City” has determined that, the train horn soundings as required by the FRA interferes with the quality of life desired by City residents; and

WHEREAS, the FRA allows a Quiet Zone to be established within the jurisdiction of a public authority after specific Supplemental Safety Measures are installed at the public roadway rail crossing within the proposed Quiet Zone; and

WHEREAS, the installation of Four Quadrant Gates or Gates with Medians are Supplemental Safety Measures which satisfy the FRA requirements to authorize the establishment of a Quiet Zone; and

WHEREAS, according to 222.35.a.3 of Title 49 of the Code of Federal Regulation, a Quiet Zone may cross more than one political jurisdiction; and

WHEREAS, the at-grade rail crossings located on Discovery Boulevard, RM 1431, and New Hope Drive are Gates with Median crossings; and

WHEREAS, Capital Metro has installed Four Quadrant Gates at each of the other public highway rail grade crossing within the proposed quiet zone; and

WHEREAS, according to 222.37 of the Title 49 of the Code of Federal Regulations, when a proposed quiet zone includes public highway-rail grade crossing under the authority and control of more than one public authority (such as a county road or a State highway crossing), both public authorities must agree to establishment of the quiet zone, and must jointly, or by delegation provided to one of the authorities, take such actions as are required by Section 222 of Title 49.

WHEREAS, the City has received written support from the Area Engineer of the Texas Department of Transportation (TxDOT) to include the State crossing of RM 1431 into the Cedar Park Quiet Zone; and

WHEREAS, the City has received written support from the Williamson County Commission Court, through County (**minutes or Resolution XXXX?**), authorizing the City of Cedar Park to include Block House Drive, a County crossing between the City of Cedar Park and the City of Leander, into the Cedar Park Quiet Zone request; and

WHEREAS, based on the written support from TxDOT and Williamson County, the New Quiet Zone to be established will include the two crossings outside of the City's political jurisdiction, specifically known as Block House Drive and RM 1431.

NOW, THEREFOR, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS:

SECTION 1. Findings: The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

SECTION 2. Definitions: For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meaning ascribed to them in this section; provided that, unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning as they have in common usage, and so as to give this ordinance its most reasonable application.

Public highway at-grade rail crossing: A location where a public highway, road, or street, including associated sidewalks or pathways, at least one side of which is maintained by the City, crosses one or more railroad tracts at grade.

Quiet Zone: A segment of rail line, within which one or a number of consecutive public highway-rail crossings where the sounding of train horns are prohibited, except as provided by the ordinance.

Train horn: An air horn, steam whistle, air siren, or other similar high-decibel audible warning device mounted on a train.

SECTION 3: Quiet Zone. It is hereby determined that a Quiet Zone shall be established along the rail line within the City limits of Cedar Park from approximately one-half mile north of the rail line intersection New Hope Drive to approximately one and one half miles southeast of the rail line intersection of BMC Drive.

SECTION 4: **Sounding of Train Horn.** No person shall sound or permit the sounding of any train horn within the Quiet Zone, except under circumstances outlined in Section 222, Title 49 of the CFR.

SECTION 5: **Advance Warning Signs.** The City Council hereby orders and directs that NO TRAIN HORN (W10-9) advance warning signs be posted on each road approaching a public highway-rail grade crossing within the quiet zone as outlined in the 2006 Texas Manual of Uniform Traffic Control Devices.

SECTION 6: **Remedy of Action.** Nothing herein contained shall be construed as taking away any remedy or action for neglect against the railroad for any person injured as a result of negligence.

SECTION 7: **Penalty.** Train operators who violate any of the provisions of this Ordinance, or fails to comply therewith within the City limits, and including Block House Drive, shall be reported to the Capital Metro Rail Office. Under Appendix G to Part 222 of the Federal Rail Administration Regulations, a \$5,000 penalty may be assessed by the Administrator for routine sounding of the locomotive horn at quiet zone crossings.

SECTION 8: **Effective Date.** This ordinance shall be effective upon its passage and publication in accordance with the Local Government Code. Actual trail horns scheduled to cease sounding will be no less than 21 days upon the Notice of Establishment of a Quiet Zone being mailed to all parties outlined in Section 222.43(a)(4) by Capital Metro. The Notice of Establishment of a Quiet Zone shall be mailed upon the passage of this ordinance.

SECTION 9: **Open Meetings.** It is found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by Chapter 551 of the Texas Government Code.

APPROVED AND ADOPTED on this day of August, 2008.

CITY OF CEDAR PARK, TEXAS

Robert S. Lemon, Mayor

ATTEST:

LeAnn M. Quinn, City Secretary

APPROVED AS TO FORM
AND CONTENT:

Charles W. Rowland, City Attorney