BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF DESOTO COUNTY THAT THERE BE AN ORDINANCE ESTABLISHING A COMPREHENSIVE PROGRAM WITHIN DESOTO COUNTY, MISSISSIPPI TO CONTROL LITTER, REFUSE, WEEDS AND DERELICT PROPERTY; ESTABLISHING PENALTIES FOR VIOLATION OF SAID ORDINANCE AND ESTABLISHING AN EFFECTIVE DATE.

I. Short Title.

This Ordinance shall be known as the DeSoto County Litter Ordinance.

II. Legislative Intent.

It is the express intent of the Board of Supervisors and of this Ordinance to promote a clean, healthy, safe and attractive environment in which to live.

Whereas, the Board of Supervisors of DeSoto County has become aware of increased littering of public and private property in DeSoto County, Mississippi, and;

Whereas, said littering of public and private property degrades the environment and community, and causes health and safety hazards, and;

Whereas, the costs incurred by DeSoto County to clean up said litter creates an undue burden upon the taxpayers of DeSoto County, and;

Whereas, pursuant to § 19-5-17, §17-17-5, and § 19-5-173, Mississippi Code Annotated as amended, the Board of Supervisors of DeSoto County has the authority to enact such ordinances as necessary and in the best interest of the public to establish and maintain a system of disposal of refuse, garbage and derelict property.

III. Applicability.

This Ordinance shall apply to and be enforced within the unincorporated boundaries of DeSoto County, Mississippi.

IV. Definitions.

The following words, phrases or terms, as used in this Ordinance, unless context indicates otherwise, shall have the following meanings:

- a. **Authorized receptacle:** A litter storage and collection container as required and authorized by this Ordinance.
- b. **Abandon residence/house:** A dwelling that has been vacated by humans, it is uninhabitable due to unsanitary conditions and/or structural conditions that are in violations of county building codes.

- c. **Burnt residence/house:** A dwelling that has been destroyed more than 50% of fair market value by fire.
- d. **Compostable trash:** Every waste accumulation of lawn grass, tree trimmings, shrubbery or dry leaf rakings that is free of dirt, rocks, non-compostable trash and bulky waste.
- e. **Container:** The container which shall be provided by the owner or occupant responsible, shall be a receptacle with the appropriate capacities as required by the county or its agent retained for the purpose of collecting and disposing of garbage. Said container shall be constructed of plastic, metal or fiberglass and be designed and constructed in a manner appropriate for the depositing, holding and collecting of garbage. Said container shall meet the specifications, terms and conditions of the county and its agent retained to collect and dispose of its contents. These "specifications, terms and conditions are subject to change upon proper notice.
- f. **Cover:** Any device, equipment, container, close fitting tarpaulin, chain, rope, wire or line used on vehicles to prevent any part of a vehicle load to shift, blow, leak, fall or escape in any manner from the vehicle.
- g. **Derelict property:** Any items such as wrecked or junked property, which have been left abandoned or unprotected from the elements, including but not limited to, wrecked, or partially dismantled motor vehicles, trailers, boats, machinery, refrigerators, washing machines, plumbing fixtures and other articles. Wrecked or partially dismantled motor vehicles shall include any vehicle which does not have lawfully affixed thereto both a license plate and a current motor vehicle safety inspection certificate and the condition of which is wrecked, dismantled, partially dismantled, inoperable, abandoned or discarded and is not capable of being legally driven upon the public streets within DeSoto County.
- h. Garbage: Litter and refuse collectively as defined in this ordinance.
- i. **Handbill:** Any paper or papers, poster, circular, coupon or pamphlet regardless of size to be circulated for the purpose of making some public or private announcement except newspapers circulated to bona fide subscribers.
- j. Litter: All trash, including that which is unsightly and/or excessive in accumulation, including but not limited to paper, bottles, cans, glass, crockery, plastic, rubber, waste building materials, and disposable packages and container, white goods, water heaters, small automobile parts, tires, furniture, non-compostable trash, or any other matter which tends to create a hazard to public health, safety and welfare.
- k. **Person**: Any person, owner or lessee, firm, business, partnership, sole proprietorship, association, corporation, company or organization of any kind.
- 1. **Private Property:** Any dwelling, house, building or other structure designed or used for private, commercial or residential purposes and shall include any yard, grounds, acreage, vacant lots, walk, driveway, porch, steps, parking areas, vestibule, or mailbox belonging to such dwelling, house, building or other structure.

- m. **Public property**: Any and all streets, public rights of way, easements, medians, sidewalks, boulevards, highways, streets, alleys, or other public parks, squares, spaces, grounds and buildings.
- n. **Refuse:** All solid wastes including rubbish, ashes, trash, construction debris, and street cleanings and; animal, vegetables and/or other matter that results from the preparation, processing, consumption, dealing in, handling, or decomposition of meats, fish, birds, fruits, grains, or other animal or vegetable matter, including, but by no way limited to, used tin cans and other food containers, all putrescible or easily decomposable waste;' animals and vegetable matter which is likely to attract flies, insects or animals.
- o. **Weeds:** Any undesirable, uncultivated plant that grows in profusion so as to crowd out or disfigure a lawn, or any plant that is useless, harmful or troublesome, or any plant that may conceal pools of water, garbage, derelict property and compostable trash or any other substances that may be detrimental to health or safety and which is found to be growing on any parcel of land which has at some time been cleared or altered in any way from its original natural state being within 15 feet of a developed platted, subdivision or a developed zoned residential area.

V. Control of litter.

a. Littering Prohibited: It is unlawful for any person to throw, discard, or deposit garbage, compostable trash or derelict property in any manner or amount in or upon any public property or private property, highway, street, right-of-way, body of water or park in, the county, except in public receptacles, in authorized private receptacles, or in' i accordance regulations and requirements set forth by county and its agent for collection.

Loads on vehicles:

- 1. No person shall drive, move, park or in any other way operate any vehicles within the county unless said vehicle is loaded so as to prevent any of its load from dropping, shifting, leaking, blowing or otherwise escaping therefrom. In the event that the vehicle is hauling material such as garbage, compostable trash and derelict property or any other materials that could fall or blow from the vehicle, then said vehicle must be covered or secured with a close-fitting tarpaulin or other appropriate cover as defined herein.
- 2. Any driver or other person in direct control of any vehicle from which any materials or objects have fallen, blown, leaked, shifted or otherwise escaped shall immediately cause said materials or objects to be cleaned up at their own expense or be cited and fined in accordance with this ordinance and laws of the State of Mississippi.

Handbills:

1. No person shall throw, scatter, deposit or distribute or cause to be thrown, scattered, deposited, distributed, any handbill, upon any sidewalk, street, lane, alley, public ground or other public place or upon any private lot or building within the county ;provided, that it shall not be unlawful to distribute handbills to private residences, office

or mercantile establishments if the same are handed in at the door or securely fastened to reasonably prevent it from being blown or scattered about.

- 2. The placing of handbills or advertising materials on vehicles is a violation of this ordinance.
- 3. No person shall tack, nail, post or place any campaign or political sign, poster or placard on any yard, carport or garage sale sign, poster or placard upon any utility pole, tree or otherwise situated upon public property except as permitted by the County ordinance, Article XII sign regulations and related sections.

b. Placement of Litter in Receptacles Required:

It is unlawful for any person to deposit anything except garbage in any receptacle placed for public use as a depository for litter or refuse.

- 1. All persons shall store their garbage in leak-free, covered containers so as to eliminate wind-driven debris and unsightly garbage in and about the property owned, operated or controlled by them. Spillage and overflow around containers shall immediately be cleaned up as it occurs.
- 2. Persons owning or occupying property shall keep side walks and right-of-way areas in front of their premises free of garbage, compostable trash and derelict property. No person shall sweep or deposit any accumulation of garbage and derelict property into any gutter, street, parking lot, or other public place within the county.
- 3. All licensed construction and demolition contractors, or contracting homeowners shall provide on-site receptacles as a means to secure, for loose debris, paper, building materials wastes, scrap building materials, and other garbage and derelict property to prevent wind-driven scattering of such materials if the materials are otherwise not properly disposed of on a daily basis.
- 4. It shall be the duty of each person to keep his or her own property clean and free of garbage and derelict property.
- 5. It shall be the duty of every person in possession, charge of or in control of any place public or private, where garbage, compostable trash and derelict property is accumulated or generated, to provide adequate and suitable receptacles and/or containers capable of holding such materials until proper final disposal is accomplished, and at all times to keep said garbage in these receptacles and/or containers.
- 6. Any unauthorized accumulation of garbage compostable trash and derelict property on any public or private property is a violation of this ordinance.

VI. Garbage containers required; construction capacity, type; regulations governing use.

- a. It shall be the duty of every owner or occupant of every building in the county to immediately provide or cause to be provided, and at all times keep or cause to be kept within such building, or within the limits of the premises owned or occupied by such person, in the case of private residences, containers- in adequate number and condition as required herein.
- b. All commercial establishments and multi-family dwellings shall use the appropriate garbage collection containers and shall be required to maintain a healthy, clean desirable and aesthetically pleasing condition and to comply with the provisions of this ordinance. All such containers shall be located on a site approved by the agent retained for collection of the same, which site shall not be situated on any public right-of- way.
- c. It shall be unlawful for any owner of any residential or commercial property to place or deposit glass, needles or any sharp object, unless the same shall be placed inside a durable plastic, metal or fiberglass container. Further, it shall be unlawful to dispose of any hazardous waste except in the manner specifically authorized by statute and shall not be disposed of as part of garbage, compostable trash and derelict property as defined herein.

VII. Garbage containers required; garbage disposal regulations.

It shall be unlawful for any person to place or deposit loose garbage upon the streets except as herein provided. Compostable trash, derelict property, trees, tree limbs, stumps, extra large boxes, old furniture and the like, as well as the carcasses of dead animals will be made the subject of special collections by the county or its agent for said collection. Refrigerators disposed of in this manner shall have the doors removed as required by State law. All garbage, compostable trash and derelict property resulting from the construction, repair or alteration of any building in the county shall be immediately removed at the expense of the licensed contractor or contracting homeowner or occupant of such building. All trees, tree limbs and brush cut by a contractor or any person performing such task shall be removed at such person's own expense.

VIII. Placement for collection.

Residential units and light commercial entities shall place garbage containers, compostable trash and derelict property subject to collection in a location as required by the county and/or its employees or agents for collection of the same.

IX. County collection schedules, routes.

The county or its agent shall provide a method of garbage, compostable trash and derelict property collection and disposal by the collection of such garbage, compostable trash and derelict property contained and prepared as above required. The county or its Agent will maintain regular collection routes on particular days at particular times, and will make known to the public the routes, days and times of regular collections. The county, or its agent, with the approval of the Board of Supervisors, shall notify the public of any variations or changes in the regular collection schedule.

X. Certain acts declared unlawful.

It shall be unlawful for any person:

- a. To place or deposal or cause to be placed or deposited upon the streets of the county, garbage, compostable trash or derelict property unless contained or prepared as required by this ordinance; .
- b. To remove, examine or in any way disturb any garbage, compostable trash or derelict property deposited on the streets in the county for collection and disposal by the county other than the employees or authorized agents of the county engaged in its disposal, or other persons charged with tile enforcement of this article.
- c. To throw or deposit or to cause to be thrown or deposited in any ditch, creek, watercourse, gutter or drain within the county any garbage, compostable trash or derelict property.

XI. Control of Exterior Storage and Abandoned Property and Vehicles.

- a. No person who owns or is in possession of, in charge of, or in control of any property shall store, deposit, scalter, or keep on the premises any of the following:
 - 1. Derelict property as defined herein.
 - 2. Lumber, scrap metal, construction materials, machinery components, equipment, appliances, furniture and any similar object which is not clearly intended for outdoor use on the premises such as lawn furniture, bicycles, and refuse containers, or which object is not solely intended for use within thirty (30) days in construction or renovation on the premises.
 - 3. Junked motor vehicles.
 - a. Motor vehicles: shall be defined as any machine propelled by power other than human power, designed to travel along the ground, in the air, or upon water, by use of wheels, treads, runners, slides or the like, and transport persons or property, or pull machinery and shall include, without limitation, automobiles, trucks, trailers, motorcycles, ATV's and tractors.
 - b. Junked vehicles: shall be defined as a motor vehicle deemed to be inoperable or dismantled, or partially dismantled or wrecked or has been determined to be abandoned.
 - 4. The provision shall not apply to any of the above described objects if they are located in an enclosed building. The provision shall apply to any of the above described objects readily visible from any public and/or private place, street or road view, or any other nearby or adjoining public or private property.

- 5. An abandoned residence/house or a burnt house that has been vacated must be repaired or removed at the owner's expense.
 - a. If the owner elects to repair the abandon residence/house or burnt house a building permit must be applied for within 60 days of written notice or citation and construction started within 60 days.
 - b. If the owner of the abandon residence/house or burnt house elects to remove building this must be completed within 90 days of written notice or citation
 - c. No action shall be taken on an abandoned or burnt residence/house until all procedures commenced to settle the matter of the abandoned or burnt residence/house have been finally resolved. Such procedures shall include, but not be limited to, insurance claims, lawsuits, tax disputes, or other property settlement procedures.
- b. This provision shall not apply to any object or equipment on the premises of a county licensed business enterprise operated in a non-residential district when the keeping or maintaining of such object or equipment is necessary to the operation of such business enterprise, nor shall the provision. apply to any such object or equipment in an appropriate storage place or depository maintained in a lawful place by the county or any public agency.

XII. Control of Weeds/Grasses

1. Excess Growth of Weeds/Grasses Prohibited

It is unlawful for any person who owns or is in possession of, in charge of, or in control of any lot or parcel or and, in the county to allow weeds as defined herein to grow upon such property to a height exceeding twelve (12) inches, if said Lot or parcel has at some time been cleared or altered in any way from its original natural state.

2. Removal of Weeds/Grasses

The enforcement of this ordinance shall be done pursuant to § 19-5-105 of the Mississippi Code Annotated as amended.

XIII. Enforcement.

1. Enforcement Procedures.

a. The Planning Commission Director, code enforcement officer, and any uniformed officer of the county are hereby empowered to issue corrective written notices or citations to persons in violation of any of the provisions of this ordinance. Further, any citizen of DeSoto County may file a sworn affidavit in Justice Court to be taken against any party in violation of this ordinance.

b. Prosecution for a violation of this ordinance shall be initiated by the Planning Commission Director, code enforcement officer or uniformed officer of the county who has sufficient probable cause to believe this ordinance is being violated. If the Planning Commission Director, code enforcement officer or uniformed officer discovers an article of garbage, derelict property or junked vehicle bearing a person, corporation, company, firm, business or institution's name or address on property of another or on any public property, it shall be presumed that said article of garbage, derelict property or junked vehicle so discovered is the property of such person whose name or address appears thereon, and said person placed or caused to be placed upon such article of garbage, derelict property or junked vehicle; provided, however, that such presumption shall be rebuttal by competent evidence. This presumption is based on the tenet that all generators of such items are responsible for such items until such time it has been properly disposed of.

Corrective written notices may be issued to violators of this ordinance to correct an offense, in lieu of citation or arrest The notice shall state the date and time issued, nature of the offense committed, corrective measures to be taken and the date and time such corrections shall be made. All such notices issued shall be maintained by the issuing authority for public-inspections during normal office hours. Notices mailed by Certified Mail, return receipt requested, mailed to the violator's last known place of residence, shall be deemed personal service upon the person for the purpose of this ordinance.

2. Failure to Comply with a Notice

Any person who has been served such notice in accordance with the provisions of this ordinance, and who shall neglect or shall refuse or shall fail to fully comply with the corrective notices so ordered and/or within the time frame so ordered therein, shall be in! violation of this ordinance.

3. Penalties

Any person found to be in violation o fany provision of this ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine not less than one hundred (\$100.00) dollars nor more than two hundred fifty (\$250.00) dollars. Any second offense occurring within three years of the conviction of a first offense shall be punished by a fine not less than two hundred fifty (\$250.00) dollars nor more than five hundred (\$500.00) dollars, or imprisonment in the county jail not to exceed thirty (30) days or both such fine and imprisonment. Any third or subsequent offense occurring within three years of the conviction of a first offense shall be punished by a fine not less than two hundred (\$200.00) dollars nor more than seven hundred fifty (\$750.00) dollars, and community service of not less than five (5) days but not more than thirty (30) days, or

imprisonment in the county jail not to exceed ninety (90) days or both such fine and imprisonment. In addition to the foregoing fines and penalties, any costs incurred by DeSoto County in cleaning Litter, Garbage, or Derelict Property which has not released, scattered, spread by a person in violation of this ordinance, included the escape of Litter, Garbage or Derelict Property will be assessed to person, entity, landowner or operator of the vehicle found to be in violation of this ordinance; such costs may include the restoration of property damaged or defamed by acts which are in violation of this ordinance.

Any person violating any provision of this section shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than one hundred (\$100.00) dollars nor more than one thousand (\$1000.00) dollars or imprisonment in the county jail not to exceed ninety (90) days, or by both such fine and imprisonment, unless otherwise provided for herein. Each violation shall be deemed a separate offense.

4. Clearing of Private Property

Upon the failure, neglect, or refusal of any person so notified to properly dispose of garbage, compostable trash and derelict property from their property within 30 days after issuance of proper corrective notice, the county may effect the removal of the said garbage, compostable trash and derelict property and charge the owner of such property for the actual cost of removal pursuant to § 19-5-105 Mississippi Code Annotated as amended.

XIV. Conflict.

Any other ordinances of DeSoto County, Mississippi, which are conflicting or inconsistent with this ordinance are hereby repealed to the extent of any inconsistencies or conflicts.

XV. Severability

Severability is intended throughout and within the provisions of this Litter Ordinance. If any provision, including any exception, part, phrase or term or the application thereof to any person or circumstance is held invalid by a Court of appropriate jurisdiction, the application to other persons or circumstances shall not be affected thereby, and the validity of the Litter Ordinance in any and all other respects shall not be affected thereby. The Board of Supervisors of the County do not intend a result that is absurd, impossible to execute or unreasonable. It is intended that the Litter Ordinance be held inapplicable in such cases, if any, where its application would be unconstitutional as Constitutionally permitted construction is intended and shall be given. The Board of Supervisors of the County do not intend to violate any provisions of the Constitution of the United States of America or the Constitution of the State of Mississippi.

XVI. Ordinance Cumulative

This Ordinance shall be cumulative and in addition to any other laws in force.

XVII Effective Date

The Board of Supervisors of the County do hereby unanimously find that it is necessary for the immediate and temporary preservation of the public cleanliness, health and safety that this Litter Ordinance be made effective immediately. Accordingly, this Litter Ordinance shall be in full force and effect from and after the 1st day of May 1997, the date of its enactment.

XVIII Amendments

Article XI, Section a, Paragraph 4 was amended by Board of Supervisors Order on May 19, 2003.

Article IV Definitions, sections b. (Abandon residence/house) and c. (Burnt residence/house) were amended by Board of Supervisors Order on August 16, 2004.

Article XI Section a, Paragraph 5 was amended by Board of Supervisors Order on August 16, 2004.