

ORDINANCE NO. 15 OF 2009

AN ORDINANCE TO AMEND THE DESOTO PARISH CODE
CHAPTER 16, ENTITLED "ROADS, BRIDGES, CULVERTS AND DITCHES"

BE IT ORDAINED by the DeSoto Parish Police Jury:

The DeSoto Parish Code, Chapter 16, entitled "Roads, Bridges, Culverts and Ditches" is hereby amended to read as follows:

Sec. 16-1.1 Definitions.

- (1) *Commencement of Road Repairs:* To start or begin repair of roads by moving necessary equipment on to the work site.
- (2) *Emergency Road Condition:* When a road has deteriorated, by either natural disaster or man-made damage, to such an extent as to make the road not only impassable to normal two-wheel drive automobile, but clearly dangerous to travel by any motor vehicle.
- (3) *Excessive Damage:* Damage to road that is greater than ordinary wear and tear to which the road is normally subjected which renders the road impassable.
- (4) *Express Notice:* Written notice delivered by hand, by United States Postal Service, UPS, FedEx, FAX, or electronically delivered by e-mail, properly addressed to the address provided by the Road Superintendent of the DeSoto Parish Police Jury or his designee, with postage of fees properly prepaid if same are required.
- (5) *Impassable Road:* A parish road the condition of which has deteriorated to such an extent as to render a two-wheel drive automobile unable to travel at the posted speed in a manner which is safe to driver or passengers of said two-wheel drive automobile and to the vehicle itself.
- (6) *Passable Road:* A parish road the condition of which is sufficient enough to allow a two-wheel drive automobile able to travel at the posted speed in a manner which is safe to both driver and passengers of said two-wheel drive automobile and to the vehicle itself.
- (7) *Security:* Cash bond, surety bond (commercial), indemnification agreement (containing provisions to fund costs of repair of damage to road, hold harmless provision recognizing right of Police Jury for specific performance, recognizing right of Police Jury to seek enforcement in the 42nd Judicial District Court, DeSoto Parish, Louisiana and right of Jury to seek injunctive relief by summary proceedings.), or any alternative security instrument accepted and approved by the DeSoto Parish Police Jury.

- (8) *Wet/Soft Road Condition*: A parish road of any type surface, which because of excessive rains or standing water has weakened the surface or the underlying road base to such an extent as to render the road susceptible to extraordinary damage.
- (9) *Warranty of Road Repair Work*: This warranty is only applicable to faulty repair work performed on a parish road by a permit holder or its designee (because of defective materials or workmanship) which necessitates additional repairs to such repaired portion of this parish road within 180 days following the date of the initial acceptance of such road repair work by the Road Superintendent or his designee. However, if such road repair work is damaged by a third party as a result of an Emergency Road Condition, Excessive Damage and/or Wet/Soft Road Condition (all as defined hereinabove) prior to the expiration of said 180 day warranty period, then such permit holder/responsible party's warranty shall terminate and be released. The warranted or warranty work done pursuant to this ordinance shall not expose the warranting party/parties to any liabilities for injuries to any persons or for any damages to vehicles and/or personal property once the road repair work is accepted by the Road Superintendent in accordance with the provisions of Sec, 16-9 B (2) (j).

The DeSoto Parish Code, Chapter 16, Section 16-8 entitled "Excessive damage to roads by motor vehicles." is hereby amended to read as follows:

Sec. 16-8 Permit to haul heavy and oversize loads on parish maintained roads and bridges.

- (A) No vehicle nor combination of vehicles shall be operated on any road, bridge, or culvert which is maintained exclusively by DeSoto Parish Police Jury with a greater weight than eighteen thousand (18,000) pounds per single axle, or with a gross weight of fifty-eight thousand (58,000) pounds, or a width or length that exceeds the dimensions established in the Louisiana Department of Transportation and Development permit system without a written permit granted by the DeSoto Parish Police Jury to a party responsible for the project and the freight and equipment going to said project over parish roads.
- (B) The DeSoto Parish Police Jury will issue permits limited to periods one year or less for the transportation over highways and roads of DeSoto Parish (other than state highways and public roads within the boundaries of an incorporated municipality) of overweight or oversize or over length commodities which cannot be reasonably dismantled.
- (C) Any party required to have a permit shall contact the Road Superintendent or his designee and arrange for a meeting to:
- (i) Complete a permit request "form"
 - (ii) Identify the individual who shall represent the party in all matters and be available twenty four hours a day, seven days a week.
 - (iii) Inspect that portion(s) of the parish road system proposed as the route to/from the parties' project and record the existing conditions of said route.
- Upon issuance of said permit the recipient shall be known as the responsible party.
- (D) One (1) permit shall be required for each project undertaken at an individual site. The party responsible for developing the project shall be the responsible party (permit holder). All individuals and businesses providing vehicles subject to permitting shall be listed on said permit. The permit shall expire upon completing the project or one (1) year from date of issuance, whichever is first.

- (E) The permit or permit number shall at all times be in the immediate possession of the vehicle operator.
- (F) No permit will be issued to any party until all fines and Jury road repair costs associated with prior permits issued to the responsible party have been paid in full. Additionally, responsible parties found in violation of Section 16-9 shall post a security prior to receiving any permit dated within ninety (90) days of the final determination of said violation. The security shall be valid when the permit is issued and shall remain valid through the warranty period and acceptance of the work by the Road Superintendent or his designee.
- (G) Should any provision of the section be declared invalid, such shall not invalidate or affect the remaining provisions hereof.
- (H) The act of hauling loads over parish roads without first obtaining or having in immediate possession a permit or the authorized permit number, shall be a misdemeanor and punishable by a fine of two hundred fifty dollars (\$250.00) on the occasion of the first offense and five hundred dollars (\$500.00) on the occasion of the second offense. On the occasion of the third offense of operating without a permit or authorized permit number, the fine shall be five hundred dollars (\$500.00) and the right to obtain a permit shall be forfeited for ninety (90) days from the date of the final determination that an offense did occur unless a security is posted in accordance with Sections 16-8 and 16-9. Fines and penalties are the responsibility of the responsible party/parties (permit holder).
- (I) Any violation of the permit requirements shall be a misdemeanor and punishable by a fine of up to five hundred dollars (\$500.00) and thirty (30) days in the parish jail. Fines, penalties, and punishments are the responsibility of the responsible party/parties (permit holder).

The DeSoto Parish Code, Chapter 16, Section 16-9 entitled "Maximum weight of vehicles on roads, bridges or culverts." is hereby amended to read as follows:

Sec. 16-9 Excessive damage to roads by motor vehicles.

- (A) At any time excessive damage is caused to any parish road by the use of motor vehicles or equipment belonging to or under the direction of any responsible party/parties which is beyond the ordinary and normal usage of such roads, such parties shall at their own expense, repair or restore the portion of any road so damaged to a passable condition. It is the express intent of the DeSoto Parish Police Jury that the Parish Road Department be a last provider of said repair and restoration work.
- (B) The above stated policy shall be implemented and placed into effect as to all responsible parties who make extensive use of the parish roads for the purpose of any type construction, development, or industrial projects, including but not limited to the drilling of oil or gas wells, large construction projects, removal of timber or any other type natural resources in the following manner.
 - (1) Impassable Roads - Emergency, Temporary and Priority Repairs:
In the event that a portion of a parish road being used by a responsible party/parties becomes impassable by virtue of such usage then:
 - (a) The responsible party/parties shall immediately give express notice to the Road Superintendent or his designee and said notice shall include as a minimum the following information.

- (i) road name
- (ii) permit number
- (iii) nature and location of damages or defects
- (iv) method and type of repairs
- (v) estimated date of completion

The proposed repair techniques and completion date will be acceptable unless modified by the Road Superintendent or designee via express mail within two (2) working days of receiving the responsible party's notice.

- (b) If the Road Superintendent or his designee determines that a portion of the parish road being used by a responsible party/parties becomes impassable and an express notice has not been received from the responsible party/parties using the road then the Superintendent or his designee will send an express notice containing the information indicated in (a) above. If the responsible party consistently relies upon the Road Department to identify impassable roads and notify all parties instead of proactively doing such work itself then the Police Jury may impose fees to cover the cost of such work.
- (c) The responsible party/parties shall commence repairs within five (5) calendar days of issuing or receiving express notice described in (a) and (b) above. Said repairs shall be performed in a good, diligent, workmanlike manner until completed.
- (d) In the event the DeSoto Parish Police Jury President declares the road repairs to be an emergency the responsible party/parties shall commence repairs within twenty-four (24) hours of said declaration and subsequent notice to the responsible party/parties. Said repair work shall then be completed in a good, workmanlike, diligent manner consistent with the declared emergency.
- (e) Upon completing the repairs the responsible party/parties shall immediately give express notice that the work has been completed in accordance with the previous express notices and that an inspection of the work is requested. The Parish Road Superintendent or his designee shall then have two (2) working days to accept or reject the work. If an express notice rejecting the work is not sent from the Superintendent or his designee within the allowable time then the repair work will be considered accepted.
- (f) In the event the responsible party/parties fail to commence repairs in accordance with (c) and (d) above the following shall apply:
 - (i) The Road Superintendent or his designee shall give express notice to the responsible party/parties advising the following:
 - (a) The repairs identified in the first letter of notice have not been commenced.
 - (b) If the repairs are not commenced within five (5) days of this second notice, (24 hours if an emergency) then the responsible party/parties is/are in violation of Sec. 16-9 of these provisions.
 - (c) That if the responsible party/parties do not commence the road repairs as required within five (5) days of this second notice (24 hours if an emergency) they will be denied future road use permits unless a bond or other acceptable security is provided in

accordance with Sec. 16-9 of these provisions for those who are determined violators of Sec. 16-9.

- (d) That if the responsible party/parties do not commence the road repairs within five (5) calendar days of this second notice (24 hours in an emergency) the DeSoto Parish Police Jury may make the needed repairs and shall seek reimbursement for all costs of the repairs including overhead. The invoice for said costs shall be paid within thirty (30) days of receipt by the responsible party.
 - (e) That if the responsible party/parties do not commence making the road repairs as required within five (5) calendar days of this second notice (24 hours if an emergency), that they will be fined the sum of five hundred dollars (\$500.00) for each violation.
 - (f) The responsible party/parties has/have a right to a hearing before the Road Committee of the DeSoto Parish Police Jury by requesting same through its secretary within five (5) calendar days of this second notice to dispute being held in violation of Sec. 16-9.
- (ii) If after the second notice, the responsible party/parties again fail to commence the required repairs to the impassable road, then a violation of this section is deemed to have occurred and the Road Department may commence with the repairs. The responsible party/parties has a right to an appeal before the Police Jury to dispute a violation of this section by requesting same through its secretary within fourteen (14) calendar days of the second notice.

(2) Permanent Restoration of Road:

- (a) Upon completing the project the responsible party shall give express notice to the Parish Road Superintendent or his designee that the project is complete and an inspection of the road/roads used by the responsible party is requested.
- (b) Within ten (10) working days of receiving the express notice the responsible party/parties and the Parish Road Superintendent or his designee shall meet to determine what damage, if any, was caused by the responsible party ('s) use of said road and what restoration work is necessitated by such use to restore the road as much as practicable to its condition at the time the permit was issued.
- (c) Subsequent to the meeting described in (b) above, the responsible party and Road Superintendent or his designee shall follow the procedures established in (B) (1) (a) above for the road restoration work.
- (d) If the responsible party fails to immediately initiate the express notice required in (B) (1) (a) above then the Road Superintendent or his designee will issue express notice to the responsible party/parties containing the information described in (B) (1) (a) above.
- (e) The responsible party/parties shall commence the restoration work within fourteen (14) calendar days, or twenty-four (24) hours if an emergency as described in (B) (1) (a) above, from issuing or receiving

express notice as described in (c) and (d) above. Said work shall be performed in a good, diligent workmanlike manner until completed.

- (f) Acceptance of the completed work shall follow the procedure described in (B) (1) (e) above.
- (g) A one hundred eighty (180) day warranty on the restoration work will commence upon acceptance of said work by the Road Superintendent or his designee as described in (f) above. If no restoration work is performed then the warranty shall be for the repair work performed in (B) (1) above.
- (h) Thirty (30) days prior to the expiration of the one hundred eighty (180) day warranty the responsible party shall give express notice to the Road Superintendent or his designee that the restoration work is in good condition and a final inspection is requested. The parish representative will then have ten (10) working days to send express notice of rejection to the responsible party/parties or said work will be deemed acceptable.
- (i) Any work rejected by the Road Superintendent or his designee shall be repaired or restored in accordance with (B) (1) above.
- (j) Upon acceptance of said work by the Road Superintendent or his designee the responsible party/parties will be released from additional road repair/restoration work associated with the use of roads while constructing the project.
- (k) In the event the responsible party/parties fail to commence repairs/restoration within the time allowed in (e) above then the procedures described in (B) (1) (f) (i) and (ii) shall be followed.

(3) Contractors; Violation; Security; Shared Responsibility

- (a) The repair or restoration work described in (1) or (2) above may be provided by the responsible party's own employees, contractors or other entity/individuals acceptable to the Police Jury.
- (b) Any responsible party/parties receiving a final finding that they are in violation of any provision of this Section shall be guilty of a misdemeanor.
- (c) The security shall be in an amount equal to 50% of the permitted mile road value to guarantee the payment of any damages to any road or bridge sustained as a consequence of the transportation authorized by the permit. The per mile road values as of January 1, 2010 are \$300,000 for asphalt roads with 12" base, \$200,000 for other asphalt roads, and \$100,00 for all other roads. The per mile road values will be evaluated on an annual basis by the Parish Road Department and adjustments thereto recommended to the Jury.
- (d) Whenever two (2) or more responsible parties share all or part of a road described in their respective permits, all parties shall contribute/share in the cost of any repair and restoration work on a prorata basis. The determination of respective liability between

parties shall be determined by the Road Superintendent or his designee.

- (e) Should any provision of this section be declared invalid, such shall not invalidate or affect the remaining provision hereof.
- (f) Safety devices shall be properly positioned in the road right-of-way by the responsible party/parties immediately upon issuing or receiving a first notice of impassable road conditions and while performing work in said right-of-way. Said safety devices shall be properly maintained in accordance with LA-DOTD standards until all work is completed and accepted by the Road Superintendent or his designee.

The DeSoto Parish Code, Chapter 16, Section 16-10 entitled "Permit to haul loads on parish-maintained roads and bridges." is hereby amended to read as follows:

Sec. 16-10: Use of parish roads when wet and soft:

- (A) The use of wet and soft parish roads by heavy and oversize vehicles is strictly prohibited when declared impassable by the Parish Road Superintendent or his designee. Express notice of such conditions shall be given to responsible parties by said Superintendent. Said notice shall identify the following:
 - (i) road name and permit number
 - (ii) approximate location of the closure
 - (iii) estimated date of re-opening
 - (iv) alternate route to travel
- (B) This section also prohibits the misuse of parish roads by the owner or operator of other vehicles, such as four-wheel drive vehicles, all terrain vehicles or any other recreational-type vehicles, when, in the opinion of the parish Road Superintendent or his designee said misuse is of a malicious or deliberate nature.
- (C) Any responsible party or owner/contractor violating the provisions of subsections (a) and (b) of this section shall be guilty of a misdemeanor and shall be fined in the amount of two hundred fifty dollars (\$250.00) on the occasion of the first offense and five hundred dollars (\$500.00) on the occasion of the second offense and all future offenses. In addition, on the occasion of third offense, the violator shall forfeit his permit privileges to use any and all roads in DeSoto Parish for a period of ninety (90) days from the date of said third offense or be required to post security in accordance with Sections 16-8 and 16-9.
- (D) Should any provision of this section be declared invalid, such shall not invalidate or affect the remaining provisions hereof.

The DeSoto Parish Code, Chapter 16, Section 16-11 entitled "Use of parish-maintained roads when wet and soft restricted." is hereby repealed.

This ordinance becomes effective 12:01 am, Wednesday, February 17, 2010.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

UPON MOTION by _____, duly seconded by _____, the

above and foregoing Ordinance was duly adopted on this _____ day of _____,

2009 with the votes as follows:

AYES _____

NAYS _____

ABSENT _____

B.D. MITCHELL, PRESIDENT
DESOTO PARISH POLICE JURY

JULIE HARRIS, SECRETARY
DESOTO PARISH POLICE JURY