

## Ordinance No. Summary

On January 19, 2017, the City of De Soto, Kansas, adopted Ordinance No. 2412, amending the City Code to condition any grading or land disturbance of one acre or more (for the purpose of building structures or other infrastructure, or installing utilities, on or across the land graded or disturbed) on obtaining a permit for the same from the City.

A complete copy of this ordinance is available at [www.desotoks.us](http://www.desotoks.us) or at City Hall, 32905 West 84<sup>th</sup> Street, De Soto, Kansas. This summary is certified by Patrick G. Reavey, City Attorney.

### ORDINANCE NO. 2412

#### **AN ORDINANCE AMENDING CHAPTER IV OF THE CITY CODE TO INCLUDE NEW ARTICLE 10 RELATED TO REQUIRING A PERMIT FROM THE CITY BEFORE GRADING OR DISTURBING A LAND AREA THAT IS EQUAL TO OR GREATER THAN ONE ACRE, AND THE GRADING OR LAND DISTURBANCE IS FOR THE PURPOSE OF BUILDING STRUCTURES OR OTHER INFRASTRUCTURE, OR INSTALLING UTILITIES**

WHEREAS, City Staff believes it is appropriate for the City to require a permit from the City Building Inspection Department before anyone is allowed, in preparation for building structures or other infrastructure, or installing utilities, to grade or otherwise disturb a land area that is equal to or greater than one acre.

#### **NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DE SOTO, KANSAS:**

**SECTION 1:** Chapter IV of the City Code is amended to include new Article 10 which shall read as follows:

#### **ARTICLE 10. LAND DISTURBANCE AND GRADING PERMIT**

##### **4-1001. Land Disturbance and Grading Defined.**

For purposes of this Article, the terms “Land Disturbance” and “Grading”, or derivatives thereof, shall be defined as the excavation or fill of land by mechanical means, or any combination of excavation and fill, which alters the grade or profile of the land (even if just temporarily) from how it existed before excavation and/or fill. As set forth herein below, the requirement of a permit for a Land Disturbance or

Grading only applies when the area of disturbed or graded land is equal to or greater than one acre.

**4-1002. Permit required; application; approval.**

No person shall commence with the grading or disturbing of a land area equal to or in excess of one acre -- which is for the purpose of building within, across or thereon, any structures, infrastructure, or installing utilities -- without first applying for and obtaining a permit for such grading or land disturbance from the building official.

**4-1003. Same; application procedure and information required.**

(a) Any applicant for a permit pursuant to this Article shall:

- (1) Request a pre-application meeting through the building official or his designee;
- (2) Submit a completed application (on a form provided by the building official), and any other submittals required by the building official, to the building official or his designee;
- (3) Provide any other information as may be pertinent to the issuance of the required permit, and requested by the building official or his designee; and
- (4) Pay a permit fee, as set forth by the City Fee Resolution.

(b) An application for the required permit shall be signed by the owner or his or her duly authorized agent, or the owner or agent's contractor. If the application is made by the owner or his agent, it shall contain the name or names of the contractor or contractors doing the work described.

(c) Upon approval of the completed application and a determination that a permit should be issued, the building official or his designee shall issue a permit to the owner or contractor authorizing the grading or land disturbance covered by the application.

(d) Any permit issued under this section shall be valid and subsisting for a period of not more than 6 months from the date of issuance unless the permittee shall have commenced, within the period so limited, the work authorized by such permit. Work commenced for the purpose of this section shall mean the commencement of grading or land disturbance, and not preparation of plans or the staking out of the location of the grading or land disturbance.

**4-1004. Posting.**

A copy of the permit shall be prominently displayed on a temporary sign for public inspection during the performance of the work and until completion of the same. Such sign shall be located on the land where the grading or land disturbance is occurring and as close to the public right of way as possible.

**4-1005. Liability.**

This Article shall not be construed to relieve from any liability or lessen the liability of any person performing any activity connected herewith, nor shall the city be held as assuming any liability by reason of any inspection of work covered by a permit.

**SECTION 2:** Section 4-205 of Article 2 of Chapter IV of the City Code is amended to reference the requirement of obtaining a permit before grading or disturbing a land area equal to or greater than one acre, and shall read as follows:

**4-205. Building permit required; application; approval.**

(a) No person shall erect, construct, enlarge, alter, move, improve, remove, convert, or demolish any building structure or utility in the city, or do any work regulated by any portion of this code, or cause the same to be done, without first obtaining a building permit for any such work from the building official. No person shall excavate, grade, strip, or disturb more than one acre of land in preparation for such building permit without first obtaining a grading/land disturbance permit for any such work from the building official.

(b) No person shall obtain a building permit unless and until they have obtained a license and complied with the contractor licensing requirements of Johnson County, Kansas as set forth in the Contractor Licensing Regulations adopted pursuant to County Resolution 058-01, which Contractor Licensing Regulations are incorporated herein by reference, or such person shows adequate proof to the Building Official that they are exempt from such requirements.

(c) A building permit shall not be required for exempted work as described in Sec. 105.2 of the International Building Code; Section 106.2 of the International Plumbing Code; Sec. 106.2 of the International Mechanical Code and Sec. 90.2(b) of the National Electrical Code.

(d) In cases of real emergency, the person doing the work or causing the work to be done, may proceed with the work and file application for a permit within 72 hours after commencement of emergency work. Emergency shall be considered to exist only in those situations wherein life, health and safety would be adversely affected if work were not commenced immediately.

**SECTION 3: Repealer.** Any City Code provisions inconsistent with this Ordinance are hereby repealed.

**SECTION 4: Effective Date.** This Ordinance shall be effective after its passage, approval and publication once in the City's official paper.

ADOPTED BY THE GOVERNING BODY AND APPROVED BY THE MAYOR OF DE SOTO, KANSAS ON THE 19<sup>th</sup> DAY OF JANUARY, 2017.

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TIMOTHY J. MANIEZ, Mayor

ATTEST:

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LANA MCPHERSON, MMC, City Clerk

APPROVED AS TO FORM:

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PATRICK G. REAVEY, City Attorney