

Ordinance Summary published in the Legal Record on _____ and the full text of the Ordinance made available at www.desotoks.us for a minimum of 1 week from the date of publication

Ordinance No. 2436 Summary

On December 21, 2017, the City of De Soto, Kansas, adopted Ordinance No. 2436, amending the City Zoning Regulations pertaining to the procedure for approving Temporary Use Permits (Section 9 of Article 5) of the City's Zoning Regulations. A complete copy of this ordinance may be obtained or viewed free of charge at the Office of the City Clerk at City Hall, 32905 West 84th Street, De Soto, Kansas or at www.desotoks.us. This summary is certified by Patrick G. Reavey, De Soto City Attorney pursuant to K.S.A. 12-3001, et seq.

ORDINANCE NO. 2436

AN ORDINANCE ADOPTING THE PLANNING COMMISSION'S RECOMMENDATION TO REVISE THE DE SOTO ZONING REGULATIONS (INCORPORATED AS APPENDIX C TO THE DE SOTO CITY CODE VIA SECTION 16-201 OF ARTICLE 2 OF CHAPTER XVI) TO AMEND THE PROCEDURE REQUIRED FOR APPROVAL OF TEMPORARY USE PERMITS (SPECIFICALLY SECTION 9 OF ARTICLE 5)

WHEREAS, the City Planning Commission has recommended that the Governing Body amend the City's Zoning Regulations pertaining to approvals required for temporary use permits; and

WHEREAS, all newspaper notifications were performed and a public hearing was properly held before the City Planning Commission as to the requested text amendment; and

WHEREAS, after review of the proposed text amendment, the Planning Commission recommended that said amendment be made part of the Zoning Regulations.

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

Section 1. That Section 9 of Article 5 of the City's Zoning Regulations (incorporated as Appendix C to the De Soto City Code via Section 16-201 of Article 2 of Chapter XVI) is hereby amended to read as follows:

9. Temporary Uses.

(Entire Section Revised--Ord 2139; also see Ord 2267)

A. Statement of Purpose. The purpose of this Section is to provide for and govern the approval and operation of the temporary use of land. This Section further intends to ensure that such temporary uses are consistent with the normal use of the subject site and beneficial to the general welfare of the public. Furthermore, it is the intent of this Section to protect nearby

property owners, residences and businesses from temporary uses which may be disruptive, obnoxious, unsafe or inappropriate given site conditions, traffic patterns, land use characteristics and the nature of the proposed use. Finally, it is the purpose of this Section to preserve the public health, safety and welfare.

B. Temporary Uses Permitted. No land shall be used for temporary purposes except as defined and specified herein. The following uses are exclusive. Uses not defined herein shall not be permitted as temporary uses.

- (1) Fundraising or Non-Commercial Events: Events for nonprofit religious, educational, community or civic organizations including car washes, rummage sales, bake sales, and similar activities. A Permit is not required for such organizations holding fundraising events on their own private property.
- (2) Christmas Tree Sales and other Outdoor Seasonal Sale of Harvestable Goods Associated with Major Holidays: The sale or display and sale of Christmas trees, garland, wreaths, pumpkins, and other holiday related harvestable goods or produce.
- (3) Outdoor Produce and Harvestable Goods: The sale and display of seasonal produce or harvestable goods, including fruits and vegetables, house plants and annual or perennial bedding plants, ground covers, bulbs and related small plant materials. This shall not include sale of general landscaping materials, including sod, trees or shrubs.
- (4) Outdoor Seasonal Displays: The sale and display of seasonal merchandise and products such as gardening supplies or lawn furniture.
- (5) Promotional Activities or Devices: Activities or devices intended to attract attention to a specific merchandise, services or product lines, such as outdoor displays, entertainment or activities, including hot air balloons or other large inflatable objects, searchlights, rows of pennants or flags, vehicles or trailers used primarily for advertising display and secondarily for transportation, 'air dancers' or similar vinyl tubes with blower systems, or other, similar promotional displays or activities.
- (6) On and Off-Site Construction Structures and Storage: Contractor's offices and equipment sheds accessory to a construction project. Such structures cannot contain sleeping or cooking accommodations.
- (7) On-Site Construction Housing: Temporary housing, including a basement, garage, camper or manufactured home utilized by full-time, regular workers during construction of the principal residential structure.
- (8) Real Estate Office: Real estate office (containing no sleeping or cooking accommodations unless located in a model dwelling unit) incidental to a new housing development.

- (9) Recycling or Material Collection Vessels: For collection of recyclable materials. Such vessels shall meet minimum zoning district yard setbacks and shall be screened from view of all adjacent residentially zoned properties or existing residential uses.
- (10) Camping Trailers and Recreational Vehicles: Camping Trailers as defined in 4-801 of Chapter IV of the De Soto City Codes and recreational vehicles, which are hereby defined as vehicular type units primarily designed as temporary living quarters for recreational camping or travel uses and which have their own motive power, may be temporarily used as an overnight residence in areas of the City which are not considered camp grounds or trailer parks. (Ord. 1119)
- (11) Emergency Relief Housing: Housing, including manufactured homes, mobile homes, campers, trailers, or recreation vehicles for the purpose of providing temporary housing following a disaster, such as fire, tornado or flood.
- (12) Commercial Activities: Activities intended to sell, lease, rent or promote specific merchandise, services or product lines, such as tent sales, sidewalk sales, trade shows, auctions, flea markets, or swap meets.
- (13) Public Events: Events primarily for public entertainment or amusement such as parades, group runs or walks, carnivals, concerts or festivals, or arts and crafts shows operated separately or in conjunction with other activities such as sales by merchants for vendors which take place primarily on public property, city parks, or in a city rights-of-way.
- (14) Semi-Public Events: Events open to the public for entertainment, amusement, or fund raising such as, carnivals, motorcycle runs, concerts, contests, festivals, or arts and crafts shows operated separately or in conjunction with other activities such as sales by merchants for vendors which take place primarily on privately-owned property.

C. Permit Process, Regulations and Duration.

- (1) General Requirements. Temporary Use permits shall be issued only if all the following general criteria are met:
 - (a) Parking and Traffic Control. Adequate off-street parking with an approved surface shall be provided for customer vehicles outside the roadway improvement area. The temporary use shall not cause undue traffic congestion or additional accident potential given anticipated attendance and the design of adjacent streets, intersections and traffic controls.
 - (b) Adequate Sight Distances. Structures or product displays shall not be placed inside the visual sight triangle at intersections. Adequate sight distances shall be available for vehicles entering and leaving the temporary use site.

- (c) Nuisances. Noise, odor or light emissions from the site shall not present an interference with the enjoyment or use of the property or a hazard to adjoining properties or public ways. Unless otherwise approved by the Governing Body, all uses shall be subject to all applicable lighting and noise regulations of the City.
 - (d) Waste Disposal. Adequate provision for sanitary waste and trash disposal shall be provided by the applicant. Trash, rubbish and waste products shall be removed from the premises daily.
 - (e) Utilities. Utility services provided shall comply with applicable building, electrical, plumbing, fire, safety, sanitation, public health and other codes, laws or regulations applicable to the use and shall be installed only under permits obtained as required by such codes.
 - (f) Fire Protection. Any structure used in conjunction with the temporary use may be subject to inspection by the Fire Chief.
 - (g) Site Clean Up. The site shall be cleaned up and restored to its previous condition upon expiration of the Temporary Use Permit. If the site is not returned to its previous condition, the City may restore the site at the event coordinators expense.
- (2) Specific Temporary Use Regulations. Uses shall be subject to the following standards and conditions in addition to the General Requirements defined within Subsection C above.
- (a) Garage, Yard or Porch Sales, and Estate Sales or Auctions.
 - (i) Location. Entirely on private property located in any residential district.
 - (b) Fund Raising or Non-Commercial Events.
 - (i) Location. Entirely on private property with the approval of the property owner as evidenced by written permission.
 - (ii) Structures. Any structure used in conjunction with the use/event shall meet applicable yard setbacks, shall be subject to valid building permit, and shall be promptly removed upon completion of the event. No motorized rides shall be provided.
 - (iii) Hours of Operation. The event shall be restricted to hours of operation between 8:00 a.m. and 11:00 p.m.
 - (iv) Uses/Events that do not meet the above requirements shall be subject to the regulations for Commercial Activities.

- (c) Christmas Tree Sales and other Outdoor Seasonal Sale of Harvestable Goods Associated with Major Holidays.
 - (i) Location. Entirely on private property within any commercial or industrial district with the approval of the property owner as evidenced by written permission or by the owner and resident of an agricultural tract or lot greater than 3 acres within the “R-A” District. (Ord. 2237)
 - (ii) Structures and Displays. Structures and displays need not comply with the yard and setback requirements of these regulations, provided that no structure or display is located within 30 feet of the intersection of the curb line of any two streets.
 - (iii) Hours of Operation. The event shall be restricted to hours of operation between 8:00 a.m. and 10:00 p.m.
- (d) Outdoor Produce and Harvestable Goods.
 - (i) Location. Entirely on private property within any commercial or industrial district with the approval of the property owner as evidenced by written permission, or on any residential lot or tract of three (3) acres or greater in an “R-A” Rural Agriculture District, an “R-0” Residential Suburban District or “R-1” Residential Low Density District. (Ord. 2237)
 - (ii) Structures and Displays. With the exception of uses/events in the “R-A”, “R-0” or “R-1” Districts, structures and displays shall be temporary in nature and shall be removed at the end of each business day. All structures and displays used in conjunction with the use/event shall meet all sight distance and setback requirements. (Ord. 2237)
 - (iii) Hours of Operation. The event shall be restricted to hours of operation between 8:00 a.m. and 10:00 p.m.
- (e) Outdoor Seasonal Displays.
 - (i) Location. Entirely on private property owned or leased by the sponsoring organization or as a permanent facility and located within any commercial or industrial district. Outdoor seasonal displays may be located in a paved parking area containing no greater than twenty contiguous parking stalls or an area no greater than twenty percent of the floor area of the business, whichever is less, provided the overall number of parking stalls remaining is not less than that required by the zoning ordinance.
 - (ii) Unenclosed Display. The display area shall not block any turn lanes, aisles, fire lanes or be placed inside a sight triangle. The height of such displays shall not exceed five feet, and the perimeter of the area shall be fenced or otherwise protected from vehicular traffic. The display area shall also be located behind any platted setback lines. All material shall be

displayed in an orderly manner. Broken bags and spilled contents shall be removed. The display shall occur on the same lot or tract as the building.

(iii) Enclosed Display. Enclosed outdoor seasonal display area (those with solid walls and roofs, including tents) may be located in a parking lot area on the same lot or tract as the business, containing a cumulative area when combined with any open area display no greater than twenty contiguous stalls, or an area no greater than twenty percent of the floor of the business, whichever is less, provided the overall number of parking stalls remaining is not less than that required by the zoning ordinance. The display area shall be placed in a hard surface, and shall not block any turn lanes, aisles, fire lanes, or be placed inside a sight triangle, nor shall it block the view of oncoming traffic.

(iv) Hours of Operation. The event shall be restricted to hours of operation between 8:00 a.m. and 10:00 p.m.

(f) Promotional Activities or Devices.

(i) Location. The use/event is conducted entirely on private property owned or leased by the sponsoring organization as a permanent facility.

(ii) Structure and Displays. Any structure or display used in conjunction with the use/event shall meet all sight distance and setback requirements, shall be subject to a valid building or sign permit, and shall be promptly removed upon cessation of the event. No motorized rides shall be permitted.

(iii) Impact. The event shall not impair the usefulness, enjoyment or value of adjacent property due to the generation of excessive noise, smoke, odor, glare, litter or visual pollution. The promotional display or activity shall be generally compatible with the them, visual quality, and overall character of the surrounding area.

(iv) Sidewalk Displays. When merchandise or activities are held on the sidewalk in front of businesses, one-half the width of the sidewalk shall be clear space and merchants may display merchandise only within the area of the sidewalk that immediately abuts their business.

(g) On and Off-Site Construction Structures and Storage.

(i) Location. The use is conducted entirely on private property owned or leased by the sponsoring organization as a permanent facility.

(h) On Site Construction Housing.

(i) Location. The use is conducted entirely on private property owned or leased by the sponsoring organization as a permanent facility.

- (ii) Duration. Upon conclusion of the permitted time period or completion of the principal structure, whichever occurs first, the owner shall remove the temporary housing or make the necessary changes for the property to be in conformance with the regulations of the district in which the property is located.
- (i) Real Estate Office.
 - (i) Location. Entirely on private property owned or leased by the sponsoring organization as a permanent facility within a residential district.
 - (ii) Structure. Limited to a real estate office containing no sleeping or cooking accommodations unless located in a model dwelling unit and incidental to a new housing development. Any structure used in conjunction with the temporary use shall meet applicable yard setbacks, shall be subject to valid building permit, and shall be promptly removed upon the sale or lease of all dwelling units in the development.
- (j) Recycling or Material Collection Vessels.
 - (i) Location. The use/event is conducted entirely on private property owned or leased by the sponsoring organization as a permanent facility.
 - (ii) Structure. The collection vessel shall not block any turn lanes, aisles, fire lanes or be placed inside a sight triangle. All sight building setbacks shall be observed. All collection and storage shall be within enclosed containers. To the extent possible, all vessels shall be screened from view of all adjacent residentially zoned properties or existing residential uses.
 - (iii) Parking. Off-street parking spaces shall be provided and parking regulations observed, as determined to be necessary by the Community Development Department.
- (k) Camping Trailers and Recreational Vehicles.
 - (i) Location. Areas of the City which are not considered mobile home or trailer parks, as approved at the discretion of the City Building Official. The owner of the property where the camping trailer or recreational vehicle will be located, or their designated representative, shall obtain a permit for the camping trailer or recreational vehicle from the City Building Official, which permit will specifically designate the approved location for the trailer or vehicle and, if available, any connections to water and sewer pipes. The City Building Official may deny the requested location if he/she determines that the trailer or vehicle, or any of its equipment, will constitute a nuisance or pose a health or safety risk.

- (ii) Permit Display. Such permit is conspicuously displayed on the travel trailer or recreational vehicle so that it can be seen from the outside by the City Building Official.
 - (iii) Waste Disposal. In the event that no sewer connection is available and approved by the City Building Official, the property owner, or their designated representative, agrees that no waste materials other than ordinary bagged garbage will be released from the travel trailer or recreation vehicle for the duration of the unit's stay. The property owner, or their designated representative, also agrees that any such bagged garbage will be properly disposed of by placing it from the trailer or vehicle into the property owner's garbage receptacles.
 - (iv) Revocation. The City Inspector may revoke the permit or renewal of the same at any time if he/she determines that the trailer or vehicle or any of the equipment constitutes a nuisance or poses a health or safety risk.
 - (v) Fines. The failure of the property owner or their designated representative to remove the trailer or vehicle, or any equipment or garbage connected therewith, upon the expiration of the permit, or renewal of the same, will result in the property owner, and/or their designated representative, being fined not more than \$25.00 for each day that the trailer or vehicle, equipment, or garbage, remains on the property.
- (l) Emergency Relief Housing
- (i) Location. Entirely on the lot or tract on which the damaged or destroyed structure was located unless otherwise approved by the Community Development Department or City Administrator. No alternative location shall be approved on private property without the approval of the property owner as evidenced by written permission.
 - (ii) Structure. The home shall be suitably anchored to the ground. The placement of the home on the lot or tract shall be such as to not unduly interfere with the use and enjoyment of adjacent properties and shall meet all setback and sight distance requirements.
 - (iii) Parking. Off-street parking spaces shall be provided and parking regulations observed, as applicable to the zoning district; provided, however, that garages or covered carports shall not be required and the paving of any required parking area may be waived.
 - (iv) Duration. The application shall indicate the anticipated duration of such temporary use of the home, and the permit shall indicate the date on which it is to expire; provided, however, that in no event shall the permit be granted for a period in excess of six months.
- (m) Commercial Activities.

- (i) Location. The use/event is conducted entirely on private property owned or leased by an individual or a sponsoring organization as a permanent facility. (Ord 2267)
 - (ii) Structure and Displays. Any structure or display used in conjunction with the use/event shall meet all sight distance and setback requirements, shall be subject to a valid building permit, and shall be promptly removed upon cessation of the event. No motorized rides shall be permitted.
 - (iii) Impact. The event shall not impair the usefulness, enjoyment or value of adjacent property due to the generation of excessive noise, smoke, odor, glare, litter or visual pollution.
 - (iv) Sidewalk Displays. When merchandise or activities are held on the sidewalk in front of businesses, one-half the width of the sidewalk shall be clear space and merchants may display merchandise only within the area of the sidewalk that immediately abuts their business.
 - (v) Additional Conditions. Additional conditions may be imposed by the Governing Body as they deem necessary to ensure the safety and general welfare of the community.
- (n) Public Events.
- (i) Location. As may be permitted by the Governing Body in an “R-H”, “C-1”, “C-2”, “O-I”, “M-1”, or “M-2” District.
 - (ii) Structures. Structures and displays need not comply with the front yard requirements, provided that structures or equipment which might block the view of operators of motor vehicles on the public streets shall conform to the requirements of the sight triangle as defined by these regulations.
 - (iii) Street Closings. Permit recipients shall be responsible for securing, installing and immediate removal upon cessation all barricades and signs when street closings are approved.
 - (iv) Additional Conditions. Additional conditions, including the provision of security personnel or the posting of performance bonds, may be imposed by the Governing Body as they deem necessary to ensure the safety and general welfare of the community. The Community Development Department shall give advance notice of the event to local authorities.
- (o) Semi-Public Events.
- (i) Location. As may be administratively approved in an “R-H”, “C-1”, “C-2”, “O-I”, “M-1”, or “M-2” District.

- (ii) Structures. Structures and displays need not comply with the front yard requirements, provided that structures or equipment which might block the view of operators of motor vehicles on the public streets shall conform to the requirements of the sight triangle as defined by these regulations.
 - (iii) Street Closings. No street closings are permitted for a semi-public Event.
 - (iv) Additional Conditions. Additional conditions, including the provision of security personnel or the posting of performance bonds, may be imposed by the Community Development Department. Applicant shall give advance notice of the event to local authorities.
- (3) Procedure and Approval. The following table identifies the approval process and duration of the temporary uses defined above.
- (a) ~~Permit and~~ Application Fee Requirement. The “Approval and Fee Required” columns in the following table indicates the requirement for fees and authority to issue a permit as follows.
 - (i) None. No permit is required so long as all general and specific criteria as defined in Section C(1) and C(2) above have been met.
 - ~~(ii) No fee. A fee is not required.~~
 - (iii) Fee. A fee is required as specified in the City adopted fee ordinance.
 - (iv) Admin. Administrative approval by the Community Development Department is required prior to issuance of a permit.
 - (v) Gov. Approval by the Governing Body is required prior to issuance of a permit.
 - (b) Duration or Frequency. The “Maximum Duration” and “Maximum Frequency” columns in the “Permit Requirement, Duration and Frequency Table” define the duration and frequency limitation by Temporary Use.
 - (c) Process. When required as indicated in the table below, temporary use applications shall be submitted to the Community Development Department in accordance with the City’s Application and Review Schedule and the requirements herein. No application shall be considered until all required materials have been submitted. Any application denied by the Community Development Department shall be submitted to the applicant in writing within two (2) weeks of application receipt. Applications to be considered by the City Council will be forwarded following review and comment by the Community Development Department. Prior to consideration by the City Council, the applicant shall be notified of the time and date of such consideration. Following consideration, applicants shall be notified of action taken, including

required conditions, if any. When approved, temporary use permits shall be posted on the site for the duration of the event.

<i>Permit Requirement, Duration and Frequency Table</i>				
<i>Temporary Use</i>	<i>Approval/Fee Required</i>	<i>Application Fee Required</i>	<i>Maximum Duration¹</i>	<i>Maximum Frequency</i>
<i>Fundraising or Non-Commercial Events</i>	<i>Admin/No Fee</i>	<i>No</i>	<i>4 days</i>	<i>2 times per calendar year³</i>
<i>Christmas Tree Sales and other Outdoor Seasonal Sale of Harvestable Goods Associated with Major Holidays</i>	<i>Admin/Fee</i>	<i>Yes</i>	<i>60 days</i>	<i>2 times per calendar year</i>
<i>Outdoor Produce and Harvestable Goods</i>	<i>Admin/Fee</i>	<i>Yes</i>	<i>March 1 to November 1</i>	<i>-</i>
<i>Outdoor Seasonal Displays</i>	<i>Admin/Fee</i>	<i>Yes</i>	<i>March 1 to November 1</i>	<i>-</i>
<i>Promotional Activities or Devices</i>	<i>Admin/Fee</i>	<i>Yes</i>	<i>10 days</i>	<i>2 times per calendar year</i>
<i>On and Off-Site Construction Structures and Storage</i>	<i>Admin/Fee</i>	<i>Yes</i>	<i>Duration of construction</i>	<i>-</i>
<i>Real Estate Office</i>	<i>Admin/Fee</i>	<i>Yes</i>	<i>Until the sale or lease of all dwelling units</i>	<i>-</i>
<i>Recycling or Material Collection Vessels</i>	<i>Admin/Fee</i>	<i>Yes</i>	<i>As approved</i>	<i>As approved</i>
<i>Camping Trailers and Recreational Vehicles</i>	<i>Admin/Fee</i>	<i>Yes</i>	<i>7 days, with 7 day permitted extension</i>	<i>3 times per calendar year</i>
<i>Semi-Public Event</i>	<i>Admin</i>	<i>Yes</i>	<i>4 days</i>	<i>As Approved</i>
<i>Emergency Relief Housing</i>	<i>Gov/Fee</i>	<i>Yes</i>	<i>As approved</i>	<i>-</i>
<i>Commercial Activities</i>	<i>Gov/Fee</i>	<i>Yes</i>	<i>2 weeks</i>	<i>As approved</i>
<i>Public Events</i>	<i>Gov/Fee</i>	<i>Yes</i>	<i>4 weeks</i>	<i>As approved</i>
	<ol style="list-style-type: none"> 1. All measurements of duration shall be consecutive not cumulative. 2. An additional two (2) events may be held strictly for charitable purposes, with all profits going to the charity. These two (2) events cannot be used to promote merchandise or services located at the location of the event or for sponsors of the event. <p style="text-align: right;">(Ord 2267)</p>			

- (d) Submittal Requirements. Each application for Temporary Use permit shall contain the following information as may be provided on forms provided by the Community Development Department.
 - (i) Location. The commonly known, street address of the property to be used, rented, or leased for the temporary use, including all information necessary to accurately describe the property.
 - (ii) Proposed Use. A description of the proposed use including dates, time schedules and activities proposed.
 - (iii) Contact Information. The name, address and phone number of the applicant and the property owner and the person(s) responsible for the use if different than the applicant.
 - (iv) Written Permission. Written permission of the property owner or property manager if other than the applicant.
 - (v) Summary of Operation. A statement describing provisions which will be made for sanitation facilities, utilities, parking, traffic circulation and control, security, fire safety, medical emergency and first aid, noise control, and clean up.
 - (vi) Additional Information. Additional information including a sketch of the layout of the proposed site and activities may be required by the Community Development Department as determined to be necessary to adequately determine if the standards and conditions specified herein can be adequately addressed.
- (e) Application and Fee. Application fees shall be paid at the time of application in accordance with the City's adopted fee ordinance. No application shall be considered until all applicable fees have been paid in full.
- (f) Prohibition on Transfer. No Temporary Use Permit issued under the provisions of this Section shall be assignable or transferable to any other person or transferable to another location for the operation of a special event by that business or person at a different location.

Section 2. City Staff is authorized to revise other portions of the City Code or Zoning Regulations to be consistent with the above text amendments.

Section 3. This ordinance shall take effect and be enforced from and after its publication once in the official city newspaper.

PASSED by the Governing Body of the City of De Soto, Kansas on the 21st day of December, 2017 by the Governing Body.

(Seal)

Timothy J. Maniez, Mayor

ATTEST:

Lana R. McPherson, MMC, City Clerk

APPROVED AS TO FORM:

Patrick G. Reavey, City Attorney