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Ordinance No. 2437 Summary

On December 21, 2017, the City of De Soto, Kansas, adopted Ordinance No. 2437, amending its Solid Waste regulations contained within the De Soto City Code (Article 4 of Chapter XV). 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. 2437

AN ORDINANCE AMENDING THE CITY'S SOLID WASTE REGULATIONS CONTAINED WITHIN ARTICLE 4 OF CHAPTER XV OF THE DE SOTO CITY CODE

WHEREAS, City Staff has been working on renewal of the contract for solid waste removal within the City; and

WHEREAS, as part of that process, Staff has determined there are revisions needed to the current code to ensure it is consistent with the City's current practices, and consistent with contractual obligations that will be required of the contractor the City selects for solid waste removal within the City.

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

Section 1. That Article 4 of Chapter XV of the De Soto City Code is hereby amended to read as follows:

ARTICLE 4. SOLID WASTE

15-401. Definitions.

Unless the context clearly indicates otherwise, the meaning of words and terms as used in this article shall be as follows:

- (a) **Bulky Waste.** Furniture and appliances previously used in a Dwelling Unit.
- (b) **Commercial Account.** All establishments engaged in business within the city, including, but not limited to stores, markets, office buildings, restaurants, shopping centers, governments, and nursing homes, and any multi-family residential building or complex with six or more dwelling units.

(c) Dumpster Commercial Account. All Commercial Accounts utilizing dumpsters for accumulation of solid waste, including any multi-family residential building or complex with six or more dwelling units.

(d) Dwelling Unit. Any enclosure, building or portion thereof occupied by one or more persons for and as living quarters.

(e) Recyclables. Any materials that will be used or reused, or prepared for use or reuse, as an ingredient in an industrial process to make a product, or as an effective substitute for a commercial product, and includes, but is not limited to paper, glass, plastic, and metal, but does not include Yard Waste. Specific identification of what Recyclables will be picked up as part of the city's solid waste program will be communicated to each account by the city's designated solid waste contractor.

(f) Refuse. All Solid Waste, but excluding Recyclables, Yard Waste, and Bulky Waste.

(g) Residential Account. Mobile homes, and all structures containing five or less individual Dwelling Units.

(h) Yard Waste. Leaves, grass clippings, and tree and brush trimmings associated with a Residential Account.

(i) Solid Waste. All non-liquid garbage, rubbish or trash.

15-402. Collection.

All Solid Waste accumulated within the city shall be collected, conveyed and disposed of by the city or by contractors specifically authorized by the City to collect and dispose of solid waste. However, this Section shall not be construed as prohibiting residents within the city from utilizing other contractors or companies to supply Solid Waste receptacles for special, non-regular disposal of Solid Waste, such as construction materials from a construction project.

15-403. Bulk containers.

The owner or occupant of every commercial enterprise shall provide at his or her own expense a suitable container for the storage of solid waste as provided in this article. No owner or occupant shall permit to accumulate quantities of refuse or other waste materials within or close to any structure within the city unless the same is stored in approved containers and in such a manner as not to create a health or fire hazard. Containers shall have a capacity and shall be equipped with appurtenances for attaching mechanical lifting devices which are compatible with the collection equipment being used. Containers shall be constructed of durable rust and corrosion resistant material which is easy to clean. All containers shall be equipped with tight fitting lids or doors to prevent entrance of insects or rodents. Doors and lids shall be constructed and maintained so they can be easily opened. Containers shall be watertight, leakproof and weather proof construction.

15-404. Refuse and Recyclables Containers.

The city's contractor shall provide to each Residential Account within the City of De Soto, Kansas, a Refuse container, and separate Recyclables container, for ordinarily accumulated Refuse and Recyclables at such residence during the intervals between collections made by the city's contractor. For each Residential

Account having between two and five Dwelling Units, Refuse and Recyclables containers will be provided for each Dwelling Unit. Each numbered container will be assigned to that Residential Account and remain with that Residential Account unless removed by the city or its contractor. Additional Refuse and Recyclables containers may be obtained from the city's contractor at an additional cost to the Residential Account. All Refuse shall be drained of all liquids before being placed in Refuse or Recyclables containers. The containers shall be placed along the appropriate street or alley for collection at the time appointed for collection, and such containers shall be placed away from any obstacles, such as vehicles, mailboxes, etc., that interfere with the pickup of the container. It shall be unlawful for any Refuse to be placed out for collection that is not contained within a Refuse container issued by the city's contractor or accompanied by a special tag that can be purchased from the contractor or City Hall. Any Refuse accompanied by a special tag will only be picked up if placed in a bag that is sized 33 gallons or less. Notwithstanding the foregoing, during the week of December 26th through the 31st of each year, each Residential Account may place up to 10 extra bags of Refuse for pickup as part of the regular Refuse collection.

15-405. Duty of owner or occupant.

The owner or occupant of premises will be responsible for clean-up of any Solid Waste scattered or spilled by animals, wind or other causes before arrival of the collection crew. Customers using containers designed for mechanical dumping whose Solid Waste is of a type susceptible to easy dispersal by the wind when the container is being dumped, or who permit the container to be overfilled, will be responsible for clean-up of any litter caused by wind scattering or by Solid Waste falling from the container during the dumping operation.

15-406. Screening requirement.

All Commercial Accounts (including Dumpster Commercial Accounts) shall furnish enclosures and screening methods as provided in this section. Solid Waste receptacles shall be screened from public view on at least three sides with a solid fence enclosure constructed of cedar, redwood, masonry or other compatible building material and shall be made accessible for collecting trash. The fence required by this section shall be at least four feet in height and at least one foot higher than the height of the receptacle to be screened.

15-407. Enter private premises.

Solid Waste collectors, employed by the city or operating under contract with the city, are hereby authorized to enter in and upon private property for the purpose of collecting Solid Waste therefrom as required by this article.

15-408. Ownership of solid waste.

Ownership of Solid Waste, when placed in containers by the occupants or owners of premises upon which Solid Waste accumulates, shall be vested in the city and thereafter shall be subject to the exclusive control of the city, its employees or contractors. No person shall meddle with Solid Waste containers or in any way pilfer or scatter contents thereof in any alley or street within the city.

15-409. No liquids.

All Solid Waste shall be drained of all excess liquids before being placed in containers.

15-410. Yard Waste.

Residential Yard Waste will be picked up by the city's contractor at the same time as Refuse containers if it complies with the following:

(a) Tree trimmings are securely tied and the bundle does not exceed 18 inches in diameter, four feet in length, and 45 pounds.

(b) All other Yard Waste is placed within compostable craft paper bags specifically designed for Yard Waste.

(c) Bags and bundles of Yard Waste cannot exceed 12 (regardless of the combination), unless accompanied by extra bag tags purchased through the city.

15-411. Hazardous materials.

No person shall deposit in a Solid Waste container or otherwise offer for collection any hazardous garbage, refuse, or waste. Hazardous material shall include:

(a) Explosive materials;

(b) Rags or other waste soaked in volatile and flammable materials;

(c) Chemicals;

(d) Poisons;

(e) Radio-active materials;

(f) Highly combustible materials;

(g) Soiled dressings, clothing, bedding and/or other wastes, contaminated by infection or contagious disease;

(h) Any other materials which may present a special hazard to collection or disposal personnel, equipment, or to the public.

15-412. Prohibited practices.

It shall be unlawful for any person to:

(a) Without an exemption provided for by Section 15-420, to deposit Solid Waste in any container other than that assigned to him by the city's contractor, owned or leased by him or under his control without written consent of the owner and/or with the intent of avoiding payment of the fees for collection of Solid Waste;

- (b) Interfere in any manner with employees of the city or its contractors in the collection of Solid Waste;
- (c) Burn Solid Waste except in an approved incinerator and unless a variance has been granted and a written permit obtained from the city or the appropriate air pollution control agency;
- (d) Bury Solid Waste at any place within the city except that lawn and garden trimmings may be composted;
- (e) Remove the contents of any Solid Waste container or portion thereof;
- (f) To upset, turn over, remove or carry away any Solid Waste container or lid thereto, or to damage such container in any manner.

15-413. Objectionable Solid Waste.

Heavy accumulations of Solid Waste, such as brush, tree limbs, broken concrete, sand or gravel, automobile frames, dead trees, and other bulky, heavy materials shall be disposed of at the expense of the owner or person controlling same. Manure from cow lots, stables, poultry yards, pigeon lofts, and other animal or fowl pens, and waste oils from garages or filling stations shall be removed and disposed of at the expense of the person controlling the same and in a manner consistent with this article.

15-414. Unauthorized disposal.

No person shall haul or cause to be hauled any Solid Waste of any kind to any place, site or area within or without the limits of the city unless such hauling is permitted by this article and the site it is hauled to is a sanitary landfill, transfer point or disposal facility approved by the Kansas State Department of Health and Environment.

15-415. Authorized collectors.

Subject to Section 15-402 of this article, it shall be unlawful for any person, except an employee or agent under contract with the city and specifically authorized for that purpose, to collect or transport any Solid Waste within the city. The city shall have the exclusive right to collect and dispose of Solid Waste within the city limits and no other person shall collect and dispose of Solid Waste within the city unless authorized by license or other formal agreement with the city. The city or its authorized contractors shall establish, maintain and conduct a service for the collection and disposal of Solid Waste and shall purchase such equipment and engage such employees as may be needed, and shall pay such prices, salaries and wages as the governing body may authorize for efficient operation of such service.

The collection, transportation and disposal of Solid Waste shall be at all times under the general supervision of the City Administrator, or his or her duly authorized agent, who shall have the authority to make additional rules and regulations not inconsistent with the terms and provisions of this article, to the end that the collection, transportation, accumulation, storage and disposal of Solid Waste be conducted in such a manner as to safeguard the public health, and not become an annoyance or hazard to the inhabitants of the city or surrounding territory.

15-416. Closed vehicle.

Any vehicle used by any person for the collection and transportation of Solid Waste shall be maintained in a good mechanical condition. Vehicles shall be equipped with an enclosed covered body to prevent the contents leaking or escaping therefrom. Only tree trimmings or brush may be transported in open-bodied vehicles provided the material is securely tied in place to prevent scattering along the streets and alleys.

15-417. Fees.

The fees for Solid Waste collection within the city shall be set by the city through the city's Fee Resolution.

15-418. Billing and collection.

Solid Waste charges shall be billed monthly and shall be included on water or utility bills. No payment shall be accepted on utility bills except for the full amount billed for all services. Delinquent Solid Waste bills shall carry the due dates, grace periods and penalties as water bills.

For any Solid Waste bills that remain unpaid for a period of 60 or more days after the date upon which they were billed, the city may collect them pursuant to K.S.A. 65-3410, or as otherwise provided by law. If the city intends to assess the unpaid bills to the land associated with the account, the following process shall be followed:

- (a) At least once a year the City Administrator shall cause to be prepared a report of delinquent Solid Waste bills. The city governing body shall fix a time, date, and place for hearing the report and any objections or protests thereto.
- (b) The City Administrator shall cause notice of the hearing to be mailed to the property owners listed on the report not less than 10 days prior to the date of the hearing.
- (c) At the hearing, the governing body shall hear any objections or protests of property owners liable to be assessed for delinquent bills. The governing body may make such revisions or corrections to the report as it deems just, after which, by resolution, the report shall be confirmed.
- (d) The delinquent bills set forth in the report as confirmed shall constitute assessments against the respective parcels of land and are a lien on the property for the amount of such delinquent fees. A certified copy of the confirmed report shall be filed with the county clerk for the amounts of the respective assessments against the respective parcels of land as they appear on the current assessment roll. The lien created attaches upon recordation, in the office of the county clerk of the county in which the property is situated, of a certified copy of the resolution of confirmation. The assessment may be collected at the same time and in the same manner as ordinary city and county ad valorem property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for such taxes. All laws applicable to the levy, collection, and enforcement of city and county ad valorem property taxes shall be applicable to such assessment.

15-419. Creation of separate fund.

The revenue obtained and collected by the provisions of this article shall be deposited in what shall hereinafter be known and designated as Solid Waste collection fund, and shall be subject to an annual audit as now required by the laws of the State of Kansas, and the fund shall be used for the following purposes:

- (a) Salaries and wages of employees of the city, and/or the cost of private contractor to furnish such service.
- (b) Cost of operation of equipment and purchase or lease of new or additional equipment, including the cost of property damage and public utility insurance, if equipment is owned and operated by the city.
- (c) Special clothing and/or uniforms required in the performance of the duties recited herein, if equipment is owned and operated by the city.
- (d) Cost for disposing of Solid Waste at the designated dumping ground.
- (e) To defray the additional cost of administration of the city for the rating, re-rating, charging, posting and collection of the fees as herein provided, together with the necessary supplies therefor.
- (f) In the event sufficient funds are available, the governing body of the city may use such funds as are available to defray the cost of spraying any public or private property within the corporate limits of the city, and such other expenses as are classified as public sanitation for the general welfare, health and sanitation of the inhabitants of the city.

15-420. Exemption to issuance of container and payment of fee.

Upon application and within the sole discretion of the city governing body, the city may exempt a Residential Account from the mandatory container requirement and payment of the monthly residential Solid Waste fee if the owner of the Residential Account holds at least a 50% ownership interest in a business located within the city and, with approval of said business, the resident deposits their residential Refuse in the business's trash receptacle that is collected by the city's contractor. The exemption provided for herein may be withdrawn at any time upon a majority vote of the governing body.

Section 2. City Staff is directed to make all necessary changes to the City's records to reflect the Code revisions indicated hereinabove.

Section 4. 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, and approved by the Mayor on the 21st day of December, 2017.

(Seal)

Timothy J. Maniez, Mayor

ATTEST:

Lana R. McPherson, MMC, City Clerk

APPROVED AS TO FORM:

Patrick G. Reavey, City Attorney