

ORDINANCE NO. 2267

AN ORDINANCE AMENDING THE CITY'S ZONING REGULATIONS FOR ARTICLE 2 RULES AND DEFINITIONS AND ARTICLE 5 SUPPLEMENTARY DISTRICT REGULATIONS AS RELATED TO GARAGE, YARD, PORCH OR ESTATE (OCCASSIONAL) SALES.

WHEREAS, the Planning Commission has recommended that the City's zoning regulations be amended to remove garage, yard, porch or estate sales from the list of uses requiring a Temporary Use Permit and add such Occasional Sales to the list of uses allowed in any zoning district.

WHEREAS, all newspaper notifications were performed and a public hearing was properly held before the City Planning Commission.

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

Section 1. That the following terms should be added to Article 2 Rules and Definitions of the City's Zoning Regulations:

Auction: A sale in which property or items of merchandise are sold to the highest bidder through an open, competitive bidding process. The auction may be private or open to the public. Auctions may be conducted on the premises of the owner of such property for sale or off-site within a space commonly used for such activity such as an auction barn, fairground, or large meeting space. Auctions may take place inside or outside a building or structure. Auctions held within the city limits require a Temporary Use Permit.

Garage or Yard Sale: See Occasional Sale

Occasional Sale: Refers to a garage sale, yard sale, moving sale, rummage sale, tag sale, and other similar type sales of tangible, used personal property, goods, wares, merchandise or other property from a personal residence or a non-profit organization.

Section 2. That the following amendments should be made to Section 3, Article 5 Supplementary District Regulations of the City's Zoning Regulations:

M. Occasional Sales: Garage, yard or porch sales, rummage and tag sales are allowed in any residential zoning district. A household may sell used goods, furnishings, personal effects, clothing, handmade crafts and similar items from the resident's garage or property. An individual sale shall take place during daylight hours, it may not exceed four consecutive days in duration, and no more than two such sales are allowed during any one calendar year per household—not including any such citywide sale.

Section 3. That the following amendments [*italics indicate new language or change*] should be made to Section 9, Article 5 Supplementary District Regulations of the City's Zoning Regulations:

1. Article 5, Section 9, remove Part (1) of Item B;

- 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) Garage, Yard or Porch Sales, and Estate Sales or Auctions: Sales of used or secondhand merchandise in residential districts.~~

2. Article 5, Section 9, remove Part 2(a) and 2(a)(i) of Item C.

C. Permit Process, Regulations and Duration.

- (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.~~

3. Article 5, Section 9, change Part 2(m)(i) of Item C.

(m) Commercial Activities.

- (i) Location. The use/event is conducted entirely on private property owned or leased by **an individual or a sponsoring organization**.
- (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.

4. Article 5, Section 9, remove the first entry in the Permit Requirement, Duration and Frequency Table and remove Footnote #2:

Permit Requirement, Duration and Frequency Table			
Temporary Use	Approval/Fee Required	Maximum Duration ¹	Maximum Frequency
Garage, Yard or Porch Sales and Estate Sales or Auction	None/No Fee	4 days	2 times per calendar year²
Fundraising or Non-Commercial Events	Admin/No Fee	4 days	2 times per calendar year ³
Christmas Tree Sales & other Outdoor Seasonal Sale of Harvestable Goods	Admin/Fee	60 days	2 times/ calendar year

Associated with Major Holidays			
Outdoor Produce & Harvestable Goods	Admin/Fee	March 1 to November 1	-
Outdoor Seasonal Displays	Admin/Fee	March 1 to November 1	-
Promotional Activities or Devices	Admin/Fee	10 days	2 times/calendar yr
On and Off-Site Construction Structures and Storage	Admin/Fee	Duration of construction	-
Real Estate Office	Admin/Fee	Until the sale or lease of all dwelling units	-
Recycling or Material Collection Vessels	Admin/Fee	As approved	As approved
Camping Trailers & Recreational Vehicles	Admin/Fee	7 days, with 7 day permitted extension	3 times per calendar year
Emergency Relief Housing	Gov/Fee	As approved	-
Commercial Activities	Gov/Fee	2 weeks	As approved
Public Events	Gov/Fee	4 weeks	As approved
1. All measurements of duration shall be consecutive not cumulative. 2. Estate sales shall be one time events. 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.			

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, Kansas on the 21st day of October 2010.

(Seal)

David R. Anderson, Mayor

ATTEST:

Lana R. McPherson, City Clerk

APPROVED AS TO FORM:

Patrick G. Reavey, City Attorney