

Ordinance No. 2499 Summary

On September 17, 2020, the City of De Soto, Kansas, adopted Ordinance No. 2499, amending Sections 8-402 and 8-407 of Article 4 of Chapter VIII of the City Code relating to updating the City's regulations on unauthorized weeds and grasses.

A complete copy of this ordinance is available at www.desotoks.us or at City Hall, 32905 West 84th Street, De Soto, Kansas. This summary is certified by Patrick G. Reavey, City Attorney.

ORDINANCE NO. 2499

AN ORDINANCE AMENDING SECTIONS 8-402 AND 8-407 OF ARTICLE 4 OF CHAPTER VIII OF THE CITY CODE TO UPDATE THE CITY'S REGULATIONS GOVERNING MAINTENANCE OF WEEDS AND GRASSES

WHEREAS, the City Code currently defines weeds and grasses within the City as presumptively "blighting" if they exceed 12 inches in height without any exemptions or considerations for particular areas of property throughout the City; and

WHEREAS, the Governing Body believes its City Code provisions regulating weeds and grasses should be updated to take into consideration areas of property that do not fit within typical mowed turf areas commonplace in residential subdivisions.

NOW THEREFORE, BE IT ORDAINED by the Governing Body of the City of De Soto, Kansas:

Section 1. The Governing Body hereby amends Section 8-402 of Article 4 of Chapter VIII of the City Code to read as follows:

8-402. Definitions.

(a) For purposes of this Article, the following terms shall have these definitions:

(1) **Meadow Vegetation** means grasses and flowering broad-leaf plants, other than **Prohibited Weeds**, that are native to, or adapted to, the state of Kansas, and that are commonly found in meadow and prairie plant communities.

(2) **Native Plants** mean grasses, including **Meadow Vegetation**, sedges (solid, triangular-stemmed plants resembling grasses), forbs (flowering broadleaf plants), trees, and shrubs, that are plant species native to or naturalized to the State of Kansas. **Native Plants** do not include **Prohibited Weeds**.

(3) **Turfgrass** means commercially available cultured grass varieties that are grown to create turf, including bluegrass, fescue, and ryegrass blends, commonly used in

regularly cut lawn areas.

(4) **Prohibited Weeds** mean:

- i. Noxious weeds as defined and designated by the Kansas Noxious Weed Act (*See* K.S.A. 2-1313a *et seq.*), as amended from time to time; or
- ii. Weeds and grasses which, as determined by the public officer, have attained such large and dense growth as to become, when dry, a fire menace to adjacent improved property; or
- iii. Weeds and grasses which, as determined by the public officer, harbor concentrated levels of rats, insects, animals, reptiles, or any other creature which may or does constitute a menace to health, public safety or welfare; or
- iv. Weeds and grasses on or about property which, as determined by the public officer, has a blighting influence on the neighborhood due to its height or neglect. Any such weeds and indigenous grasses shall be presumed to be blighting if they exceed 12 inches in height and are not contained within an exempt area as set forth in subsection (b) hereinbelow.

(b) In order to encourage preservation of natural habitats, cultivation and growth of natural food sources, conservation of water, retain areas in their natural states, or for areas used for agricultural or governmental purposes and/or not conducive to regular mowing and maintenance, certain areas of properties may be deemed exempt from the prohibitions of this Article 4. In order to qualify as exempt, the burden of proof to produce evidence sufficient to meet the exemption is on the landowner, who must provide such evidence in writing to the city code officer no later than ten (10) days after the date of receiving written notice of a violation from the City. To be considered exempt, the area of property in question must meet one of the following:

(1) It qualifies as being part of a "Garden", which is a cultivated area dedicated to growing vegetables, fruits, flowers, ornamental grasses, shrubs, and similar plants, planted and maintained in well-defined borders.

(2) It qualifies as being part of a "Native Plant Landscape Area", which is an area that does not qualify as a Garden and is an area where **Native Plants** are being or have been planted in a well-defined and maintained border and all of the following conditions are met:

- (i) The area is set back not less than twenty feet from the front lot line. For purposes of this subsection, corner lots are deemed to have two front yards;
- (ii) The area is set back not less than five feet from the side and rear lot lines. No setback is required on the side or rear lot lines if (a) there is a fully opaque fence at least five feet in height installed between the native plants and the side or rear lot lines or (b) the

native plants about a neighboring native plant landscape area that meets this subsection;

- (iii) The area is maintained according to current industry standards for the kind of vegetation being grown, to include seasonal cutting or burning as appropriate;
- (iv) Turfgrass is immediately eliminated, and the area is planted through transplanting or seed by human or mechanical means; and
- (v) Soil erosion is controlled while the ground is bare of plant growth.

(3) It qualifies as being part of "Natural Areas", which are undeveloped landscapes not changed, altered, moved, cultivated or planted by human or mechanical means, and which do not contain **Turfgrass**.

(4) It qualifies as being used for an "Agricultural Purpose" as evidenced by fertilizer or pesticide use for the cultivation of plants, trees or crops annually grown, raised and harvested at an appropriate date, or the raising of livestock, or pasturage containing hay or grasses annually grown and baled at an appropriate date but no later than August 15 of each year.

(5) The area has slopes at or steeper than three units horizontal to one unit vertical (3:1).

(6) The area is part of government park land, an officially designated floodplain, and/or a drainage pond or ditch that stores or conveys storm water.

(c) Areas of land will lose exempt status if they create sight distance problems, there is evidence of neglect, and/or the land contains "Noxious Weeds" as defined by the Kansas Noxious Weed Act (*See* K.S.A. 2-1313a *et seq.*).

(d) The City may require specific conditions on individual landowners in order to maintain an exemption hereunder, such as requiring a minimum strip of **Turfgrass** along the perimeter of the property.

Section 2. The Governing Body hereby amends Section 8-407 of Article 4 of Chapter VIII of the City Code to read as follows:

8-407. Noxious weeds.

(a) Nothing in this Article shall affect or impair the rights of the city under the provisions of Chapter 2, Article 13 of the Kansas Statutes Annotated, relating to the control and eradication of certain noxious weeds.

(b) For purposes of this Article, noxious weeds are as defined and designated by the Kansas Noxious Weed Act (*See* K.S.A. 2-1313a *et seq.*), as amended from time to time.

Section 3. Repeal. Existing Sections 8-402 and 8-407 of Article 4 of Chapter VIII of the City Code are hereby repealed.

Section 3. Effective Date. This Ordinance shall take effect upon its adoption by the City Council, approval by the Mayor and publication in the City's official newspaper.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF DE SOTO, KANSAS
AND APPROVED BY THE MAYOR ON THE 17th DAY OF SEPTEMBER 2020.

(seal)

RICK WALKER, Mayor

ATTEST:

LANA MCPHERSON, MMC
City Clerk

APPROVED AS TO FORM:

PATRICK G. REAVEY, City Attorney