



**Article One GENERAL PROVISIONS**

**Section 1.01 Title**

These regulations, including all appendices made a part hereof, shall be known and may be cited as the “De Soto Subdivision Regulations”, and shall hereinafter be referred to as “these regulations”.

**Section 1.02 Jurisdiction**

These regulations shall apply to all land located within the incorporated area of De Soto, Kansas.

**Section 1.03 Authority**

- A. Planning Commission. The Planning Commission of the City of De Soto, Kansas is vested with the authority to review, approve, conditionally approve and disapprove applications for the subdivision of land per these regulations. The Planning Commission may grant variances from these regulations pursuant to the provisions of Section 1.11.
- B. Governing Body. The Governing Body of the City of De Soto, Kansas is vested with the authority to accept or refuse the dedication of land for public purposes.

**Section 1.04 Enactment**

In order that land may be subdivided in accordance with these purposes and policies, these regulations are hereby adopted and made effective as of June 22, 2000. All applications for subdivision approval, including Final Plats, pending on the effective date of these regulations shall be reviewed under these regulations except that these regulations will not apply if Preliminary Plat approval was obtained prior to the effective date of these regulations, unless the Planning Commission determines that application of these regulations is necessary to avoid a substantial risk of injury to public health, safety and general welfare.

**Section 1.05 Reservations and Repeals**

Upon the adoption of these regulations according to law, the Subdivision Regulations of the City of De Soto, Kansas, 1988 Addition adopted as Ordinance 733, as amended, are hereby repealed, except as to those sections expressly retained in these regulations.

**Section 1.06 Purpose and Intent**

The purpose and intent of these regulations is to provide for the harmonious development of the community and the surrounding area; to provide for the proper location and width of streets, building lines, open spaces, safety and recreation facilities, utilities, drainage, and for the avoidance of congestion of population through application of minimum lot width, depth and area and the compatibility of design requirements; to require and fix the extent to which and the manner in which streets shall be graded and improved, and water, sewer, drainage, and other



utility mains and piping or connections or other physical improvements shall be installed; and to provide for and secure the actual construction of such physical improvements.

**Section 1.07 Applicability**

The owner or owners of any land located within the jurisdiction of these regulations subdividing said land into two or more lots and blocks or tracts or parcels, for the purpose of laying out any subdivisions, suburban lots, building lots, tracts or parcels or any owner of any land establishing any street, alley, park or other property intended for public use or for the use of purchasers or owners of lots, tracts or parcels of land fronting thereon or adjacent thereto, shall cause a plat to be made in accordance with these regulations, unless exempted under Section 1.08. In addition, these regulations shall apply to the issuance of a building permit.

**Section 1.08 Exemptions**

These regulations shall not apply in the following instances:

- A. A change in the boundary between adjoining lands which does not create an additional or substandard lot.
- B. Land used for street or railroad right-of-way, a drainage easement or other public utilities subject to local, state or federal regulations, where no new street or easement of access is involved.
- C. Any resubdivision of lots, parcels or tracts must be done in accordance with these regulations.
- D. Any transfer by operation of law.
- E. Lots that have been previously platted and zoned for industrial purposes may be divided into two or more tracts without replatting or resubdividing such lots in conformance with these regulations.

**Section 1.09 Interpretation and Conflict**

- A. Interpretation. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare. These regulations shall be construed broadly to promote the purpose for which they are adopted.
  - 1. Public Provisions. These regulations are not intended to interfere with, repeal, or annul any other ordinance, rule or regulation, statute, or other provision of law except as provided in these regulations. Where any provision of these regulations imposes restrictions different from those imposed by any other provisions of these regulations or any other ordinance, rule or regulation, or other provision of law, the provision that is more restrictive or imposes higher standards shall control.



2. Private Provisions. These regulations are not intended to repeal any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations that such an easement, covenant or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant or private agreement or restriction impose duties or obligations more restrictive or standards that are higher than the requirements of these regulations, or the determinations of the Planning Commission or the Governing Body in approving a subdivision or in enforcing these regulations, and the private provisions are not inconsistent with these regulations, then the private provisions shall be operative and supplemental to these regulations and the determinations made under the regulations.

**Section 1.10 Severability and Savings Clause**

- A. Each section and each subsection of these regulations are hereby declared to be independent of every other section or subsection so far as the passage of these regulations are concerned and the invalidity of any section or subsection of these regulations shall not invalidate any other section or subsection thereof.
- B. These regulations shall in no manner affect pending actions either civil or criminal founded on or growing out of any ordinance or part of any ordinance hereby repealed, and these regulations shall in no manner affect rights or causes of action either civil or criminal not in suit that may have already occurred or grown out of any ordinance or part of any ordinance hereby repealed.
- C. If any section, subsection, sentence, clause, phrase, or portion of these regulations are for any reason held to be invalid or unconstitutional by the decision of any Court, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**Section 1.11 Variances, Exceptions and Waiver of Conditions.**

- A. General. Whenever the Planning Commission deems that extraordinary hardship or practical difficulties may result from strict compliance with these regulations and/or the purpose of these regulations may be better served by an alternative proposal, it may authorize a variance, exception or waiver of the conditions of these regulations. In authorizing such variance, exception or waiver, the Planning Commission shall consider the following:
  1. The conditions that the request is based upon constitute special circumstances or conditions affecting the property for which the relief is sought and are not generally applicable to other property.
  2. The variance, exception or waiver is necessary for the reasonable and acceptable development of the property in question, and involve a particular hardship to the



owner as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out.

3. The granting of the variance, exception or waiver will not be detrimental to the public welfare or injurious to other property in the vicinity in which the property is situated.
  4. The granting of the variance, exception or waiver will not in any manner vary the provisions of the Zoning Regulations, Comprehensive Plan or Official Map, except that those documents may be amended in the manner specified by law.
- B. Conditions. In approving variances, exception or waiver of conditions, the Planning Commission may require such conditions as will, in its judgement, secure substantially the purpose described in Section 1.06 of these regulations.
- C. Procedure. A petition for a variance, exception, or waiver of conditions shall be submitted in writing by the subdivider at the time when the Preliminary or Final Plat is filed for the consideration of the Planning Commission. The petition shall state fully the condition from which the petitioner is seeking relief, the grounds for the application and all of the facts relied upon by the petitioner, including the ability to meet the conditions of Section 1.11.A above.

### **Section 1.12 Amendments**

For the purpose of protecting the public, health, safety, and general welfare, the Planning Commission may from time to time propose amendments to these regulations. Such proposed amendments shall be heard as part of a public hearing following public notice as require by law. Following recommendation by the Planning Commission, the Governing Body shall make action by approving or disapproving the amendment.

### **Section 1.13 Enforcement, Violations and Penalties**

#### **A. General**

1. It shall be the duty of the City Officers and Officials to enforce these requirements and to bring the attention of the City Council and City Attorney any violations of these regulations.
2. No owner, or agent of the owner, of any parcel of the land located in a proposed subdivision shall transfer or sell any part of the parcel before a Final Plat of the subdivision has been approved by the Planning Commission in accordance with the provisions of the regulations and filed with the applicable public and quasi-public departments, offices or agencies of the City and County.
3. No building permit shall be issued for the construction of any building or structure located on a lot or plat subdivided or sold in violation of the provisions of these regulations, nor shall the municipality have any obligation to issue



certificates of occupancy or to extend utility services to any parcel created in violation of these regulations.

- B. **Violations and Penalties.** Any person, firm, association, partnership or corporation violating the provisions of these regulations is guilty of a misdemeanor and upon conviction thereof shall be subject to a fine not to exceed five hundred dollars (\$500.00), plus costs, for each offense and shall stand committed to jail until such fine and costs be paid or otherwise discharged according to law. The City of De Soto, Kansas shall further have the authority to maintain suits or action in any court of competent jurisdiction for the purpose of enforcing any provisions of these regulations and to abate nuisances maintained in violation thereof; and in addition to other remedies, institutions injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, or use, or to correct or abate such violation, or to prevent the occupancy of the building, structure or land. Each day such violation is committed or permitted to continue, shall constitute a separate offense and shall be punishable as a separate offense.

**Section 1.14 Approvals Necessary For Acceptance Of Subdivision Plats**

All plans, plats or replats of land laid out in building lots, and the streets, alleys or other portions of the same intended to be dedicated for public use, or for the use of purchasers or owners of the lots fronting thereon or adjacent thereto, shall be submitted to the De Soto Planning Commission and City Council for their official review and action as applicable per these regulations. The Register of Deeds shall not record any plat, as required by law, until such plat is approved by the Planning Commission and Governing Body and is signed by the Chairman and Secretary of the Planning Commission, by the Mayor, City Clerk, and City Engineer of the City of De Soto, Kansas, and the Fire Chief or other authorized personnel of the applicable Fire Protection District.

**Section 1.15 Plat Preparation**

All Final Plats shall be prepared and stamped by a professional surveyor licensed in the State of Kansas.



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