

*Ordinance Summary published in the Legal Record on \_\_\_\_\_ and the full text of the Ordinance made available at [www.desotoks.us](http://www.desotoks.us) for a minimum of 1 week from the date of publication*

### **Ordinance No. 2491 Summary**

On May 21, 2020, the City of De Soto, Kansas, adopted Ordinance No. 2491, authorizing changes to the Site Plan and operations of the Mill Creek Rifle Club that are the subject of an existing Special Use Permit as reflected in Ordinance No. 2298 (adopted on November 17, 2011). 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 84<sup>th</sup> Street, De Soto, Kansas or at [www.desotoks.us](http://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. 2491**

#### **AN ORDINANCE AUTHORIZING CHANGES TO EXISTING SPECIAL USE PERMIT FOR MILL CREEK RIFLE CLUB LOCATED AT 7215 GARDNER ROAD, WITHIN THE CITY OF DE SOTO, JOHNSON COUNTY, KANSAS**

**WHEREAS**, the Mill Creek Rifle Club (hereafter “Permittee”) currently is authorized to operate under a Special Use Permit pursuant to Ordinance No. 2298, adopted on November 17, 2011; and

**WHEREAS**, Permittee now seeks to realign the entrance and construct and operate two additional ranges; and

**WHEREAS**, Permittee has submitted a new Site Plan (attached hereto) that includes current operations as well as the proposed changes (hereafter “Expanded Operations”); and

**WHEREAS**, the Expanded Operations require that the City’s procedure for authorizing a special use permit be followed; and

**WHEREAS**, the Planning Commission of the City of De Soto, Kansas did hold a public hearing after proper publication of notice and proper service of notice upon property owners within 200 feet of the site that is subject to the requested Special Use Permit; and

**WHEREAS**, the Planning Commission recommended that a new Special Use Permit (which includes the Expanded Operations) be approved, subject to the following: (a) City Council review the existing terms and conditions set out in Ordinance No. 2298, which (unless revised by City Council) will continue to apply to the new Special Use Permit; and (b) the new Special Use Permit will be subject to an initial 20-year term, with automatic one-year renewals thereafter if no notice of termination is issued by the City to Permittee at least 90 days prior to the expiration of the then existing term.

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

**Section 1. Basis of Decision.** That the Governing Body, in making its decision on the application for special use permit, considered the evidence forwarded to it by the City Planning Commission, as well as the following general criteria for Special Use Permits contained in the City's Zoning Regulations and as required by Kansas law:

- A. The character of the neighborhood, including but not limited to: zoning, existing and approved land use, platting, density (residential), natural features, and open space.
- B. The nature and intensity of the proposed use and its compatibility with the zoning and uses of nearby properties. Such determination should include the location, nature, and height of structures walls, fences, and other improvements connected with the proposed use, their relation to adjacent property and uses, and the need for buffering or screening.
- C. The extent to which there is a need in the community for the proposed use.
- D. The availability and adequacy of required utilities and services to serve the proposed use. These utilities and services include, but are not limited to, sanitary and storm sewers, water, electrical and gas service, police and fire protection, schools, parks and recreation facilities and services, and other similar public facilities and services.
- E. Adequacy of ingress and egress to and within the site of the proposed use, traffic flow and control, the adequacy of off-street parking and loading areas, the adequacy of required yard and open space requirements and sign provisions.
- F. The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the proposed use, or present parking problems in the vicinity of the property.
- G. The environmental impacts that the proposed use would create (if any) including, but not limited to, excessive storm water runoff, water pollution, air pollution, noise pollution, excessive nighttime lighting or other environmental harm.
- H. The economic impact of the proposed use on the community.
- I. The extent to which the proposed use may detrimentally affect nearby property.
- J. The relative gain (if any) to the public health, safety, and welfare from a denial of the application for special use permit as compared to the hardship imposed upon the special use applicant from such denial.
- K. Consistency with the Comprehensive Plan, Utilities and Facilities Plans, Capital Improvement Plan, Area Plans, ordinances, policies, and applicable City Code of the City of De Soto and the general safety, health, comfort and general welfare of the community.
- L. The recommendation of professional staff.

**Section 2. Special Use Permit for a Firing Range.** That the Governing Body hereby grants a Special Use Permit to Permittee for its existing operation, and the Expanded Operations, all as set forth in the attached Site Plan and set forth in Ordinance No. 2298, except that the term of the Special Use Permit shall be an initial term of 20 years, with automatic one-year renewals thereafter if no notice of termination is issued by the City to Permittee at least 90 days prior to the expiration of the then existing term. The operations authorized by this Special Use Permit will apply to the land set forth in the attached Site Plan, with an address of 7215 Gardner Road, De Soto, Kansas, and will be in compliance

with all of the conditions, requirements, and terms set forth in this Ordinance, Ordinance 2298, and the City's Municipal Code, including its Zoning Regulations.

**Section 3. Term of Permit.** This Special Use Permit is granted for a period of twenty (20) years from the effective date of this Ordinance. Thereafter, the Special Use Permit will automatically renew for subsequent one-year periods unless the City issues a written notice of termination to permittee no later than 90 days prior to the expiration of the then existing term.

**Section 4. Revocation.** The effectiveness of this Special Use Permit is conditioned upon the strict compliance by the Permittee with the provisions contained herein and in the City of De Soto Zoning Regulations. Should Permittee fail to comply with any term or provision thereof and shall such failure continue following notice from City to Permittee specifying the breach and actions to be taken to cure the same, then, at the direction of the City Administrator, Permittee will be notified that this Special Use Permit is revoked prior to its otherwise normal expiration and all uses permitted herein on the Property must immediately cease. Reinstatement following default may only be effected by action of the Governing Body. Wholly separate and apart from the specific conditions of the City's Zoning Regulations are the City's interest and duties to protect the public health, safety and welfare. Permittee agrees that this Ordinance shall not operate or be construed to impede or impair the lawful function of City government operation in this area.

**Section 5. Effective Date.** This ordinance shall take effect and be in force from and after its passage, approval and publication as provided by law, which will also be the effective date for purposes of the Special Use Permit herein granted.

PASSED AND APPROVED BY AT LEAST A 2/3 MAJORITY OF THE GOVERNING BODY THIS 21<sup>st</sup> DAY OF MAY, 2020.

(Seal)

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Rick Walker, Mayor

ATTEST:

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Lana R. McPherson, MMC, City Clerk

APPROVED AS TO FORM:

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Patrick G. Reavey, City Attorney