

*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. 2497 SUMMARY**

On August 20, 2020, the City of De Soto, Kansas adopted Ordinance No. 2497 providing for a Special Use Permit for the Indoor Display and Sale of Motor Vehicles and Parts in the “C-1” Business – Central District for the property at 33015 West 83<sup>rd</sup> Street, De Soto, Kansas. A complete copy of this ordinance is available at [www.desotoks.us](http://www.desotoks.us) or at City Hall, 32905 West 84<sup>th</sup> Street, De Soto, Kansas. This summary is certified by Patrick G. Reavey, De Soto City Attorney pursuant to K.S.A. 12-3001, et seq.

### **ORDINANCE NO. 2497**

#### **AN ORDINANCE PROVIDING FOR A SPECIAL USE PERMIT FOR THE INDOOR DISPLAY AND SALE OF MOTOR VEHICLES AND PARTS FOR THE PROPERTY LOCATED AT 33015 WEST 83<sup>RD</sup> STREET, DE SOTO, KANSAS.**

**WHEREAS**, proper application has been made by Dennis Hillhouse (hereinafter referred to as “Permittee”) for a Special Use Permit to operate a business involving the indoor display and sale of motor vehicles and parts at 33015 West 83<sup>rd</sup> Street, De Soto, Kansas 66018 which property currently is zoned “C-1” Business – Central District; and

**WHEREAS**, the indoor display and sales of motor vehicles and parts is permitted as a special use in the “C-1” Business – Central District per the City’s Zoning Regulations; 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 property which shall be subject to the requested Special Use Permit; and

**WHEREAS**, the Planning Commission recommended that a Special Use Permit be approved, subject to the property being connected to City water and City sewer service.

#### **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 criteria 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 Indoor Display and Sale of Motor Vehicles and Parts in the “C-1” Business – Central District.** That the Governing Body hereby grants a Special Use Permit to Permittee for the property at 33015 West 83<sup>rd</sup> Street to be used for Indoor Display and Sale of Motor Vehicles and Parts in accordance with Permittee’s June 27, 2020 Application and the requirements of Subsection P of Section 3 of Article 10 of the City Zoning Regulations. Said Permit is expressly conditioned on the property being connected to City water and sewer service and shall have 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.

**Section 3. Permit 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 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, to include a determination by the City that, in accordance with the criteria set forth in Section 1 hereinabove, the uses allowed by this permit are no longer appropriate and can no longer be permitted.

**Section 4. 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 THE GOVERNING BODY THIS 20<sup>th</sup> day of August 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