

**ORDINANCE NO. 2767**

**AN ORDINANCE AMENDING RESOLUTION NO. 2065 OF THE CITY OF GARDNER, KANSAS, AND ORDINANCE NO. 2687 OF THE CITY, TO MODIFY THE METHOD OF ASSESSMENT AGAINST CERTAIN LOTS, PIECES, AND PARCELS OF LAND LIABLE FOR SUCH SPECIAL ASSESSMENTS TO PAY THE COSTS OF CERTAIN IMPROVEMENTS IN THE CITY (HILLTOP RIDGE PHASE ONE OFFSITE SANITARY SEWER AND 167TH STREET SPECIAL BENEFIT DISTRICT).**

**WHEREAS**, pursuant to Resolution No. 2065 of the City of Gardner, Kansas (the “City”), adopted on October 19, 2020 (the “Improvement Resolution”), the Governing Body of the City has authorized the creation of an improvement district (the “District”) and the construction of the following improvements (the “Improvements”):

Construction of 12” diameter sanitary main extension approximately 1,900 L.F. from approximately 1,500 L.F. north of 167th Street to 300 L.F. south of 167th Street, including a 100 foot bore under 167th Street, widening of 167th Street, constructing an eastbound left turn lane onto northbound Kill Creek Road, and all related appurtenances;

**WHEREAS**, pursuant to Ordinance No. 2687 of the City, passed on December 21, 2020 (the “Max Assessment Ordinance”), the City levied maximum assessments against the properties in the District for the cost of the Improvements;

**WHEREAS**, the City has received a petition signed by 100% of the property owners in the District requesting certain modifications to the method of assessing the costs of the Improvements against the properties in the District and requesting that such modifications be made without notice and hearing (the “Petition”); and

**WHEREAS**, the Governing Body of the City now finds it necessary and desirable to amend the Improvement Resolution and Max Assessment Ordinance to reflect the modifications requested in the Petition;

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GARDNER, KANSAS, AS FOLLOWS:**

**SECTION 1.** Subsection (d) of Section 1 of the Improvement Resolution is hereby deleted in its entirety and replaced with the following:

(d) The method of assessment is: the costs of the Improvements shall be assessed equally per platted residential lot within the improvement district (estimated total of 150 lots) excluding those areas dedicated as public right of way, public parks, storm water retention or detention areas, association common areas, publicly owned easements or similar areas not containing residences. A portion of the property in the improvement district is subdivided into thirty-two (32) lots. The remaining portion of the property in the improvement district is not currently

subdivided. The assessment against the unsubdivided portion of the property in the improvement district shall initially be levied in the aggregate amount to be assessed against the estimated one hundred eighteen (118) lots yet to be platted, and then shall be reallocated on a per lot basis (or in such other equitable manner as the owners of such property agree to in writing), as such property is further subdivided.

**SECTION 2.** Exhibit A to the Improvement Resolution is hereby deleted in its entirety and replaced with exhibit labeled “*Exhibit A to Improvement Resolution*” attached to this Ordinance.

**SECTION 3.** Section 2 of the Max Assessment Ordinance is hereby deleted in its entirety and replaced with the following:

**SECTION 2.** The amounts so levied and assessed shall be due and payable from and after the date of publication of this Ordinance; and, unless waived, the City Clerk shall notify the owners of the affected properties of the maximum amounts of their assessments, that unless the assessments are paid by the date established by the City therefor (the “Prepayment Date”), bonds will be issued therefor and such assessments will be levied concurrently with general taxes and be payable in twenty (20) annual installments.

**SECTION 4.** Exhibit A to the Max Assessment Ordinance is hereby deleted in its entirety and replaced with exhibit labeled “*Exhibit A to Max Assessment Ordinance*” attached to this Ordinance.

**SECTION 5.** This Ordinance shall take effect and be in force from and after its publication (including publication of the exhibits attached hereto) once in the official City newspaper and shall also be filed of record in the office of the Register of Deeds of Johnson County, Kansas.

*[remainder of page left blank intentionally]*

**PASSED** by the Governing Body of the City of Gardner, Kansas, and approved by the Mayor on April 17, 2023.

**CITY OF GARDNER, KANSAS**

(Seal)

\_\_\_\_\_/s/\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_/s/\_\_\_\_\_  
City Clerk

## **EXHIBIT A TO IMPROVEMENT RESOLUTION**

### **BOUNDARIES OF PROPOSED IMPROVEMENT DISTRICT**

Tracts A, B, and C, and Lots 1 through 32, inclusive, in HILLTOP RIDGE – 1ST PLAT, a subdivision in the Northwest Quarter of Section 22, Township 14 South, Range 22 East, in the City of Gardner, Johnson County, Kansas.

AND

All that part of the West Half of the Northwest Quarter of Section 22, Township 14 South, Range 22 East, Johnson County, Kansas, described as follows: Commencing at the Northwest corner of the Northwest Quarter of said Section 22; thence North 88 degrees 16 minutes 55 seconds East, along the North line of the Northwest Quarter of said Section 22, a distance of 652.13 feet to the point of beginning; thence South 1 degree 43 minutes 05 seconds East, a distance of 142.44 feet; thence South 54 degrees 07 minutes 26 seconds West, a distance of 247.56 feet; thence South 17 degrees 40 minutes 26 seconds West, a distance of 899.98 feet; thence South 25 degrees 28 minutes 37 seconds West, a distance of 300.35 feet to a point on the West line of the Northwest Quarter of said Section 22; thence South 2 degrees 10 minutes 37 seconds East, along the West line of the Northwest Quarter of said Section 22, a distance of 1271.06 feet to the Southwest corner of the Northwest Quarter of said Section 22; thence North 88 degrees 16 minutes 13 seconds East, along the South line of the Northwest Quarter of said Section 22, a distance of 1329.32 feet to the Southeast corner of the West half of the Northwest Quarter of said Section 22; thence North 2 degrees 22 minutes 27 seconds West, along the East line of the West Half of the Northwest Quarter of said Section 22, a distance of 2668.43 feet to the Northeast corner of the West Half of the Northwest Quarter of said Section 22; thence South 88 degrees 16 minutes 55 seconds West, along the North line of the Northwest Quarter of said Section 22, a distance of 668.00 feet to the point of beginning, containing 71.15 acres, more or less.

Less and except:

All that part of Tract "B", as shown on Survey recorded in Book 201910, Page 002932, in the Office of the Register of Deeds, Johnson County, Kansas, lying in the West Half of the Northwest Quarter of Section 22, Township 14 South, Range 22 East, in the City of Gardner, Johnson County, Kansas, more particularly described as follows:

Commencing at the Northwest corner of the Northwest Quarter of said Section 22; thence North 88°16'55" East, along the North line of said Northwest Quarter, a distance of 652.13 feet to the Point of Beginning; thence continuing North 88°16'55" East, along said North line, a distance of 668.00 feet to the Northeast corner of the West Half of the Northwest Quarter of said Section 22; thence South 02°22'27" East, along the East line of West Half of the Northwest Quarter of said Section 22, a distance of 934.42 feet; thence departing said East line, South 87°37'33" West a distance of 262.67 feet; thence North 25°44'33" West a distance of 53.00 feet; thence South 87°37'33" West a distance of 150.22 feet; thence northerly along a non-tangent curve to the right having a radius of 275.00 feet, and a chord which bears North 12°02'46" West, 21.95 feet, for an

arc length of 21.96 feet; thence South 80°14'29" West a distance of 193.89 feet; thence North 02°22'27" West a distance of 86.70 feet; thence North 18°41'48" West a distance of 75.02 feet; thence South 87°37'33" West a distance of 218.92 feet; thence North 72°19'34" West a distance of 163.08 feet to a point on the East line of Tract "A", as shown on said recorded Survey; thence along said East line, the following three courses: thence North 17°40'26" East a distance of 429.01 feet; thence North 54°07'26" East a distance of 247.56 feet; thence North 01°43'05" West a distance of 142.44 feet to the Point of Beginning, containing 744,036 square feet, or 17.081 acres, more or less.

County Tax Parcel IDs: CP37530000 0T0A  
CP37530000 0T0B  
CP37530000 0T0C  
CP37530000 0001 through CP37530000 0032, inclusive  
CF221422-1003

**EXHIBIT A TO MAX ASSESSMENT ORDINANCE**  
**(HILLTOP RIDGE PHASE ONE OFFSITE SANITARY SEWER**  
**AND 167TH STREET SBD)**

<b>DESCRIPTION OF PROPERTY SUBJECT TO ASSESSMENT</b>	<b>MAXIMUM AMOUNT OF ASSESSMENT</b>
Lot 1 in HILLTOP RIDGE – 1ST PLAT, a subdivision in the City of Gardner, Johnson County, Kansas	\$6,733.33
Lot 2 in HILLTOP RIDGE – 1ST PLAT, a subdivision in the City of Gardner, Johnson County, Kansas	\$6,733.33
Lot 3 in HILLTOP RIDGE – 1ST PLAT, a subdivision in the City of Gardner, Johnson County, Kansas	\$6,733.33
Lot 4 in HILLTOP RIDGE – 1ST PLAT, a subdivision in the City of Gardner, Johnson County, Kansas	\$6,733.33
Lot 5 in HILLTOP RIDGE – 1ST PLAT, a subdivision in the City of Gardner, Johnson County, Kansas	\$6,733.33
Lot 6 in HILLTOP RIDGE – 1ST PLAT, a subdivision in the City of Gardner, Johnson County, Kansas	\$6,733.33
Lot 7 in HILLTOP RIDGE – 1ST PLAT, a subdivision in the City of Gardner, Johnson County, Kansas	\$6,733.33
Lot 8 in HILLTOP RIDGE – 1ST PLAT, a subdivision in the City of Gardner, Johnson County, Kansas	\$6,733.33
Lot 9 in HILLTOP RIDGE – 1ST PLAT, a subdivision in the City of Gardner, Johnson County, Kansas	\$6,733.33
Lot 10 in HILLTOP RIDGE – 1ST PLAT, a subdivision in the City of Gardner, Johnson County, Kansas	\$6,733.33
Lot 11 in HILLTOP RIDGE – 1ST PLAT, a subdivision in the City of Gardner, Johnson County, Kansas	\$6,733.33
Lot 12 in HILLTOP RIDGE – 1ST PLAT, a subdivision in the City of Gardner, Johnson County, Kansas	\$6,733.33

DESCRIPTION OF PROPERTY SUBJECT TO ASSESSMENT	MAXIMUM AMOUNT OF ASSESSMENT
Lot 13 in HILLTOP RIDGE – 1ST PLAT, a subdivision in the City of Gardner, Johnson County, Kansas	\$6,733.33
Lot 14 in HILLTOP RIDGE – 1ST PLAT, a subdivision in the City of Gardner, Johnson County, Kansas	\$6,733.33
Lot 15 in HILLTOP RIDGE – 1ST PLAT, a subdivision in the City of Gardner, Johnson County, Kansas	\$6,733.33
Lot 16 in HILLTOP RIDGE – 1ST PLAT, a subdivision in the City of Gardner, Johnson County, Kansas	\$6,733.33
Lot 17 in HILLTOP RIDGE – 1ST PLAT, a subdivision in the City of Gardner, Johnson County, Kansas	\$6,733.33
Lot 18 in HILLTOP RIDGE – 1ST PLAT, a subdivision in the City of Gardner, Johnson County, Kansas	\$6,733.33
Lot 19 in HILLTOP RIDGE – 1ST PLAT, a subdivision in the City of Gardner, Johnson County, Kansas	\$6,733.33
Lot 20 in HILLTOP RIDGE – 1ST PLAT, a subdivision in the City of Gardner, Johnson County, Kansas	\$6,733.33
Lot 21 in HILLTOP RIDGE – 1ST PLAT, a subdivision in the City of Gardner, Johnson County, Kansas	\$6,733.33
Lot 22 in HILLTOP RIDGE – 1ST PLAT, a subdivision in the City of Gardner, Johnson County, Kansas	\$6,733.33
Lot 23 in HILLTOP RIDGE – 1ST PLAT, a subdivision in the City of Gardner, Johnson County, Kansas	\$6,733.33
Lot 24 in HILLTOP RIDGE – 1ST PLAT, a subdivision in the City of Gardner, Johnson County, Kansas	\$6,733.33
Lot 25 in HILLTOP RIDGE – 1ST PLAT, a subdivision in the City of Gardner, Johnson County, Kansas	\$6,733.33
Lot 26 in HILLTOP RIDGE – 1ST PLAT, a subdivision in the City of Gardner, Johnson County, Kansas	\$6,733.33

DESCRIPTION OF PROPERTY SUBJECT TO ASSESSMENT	MAXIMUM AMOUNT OF ASSESSMENT
Lot 27 in HILLTOP RIDGE – 1ST PLAT, a subdivision in the City of Gardner, Johnson County, Kansas	\$6,733.33
Lot 28 in HILLTOP RIDGE – 1ST PLAT, a subdivision in the City of Gardner, Johnson County, Kansas	\$6,733.33
Lot 29 in HILLTOP RIDGE – 1ST PLAT, a subdivision in the City of Gardner, Johnson County, Kansas	\$6,733.33
Lot 30 in HILLTOP RIDGE – 1ST PLAT, a subdivision in the City of Gardner, Johnson County, Kansas	\$6,733.33
Lot 31 in HILLTOP RIDGE – 1ST PLAT, a subdivision in the City of Gardner, Johnson County, Kansas	\$6,733.33
Lot 32 in HILLTOP RIDGE – 1ST PLAT, a subdivision in the City of Gardner, Johnson County, Kansas	\$6,733.33
All that part of the West Half of the Northwest Quarter of Section 22, Township 14 South, Range 22 East, Johnson County, Kansas, described as follows: Commencing at the Northwest corner of the Northwest Quarter of said Section 22; thence North 88 degrees 16 minutes 55 seconds East, along the North line of the Northwest Quarter of said Section 22, a distance of 652.13 feet to the point of beginning; thence South 1 degree 43 minutes 05 seconds East, a distance of 142.44 feet; thence South 54 degrees 07 minutes 26 seconds West, a distance of 247.56 feet; thence South 17 degrees 40 minutes 26 seconds West, a distance of 899.98 feet; thence South 25 degrees 28 minutes 37 seconds West, a distance of 300.35 feet to a point on the West line of the Northwest Quarter of said Section 22; thence South 2 degrees 10 minutes 37 seconds East, along the West line of the Northwest Quarter of said Section 22, a distance of 1271.06 feet to the Southwest corner of the Northwest Quarter of said Section 22; thence North 88 degrees 16 minutes 13 seconds East, along the South line of the Northwest Quarter of said Section 22, a distance of 1329.32 feet to the Southeast corner of the West half of the Northwest Quarter of said Section 22; thence North 2 degrees 22 minutes 27 seconds West, along the East line of the West Half of the Northwest Quarter of said Section 22, a distance of 2668.43 feet to the Northeast corner of the West Half of the Northwest Quarter of said Section 22; thence South 88 degrees 16 minutes 55 seconds West, along the	\$794,533.44



**DESCRIPTION OF PROPERTY SUBJECT TO ASSESSMENT**

**MAXIMUM  
AMOUNT OF  
ASSESSMENT**

North line of the Northwest Quarter of said Section 22, a distance of 668.00 feet to the point of beginning, containing 71.15 acres, more or less.

Less and except:

All that part of Tract "B", as shown on Survey recorded in Book 201910, Page 002932, in the Office of the Register of Deeds, Johnson County, Kansas, lying in the West Half of the Northwest Quarter of Section 22, Township 14 South, Range 22 East, in the City of Gardner, Johnson County, Kansas, more particularly described as follows:

Commencing at the Northwest corner of the Northwest Quarter of said Section 22; thence North  $88^{\circ}16'55''$  East, along the North line of said Northwest Quarter, a distance of 652.13 feet to the Point of Beginning; thence continuing North  $88^{\circ}16'55''$  East, along said North line, a distance of 668.00 feet to the Northeast corner of the West Half of the Northwest Quarter of said Section 22; thence South  $02^{\circ}22'27''$  East, along the East line of West Half of the Northwest Quarter of said Section 22, a distance of 934.42 feet; thence departing said East line, South  $87^{\circ}37'33''$  West a distance of 262.67 feet; thence North  $25^{\circ}44'33''$  West a distance of 53.00 feet; thence South  $87^{\circ}37'33''$  West a distance of 150.22 feet; thence northerly along a non-tangent curve to the right having a radius of 275.00 feet, and a chord which bears North  $12^{\circ}02'46''$  West, 21.95 feet, for an arc length of 21.96 feet; thence South  $80^{\circ}14'29''$  West a distance of 193.89 feet; thence North  $02^{\circ}22'27''$  West a distance of 86.70 feet; thence North  $18^{\circ}41'48''$  West a distance of 75.02 feet; thence South  $87^{\circ}37'33''$  West a distance of 218.92 feet; thence North  $72^{\circ}19'34''$  West a distance of 163.08 feet to a point on the East line of Tract "A", as shown on said recorded Survey; thence along said East line, the following three courses: thence North  $17^{\circ}40'26''$  East a distance of 429.01 feet; thence North  $54^{\circ}07'26''$  East a distance of 247.56 feet; thence North  $01^{\circ}43'05''$  West a distance of 142.44 feet to the Point of Beginning, containing 744,036 square feet, or 17.081 acres, more or less.

County Tax Parcel ID: CF221422-1003

