

ORDINANCE NO. 2633

AN ORDINANCE LEVYING AND ASSESSING SPECIAL ASSESSMENTS ON CERTAIN LOTS, PIECES AND PARCELS OF LAND LIABLE FOR SUCH SPECIAL ASSESSMENTS TO PAY THE COSTS OF IMPROVEMENTS IN THE CITY OF GARDNER, KANSAS, AS AUTHORIZED BY RESOLUTIONS NO. 2032 AND 2036 OF THE CITY AND REPEALING ORDINANCE NO. 2628 OF THE CITY (WAVERLY PLAZA SPECIAL BENEFIT DISTRICT).

WHEREAS, pursuant to Resolution No. 2032 of the City of Gardner, Kansas (the “City”), adopted on October 7, 2019, as amended by Resolution No. 2036, adopted on November 18, 2019, the Governing Body of the City has authorized the creation of an improvement district and the construction of the following improvements (the “Improvements”):

Design, construction and improvement of Laurel Street from Santa Fe Street to Washington Street, and design, construction and improvement of Washington Street from Waverly Road to Laurel Street, with the work to include costs to acquire the right-of-way, engineering design costs, consultant fees, surveys, plans and permitting, grading, demolition, paving, curbs, gutters, storm drainage, water main extension, sidewalks, street lighting, signing, public utilities, sod, street trees and all related improvements permitted by K.S.A. 12-6a01 *et seq.*; City administrative costs; and legal fees;

WHEREAS, prior to commencement of construction of the Improvements, the City has determined the maximum amount of assessment against each lot, piece or parcel of land deemed to be benefited by the Improvements based on the approved estimate of cost of the Improvements;

WHEREAS, pursuant to an amended petition filed by the owner of the property within the improvement district, the City has agreed to pay 25.60% of the total cost of the Improvements as a City-at-large contribution;

WHEREAS, the City has prepared an assessment roll and filed the same with the City Clerk;

WHEREAS, the City has received a waiver from the owner of all property within the improvement district that the City provide notice of, and hold a public hearing on, the proposed maximum special assessments pursuant to K.S.A. 12-6a09; and

WHEREAS, the owner of all property within the improvement district has consented to the levy of the proposed maximum special assessments as set forth in this Ordinance;

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

SECTION 1. Pursuant to K.S.A. 12-6a01 *et seq.*, special assessments to pay the costs of the Improvements are hereby levied and assessed against the lots, pieces and parcels of land liable therefor as described on *Exhibit A* to this Ordinance, which is incorporated herein by reference, and in the maximum amounts set forth on *Exhibit A* following the description of each lot, piece or parcel of land; provided, however, that if the final cost of the completed Improvements is less than the maximum amount of the assessments set forth on *Exhibit A*, the Governing Body of the City shall adjust the assessments to reflect the cost of the completed Improvements.

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 August 1, 2021 (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 3. The City Clerk shall certify to the County Clerk, in the same manner and at the same time as other taxes are certified, for a period of twenty (20) years, all of the assessments which have not been paid by the Prepayment Date, together with interest on such amount thereof at a rate not exceeding the maximum rate as prescribed by the laws of the State of Kansas; and such amounts shall be placed on the tax rolls and collected as other taxes are collected, the levy for each year being a portion of the principal amount of the assessment plus one year’s interest on the amount remaining unpaid.

SECTION 4. Ordinance No. 2628 of the City, passed on October 21, 2019, is hereby repealed in its entirety.

SECTION 5. This Ordinance shall take effect and be in force from and after its publication once in the official City newspaper. The City Clerk is directed to file this Ordinance with the Register of Deeds of Johnson County, Kansas.

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PASSED by the Governing Body of the City of Gardner, Kansas, and approved by the Mayor on November 18, 2019.

CITY OF GARDNER, KANSAS

(Seal)

_____/s/_____
Mayor

ATTEST:

_____/s/_____
City Clerk

**EXHIBIT A
(WAVERLY PLAZA SBD)**

DESCRIPTION OF PROPERTY SUBJECT TO ASSESSMENT	MAXIMUM AMOUNT OF ASSESSMENT
<p>All that part of the Southwest Quarter of Section 23, Township 14 South, Range 22 East, in the City of Gardner, Johnson County, Kansas, being more particularly described as follows:</p> <p>Beginning at the Southwest corner of the Southwest Quarter of said Section 23; thence N 1°53'36" W, along the West line of the Southwest Quarter of said Section 23, a distance of 660.92 feet; thence N 88°06'24" E, a distance of 50.00 feet; thence Easterly on a curve to the left, said curve being tangent to the last described course and having a radius of 445.00 feet, an arc distance of 87.82 feet; thence N 76°48'00" E, a distance of 169.86 feet; thence Easterly on a curve to the right, said curve being tangent to the last described course and having a radius of 480.00 feet, an arc distance of 94.67 feet; thence N 88°06'00" E, a distance of 331.11 feet; thence Easterly along the Southerly plat line of THE RESERVE AT WAVERLY POINTE, TENTH PLAT, a platted subdivision of land in the City of Gardner, Johnson County, Kansas and its Westerly extension, on a curve to the right, said curve being tangent to the last described course and having a radius of 430.00 feet, an arc distance of 346.73 feet to the Southmost plat corner of said THE RESERVE AT WAVERLY POINTE, TENTH PLAT, said point also being on the South line of N. Laurel Street, as now established; thence S 45°18'00" E, along the South line of said N. Laurel Street, a distance of 50.00 feet to the Westmost plat corner of THE RESERVE AT WAVERLY POINTE, EIGHTH PLAT, a platted subdivision of land in the City of Gardner, Johnson County, Kansas; thence S 53°05'33" E, along the Southwesterly plat line of said THE RESERVE AT WAVERLY POINTE, EIGHTH PLAT, a distance of 259.69 feet to a point on the North most plat corner of THE RESERVE AT WAVERLY POINTE, ELEVENTH PLAT, a platted subdivision of land in the City of Gardner, Johnson County, Kansas; thence along the Northerly plat line of said THE RESERVE AT</p>	\$1,953,000

WAVERLY POINTE, ELEVENTH PLAT and THE RESERVE AT WAVERLY POINTE, NINTH PLAT, THE RESERVE AT WAVERLY POINTE, FIFTEENTH PLAT, both being platted subdivisions of land in the City of Gardner, Johnson County, Kansas, for the following three (3) courses; thence S 86°15'48" W, a distance of 25.66 feet; thence S 70°42'18" W, a distance of 183.20 feet; thence S 68°47'47" W, a distance of 77.68 feet to the Northwest plat corner of said THE RESERVE AT WAVERLY POINTE, NINTH PLAT; thence S 1°58'45" E, along the West plat line of said THE RESERVE AT WAVERLY POINTE, NINTH PLAT and the West plat line of THE RESERVE AT WAVERLY POINTE, FOURTEENTH PLAT, a platted subdivision of land in the City of Gardner, Johnson County, Kansas, a distance of 298.01 feet to the Southwest plat corner of said THE RESERVE AT WAVERLY POINTE, NINTH PLAT, said point also being on the South line of the Southwest Quarter of said Section 23; thence S 88°01'15" W, along the South line of the Southwest Quarter of said Section 23, a distance of 1002.77 feet to the point of beginning, containing 16.8493 acres, more or less, of unplatted land.