

(Published in *The Butler County Times-Gazette* on July 29, 2017)

ORDINANCE NO. 1641

AN ORDINANCE AMENDING ORDINANCE NO. 1544 OF THE CITY OF ANDOVER, KANSAS.

WHEREAS, on July 19, 2017, a petition requesting reallocation of certain special assessments (the "Petition") was filed in the Office of the City Clerk of the City of Andover, Kansas, requesting that the remainder of a portion of the special assessments levied by Ordinance No. 1544 of the City, duly adopted July 30, 2013 and published in the official newspaper of the City on August 3, 2013 (the "2013 Ordinance") be reallocated; and

WHEREAS, the Petition was signed by 100% of the owners of the property liable for the special assessments to be reallocated, which 2013 Ordinance previously levied special assessments upon: UNPLATTED TRACT U2: That part of the SW  $\frac{1}{4}$  of Sec. 9, Twp. 27-S, R-3-E of the 6<sup>th</sup> P.M., Butler County, Kansas described as follows: Beginning at the SE corner of said SW  $\frac{1}{4}$ ; thence N89°55'35"W along the South line of said SW  $\frac{1}{4}$ , 1179.61 feet to the intersection with the southerly extension of the east line of Block A, Prairie Creek Addition, Andover, Butler County, Kansas; thence N00°08'55"E along said extended east line, 380.96 feet to a deflection corner in said east line; thence N18°11'31"E along the east line of said Block A, 285.75 feet to the NE corner of Lot 11 in said Block A; thence N69°00'22"W along the north line of said Block A, 331.98 feet to the NW corner of Lot 13 in said Block A, said NW corner also being on the southeasterly right-of-way line of Limestone St. as dedicated in said Prairie Creek Addition; thence N30°59'38"E along said southeasterly right-of-way line, 369.48 feet to the P.C. of a curve to the left in said southeasterly right-of-way line; thence northeasterly along said curve, having a central angle of 06°48'27" and a radius of 1033.00 feet, an arc distance of 122.73 feet, (having a chord length of 122.66 feet bearing N27°35'25"E); thence S68°26'39"E along the southeasterly extension of the northeast line of Reserve "B" in said Prairie Creek Addition, 1238.61 feet to a point on the east line of the SW  $\frac{1}{4}$  of said Sec. 9; thence S00°01'24"E along the east line of said SW  $\frac{1}{4}$ , 743.25 feet to the point of beginning, subject to road rights-of-way of record ("Unplatted Tract U2") in order to pay a portion of the costs of constructing certain Sanitary Sewer Main Improvements and 13<sup>th</sup> Street & Prairie Creek Road Paving Phase 1 Improvements (collectively, the "Improvements"); and

WHEREAS, the Petition requests, that the special assessments previously levied against Unplatted Tract U2 (collectively, the "Special Assessments") be levied against:

Prairie Creek Addition-Third Phase: Block A, Lots 1 through 13, inclusive;

Prairie Creek Addition-Third Phase: Block B, Lots 1 through 22, inclusive;

UNPLATTED TRACT 'U/2-A': That part of the SW  $\frac{1}{4}$  of Sec. 9, Twp. 27-S, R-3-E of the 6<sup>th</sup> P.M., Butler County, Kansas described as follows: Beginning at the SE corner of said SW  $\frac{1}{4}$ ; thence N89°55'35"W along the South line of said SW  $\frac{1}{4}$ , 1179.61 feet to the intersection with the southerly extension of the east line of

Block A, Prairie Creek Addition, Andover, Butler County, Kansas; thence N00°08'55"E along said extended east line, 380.96 feet to a deflection corner in said east line; thence N18°11'31"E along the east line of said Block A, 285.75 feet to the NE corner of Lot 11 in said Block A; thence N69°00'22"W along the north line of said Block A, 331.98 feet to the NW corner of Lot 13 in said Block A, said NW corner also being on the southeasterly right-of-way line of Limestone St. as dedicated in said Prairie Creek Addition; thence N30°59'38"E along said southeasterly right-of-way line, 369.48 feet to the P.C. of a curve to the left in said southeasterly right-of-way line; thence northeasterly along said curve, having a central angle of 06°48'27" and a radius of 1033.00 feet, an arc distance of 122.73 feet, (having a chord length of 122.66 feet bearing N27°35'25"E); thence S68°26'39"E along the southeasterly extension of the northeast line of Reserve "B" in said Prairie Creek Addition, 1238.61 feet to a point on the east line of the SW ¼ of said Sec. 9; thence S00°01'24"E along the east line of said SW ¼, 743.25 feet to the point of beginning, subject to road rights-of-way of record, EXCEPT that part platted as Prairie Creek Addition – Third Phase, Andover, Butler County, Kansas. ("Unplatted Tract U/2-A")

(collectively, the "Reallocation Area"); and

WHEREAS, the Petition further states that the owners of 100% of the lots and parcel in the Reallocation Area (the "Owners"), find the reallocation to be equitable and appropriate under the circumstances and that it will result in the Special Assessments being apportioned against the property in accordance with the special benefits accruing thereto by reason of the Improvements, and that the Owners acknowledge that not all property benefited by the Improvements would be reassessed under the petition for respread, but that the petition effects only lots in the Reallocation Area and is thereby submitted by the owners of 100% of the effected lots pursuant to revised subsection (c) of K.S.A. 12-6a04; and

WHEREAS, the Owners (i) waived any right they may have to inclusion of other benefited properties (whether owned or not) as part of any improvement district, (ii) waived any formal notice of and the holding of a public hearing by the City for the purpose of considering the reallocation of special assessments, (iii) consented to the levy of the Special Assessments against the Reallocation Area in their entirety by appropriate proceedings of the City of Andover, Kansas in the amount necessary to pay the remaining unpaid costs of the Improvements and retire the City's general obligation bonds issued to finance such Improvements; (iv) consented to and requested an amendment of the 2013 Ordinance, as necessary to accomplish such assessment; (v) jointly and severally indemnified and agreed to repay the City for all costs occasioned by this request, consent and waiver (including but not limited to bond counsel fees, this amending ordinance publication costs and all legal, fiscal and administrative fees); (vi) waived all right to any pay-in period after publication of the amending ordinance levying and reallocating such special assessments; (vii) waived the mailing of any notice to the Owners of the Special Assessments, as amended and reallocated, and did this all, and in every instance, without formal or further notice or process to the Owner whatsoever and (viii) acknowledged and agreed that the Special Assessments, to the extent previously levied and/or already certified to the

appropriate officials of Butler County for the ensuing tax year shall nonetheless become due and payable by all the properties previously assessed, in accordance with their original terms; and

WHEREAS, the City finds and determines it advisable to amend the 2013 Ordinance.

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

Section 1. *Partial Amendment to Section 1 of Ordinance No. 1544.* The special assessments for sewer and paving that are listed and levied in Section 1 of Ordinance No. 1544 under the heading “Phase 1 Prairie Creek Addition Improvements” for Unplatted Tract U2 (as defined above and originally totaling \$23,350.73 and \$186,635.33, respectively) are hereby amended by deleting the same and replacing them with the following:

PHASE 1 PRAIRIE CREEK IMPROVEMENTS

<u>Legal Description</u>	<u>Sewer</u>	<u>Paving</u>
Prairie Creek Addition-Third Phase: Block A, Lots 1 through 13, inclusive	\$449.05 each	\$3,589.14 each
Prairie Creek Addition-Third Phase: Block B, Lots 1 through 22, inclusive	\$449.05 each	\$3,589.14 each
UNPLATTED TRACT U/2-A	\$7,633.98	\$61,015.43

Section 2. *Special Assessments already Levied or Certified.* Notwithstanding the provisions of this Ordinance, to the extent Special Assessments which are the subject of this Ordinance have been previously paid by the owners or previously certified by the City Clerk to the appropriate officials of Butler County for the ensuing tax year and not timely amended, said Special Assessments shall become due and payable by owners of the properties previously assessed, as certified and in accordance with their original terms.

Section 3. *Amending Ordinance.* This Ordinance supplements and amends Ordinance No. 1544 only to the extent necessary to reallocate the Special Assessments for the Reallocation Area (as defined above) and, except to the extent specifically amended hereby, Ordinance No. 1544 shall remain in full force and effect.

Section 4. *Effective Date.* Subject to the provisions of Section 3 hereof, this Ordinance shall take effect and be in full force from and after its adoption by the governing body of City of Andover, Kansas and its publication in the official newspaper of the City.

PASSED, ADOPTED AND APPROVED by the governing body of the City of Andover, Kansas on July 25, 2017.

CITY OF ANDOVER, KANSAS

[seal]

By \_\_\_\_\_  
Ben Lawrence, Mayor

ATTEST:

By \_\_\_\_\_  
Susan C. Renner, City Clerk

## EXCERPT OF MINUTES

The governing body of the City of Andover, Kansas, met at the normal meeting place in the City on July 25, 2017, at 7:00 p.m., with Mayor Ben Lawrence presiding, and the following members of the governing body present:

Sheri Geisler, Clark Nelson, Kris Estes, and Caroline Hale

and the following members absent:

Troy Tabor

Thereupon, and among other business, there was presented to the governing body, an Ordinance entitled:

AN ORDINANCE AMENDING ORDINANCE NO. 1544 OF THE CITY OF ANDOVER, KANSAS.

Thereupon, the Ordinance was considered and discussed; and on motion of Nelson, seconded by Estes, the Ordinance was adopted by a majority vote of all members present.

Thereupon, the Ordinance having been adopted by a majority vote of the members of governing body, it was given No. 1641 and directed to be signed by the Mayor and attested by the City Clerk; and the City Clerk was directed to cause the publication of the Ordinance one time as set forth therein and required by law.

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CITY CLERK'S  
CERTIFICATION OF EXCERPT OF MINUTES

I hereby certify that the foregoing is a true and correct Excerpt of the Minutes of the proceedings at the July 25, 2017 meeting of the governing body of the City of Andover, Kansas.

[seal]

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Susan C. Renner, City Clerk