

**ORDINANCE 2321**

**AN ORDINANCE EXCLUDING CERTAIN LANDS FROM THE CITY OF GARDNER, KANSAS, IN CONFORMITY WITH THE PROVISIONS OF KSA 12-504, ET. SEQ., AND REPEALING ORDINANCE 2290**

**WHEREAS**, the Governing Body of the City of Gardner, Kansas, has received a petition from the owner of real property, described in Section Two of this ordinance, requesting that such property be excluded from the City of Gardner, Kansas:

**WHEREAS**, the Governing Body did give notice in the official newspaper of general circulation in the vicinity of the area to be excluded on the 1st day of July, 2009; and

**WHEREAS**, the Governing Body did hold a public hearing on the petition requesting exclusion on the 3rd day of August, 2009, and heard such testimony as required in order to fully understand the true nature of the petition and the propriety of granting the same.

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

**SECTION ONE:** The Governing Body does hereby find:

- A. Due and legal notice was given by publication as required by law;
- B. No private rights will be injured or endangered by such exclusion;
- C. The public will suffer no loss or inconvenience by such exclusion; and
- D. The prayer of the petitioners should be granted.

**SECTION TWO:** That pursuant to KSA 12-504, et. seq., the Governing Body of the City of Gardner, Kansas, deems it advisable to, and does order, the exclusion and removal of the following land from the boundaries of the City of Gardner, to-wit:

All that part of Section 34, the Southwest Quarter of Section 26, the South Half of Section 27, the Southwest Quarter and East Half of Section 33, being in Township 14 South, Range 22 East, Johnson County, Kansas, together with a portion of the Northeast Quarter of Section 3, Township 15 South, Range 22 East in said County and State, all being more particularly described as follows:

Beginning at the Northeast corner of the Northeast Quarter of said Section 34; thence South 01 degree 56 minutes 21 seconds East along the East line of said Quarter Section, a distance of 2,652.11 feet to the Southeast corner of said Northeast Quarter, being also Northeast corner of the Southeast Quarter of said Section 34; thence South 01 degree 56 minutes 06 seconds East along the East line of said Quarter Section, a distance of 2,651.94 feet to the Southeast corner of said Southeast Quarter; thence South 88 degrees 09 minutes 02 seconds West along the South line of said Quarter Section, a distance of 1,316.87 feet to the Southwest corner of the East Half of the Southeast Quarter of said Section 34, being also the Northeast corner of the of the West Half of the Northeast Quarter of said Section 3; thence South 01 degrees 20 minutes 28 seconds East along the East line of the West Half of the Northeast Quarter of said Section 3, a distance of 2,666.23 feet to the Southeast Corner of the West Half of the Northeast Quarter of said Section 3; thence South 88 degrees 20 minutes 46 seconds West along the South line of the West Half of said Northeast Quarter, a distance of 540.09 feet to the Southeast Corner of the West 768.4 feet

of the Northeast Quarter of said Section 3; thence North 01 degree 31 minutes 15 seconds West along the East line of the West 768.4 feet of said Northeast Quarter, a distance of 2,664.32 feet to the Northeast Corner of the West 768.4 feet of the Northeast Quarter of said Section 3, being also a point on the South line of the Southeast Quarter of said Section 34; thence South 88 degrees 09 minutes 02 seconds West along the South line of Southeast Quarter of said Section 34, a distance of 768.41 feet to the Southwest corner of the Southeast Quarter of said Section 34, being also the Southeast corner of the Southwest Quarter of said Section 34; thence South 88 degrees 10 minutes 27 seconds West along the South line of the Southwest Quarter of said Section 34, a distance of 360.36 feet to the Southeast corner of the tract of land described as the J. A. Pearce Tract in the 1892 Re-Survey of said Section 34; thence North 02 degrees 16 minutes 32 seconds West along East line of said J. A. Pearce Tract, a distance of 1,813.21 feet; thence South 53 degrees 52 minutes 24 seconds West, no longer along the East line of said J. A. Pearce Tract, a distance of 1,824.27 feet to a point on the West line of said J. A. Pearce Tract, said point being 785.11 feet North of the Southwest corner of said J. A. Pearce Tract, as measured along the West line thereof; thence South 01 degree 52 minutes 40 seconds East along the West line of said J. A. Pearce Tract, a distance of 785.11 feet to the Southwest corner thereof, being also a point on the South line of the Southwest Quarter of said Section 34; thence South 88 degrees 10 minutes 27 seconds West along the South line of the Southwest Quarter of said Section 34, a distance of 754.38 feet to the Southwest corner of the Southwest Quarter of said Section 34, being also the Southeast corner of the Southeast Quarter of said Section 33; thence South 88 degrees 33 minutes 21 West along the South line of said Quarter Section, a distance of 2,634.02 to the Southwest corner of the Southeast Quarter of said Section 33, being also the Southeast corner of the Southwest Quarter of said Section 33; thence South 88 degrees 17 minutes 30 seconds West along the South line of said Quarter Section, a distance of 2,107.45 feet to a point on the Southeasterly right-of-way line of the most Northwesterly tracks of the B.N.S.F. Railroad (being the most Northwesterly of the two B.N.S.F. Railroad tracks as they now exist through said Sections 26, 27, 33 and 34 and formerly being the Atchison, Topeka and Santa Fe Railroad Company), said point being 65 feet Southeasterly of the centerline of the main track of said railroad, as measured perpendicular to the centerline thereof; thence Northeasterly along the Southeasterly right of way line of the most Northwesterly tracks of said B.N.S.F. Railroad, the following courses and distances; thence North 46 degrees 47 minutes 43 seconds East, 65 feet Southeasterly of and parallel with the centerline of said main track, a distance of 2,783.57 feet to a jog in said Southeasterly right of way line, being also a point on the East line of the Southwest Quarter of said Section 33; thence North 02 degrees 24 minutes 23 seconds West along the East line of the Southwest Quarter of said Section 33, being also along a jog in said Southeasterly right of way line, a distance of 19.81 feet to a point 50 feet Southeasterly of the centerline of the main track of said railroad, as measured perpendicular to the centerline thereof; thence North 46 degrees 47 minutes 43 seconds East, 50 feet Southeasterly of and parallel with the centerline of said main track, a distance of 1,791.25 feet to a jog in said Southeasterly right of way line; thence South 43 degrees 12 minutes 17 East, perpendicular to the last described course and being along a jog in said Southeasterly right of way line, a distance of 50 feet to a point 100 feet Southeasterly of the centerline of the main track of said railroad, as measured perpendicular to the centerline thereof; thence North 46 degrees 47 minutes 43 seconds East, 100 feet Southeasterly of and parallel with the centerline of said main track, a distance of 1,670.24 feet to a jog in said Southeasterly right of way line, being also a point on the East line of the Northeast Quarter of said Section 33; thence North 02 degrees 35 minutes 02 seconds West along the East line of the Northeast Quarter of said Section 33, being also along a jog in said Southeasterly right of way line, a distance of 65.87 feet to a point 50 feet Southeasterly of the centerline of the main track of said railroad, as measured perpendicular to the centerline thereof; thence North 46 degrees 47 minutes 43 seconds East, 50 feet Southeasterly of and parallel with the centerline of said main track, a distance of 1,851.68 feet; thence Northeasterly along a curve to the right, tangent to the last described course and 50 feet Southeasterly of and coincident with the

centerline of said main track, having a radius of 5,776.69 feet and a central angle of 14 degrees 59 minutes 22 seconds, an arc length of 1,511.27 feet to a jog in said Southeasterly right of way line, being also a point on the East line of the Southwest Quarter of said Section 27; thence South 01 degree 56 minutes 18 seconds East along the East line of the Southwest Quarter of said Section 27, being also along a jog in said Southeasterly right of way line, a distance of 55.82 feet to a point 100 feet Southeasterly of the centerline of the main track of said railroad, as measured radially to the centerline thereof; thence Northeasterly along a curve to the right, said curve being 100 feet Southeasterly of and coincident with the centerline of said main track, having an initial tangent bearing of North 61 degrees 32 minutes 15 seconds East, a radius of 5,726.69 feet and a central angle of 01 degrees 37 minutes 04 seconds, an arc length of 161.70 feet; thence North 63 degrees 09 minutes 19 seconds East, tangent to the last described curve and being 100 feet Southeasterly of and parallel with the centerline of the main track of said railroad, a distance of 835.32 feet to a jog in said Southeasterly right of way line, being also a point on the North line of the South Half of the Southeast Quarter of said Section 27; thence South 88 degrees 25 minutes 01 seconds West along the North line of the South Half of the Southeast Quarter of said Section 27, being also along a jog in said Southeasterly right of way line, a distance of 117.16 feet to a point 50 feet Southeasterly of the centerline of the main track of said railroad, as measured perpendicular to the centerline thereof; thence North 63 degrees 09 minutes 19 seconds East, along a line 50 feet Southeasterly of and parallel with the centerline of the main track of said railroad, a distance of 2,035.09 feet to a point on the East line of the Southeast Quarter of said Section 27; thence South 02 degrees 08 minutes 36 seconds East along the East line of the Southeast Quarter of said Section 27, being no longer along the Southeasterly right of way line of the most Northwesterly tracks of said B.N.S.F. Railroad, a distance of 1,602.74 feet to a point on the Southeasterly right-of-way line of the most Southeasterly tracks of the B.N.S.F. Railroad (being the most Southeasterly of the two B.N.S.F. Railroad tracks as they now exist through said Sections 26, 27, 33 and 34 and formerly being the Atchison, Topeka and Santa Fe Railroad Company), said point being 50 feet Southeasterly of the centerline of the main track of said railroad, as measured perpendicular to the centerline thereof; thence North 55 degrees 20 minutes 16 seconds East along the Southerly right-of-way line of said railroad, 50 feet Southeasterly of and parallel with the centerline of the main track of said railroad, a distance of 3,086.04 feet to a point on the East line of the Southwest Quarter of said Section 26; thence South 02 degrees 00 minutes 12 seconds East along the East line of the Southwest Quarter of said Section 26, a distance of 2,273.43 feet, to the Southeast corner of the Southwest Quarter of said Section 26; thence South 88 degrees 32 minutes 09 seconds West along the South line of said Section 26, a distance of 2,596.81 to the Point of Beginning.

All of the right-of-way as presently established for the most Northwesterly tracks of the B.N.S.F. Railroad (being the most Northwesterly of the two B.N.S.F. Railroad tracks (formerly being the Atchison, Topeka and Santa Fe Railroad Company), as said right-of-way now exists through the West Half of Section 26, the South Half of Section 27, the Northwest Quarter of Section 34, the Northeast Quarter and South Half of Section 33, ALSO, all of the right-of-way as presently established for the most Southeasterly tracks of the B.N.S.F. Railroad (being the most Southeasterly of the two B.N.S.F. Railroad tracks (formerly being the Atchison, Topeka and Santa Fe Railroad Company), as said right-of-way now exists through the Southwest Quarter of said Section 26, being in all Township 14 South, Range 22 East in Johnson County, Kansas.

All of the right-of-way as presently established for U.S. 56 Highway, as said right-of-way now exists through the Northwest Quarter of Section 34, the Northeast Quarter and South Half of Section 33 being in all Township 14 South, Range 22 East in Johnson County, Kansas.

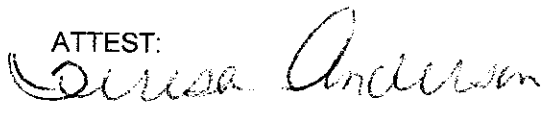
**SECTION THREE:** Ordinance # 2290 is hereby repealed in its entirety.

**SECTION FOUR:** The City Clerk of the City of Gardner, Kansas, is hereby directed to file a certified copy of this ordinance in the Records and Tax Administration Office and County Election Commissioner of Johnson County, Kansas.

**SECTION FIVE:** This Ordinance shall take effect and be in force from and after its passage, approval, and publication as provided by law.

**PASSED and APPROVED** the 3rd day of August, 2009.

  
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David C. Drovetta, Mayor

ATTEST:  
  
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Teresa Anderson, City Clerk  
(SEAL)