



## Legislation Text

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**File #:** 19-0608, **Version:** 2

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**TO:** Mayor Richard C. Irvin and Council

**FROM:** Law Department

**DATE:** July 17, 2019

**SUBJECT:**

Ordinance for the Establishment of a Special Service Area Number #198 Butterfield Phase II, Unit 4B, Lots 19, 401, 403, (Vacant Lots: 2350 Frieder Lane) Aurora, Illinois, DuPage County.

**PURPOSE:**

To establish a dormant Special Service Area in accordance with the City's storm water control ordinance. The public hearing for the proposed establishment of SSA #198 was held on May 28, 2019.

**BACKGROUND:**

The Kane County Stormwater Management Ordinance, which the City has adopted by reference, provides that public entities shall establish a special service area, in the manner set forth in Illinois law, to serve as a backup vehicle to fund the maintenance of stormwater drainage system or facilities required by law or ordinance, in the event that the property's owners fail to do so, as a condition for the issuance of a stormwater management permit. The proposed SSA is "dormant" in the sense that the City will not levy a tax in the SSA unless the owners of the property fail to maintain the stormwater facilities requiring the City to do so in their stead.

**DISCUSSION:**

Dormant SSAs are a mechanism for the City to tax owners of property to pay the cost of the ongoing maintenance of stormwater control facilities in the event the owners fail to maintain the facilities themselves. This backup funding mechanism is a prerequisite for stormwater permit issuance and the City does not levy taxes in the SSA except when required to maintain the facilities

**IMPACT STATEMENT:**

There is no immediate impact to this action, however if the City fails to establish the SSA, it will have limited recourse against the developer (or a subsequent purchaser) in the event it fails to maintain and repair onsite stormwater retention, detention, drainage control systems and common areas.

**RECOMMENDATIONS:**

Place on Infrastructure and Technology Committee Calendar (July 22, 2019 Agenda) for approval to City Council.

**cc:** Infrastructure and Technology Committee



CITY OF AURORA, ILLINOIS

ORDINANCE NO. \_\_\_\_\_  
DATE OF PASSAGE \_\_\_\_\_

An Ordinance for the Establishment of a Special Service Area Number #198 Butterfield Phase II, Unit 4B, Lots 19, 401, 403, (Vacant Lots: 2350 Frieder Lane) Aurora, Illinois, DuPage County.

WHEREAS, the City of Aurora has a population of more than 25,000 persons and is, therefore, a home rule unit under subsection (a) of Section 6 of Article VII of the Illinois Constitution of 1970; and

WHEREAS, subject to said Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals, and welfare; and

WHEREAS, the City of Aurora has a population of more than 25,000 persons and is, therefore, a home rule unit under subsection (a) of Section 6 of Article VII of the Illinois Constitution of 1980; and

WHEREAS, subject to said Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals, and welfare; and

WHEREAS, special service areas are established pursuant to subsection (1) of Section 6 of Article VII of the Illinois Constitution of 1980, and the Special Service Area Tax Law (35 ILCS 200/27-5 et seq) and the Property Tax Code (35 ILCS 200/1-1 et seq); and

WHEREAS, the City of Aurora desires to establish such an Area as hereinafter described; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Aurora, Illinois, as follows:

SECTION ONE:

(a) That it is in the public interest that the Area hereinafter described in the Notice referred to in Section Four hereof be established as SPECIAL SERVICE AREA NUMBER 198 for the purposes set forth herein. An accurate map of said territory is attached hereto as Exhibit "A-1". The approximate location is 2350 Frieder Lane, Aurora, Illinois.

(b) That said Area is compact and contiguous.

(c) That said Area is zoned PPD (Planned Development District), and will benefit specially from the municipal services to be provided which include the maintenance and repair of the onsite stormwater retention, detention and drainage control and common areas, all in accordance with the

final plat of subdivision or final approved engineering plans for the Area; and the proposed municipal services are unique and in addition to municipal services provided to the City of Aurora as a whole; and it is, therefore, in the best interest of said Area and the City of Aurora as a whole that special taxes be levied against said Area for the services to be provided.

(d) Therefore, that City of Aurora SPECIAL SERVICE AREA NUMBER 198 be and is hereby established for and with regard to the aforesaid territory.

## SECTION TWO:

That the purpose of City of Aurora SPECIAL SERVICE AREA NUMBER 198 is to provide special municipal improvements to said Area which include the maintenance and repair of the onsite stormwater retention, detention and drainage controls and common areas, within the Special Service Area, all in accordance with the final approved landscape plan, engineering plan and/or final plat of subdivision for the Area; and the proposed municipal services are unique and are in addition to the services provided by the City generally. Annual taxes shall be assessed and levied at a rate or amount sufficient to provide tax revenue required to provide for said special municipal services in said Area, on property in said Area in addition to all other municipal taxes, said tax to be levied at a maximum rate of 1.10 one-hundredths percent (1.10 being one hundred and ten cents per \$100.00 of the equalized assessed value of the property) provided that the special annual tax shall be levied upon the equalized assessed value of the property in said Area in the amount of tax sufficient to produce revenue required to provide the special services. Said tax to be levied for an indefinite period of time commencing during and in the years subsequent to the date of this Ordinance. Said taxes shall be in addition to all other taxes provided by law and shall be levied pursuant to the provisions of the Property Tax Code. Notwithstanding the foregoing, taxes shall not be levied hereunder and said Area shall be "dormant," and shall take effect only if the Owners Association (or owner as the case may be) fails to maintain or repair the aforesaid required items or provide said special services and the City if forced to assume said responsibilities. During the years of development in the Area and initially thereafter, said levies are intended to produce an amount annually to pay for the cost for said services.

## SECTION THREE:

That a public hearing was held on the 28th day of May, 2019, at 6:00 p.m., in the City Council Chambers of the City Hall, 44 East Downer Place, Aurora, Illinois with regard to the establishment of City of Aurora SPECIAL SERVICE AREA NUMBER 198 for the territory described in the Notice referred to in Section Four hereof. At the hearing, there was considered the levy of an annual tax as described and limited in Section Two hereof.

## SECTION FOUR:

That notice of hearing was published on the 13th day of May, 2019, being not less than fifteen (15) days prior to the public hearing, in a newspaper in general circulation in the City of Aurora. In addition, notice by mailing was given by depositing said notice in the U.S. Mail addressed to the

person or persons in whose name the general taxes for the last preceding year were paid on each lot, block, tract, or parcel of land lying within proposed SPECIAL SERVICE AREA NUMBER 198. Said notice was mailed on or before the 13th day of May, 2019, being not less than ten (10) days prior to the public hearing. In the event taxes for the last preceding year were not paid, the Notice was sent to the person last listed on the tax rolls prior to that year as the owner of said property. Notice was provided for in the form described by Exhibit "B" attached hereto.

#### SECTION FIVE:

That this ordinance shall be in full force and effect, and shall be controlling, upon its passage and approval.

#### SECTION SIX:

That all ordinances or parts of ordinances thereof in conflict therewith are hereby repealed to the extent of any such conflict.

#### SECTION SEVEN:

That any Section or provisions of this Ordinance that is construed to be invalid or void shall not affect the remaining Sections or provisions which shall remain in full force and effect thereafter.

#### Exhibits Attached:

Time Line Round Three  
A-1 Site Map  
A-Legal Description  
B-Legal Notice of Hearing  
C-Affidavit of Notice of Service  
D-Waiver of Objection  
E-Aerial Map of Site Location.