



## Legislation Text

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**File #:** 19-0915, **Version:** 1

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**TO:** Mayor Irvin and City Council

**FROM:** Law Department

**DATE:** October 7, 2019

**SUBJECT:**

Ordinance Proposing the Establishment of a Special Service Area Number #201 Poly USA Expansion (Vacant Lots East of Russell Avenue & North of New Haven Avenue) and calling for a Public Hearing on the proposed Special Service Area in the City of Aurora Kane County and providing for a Public Hearing and other procedures in connection therewith PIN(s): 15-16-177-011 & 15-16-177-013.

**PURPOSE:**

To establish a dormant Special Service Area in accordance with the City's storm water control ordinance..

**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 SSA's are a mechanism for the City to tax owners of the 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 the Infrastructure & Technology Committee Calendar (10/21/19 Agenda) for approval to City Council.

cc: Infrastructure & Technology Committee



CITY OF AURORA, ILLINOIS

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

An Ordinance Proposing the Establishment of a Special Service Area Number #201 Poly USA Expansion (Vacant Lots East of Russell Avenue & North of New Haven Avenue) and calling for a Public Hearing on the proposed Special Service Area in the City of Aurora Kane County and providing for a Public Hearing and other procedures in connection therewith PIN(s): 15-16-177-011 & 15-16-177-013.

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, special service areas are established pursuant to subsection (1) of Section 6 of Article VII of the Illinois Constitution of 1970, 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, it is in the public interest that the Area described in the Notice set forth in paragraph 2 Section One hereof be established as a Special Service Area for the purposes set forth herein, an accurate map of said territory being attached hereto as Exhibit "A-1"; and

WHEREAS, said Area is compact and contiguous and constitutes a principal commercial area of the City; and

WHEREAS, said Area is zoned M1 Manufacturing District Limited, 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 controls 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 interests of said Area and the City of Aurora as a whole, that the levy of special taxes against said Area for the services to be provided be considered.

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

SECTION ONE:

(a) That a public hearing shall be held on the 14th day of January, 2020, at 6:00 p.m. in the City Council Chambers of the City Hall, 44 East Downer Place, Aurora, Illinois to consider the creation of SPECIAL SERVICE AREA NUMBER 201 of the City of Aurora, in the territory described in the Notice set forth in Paragraph 2 hereof. At the hearing, there will be considered the levy of an annual tax on property by the City of Aurora at a rate or amount of tax sufficient to produce revenue required to provide the special services in the proposed SPECIAL SERVICE AREA NUMBER 201. Said tax to be levied for an indefinite period of time from and after the date of the Ordinance establishing said Area. Said tax to be levied at a maximum rate of \$1.10 (one hundred and ten cents per one-hundred dollar valuation). 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. Said levies are intended to produce an amount annually to pay for the cost for said special services. Notwithstanding the foregoing, taxes shall not be levied hereunder and said Area shall be “dormant,” and shall take effect only if the owner fails to maintain or repair the aforesaid required items and the City is forced to assume said responsibilities.

(b) The Notice of hearing was published at least once 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. Mails 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 the proposed Special Service Area 201. Said Notice was mailed not less than ten (10) days prior to the time set for 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. The Notice shall be substantially the following form:

NOTICE OF HEARING

CITY OF AURORA

SPECIAL SERVICE AREA NUMBER 201

Poly USA EXPANSION

VACANT LOTS EAST OF RUSSELL AVENUE & NORTH OF NEW HAVEN AVENUE, AURORA,  
ILLINOIS

KANE COUNTY

NOTICE IS HEREBY GIVEN that on the 14th day of January, 2020 at 6:00 p.m., in the City Council Chambers of the City Hall, 44 East Downer Place, Aurora, Illinois, a hearing will be held by the City Council of the City of Aurora to consider the establishment of a Special Service Area consisting of the following described territory:

SEE ATTACHED EXHIBIT “A”

SECTION TWO:

The purpose of the formation of SPECIAL SERVICE AREA NUMBER 201 in general is to provide for the maintenance and repair of the onsite stormwater retention, detention and drainage controls and common areas, in said Area, 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 are in addition to

the improvements and services provided and/or maintained by the City generally. It is hereby determined by the City Council that the establishment of said special service area is desirable and necessary to provide the special services to the said area.

### SECTION THREE:

At the hearing, all persons affected will be given an opportunity to be heard. At the hearing, there will be considered the levy of an annual tax in the proposed SPECIAL SERVICE AREA NUMBER 201 by the City of Aurora of not to exceed an annual rate of 1.10 one-hundredths percent (\$1.10 being 110 cents per \$100.00 of the equalized assessed value of the property) sufficient to produce revenues to provide the special services. Said tax to be levied for an indefinite period of time from and after the date of the Ordinance establishing said Area. 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. Said levies are intended to produce an amount annually to pay for the cost for said special services. Notwithstanding the foregoing, taxes shall not be levied hereunder and said Area shall be “dormant,” and shall take effect only if the applicable required 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 is forced to assume said responsibilities. The hearing may be adjourned by the City Council to another date without further notice other than a motion to be entered upon the minutes of its meeting fixing the time and place of its adjournment.

If a petition signed by at least fifty-one percent (51%) of the electors residing within the proposed SPECIAL SERVICE AREA NUMBER 201 and by at least fifty-one percent (51%) of the owners of record of the land included within the boundaries of the proposed Area is filed with the City Clerk within sixty (60) days following the final adjournment of the public hearing objecting to the establishment of the Area, the enlargement thereof, or the levy or imposition of a tax for the provision of special services to the Area, no such Area may be established or enlarged, or tax levied or imposed.

### SECTION FOUR:

The approximate location is vacant lots east of Russell Avenue & north of New Haven Avenue, Aurora, Illinois 60506

An accurate map of said territory is on file in the Office of the City Clerk and available for public inspection, and legal description is attached hereto as Exhibit “A-1”.

All interested persons affected by the formation of SPECIAL SERVICE AREA NUMBER 201 will be given an opportunity to be heard regarding the formation of the boundaries of the Area and may object to the formation of the Area and the levy of taxes affecting said Area.

**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.

PASSED by the City Council of the City of Aurora, Illinois on this 12th day of November, 2019

Prepared by:  
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Corporation Counsel  
City of Aurora Law Department  
44 East Downer Place  
Aurora, IL 60507

Exhibits Attached:  
Time Line  
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