

**PINS:
SEE EXHIBIT A**

**ADDRESS:
SEE EXHIBIT B**

**PREPARED BY:
CITY OF NAPERVILLE
LEGAL DEPARTMENT
630/420-4170**

**RETURN TO:
CITY OF NAPERVILLE
CITY CLERK'S OFFICE
400 SOUTH EAGLE STREET
NAPERVILLE, IL 60540**

ORDINANCE NO. 20 - _____

**AN ORDINANCE ESTABLISHING CITY OF NAPERVILLE
SPECIAL SERVICE AREA NO. 32
FOR WAGNER FARMS SHARED-USE PATHS**

RECITALS

1. **WHEREAS**, on February 5, 2019, the City Council of the City of Naperville passed Ordinances 19-020 through 19-024, pertaining to a development known as the Wagner Farms Subdivision proposed by developer Pulte Home Corporation, (hereinafter "**Developer**"); and
2. **WHEREAS**, the Wagner Farms Subdivision is a residential development located within the corporate boundaries of the City of Naperville and generally located at the northeast corner of Route 59 and 103rd Street (referenced herein as the "**Wagner Farms Residential Property**"). The Wagner Farms Residential Property is legally described on Exhibit A, described by permanent index numbers, and addresses where possible, on Exhibit B, and depicted on Exhibit C.

3. **WHEREAS**, on November 19, 2019, the City Council of the City of Naperville passed Ordinance 19-152, an Ordinance Proposing the Establishment of Special Service Area No. 32 in the City of Naperville for the Wagner Farms Shared-Use Paths and Providing for a Public Hearing for its Establishment; and
4. **WHEREAS**, pursuant to Ordinance 19-152, on January 21, 2020, the City Council of the City of Naperville held a public hearing on the establishment of Special Service Area No. 32; and
5. **WHEREAS**, as described in Ordinance 19-152, the purpose of Special Service Area No. 32 is to provide special municipal services and improvements, if needed, in order to fully implement and carry out obligations and responsibilities pertaining to the operation, maintenance and repair, and reconstruction of approximately 4,460 linear feet of shared use paths (hereinafter “**Shared-Use Paths**”) described in the Annexation Agreement for Wagner Farms as authorized by City of Naperville Ordinance 19-020 in the event that those responsibilities are not otherwise timely and adequately performed, and to reimburse the City for administrative, legal, and other costs and expenses expended by the City in connection with Special Services Area No. 32 (herein after “**Special Service Area Services**”). Said Shared-Use Paths are generally depicted on the Final Landscape Development Plans dated March 22, 2019, and are also referenced in the Owner’s Acknowledgement and Acceptance (OAA) agreement between the City and the Developer recorded with Ordinance 19-058, which approved the Final Plat of Subdivision for Phase 1A of the Wagner Farms Subdivision. Said OAA shall also be recorded with the City ordinances approving the final plats of subdivision for every phase of the Wagner Farms Subdivision; and

6. **WHEREAS**, as provided for by Section 27-55 of the Special Service Tax Law, no petition objecting to the formation of Special Service Area No. 32 was filed with the City within sixty (60) days of the adjournment of the public hearing that was conducted and adjourned on January 21, 2020; and
7. **WHEREAS**, proposed Special Service Area No. 32 will benefit specially from the Special Service Area Services described herein and is contiguous and consists entirely of territory located within the corporate limits of the City of Naperville in Will County Illinois.
8. **WHEREAS**, the Developer shall be responsible for timely and adequate provision and funding of the Special Service Area Services described or referenced herein until the Developer establishes the Wagner Farms Homeowners' Association, at which time the Wagner Farms Homeowners' Association, and/or the Wagner Farm Homeowners' Association Designee, shall be responsible for the timely and adequate provision and funding of the Special Service Area Services described or referenced herein.
9. **WHEREAS**, it is in the public interest that the imposition and levy of a direct annual property tax upon the Wagner Farm Residential Property be considered for the purpose of paying the costs of providing the Special Service Area Services, said tax to be levied for an indefinite period of time commencing only as provided herein and to be levied in accord with the provisions of the Illinois Property Tax Code.
10. **WHEREAS**, the taxes provided for herein shall not be levied and said Special Service Area No. 32 shall remain "dormant" unless activated as provided herein.
11. **WHEREAS**, the City of Naperville shall have the right, but not the obligation, to activate Special Service Area No. 32 and extend taxes as provided herein at its sole discretion in the event that: (1) the City Manager determines that it is necessary and appropriate to

do so; and/or (2) in the event that the City determines that the Developer or the Wagner Farms Homeowners' Association, as applicable, have failed to adequately provide and fund the Special Service Area Services described and referenced herein. Prior to activating Special Service Area No. 32, the City shall give written notice to the Developer, or to the Wagner Farms Homeowners' Association, if such entities then exist.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NAPERVILLE, DUPAGE AND WILL COUNTIES, ILLINOIS, in exercise of its home rule powers, as follows:

SECTION 1: The foregoing Recitals are incorporated as though fully set forth in this Section 1. All exhibits referenced in this Ordinance shall be deemed incorporated and made part hereof.

SECTION 2: The City of Naperville has the authority under its home rule powers pursuant to Article VII, Section 6(1) of the 1970 Constitution of the State of Illinois, and pursuant to the Special Service Area Tax Law, 35 ILCS 200/27-5 et seq., to provide special services to contiguous areas within its corporate boundaries and to provide the manner of levying and imposing additional taxes to pay for the cost of such special services.

SECTION 3: The City Council of the City of Naperville makes the following findings of fact:

- a) Ordinance No. 19-152, an Ordinance proposing the establishment of Special Service Area No. 32 in the City of Naperville for the Wagner Farms shared-use paths and providing for a public hearing for its establishment, was duly passed by the Naperville City Council on November 19, 2019.
- b) A public hearing to consider establishment of Special Service Area No. 32 was conducted by the Naperville City Council on January 21, 2020, not less than sixty (60) days after the adoption of the ordinance proposing the establishment of Special Service Area No. 32. All interested persons were given an opportunity to be heard on the question of the proposed establishment of Special Service Area No. 32.

- c) Notice of the public hearing regarding the proposed establishment of Special Service Area No. 32 was given by publication on December 30, 2019 in the Daily Herald, a newspaper of general circulation in the City of Naperville, at least fifteen (15) days prior to the hearing. Notice of the public hearing was also addressed and mailed to the person, persons, or entity 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 Special Service Area. The notice was given by depositing the notice in the United States mail not less than ten (10) days prior to the time 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. An Affidavit of Compliance with Notice Requirements for Special Service Area No. 32 is attached hereto and made part hereof as **Exhibit D**.
- d) The public hearing on the establishment of Special Service Area No. 32 was conducted and adjourned on January 21, 2020.
- e) After considering the evidence presented at the public hearing and other relevant information, the City Council finds that it is in the public interest and in the interest of the City of Naperville that Special Service Area No. 32 be established.
- f) Special Service Area No. 32 is compact and contiguous, no part of the Special Service Area lies within any incorporated municipality other than the City of Naperville or within an unincorporated area, and the area meets the requirements of the Special Service Area Tax Law.
- g) Special Service Area No. 32 will benefit specially from the services to be provided and the proposed services are in addition to municipal services provided to the City of Naperville as a whole.
- h) No petition objecting to the formation of Special Service Area No. 32, as provided for by Section 27-55 of the Special Service Tax Law, has been filed with the City within sixty (60) days of the adjournment of the public hearing on the proposed Special Service Area conducted on January 21, 2020.

SECTION 4: A Special Service Area to be known and designated as “**City of Naperville Special Service Area No. 32**” is hereby established and shall consist of the real property depicted on the map attached to this Ordinance as **Exhibit C** and legally described on **Exhibit B**. The common address and permanent tax index number of the parcels located within Special Service Area No. 32 are set forth on **Exhibit A** and **Exhibit B**.

SECTION 5: Special Service Area No. 32 is hereby established to provide special municipal services, in addition to services provided to the City generally, relating to obligations and responsibilities pertaining to the operation, maintenance and repair, and reconstruction of approximately 4,460 linear feet of shared use paths as described and referenced herein.

SECTION 6: Special Service Area No. 32 shall remain dormant unless activated as provided or referenced herein.

SECTION 7: Except as provided in Section 8 below, the tax levied hereunder for Special Service Area No. 32 shall be levied at a rate not to exceed sixty (60) cents (\$0.60) per one hundred (\$100.00) of equalized assessed value as equalized against the property included in Special Service Area No. 32 for the Special Service Area Services described herein, except for the initial year for which taxes will be levied as set forth in Section 8 below. Said special tax shall be levied in addition to all other taxes permitted by law and shall be levied only if activated as provided herein.

SECTION 8: The amount of the tax levy for Special Service Area No. 32 for the initial year for which taxes will be levied within Special Service Area No. 32 is 30 cents (\$0.30) per one hundred dollars (\$100) of the equalized assessed value of all taxable property within Special Service Area No. 32 for the Special Service Area Services described herein. Said special tax shall be levied in addition to all other taxes permitted by law and shall be levied only if activated as provided herein.

SECTION 9: Upon activation of Special Service Area 32 as provided herein, except as otherwise provided for the initial year of the levy as set forth in Section 8 above, the City may annually levy hereunder up to the maximum rate set forth in Section 7 above for the

cost of all or some part of the Special Service Area Services described herein there being no limitation on the number of years Special Service Area No. 32 shall remain in effect.

SECTION 10: The City Clerk is hereby authorized and directed to record a certified copy of this Ordinance, including an accurate map of Special Service Area No. 32, with the Office of the Will County Recorder within sixty (60) days of the adoption of this Ordinance, and to file a certified copy of this Ordinance, including an accurate map of Special Service Area No. 32, with the Office of the Will County Clerk.

SECTION 11: If any section, paragraph, or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision, shall not affect any of the remaining provisions of this Ordinance or any other City ordinance or resolution.

SECTION 12: This Ordinance shall be in full force and effect upon its passage and approval.

PASSED this _____ day of _____, 2020.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2020.

Steve Chirico
Mayor

ATTEST:

Pam Gallahue, Ph.D.
City Clerk

[https://cityofnaperville-my.sharepoint.com/personal/lordp_naperville_il_us/Documents/SSAs/Ordinance adopting the Dormant SSA for Wagner Farms April 7, 2020.docx](https://cityofnaperville-my.sharepoint.com/personal/lordp_naperville_il_us/Documents/SSAs/Ordinance%20adopting%20the%20Dormant%20SSA%20for%20Wagner%20Farms%20April%207%2C%202020.docx)