

ORDINANCE NO. 14,628

AN ORDINANCE establishing the Ingersoll Avenue Self-Supported Municipal Improvement District pursuant to the provisions of Chapter 386, Code of Iowa, and providing for the establishment of a capital improvement and operation fund and the levy of an annual tax in connection therewith.

WHEREAS, the City of Des Moines is authorized by Chapter 386, Code of Iowa (the "Act") to create a self-supported municipal improvement district in the City, to provide for the existence and operation of such district, to provide for improvements or self-liquidating improvements for such district, and to levy taxes with respect to such district, all as more specifically defined in the Act; and,

WHEREAS, a petition ( the "Petition") has been filed with the City Clerk pursuant to the Act petitioning the City Council to create the Ingersoll Avenue Self-Supported Municipal Improvement District (the "Proposed District"), to establish a combined capital improvement and operation fund with respect to the Proposed District, and to levy an annual tax for such fund, all for the purpose of causing the acquisition, construction, installation, operation and maintenance within the public rights-of-way of Ingersoll Avenue within the Proposed District of "improvements", as defined in the Act, consisting of improved sidewalks, curbs and cross-walks, landscaping, planters, decorative lighting, utility relocation, traffic signals, and related pedestrian improvements (which improvements are herein referred to as the "Improvements"); and,

WHEREAS, the Petition is in all ways in complete compliance with the provisions of the Act; and,

WHEREAS, on November 20, 2006, by Roll Call No. 06-2338, the City Council received the Petition and referred it to the City Plan and Zoning Commission for review in accordance with the Act; and,

WHEREAS, on December 18, 2006, by Roll Call No. 06-2468, the City Council received the report of the City Plan and Zoning Commission on the merits and feasibility of the Proposed District and Improvements; and,

WHEREAS, on December 18, 2006, by said Roll Call No. 06-2468 the City Council scheduled a public hearing for January 8, 2007, at 5:00 P.M., at which it proposed to take action for the establishment of the Proposed District and authorization of the Improvements, and did direct that notice of such hearing be given in accordance with the Act; and,

WHEREAS, notice of the hearing was mailed by certified mail on December 19, 2006, to all the owners of record of real property located within the Proposed District as shown by the records of the Polk County Auditor, and a copy of the notice was published in the Des Moines Register on December 28, 2006, in satisfaction of the notice requirements of the Act; and,

WHEREAS, at the aforementioned time and place, the City Council did meet and hear all owners of property in the Proposed District and residents of the City desiring to express their views with respect to the establishment of the Proposed District and the acquisition, construction, installation, operation and maintenance of the Improvements; and,

WHEREAS, on January 8, 2007, by Resolution and Roll Call No. 07-074, the City Council closed the public hearing on the creation of the Proposed District and the acquisition, construction, installation, operation and maintenance of the Improvements and found that the Petition, the Proposed District and Improvements satisfied the applicable requirements imposed by the Act, subject to the properties at 2716 and 1725 being removed from the Proposed District; and,

WHEREAS, more than thirty days has now passed since the public hearing on the creation of the Proposed District was closed, and no petition has been filed with the City Clerk opposing the creation of the Proposed District; and,

WHEREAS, the properties at 2716 and 2725 have been removed from the description of the Proposed District described below; NOW THEREFORE,

BE IT ORDAINED, by the City Council of the City of Des Moines, Iowa:

Section 1. That in accordance with Iowa Code Chapter 386 and the recitations set out in the Preamble hereof, there is hereby established and created in the City of Des Moines, a self-supported municipal improvement district as defined in the Act, the name of which shall be the "Ingersoll Avenue Self-Supported Municipal Improvement District" (herein the "District"):

Sec. 2. The District shall consist of all the property within the following described area:

Beginning at the Northwest corner of Lot 9, Block 1, Garver Place, an Official Plat; thence East along the North line of said Lot 9 to the Northeast corner of said Lot 9; thence South along the said East line of said Lot 9, also being the West right-of-way line of 31st Street, to the intersection with the westerly extension of the centerline of the 16 foot wide vacated East/West alley right-of-way lying North of and adjoining Lots 15 through 21, Block 3, McCain Place, an Official Plat; thence East along the westerly extension and continuing along the centerline of the said 16 foot wide vacated East/West alley right-of-way lying North of and adjoining the said Lots 15 through 21, and continuing along the easterly extension of the said centerline across 29th Street, and continuing along the centerline of the 16 foot wide vacated alley lying North of and adjoining Lots 11 through 13, Block 4, McCain Place, an Official Plat to the intersection with the northerly extension of the East line of said Lot 13; thence South along the northerly extension of and along the East line of said Lot 13 to a point 52.0 feet South of the Northeast corner of said Lot 13; thence East along a line 52.0 feet South of and parallel with the North line of Lot 14, of said Block 4, McCain Place, a distance of 57.0 feet; thence South along a line 57.0 feet East of and parallel with the West line of said

Lot 14 to a point located 112.0 feet South of the North line of said Lot 14; thence East along a line 112.0 feet South of and parallel with the North line of Lot 14 and 15, of said Block 4, McCain Place, to the East line of said Lot 15, also being the West right-of-way line of 28th Street; thence South along the West right-of-way line of 28th Street to the intersection with the westerly extension of the North line of the South 73.0 feet of Lot 19, Official Plat of the Southwest 1/4 of Section 5, Township 78 North, Range 24 West of the 5th P.M.; thence East along the westerly extension of the North line of the South 73.0 feet of said Lot 19 to the centerline of the 28th Street right-of-way; thence South along the centerline of the 28th Street right-of-way to the intersection with the easterly extension of the South line of Lot 2, Sears Place, an Official Plat; thence West along the easterly extension of and along the South line of said Lot 2 to the Southwest corner of said Lot 2, and being on the East line of Lot 3 of said Sears Place; thence South along the East line of said Lot 3 to the Southeast corner of said Lot 3; thence West along the South line of said Lot 3, and continuing West along the South lines of Lots 4, 5, and 6, of said Sears Place, to the Southwest corner said Lot 6; thence North along the West line of said Lot 6 to the Southeast corner of Lot 9, of said Sears Place; thence West along the South line of said Lot 9 to the Southwest corner of said Lot 9; thence North along the West line of said Lot 9, also being the East right-of-way line of 29th Street, to the intersection with the easterly extension of the South line of Lot 9, Parriott Place, an Official Plat; thence West along the easterly extension and along the South line of said Lot 9, and continuing West along the South line of Lot 8, of said Parriott Place, to the Southwest corner of said Lot 8; thence North along the West line of said Lot 8 to the Southeast corner of Lot 7, of said Parriott Place; thence West along the South line of Lots 7, 6, 5, 4, and 3, of said Parriott Place to the Southwest corner of said Lot 3; thence North along the West line of said Lot 3, also being the East line of Lot 2 of said Parriott Place, to a point on the East line of said Lot 2, being 349.0 feet North of the South line of said Lot 2; thence westerly along a line located 349.0 feet North of and parallel with the South line of said Lot 2, to the East line of Lot 1, of said Parriott Place; thence North along the East line of said Lot 1 to a point being 408.0 feet North of the Southeast corner of said Lot 1; thence West along a line located 408.0 feet North of and parallel with the South line of said Lot 1 to the West line of said Lot 1, and continuing West along the westerly extension of said line to the West right-of-way line of 31st Street; thence South along the West right-of-way line of 31<sup>st</sup> Street, being the East line of Lot 1, Block 2, Garver Place, an Official Plat, to the Southeast corner of said Lot 1; thence West along the South line of said Lot 1 to the Southwest corner of said Lot 1; thence North along the West line of said Lot 1, and continuing North along the northerly extension of said line across Ingersoll Avenue, to the North right-of-way line of Ingersoll Avenue; thence westerly along the North right-of-way line of Ingersoll Avenue, being the South line of Lot 9, Block 1, Garver Place, an Official Plat, to the Southwest corner of said Lot 9; thence North along the West line of said Lot 9 to the Northwest corner of said Lot 9, being the point of beginning, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

Sec. 3. It is hereby found and determined that each property within the District is zoned for commercial use and that the owners of each property within the District will directly benefit from the acquisition, construction, installation, operation and maintenance of the Improvements.

Sec. 4. Pursuant to the provisions of the Act, there is hereby established and created a self-supported municipal improvement district capital improvement and operation fund with respect to the District to be known as the "Ingersoll Avenue Self-Supported Municipal Improvement District Capital Improvement and Operation Fund" (herein the "Capital Improvement and Operation Fund"), for which the City may certify taxes (the "Capital Improvement and Operation Tax") against the property as defined in the Act within the District (the "Property") each year, in addition to all other taxes, commencing with the levy of taxes for collection in the fiscal year beginning July 1, 2007, and continuing for fifteen (15) years thereafter. The City may renew the levy of the Capital Improvement and Operation Tax for subsequent five (5) year periods unless a petition containing the signatures of at least forty percent of all owners of property within the District or signatures which together represent ownership of property with an assessed value of forty percent or more of the assessed value of all property within the District, is filed with the City Clerk at least 6 months prior to the expiration of the current period. The City shall not renew the levy of the Capital Improvement and Operation Tax if such a petition is timely received.

Sec. 5. The City may use the proceeds of the Capital Improvement and Operation Tax for the purposes of paying (or reimbursing the City with respect thereto) all or part of the costs incurred in connection with the acquisition, construction, installation, operation and maintenance of the Improvements, any administration expenses (as defined in and authorized by the Act) of the District, including legal and engineering fees, and any other expenses reasonably incurred in fulfilling the purposes of the District, all as may be determined from time to time by the City Council.

Sec. 6. The Capital Improvement and Operation Tax to be levied annually upon the Property as aforesaid, shall not exceed the amount per thousand dollars (\$1,000) of taxable value of the Property in any one year specified by the table below, in addition to all other taxes.

<u>Fiscal Years of Levy</u>	<u>Max. levy per thousand dollars taxable value</u>
2007/08 to 2011/12	1.75
2012/13 to 2016/17	2.25
2017/18 and later	3.00

Sec. 7. The invalidity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance, which shall be given effect without such invalid part or parts.

Sec. 8. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

Sec. 9. The City Clerk is hereby authorized and directed to cause a certified copy of this ordinance to be recorded in the office of the Polk County Recorder, and a copy thereof to be filed with the Polk County Auditor.

FORM APPROVED:

Roger K. Brown, Assistant City Attorney

T.M. Franklin Cownie, Mayor

Attest:

I, Diane Rauh, City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance (Roll Call No. 07-271), passed by the City Council of said City at a meeting held February 12, 2007 signed by the Mayor on February 12, 2007 and published as provided by law in the Business Record on February 26, 2007, Authorized by Publication Order No. 5437.

Diane Rauh, City Clerk