

★ **Roll Call Number**

Agenda Item Number

47C

Date April 8, 2013


An Ordinance entitled, "AN ORDINANCE to amend the Official Zoning Map of the City of Des Moines, Iowa, set forth in Section 134-277 of the Municipal Code of the City of Des Moines, Iowa, 2000, by rezoning and changing the district classification of certain property located in the vicinity of 20 East 18th Street from the M-1 Light Industrial District to Limited M-2 Heavy Industrial District classification",

presented.

Moved by _____ that this ordinance be considered and given first vote for passage.

FORM APPROVED:

(First of three required readings)



 Michael F. Kelley
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

MOTION CARRIED APPROVED

_____ Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

_____ City Clerk

ORDINANCE NO. _____

AN ORDINANCE to amend the Official Zoning Map of the City of Des Moines, Iowa, set forth in Section 134-277 of the Municipal Code of the City of Des Moines, Iowa, 2000, by rezoning and changing the district classification of certain property located in the vicinity of 20 East 18th Street from the M-1 Light Industrial District to Limited M-2 Heavy Industrial District classification.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Official Zoning Map of the City of Des Moines, Iowa, set forth in Section 134-277 of the Municipal Code of the City of Des Moines, Iowa, 2000, be and the same is hereby amended by rezoning and changing the district classification of certain property located in the vicinity of 20 East 18th Street, more fully described as follows, from the M-1 Light Industrial District to Limited M-2 Heavy Industrial District classification

Lots 1 through 8 and Lots 15 through 22, Block 1, I.N. Thomas Sub Division, an Official Plat, and the vacated East-West alley lying North and adjoining Lots 17 through 22, Block 1, I.N. Thomas Sub Division all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

Section 2. That this ordinance and the zoning granted by the terms hereof are subject to the following imposed additional conditions which have been agreed to and accepted by execution of an Acceptance of Rezoning Ordinance by all owners of said property and are binding upon the owners and their successors, heirs, and assigns as follows:

- 1) Use of the property shall be limited to the following:
 - a. Any use as permitted and limited in the M-1 District.
 - b. Storage of inoperable machinery in accordance with a Conditional Use Permit as granted by the Zoning Board of Adjustment.
- 2) Any area used for outdoor storage of inoperable machinery shall be completely screened from view and shall be setback at least 100 feet from any public right-of-way.

Section 3. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

Section 4. The City Clerk is hereby authorized and directed to cause a certified copy of the Acceptance of Rezoning Ordinance, this ordinance, a vicinity map, and proof of publication of this ordinance, to be properly filed in the office of the Polk County Recorder.

FORM APPROVED:

A handwritten signature in black ink, appearing to read "Kelley", written over a horizontal line.

Michael F. Kelley
Assistant City Attorney

47C

Prepared by:	Michael F. Kelley, Assistant City Attorney, 400 Robert Ray Dr., Des Moines, IA 50309	515/283-4124
Return Address:	City Clerk - City Hall, 400 Robert Ray Dr., Des Moines, IA 50309	
Taxpayer:	No change	
Title of Document:	Acceptance of Rezoning Ordinance	
Grantor's Name:	Anthony Holt, Roll-Offs of Des Moines, Inc., Gary Eilbert Auto Body, Inc., and Charles Gary Eilbert	
Grantee's Name:	City of Des Moines, Iowa	
Legal Description:	Lots 1 through 8 and Lots 15 through 22, Block 1, I.N. Thomas Sub Division, an Official Plat, and the vacated East-West alley lying North and adjoining Lots 17 through 22, Block 1, I.N. Thomas Sub Division all now included in and forming a part of the City of Des Moines, Polk County, Iowa.	

ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby states, warrants and agrees as follows:

1. That Anthony Holt, Roll-Offs of Des Moines, Inc., Gary Eilbert Auto Body, Inc., and Charles Gary Eilbert are the sole owners of the Property in the vicinity of 20 East 18th Street, more specifically described above.
2. That in the event the City of Des Moines, Iowa, acts to rezone the Property from the M-1 Light Industrial District to Limited M-2 Heavy Industrial District classification, we agree and accept on behalf of the owners to the imposition of the following conditions to run with the land and be binding upon all successors, heirs and assigns as part of the ordinance so rezoning the Property:
 - 1) Use of the property shall be limited to the following:
 - a. Any use as permitted and limited in the M-1 District.
 - b. Storage of inoperable machinery in accordance with a Conditional Use Permit as granted by the Zoning Board of Adjustment.
 - 2) Any area used for outdoor storage of inoperable machinery shall be completely screened from view and shall be setback at least 100 feet from any public right-of-way.
3. A certified copy of the rezoning ordinance shall be attached hereto, and a certified copy of this document and the rezoning ordinance shall be recorded by the City in the land records of the County Recorder to memorialize the rezoning of the Property as identified above.

4. That in the event any portion of the Property is hereafter rezoned to a district classification different from Limited M-2, then this Acceptance shall be immediately terminated as applied to the real estate so rezoned on the effective date of such rezoning, and the conditions agreed to herein shall be rendered null and void, provided, if there be any such rezoning to a more restricted zoning classification, any then legal actual use of such real estate shall become a legal non-conforming use.

The words and phrases herein, including acknowledgment hereof, shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

Anthony Holt

By: *Anthony Holt*
Anthony Holt

State of Iowa)
) ss:
County of Polk)

This instrument was acknowledged before me on MARCH 18, 2013, by Anthony Holt who is personally known to me or who has provided identification pursuant to and sufficient under Iowa law.

Evelyn A. Kelly
Notary Public in the State of Iowa

Roll-Offs of Des Moines, Inc.

By: *Anthony Holt*
Anthony Holt



State of Iowa)
) ss:
County of Polk)

This instrument was acknowledged before me on MARCH 18, 2013, by Anthony Holt as the OWNER of Roll-Offs of Des Moines, Inc., who is personally known to me and has been authorized by the Board of Directors to execute this document on behalf of Roll-Offs of Des Moines, Inc.

Evelyn A. Kelly
Notary Public in the State of Iowa

47C

Gary Eilbert Auto Body, Inc.

This instrument was acknowledged before me on MARCH 18, 2013,
by Charles Gary Eilbert as the OWNER of Gary Eilbert Auto Body, Inc., who
is personally known to me and has been authorized by the Board of Directors to execute this
document on behalf of Gary Eilbert Auto Body, Inc.

Evelyn A. Kelly
Notary Public in the State of Iowa

Charles Gary Eilbert

By: Charles Gary Eilbert
Charles Gary Eilbert

State of Iowa)
) ss:
County of Polk)

This instrument was acknowledged before me on MARCH 18, 2013,
by Charles Gary Eilbert who is personally known to me or who has provided identification
pursuant to and sufficient under Iowa law.

Evelyn A. Kelly
Notary Public in the State of Iowa

