

Agenda Item Number

Date April 22, 2013

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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 18<sup>th</sup> Street from the M-1 Light Industrial District to Limited M-2 Heavy Industrial District classification",

which was considered	and voted	upon under	Roll Call No.	13(	0599	of April 8,	2013;
again presented.							

Moved by \_\_\_\_\_\_ that this ordinance be considered and given second vote for passage.

(Second of three required readings)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT	CERTIFICATE
COWNIE					
COLEMAN					I, DIANE RAUH, City Clerk of said City hereby
GRIESS					certify that at a meeting of the City Council of said City of Des Moines, held on the above date,
HENSLEY					among other proceedings the above was adopted.
MAHAFFEY					
MEYER					IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first
MOORE					above written.
TOTAL					
MOTION CARRIED			Ä	PPROVED	
<u></u>				_ Mayor	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 18<sup>th</sup> 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 18<sup>th</sup> 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.

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FORM APPROVED:

Michael F. Kelley Assistant City Attorney

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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
Return Address.	•
Taxpayer:	No change
Title of Document:	Acceptance of Rezoning Ordinance
	Anthony Holt, Roll-Offs of Des Moines, Inc., Gary Eilbert Auto Body, Inc., and Charles Gary Eilbert
Grantor's Name:	
Grantee's Name:	City of Des Moines, Iowa
	Lots 1 through 8 and Lots 15 through 22, Block 1, I.N. Thomas Sub Division, an Official Plat, and the
Legal Description:	Lots I through 8 and Lots 15 through 22, Divisit, June 17 through 22 Block 1 LN. Thomas Sub
	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.
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## 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 18<sup>th</sup> 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.

That in the event any portion of the Property is hereafter rezoned to a district 4. 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** Bv: Anthony Holt

State of Iowa ) ss: County of Polk

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

Culyn A. Kelly Notary Public in the State of Iowa

**Roll-Offs of Des Moines, Inc.** By: Anthony Ho

State of Iowa	)
	) ss:
County of Polk	)



This instrument was acknowledged before me on  $\frac{MARCH}{8}$ , 2013, by Anthony Holt as the  $0\omega n \epsilon R$  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.

Curlen A. Killy Notary Public in the State of Jowa



## Gary Eilbert Auto Body, Inc.

This instrument was acknowledged before me on MARCH 18, \_\_\_\_, 2013, of Gary Eilbert Auto Body, Inc., who by Charles Gary Eilbert as the OWNERis 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.

Kulyn A. Kelly Notary Public in the State of Iowa

## **Charles Gary Eilbert**

By: Churles Gary Eilbert

State of Iowa ) ) ss: ) County of Polk

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

Kuly A, Kelly Notary Public in the State of Jowa

