

.....
Date February 11, 2008

**RESOLUTION FIXING DATE, TIME AND PLACE FOR PUBLIC HEARING
ON ASSESSMENT OF \$1,500.00 PENALTY AND A 30-DAY
SUSPENSION OF LIQUOR LICENSE FOR THE FAMILY PANTRY STORE LOCATED
AT 4538 LOWER BEAVER RD FOR VIOLATION OF IOWA ALCOHOLIC BEVERAGE LAWS**

WHEREAS, an employee of the Family Pantry Store located at 4538 Lower Beaver Rd. sold an alcoholic beverage to a person under legal age at the place of business in violation of Iowa Code Section 123.49(2)(h) on 11/15/07, and was convicted on the charge; and

WHEREAS, Iowa Code Section 123.39 permits a local authority (city counsel) to suspend, revoke, or impose a civil penalty upon license/permit holders who violate the alcoholic beverage laws; and

WHEREAS, Iowa Administrative Rule 185-4.8 (123) provides that violations of the alcoholic beverage laws by any employee, agent, or servant of a license or permit holder shall be deemed the act of the licensee or permittee and subject the license or permit holder to civil penalty, suspension or revocation; and

WHEREAS, the violation of Iowa Code Section 123.49(2)(h) is the second conviction within 2 years; A Family Pantry Store employee at 4538 Lower Beaver Rd. was previously convicted of violating 123.49(2)(h) which offense occurred on 04/05/07; and

WHEREAS, Iowa Code Section 123.50(3) and Des Moines Ordinance 10-13(C)(2) provide that for a second conviction of Iowa Code section 123.49(2)(h) in a two-year period a local authority shall impose a civil penalty in the amount of \$1,500.00 in addition to a 30 day suspension of license/permit; and

WHEREAS, Iowa law provides that the local authority shall retain the civil penalties where the proceeding to impose the penalty is conducted by the local authority.

Date February 11, 2008

(2)

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa that:

1. A public hearing is hereby set for February 25, 2008 at 5:00 P.M. in the Council Chambers at City Hall, 400 Robert D. Ray Drive, Des Moines, IA, for the purpose of providing the Family Pantry Store on 4538 Lower Beaver Rd. an opportunity to be heard concerning the proposed assessment of a \$1,500.00 civil penalty and a 30 day suspension of its Liquor License No. LE-0001169 for sale of alcoholic beverages to persons under legal age.
2. The suspension is proposed to commence at 6:00 a.m. Monday March 3, 2008 and end at 6:00 a.m. Wednesday April 2, 2008.
3. City Clerk is directed to notify the permit holder by sending through ordinary mail a copy of this resolution at least 10 days in advance of the scheduled hearing.
4. Family Pantry may pay the \$1,500.00 civil penalty to the City of Des Moines at the City Clerk's Office in advance of the scheduled public hearing if it does not wish to be heard. The permit holders will have 30 days to appeal from the date City Council takes action on the proposed sanctions. Any appeal would be to the Alcoholic Beverages Division of the Iowa Department of Commerce.

MOVED BY _____ TO ADOPT

FORM APPROVED:

Douglas P. Philip
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
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