

Date June 14, 2010

RESOLUTION FIXING DATE, TIME AND PLACE FOR PUBLIC HEARING ON
ASSESSMENT OF A \$500.00 PENALTY TO MB MART LLC d/b/a U.S. GAS,
3000 SW 9th STREET, FOR VIOLATION OF IOWA ALCOHOLIC BEVERAGE LAWS

WHEREAS, on April 8, 2010 an employee of MB Mart LLC d/b/a US Gas sold beer to a person under legal age in violation of Iowa Code Section 123.49(2)(h); and

WHEREAS, Iowa Code Section 123.39 permits a local authority (city council) 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 suspension or revocation; and

WHEREAS, Iowa Code Section 123.39(4) provides that for a first violation of Iowa code Section 123.49(2)(h) a local authority shall impose a civil penalty in the amount of \$500.00 in lieu of a suspension; 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;

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 June 28, 2010 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 MB Mart LLC an opportunity to be heard concerning the proposed assessment of a \$500.00 penalty for sale of alcoholic beverages to persons under legal age.
2. The City Clerk is directed to notify MB Mart LLC by sending through ordinary mail a copy of this resolution at least 10 days in advance of the scheduled hearing.
3. The MB Mart LLC may pay the \$500.00 civil penalty to the City of Des Moines at the City Clerk's Office in advance of the scheduled public hearing if they do not wish to be heard.

FORM APPROVED:

MOVED BY _____ TO ADOPT

Douglas P. Philip
Assistant City Attorney

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

MOTION CARRIED

APPROVED

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.

Mayor

City Clerk