

October 10, 2011

Date.....

RESOLUTION SETTING PUBLIC HEARING REGARDING CLARIFICATION OF
ORDINANCE NO. 15,046
RELATING TO AMENDMENTS TO CHAPTER 134
REGULATING SALE OF ALCOHOLIC LIQUOR, WINE AND BEER

WHEREAS, on August 18, 2011, the Plan and Zoning Commission recommended approval of several amendments to the Zoning Code, Chapter 134 of the Des Moines Municipal Code that were intended to respond to an amendment to Iowa Code Chapter 123 which for the first time effectively allowed gas stations and convenience stores to sell alcoholic liquor for off premises consumption, i.e. to have a Class E liquor license without having a separate entrance and cash register to serve the Class E business; and

WHEREAS, on September 12, 2011 by Roll Call No. 11-1600, the City Council held a public hearing and adopted Ordinance No. 15,046, which are text amendments to Chapter 134 regarding zoning regulations of businesses selling alcoholic liquor, wine and beer. Specifically, many of the amendments were made with the intent of prohibiting any business, including those defined as limited food, limited retail or gas station/convenience stores located in a C-1 Neighborhood Retail Commercial District, from selling alcoholic liquor pursuant to possession of a Class E liquor license; and

WHEREAS, although the text amendments adopted by the City Council on September 12, 2011 do prohibit alcoholic liquor sales by gas stations and convenience stores in C-1 because these businesses meet the definition of limited retail and food establishments and are thus prohibited by section 134-842(dd), staff believes that clarifying this prohibition to add language in sections 134-842(s), 134-842(uu), 134-947(c)(11), 134-954(1)(i), 134-954(2)(i), 134-954(3)(i), and the deletion of "alcoholic liquor" from section 134-954(2)(iv), will clarify Council's intent to prohibit sales of alcoholic liquor in gas station/convenience stores, limited food sales and limited retail sales establishments located in a C-1 zoning district while allowing alcoholic liquor sales in less restrictive zoning districts, subject to certain separation requirements and approval by the Zoning Board of Adjustment. Moreover, textual changes will be made to several subsections of section 134-954 to confirm Council's intent that unless specifically excluded by the language of that section, no business which sells alcoholic liquor, beer or wine may be located upon any premises unless a conditional use permit has first been obtained from the Zoning Board of Adjustment; and

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WHEREAS, the proposed text amendment is on file in the office of the City Clerk.


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

1. That the meeting of the City Council at which the proposed text amendment is to be considered shall be held in the Council Chambers, City Hall, Des Moines, Iowa at 5:00 p.m. on October 24, 2011, at which time the City Council will hear both those who oppose and those who favor the proposal.
2. That the City Clerk is hereby authorized and directed to cause notice of said proposal in the accompanying form to be given by publication once, not less than seven (7) days and not more than twenty (20) days before the date of hearing, all as specified in Section 362.3 and Section 414.4 of the Iowa Code.

MOVED by _____ to adopt.

FORM APPROVED:

(Council Communication No. 11-629)


 Michael F. Kelley
 Assistant City Attorney

(10-2011-5.02)

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

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.

MOTION CARRIED

APPROVED

Mayor

City Clerk