

.....
Date January 28, 2013.....

PUBLIC HEARING ON ASSESSMENT OF \$500.00 PENALTIES
TO LIQUOR LICENSE HOLDERS LISTED ON ATTACHMENT "A"
FOR VIOLATION OF IOWA ALCOHOLIC BEVERAGE LAWS

WHEREAS, employees of liquor license holders listed on attachment "A" have sold alcoholic beverages to persons under legal age at their respective places of business in violation of Des Moines Municipal Code Section 10-6(9) and have been convicted of this charge; 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, the violations are first violations for each of the listed license/permit holders; and

WHEREAS, Des Moines Municipal Code Section 10-13(c)(1) provides that for a first violation of Municipal Code section 10-6(9) or Iowa code Section 123.49(2)(h) the city 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;

Date January 28, 2013

(2)

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

1. The alcoholic beverage license/permit holders listed in attachment "A" are hereby assessed a civil penalty in the amount of \$500.00 for sale of alcoholic beverages to persons under legal age.
2. Failure to pay the \$500.00 civil penalty within 30 days of this resolution will result in an automatic 14-day liquor license/permit suspension commencing at 6:00 a.m. on the 28th day of February 2013 and ending at 6:00 a.m. on the 14th day of March 2013.
3. The \$500.00 civil penalty is due and owing even if the automatic suspension is served.
4. The City Clerk is directed to notify the license/permit holders, except those that have already paid, by sending through ordinary mail a copy of this resolution as soon as possible.
5. This City Council action may be appealed within thirty (30) days to the administrator of the Alcoholic Beverages Division of the Iowa Department of Commerce, 1918 S.E. Hulsizer, Ankeny, Iowa, 50021.

MOVED BY _____
TO ADOPT _____

FORM APPROVED:



Douglas P. Philip
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

ATTACHMENT "A"

Violations for Sale of alcohol to Under Age Person \$500 Penalty:

| Licensee | Address | City State Zip | License No. | Date of Violation | 1 st ; 2 nd in 2 yr.; 3 rd in 3yr. or 4 th in 3 yr. | Previous violation | Date Paid |
|-----------------------|--------------------------------|----------------------|------------------------|-------------------|---|--------------------|---------------------------|
| Super-Stop | 727 SE 14 th Street | Des Moines, IA 50317 | BC0029801 | 7-20-2012 | 1 st Offense | | File w/State |
| Le-Bei | 508 Indiana Rd. | Des Moines, IA 50315 | LC0037351 | 7-21-2012 | 1 st Offense | | File w/State |
| Lime Lounge | 435 E. Grand Avenue | Des Moines, IA 50309 | LC0038839 | 7-21-2012 | 1 st Offense | | File w/State |
| Super Quick | 303 SE 30 th Street | Des Moines, IA 50317 | LE0001956 | 10-13-2012 | 1 st Offense | | |
| Nat Food Mart #1 | 3804 Hubbell Avenue | Des Moines, IA 50317 | LE0001737 | 10-13-2012 | 1 st Offense | | |
| H & A Mini Mart | 5901 Fleur Drive | Des Moines, IA 50321 | BC0027156 | 8-3-2012 | 1 st Offense | | 1-23-13 CK12435 R15024 |
| QuikTrip #560 | 2300 M. L. King Pkwy. | Des Moines, IA 50310 | BC0026082 | 8-31-2012 | 1 st Offense | | Affirmative Defense |
| Casey's #2641 | 2849 E. Euclid Avenue | Des Moines, IA 50317 | BC0028975 | 8-31-2012 | 1 st Offense | | |
| Walgreens #7453 | 104 E. Euclid Avenue | Des Moines, IA 50313 | BC0029376 LE0002252 | 8-31-2012 | 1 st Offense | | |
| Hy-Vee Wine & Spirits | 3424 M L King Jr. Pkwy. | Des Moines, IA 50310 | LE0001043 | 8-31-2012 | 1 st Offense | | |
| Git-N-Go #10 | 816 E. Euclid Avenue | Des Moines, IA 50316 | BC0023014 | 8-31-2012 | 1 st Offense | | Affirmative Defense |
| Quick Star | 2701 Ingersoll Avenue | Des Moines, IA 50312 | BC0029999 | 7-13-2012 | 1 st Offense | | |
| Kum & Go #194 | 4001 SW 9 th Street | Des Moines, IA 50315 | BC0027681 | 7-13-2012 | 1 st Offense | | |
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