

Date December 9, 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/or Iowa Code section 123.49(2)(h) 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;

WHEREAS, if a renewal of the liquor license/beer permit is pending the Alcoholic Beverages Division of the Iowa Department of Commerce will not issue a renewal license until all civil penalties imposed against a license holder have been paid in full.

Date December 9, 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 8th day of January 2014 and ending at 6:00 a.m. on the 22nd day of January 2014.
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				
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

ATTACHMENT "A"

Violations for Sale of alcohol to Under Age Person:

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.	
Git-N-Go #36	4164 Easton Blvd.	Des Moines, IA 50317	BC0028357	9-28-13	1 st	Affirmative Defense Used
Kum & Go #130	2930 Hickman Rd.	Des Moines, IA 50310	BC0027680	6-7-13	1 st	Paid CK#421497
Kum & Go #207	4200 Hubbell Avenue	Des Moines, IA 50317	LE0002046	9-28-13	1 st	Paid CK#421497
Sahota Food Mart	1805 SE 14 th Street	Des Moines, IA 50320	LE0001744	8-30-13	1 st	