



Roll Call Number

Agenda Item Number

63

April 23, 2018

Date

**PUBLIC HEARING ON ASSESSMENT OF \$1,500.00 PENALTIES AND 30-DAY
SUSPENSIONS OF LIQUOR LICENSES FOR 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(a)(9) and have been convicted of the charge by guilty pleas; and

WHEREAS, Iowa Code Section 123.39 permits a local authority (city council) to suspend, revoke, or impose a civil penalty upon license 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 violations of Des Moines Municipal Code Section 10-6(a)(9) are the second violations for selling to a person under legal age within 2 years by employees of the liquor license holders listed in attachment "A" and were convicted of the charge; and

WHEREAS, Iowa Code Section 123.50(3) and Des Moines Municipal Code section 10-13(C)(2) provide that for a second conviction of a sale to a person under legal age under either Iowa Code section 123.49(2)(h) or Des Moines Municipal Code section 10-6(a)(9) in a two-year period a civil penalty in the amount of \$1,500.00 and a thirty (30) day suspension of license/permit shall be imposed; 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 April 23, 2018

2)

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

1. The license holders listed in attachment "A" are assessed a \$1,500.00 civil penalty and a thirty (30) day suspension of their respective licenses for sale of alcoholic beverages to a person under legal age for a second time in a two-year period.
2. The suspension will commence at 6:00 a.m. Thursday, May 24, 2018 and end at 6:00 a.m. Saturday, June 23, 2018.
3. The City Clerk is directed to notify the license holders by sending through ordinary mail a copy of this resolution as soon as possible.
4. The license holders listed in attachment "A" shall pay the \$1,500.00 civil penalty to the City of Des Moines at the City Clerk's Office.
5. This City Council action may be appealed within thirty (30) days to 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				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
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:

<i>Licensee</i>	<i>Address</i>	<i>City State Zip</i>	<i>License No.</i>	<i>Date of Violation</i>	<i>1st; 2nd in 2 yr.; 3rd in 3yr. or 4th in 3 yr.</i>	<i>Previous violations</i>	<i>Mailing Address</i>	<i>Clerk</i>	<i>Date Paid</i>
Casey's #2922	3501 E 14 th Street	Des Moines, IA 50316	BC0029637	1-3-18	2 nd	2-11-16	PO Box 3001, Ankeny IA 50021	Jarvis Guyton	
Walgreens #5852	3030 University Avenue	Des Moines, IA 50311	LE0002250	12-29-17	2 nd	2-11-16	300 Wilmot Road Deerfield, IL 60015	Kathryn Leroy	

103