

★ Roll Call Number

08-343

Agenda Item Number

50

Date February 25, 2008

**PUBLIC HEARING ON ASSESSMENT OF \$500.00 PENALTIES  
TO ALCOHOLIC BEVERAGE LICENSE/PERMIT HOLDERS  
LISTED ON ATTACHMENT FOR VIOLATION  
OF IOWA ALCOHOLIC BEVERAGE LAWS**

WHEREAS, employees of alcoholic beverage license/permit holders listed on Attachment "A" have sold alcoholic beverages to persons under legal age at their respective places of business in violation of 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 counsel) 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, Iowa Code section 123.39(4) and Des Moines Code section 10-13(c)(1) provides that for a first conviction 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 that failure to pay will result in automatic suspension of license or permit for 14 days; 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.

★ Roll Call Number  
08-343

Agenda Item Number  
50

Date February 25, 2008

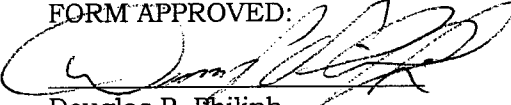
(2)

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 31st day of March 2008 and ending at 6:00 a.m. on the 14th day of April 2008.
3. The \$500.00 civil penalty is due and owing even if the automatic 14-day 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 Alcoholic Beverages Division of the Iowa Department of Commerce, 1918 S.E. Hulsizer, Ankeny, Iowa 50021.

MOVED BY Hensley TO ADOPT.

FORM APPROVED:

  
Douglas P. Philip  
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
HENSLEY	✓			
KIERNAN	✓			
MAHAFFEY	✓			
MEYER	✓			
VLASSIS	✓			
TOTAL	7			

MOTION CARRIED

APPROVED

T. M. Franklin  
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.

Diane Rauh  
City Clerk