★ Roll Call Number
11-1318

Agenda Item Number
43

Date July 25, 2011

PUBLIC HEARING ON ASSESSMENT OF $1,500.00 PENALTY AND A 30-DAY SUSPENSION OF LIQUOR LICENSE TO CITGO LOCATED AT 1800 SE 14TH STREET FOR VIOLATION OF IOWA ALCOHOLIC BEVERAGE LAWS

WHEREAS, an employee of Citgo located at 1800 SE 14th Street sold an alcoholic beverage to a person under legal age at the place of business in violation of Iowa Code Section 123.49(2)(h) on 4/8/11, and was convicted of the charge by a guilty plea; 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 civil penalty, suspension or revocation; and

WHEREAS, the violation of Iowa Code Section 123.49(2)(h) is the second violation within 2 years; An employee of Citgo at 1800 SE 14th Street was previously convicted of violating 123.49(2)(h) which offense occurred on 1/26/11; and

WHEREAS, Iowa Code Section 123.50(3) provides that for a second violation of Iowa Code section 123.49(2)(h) 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;

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(2)

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

1. Citgo located at 1800 SE 14th Street is assessed a $1,500.00 civil penalty and a thirty (30) day suspension of its Permit No. BC0022028 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. Monday August 1, 2011 and end at 6:00 a.m. Wednesday August 31, 2011.
3. The City Clerk is directed to notify the permit holder by sending through ordinary mail a copy of this resolution as soon as possible.
4. Citgo 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 Hensley
TO ADOPT.

FORM APPROVED:

Douglas P. Philiph
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			

MOTION CARRIED APPROVED

T. M. Franklin Cownie 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