



Roll Call Number

18-0574

Agenda Item Number

28-II

April 9, 2018

Date

**RESOLUTION FIXING DATE, TIME AND PLACE FOR PUBLIC HEARING  
ON ASSESSMENT OF \$1,500.00 PENALTIES AND 30-DAY SUSPENSIONS  
OF LIQUOR LICENSES 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(a)(9) and have been convicted of the 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 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" as noted; and

WHEREAS, Iowa Code Section 123.50(3) and Des Moines Municipal Code section 10-13(C)(2) provide that for a second conviction for 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 local authority shall impose a civil penalty in the amount of \$1,500.00 in addition to a 30 day suspension of license/permit; 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. A public hearing is hereby set for April 23, 2018 in the Council Chambers at City Hall, 400 Robert D. Ray Drive, Des Moines, for the purpose of providing the license holders listed on attachment "A" an opportunity to be heard concerning the proposed assessment of a \$1,500.00 civil penalty and a 30 day suspension of their licenses for sale of alcoholic beverages to a person under legal age.
2. The suspensions are proposed to commence at 6:00 a.m. Thursday May 24, 2018 and to 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 at least 10 days in advance of the scheduled hearing.
4. The license holders on attachment "A" may pay the \$1,500.00 civil penalty to the City of Des Moines at the City Clerk's Office in advance of the scheduled public hearing if they do not wish to be heard. The license holders will have 30 days to appeal from the date City Council takes action on the proposed sanctions. Any appeal would be to the Alcoholic Beverages Division of the Iowa Department of Commerce.

MOVED BY  
TO ADOPT:

Gatto

FORM APPROVED:

Douglas P. Philip  
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
WESTERGAARD	✓			
TOTAL	7			

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