

AGENDA
CITY OF ISANTI
CITY COUNCIL COMMITTEE OF THE WHOLE MEETING
TUESDAY, AUGUST 17, 2021 – 5:00 P.M.
CITY HALL

- A. Call to Order**
- B. Pledge of Allegiance**
- C. Roll Call**
- D. Public Comment**

- E. Committee Meeting Items**
 - 1. Liquor Updates**
 - 2. Permit Penalty Discussion (*Councilmember Gordon*)**
 - 3. Councilmember Request (*Councilmember Bergley*)**

- F. Adjournment**



New Business:

1. Introduction along with my background and philosophies regarding Managing a Municipal Liquor Operation.
2. Sales for May/June/July 2021 versus same time period 2020 are (-\$38,699.88).
3. Sales for the year through July are (-\$8,928.78) compared to the same time period 2020
4. Daily sales have increased lately due to a neighboring Municipal Liquor operation going through a remodeling project.
5. We are beginning the process of letting some of the slower moving product (mostly wine) run down in preparation for moving. We are also preparing for the dismantling of the gravity shelving inside the reach-in cooler by moving some product into the beer cave. We will have to "hibernate" some of the slower moving beer packages as we will not have the same number of temporary shelves.



Memo for COW

To: Mayor Johnson and Members of the City Council
From: Sheila Sellman, Community Development Director
Date: August 17, 2021
Subject: Permit Penalty Discussion

Background:

Councilmember Gordon requested staff provide information on penalties for not properly applying for permits. A few of the recent issues of working without permits have been caught after the work was complete or started and have required variances. It is a challenge to make findings for practical difficulties for the majority of variances and even harder on something that is already built without any approvals. State Statute 462.357 Sub 2 regulates variances “Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. “Practical difficulties” as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property and not created by the landowner; and the variance if granted will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems”

Section 1300.30140 of the building code: Violations

It is unlawful for any person, firm, or corporation to erect, construct, alter, extend, repair, move, remove, demolish, or occupy any building, structure, or equipment regulated by the code, or cause any of those actions, in conflict with or in violation of the code. The building official may serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition, or occupancy of a building or structure in violation of the code, or in violation of a permit or certificate issued under the code. The order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

1300.0150 Violations, Penalty

A violation of the code is a misdemeanor under Minnesota Statutes, Section 326B.082.

Work without zoning approval (CUP, IUP, Site Plan etc) is a Misdemeanor, and upon conviction thereof, shall be fined and/or imprisoned as provided for misdemeanor violations under MN State Law.

1300.0160 Fees

Subp. 8. Work commencing before permit issuance.

If work for which a permit is required by the code has been commenced without first obtaining a permit, a special investigation shall be made before a permit may be issued for the work. An investigation fee established by the municipality shall be collected whether or not a permit is issued and is in addition to the required permit fees, but it may not exceed the permit fee. The investigation fee must comply with requirements for fees in subpart 2.

The intent of the code is to charge an “investigative fee” that is proportionate to the level of resources that staff would use to determine and solve the violation(s) that occurred. This is where the term “double fee” was removed from the building code and replaced with “investigate fee.” According to our fee schedule the investigation fee is 100% of permit fee, which is essentially a double fee.

While the above information addresses work without a building permit it does not address zoning issues such as conducting business where a Conditional Use Permit (CUP) is required. Our fee schedule lists Zoning ordinance violations as a \$200 fine. While it doesn’t happen often this fine could be imposed when this type of violation exists in addition to them applying for the CUP, as an example.

Request:

Staff is requesting direction on this item.

Attachments:

- Summary of other cities

Building Permit Penalty Fees – Other Cities

City	Work without a permit	Work without zoning approval (CUP, IUP, Site Plan etc)	Notes
Isanti	Investigative fee	Misdemeanor, and upon conviction thereof, shall be fined and/or imprisoned as provided for misdemeanor violations under MN State Law	Fee Schedule lists Zoning Ordinance Violation as a \$200 fine Investigative Fee: 100% of permit fee
Cambridge	Special Investigation Fee	Misdemeanor	Special Investigation Fee - \$75
Princeton	Double Permit Fee	Misdemeanor	
North Branch	Investigation Fee	Misdemeanor	Investigation Fee Permit Issuance (not to exceed the permit fee): \$47 per hour
East Bethel	Double Fee	Misdemeanor	
Brainerd	Double Fee	Misdemeanor	pay both the fee provided for the permit and an inspection fee equal to the fee provided for the permit and is subject to the penalty provisions of this Code.
Milaca	Investigation Fee	Misdemeanor	An investigation fee shall be collected and is in addition to the required permit fee, which is equal to the permit fee.

Building Permit Penalty Fees – Other Cities

Blaine	Double Permit Fee	Misdemeanor	
East Bethel	Double Permit Fee		Paying the fee does not relieve a person from fully complying with building code or other city ordinances

The Building Code states that “If work for which a permit is required by the code has been commenced without first obtaining a permit, a special investigation shall be made before a permit may be issued for the work. An investigation fee established by the municipality shall be collected whether or not a permit is issued and is in addition to the required permit fees, but it may not exceed the permit fee. The investigation fee must comply with requirements for fees in subpart 2.” Our fee schedule adheres to this code and we cannot fine more than what we already are, based on the Building Code.

Councilmember Heineman introduced the following resolution and moved for its adoption:

RESOLUTION #21-067

RESOLUTION INSTRUCTING THAT NO CITY RESOURCE BE UTILIZED IN THE ENFORCEMENT OF EXECUTIVE ORDER 20-81

WHEREAS, Section 1 of the 14th Amendment states that: All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws; and

WHEREAS, We and other elected officials took an oath to uphold the constitutions of the United States and the State of Minnesota (City Code Chap.12, Sec. 12.2), and Governor Walz' executive orders in response to the Covid-19 pandemic have broadly undermined the basic human rights of our neighbors, our families, and ourselves and; conflict with and do not release the city of Ramsey from its' obligation to operate in harmony with the constitutions of this state and of the United States and with the statutes of this state (City Code Chap.1, Sec.1.2 and State Statute 609.735, Chap.12, Sec. 12.39, Chap. 144, Sec.144.651, Chap. 363A, Sec, 363A.11).

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:

- 1) The Ramsey City Council hereby orders that CITY RESOURCES, whether physical, financial or otherwise, including but not limited to law enforcement, city staff and personnel, city contractors and subcontractors or assistance of any kind tied to the city, or any cooperation to any government including federal, state, or county, SHALL NOT be used to enforce any of Governor Walz's Emergency Executive Orders, including but not limited to, Executive Order 20-81 and any other orders that infringe on people's constitutionally protected rights, especially as it related to COVID-19.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember Howell, and upon vote being taken thereon, the following voted in favor thereof:

Councilmember Heineman
Councilmember Howell
Councilmember Musgrove
Councilmember Specht

and the following voted against the same:

Mayor Kuzma
Councilmember Riley
Council Wostehoff

and the following abstained:

None

and the following were absent:


None

Whereupon said resolution was declared duly passed and adopted by the Ramsey City Council this the 9th day of March, 2021.



Mayor

ATTEST:



City Clerk