

January 11, 2023

VIA EFILING ONLY

Shari Moore
City Clerk
City of St. Paul
310 City Hall
15 W Kellogg Blvd
Saint Paul, MN 55102
cityclerk@ci.stpaul.mn.us

Re: *In the Matter of the Cigarette/Tobacco License Held by Moundview Retail Inc. d/b/a Mounds Park Market for the Premises Located at 241 Earl Street in St. Paul*
OAH 71-6020-38502

Dear City Clerk Moore:

Enclosed and served upon you is the Administrative Law Judge's **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION** in the above-entitled matter. The official record, along with a copy of the recording of the hearing, is also enclosed. The Office of Administrative Hearings' file in this matter is now closed.

If you have any questions, please contact me at (651) 361-7857, nichole.helmuelle@state.mn.us, or via facsimile at (651) 539-0310.

Sincerely,



NICHOLE HELMUELLER
Legal Assistant

Enclosure

cc: Docket Coordinator
Therese Skarda
Derek Thooff

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
PO BOX 64620
600 NORTH ROBERT STREET
ST. PAUL, MN 55164-0620

CERTIFICATE OF SERVICE

In the Matter of the Cigarette/Tobacco License Held by Moundsvew Retail Inc. d/b/a Mounds Park Market for the Premises Located at 241 Earl Street in St. Paul	OAH Docket No.: 71-6020-38502
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On January 11, 2023, a true and correct copy of the **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION** was served by United States mail, unless otherwise indicated below, addressed to the following:

VIA EFILING ONLY

Shari Moore
City Clerk
City of St. Paul
310 City Hall
15 W Kellogg Blvd
Saint Paul, MN 55102
cityclerk@ci.stpaul.mn.us

VIA EMAIL ONLY

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STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE CITY OF ST. PAUL

In the Matter of the Cigarette/Tobacco License Held by Moundsvew Retail Inc. d/b/a Mounds Park Market for the Premises Located at 241 Earl Street in Saint Paul

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND RECOMMENDATION**

This matter came before Administrative Law Judge Jessica A. Palmer-Denig for a hearing on November 3, 2022, at the Office of Administrative Hearings in St. Paul, Minnesota. The record closed on November 18, 2022, upon receipt of the parties' written closing arguments.

Therese Skarda, Assistant City Attorney, appeared on behalf of the City of St. Paul (City) Department of Safety and Inspections (DSI). Derek Thooft, Thooft Law LLC, appeared on behalf of Moundsvew Retail Inc. d/b/a Mounds Park Market (Licensee).

STATEMENT OF THE ISSUES

1. Has DSI established that Licensee violated St. Paul Legislative Code § 324.07(j) by selling, offering for sale, or otherwise distributing flavored tobacco products?
2. If so, may Licensee's Tobacco Shop License be revoked?

SUMMARY OF RECOMMENDATION

DSI has established that Licensee offered flavored tobacco products for sale in violation of the St. Paul Legislative Code. DSI also established that Licensee's license to sell tobacco products may be revoked pursuant to St. Paul Legislative Code § 324.10(b), as this is Licensee's second flavored tobacco violation within 24 months.

Based on the evidence in the hearing record, the Administrative Law Judge makes the following:

FINDINGS OF FACT

I. The Parties

1. DSI is the agency within the City that licenses and regulates the sale of tobacco products in Saint Paul.¹ DSI provides educational materials to licensees, conducts inspections of businesses where tobacco products are sold, and investigates complaints against licensees.²

2. Licensee operates Mounds Park Market, which is a convenience store located at 241 Earl Street in Saint Paul.³ Akil Jahed is the owner of Licensee.⁴

3. Licensee holds a Tobacco Shop License issued by the City permitting it to sell tobacco products.⁵ The license was originally issued in 2017.⁶

4. Tobacco sales represent approximately 30 to 40 percent of Licensee's sales, with 60 to 70 percent of sales attributable to non-tobacco products, such as snacks and household supplies.⁷

II. 2019 Licensing Action

5. On June 27, 2019, DSI issued a Notice of Violation and Recommendation for Imposition of \$500 Matrix Penalty, notifying Licensee that it would seek adverse action against Licensee's license arising from a failed compliance check for flavored tobacco products on April 12, 2019.⁸ Specifically, DSI stated that tobacco licensees had been given prior notice that DSI would be conducting compliance checks, and that when an inspector visited Mounds Park Market, the inspector observed several different flavored tobacco products were being offered for sale.⁹

6. At a public hearing on October 2, 2019, Mr. Jahed appeared and explained that his distributor advised him that the products at issue were not flavored tobacco products, and he provided evidence that he returned the prohibited products to the distributor and obtained a refund.¹⁰

7. Based on the information before it, the City Council determined that the violation resulted from genuine confusion.¹¹ Therefore, the City Council stayed

¹ Testimony (Test.) of Eric Hudak.

² *Id.*; Test. of Joseph Voyda.

³ Exhibit (Ex.). 3 at 3-1; Test. of Akil Jahed.

⁴ Ex. 3 at 3-1; Test. of A. Jahed.

⁵ Test. of E. Hudak.

⁶ *Id.*; Ex. 5 at 5-1.

⁷ Test. of A. Jahed.

⁸ Ex. 15 at 15-2–15-4.

⁹ *Id.* at 15-2–15-3.

¹⁰ Ex. 15 at 15-14; Test. of A. Jahed.

¹¹ Ex. 15 at 15-14.

imposition of the \$500 penalty for one year provided that Licensee did not engage in violations that were the same or similar to the violation at issue.¹²

III. 2021 Licensing Action

8. On August 24, 2021, DSI issued to Licensee a Notice of Violation and Recommendation for Imposition of \$300 Administrative Penalty for Tobacco Youth Compliance Check Failure and \$500 Matrix Penalty for Selling Flavored Tobacco Products.¹³

9. DSI advised Licensee that the violation notice stemmed from a failed youth compliance check on July 13, 2021, in which Licensee sold cigarettes to an underage person and the clerk did not ask to see her identification.¹⁴ When the inspector went into Mounds Park Market to talk to the clerk, the inspector observed flavored tobacco products in plain sight.¹⁵ The inspector ultimately located over 30 different flavored tobacco products in Licensee's store, some of which were stocked in numerous flavors.¹⁶

10. Licensee paid the penalty amounts in full in September of 2021.¹⁷

IV. Amendment of the City's Tobacco Ordinance

11. In December 2021, the City Council amended St. Paul Legislative Code Chapter 324, which governs tobacco licensing.¹⁸

12. DSI provided written notice of the revisions to the tobacco ordinance to tobacco license holders.¹⁹

13. Among the changes DSI identified for license holders, the amendments increased the presumptive penalties for violations involving the sale of flavored tobacco products.²⁰

14. Under the amended ordinance, for a second appearance involving the display, possession, or multiple instances of the sale of flavored tobacco products, the presumptive penalty is revocation.²¹ A second violation within 24 months is considered to be a second appearance.²²

¹² *Id.* at 15-13–15-15.

¹³ Ex. 16 at 16-2.

¹⁴ *Id.* at 16-3, 16-7, 16-11; 16-13–16-14.

¹⁵ *Id.* at 16-14.

¹⁶ *Id.* at 16-14–16-15; 16-19–16-43.

¹⁷ *Id.* at 16-44; Test. of E. Hudak.

¹⁸ Ex. 12; Ex. 13 at 13-1.

¹⁹ Ex. 13, Ex. 14.

²⁰ Ex. 13 at 13-2; Ex. 14 at 14-2.

²¹ Ex. 14 at 14-2; St. Paul Legislative Code § 324.10(b).

²² Ex. 12-10; St. Paul Legislative Code § 324.10(d)(1).

V. The Current Violation Notice

15. On May 12, 2022, DSI Inspector Joseph Voyda conducted a complaint inspection at Mounds Park Market based on a complaint made to DSI that Licensee was selling flavored tobacco products.²³

16. Inspector Voyda spoke with the clerk on duty and conducted an inspection of the store.²⁴

17. Inspector Voyda found numerous flavored tobacco products, including products identified with fruit, honey, and liquor flavorings.²⁵ He discovered over 300 individual items qualifying as prohibited flavored tobacco products.²⁶ Approximately 60 percent of the tobacco products he found in the store were prohibited items.²⁷

18. Inspector Voyda found that some of the flavored tobacco items were being stored in boxes for other products like candy and apple sauce, under the clerk's counter, and in a tub or tote bin behind the counter.²⁸ Inspector Voyda believed that products were stored in this manner as an attempt at concealment.²⁹

19. When Inspector Voyda began the inspection, he was told that Mr. Jahed was in Iraq, but Mr. Jahed arrived while the inspection was underway.³⁰

20. Mr. Jahed traveled to Iraq in December 2021 to resolve issues related to a visa for his wife to travel to the United States.³¹ At the time he left, he believed that he would be in Iraq for a month or six weeks.³² Instead, he was in Iraq for six months due to issues he encountered in obtaining the visa and safety concerns arising from incidents of civil unrest in Iraq.³³

21. During Mr. Jahed's absence, he left the store in the keeping of his brother and several friends of their family.³⁴ In addition to Mr. Jahed's brother, two to three other

²³ Ex. 2 at 2-1, Ex. 17; Test. of Joseph Voyda.

²⁴ Ex. 2 at 2-1; Test. of J. Voyda.

²⁵ Ex. 2 at 2-2-2-6; Test. of J. Voyda.

²⁶ Ex. 2 at 2-2-2-6; Test. of J. Voyda.

²⁷ Test. of J. Voyda.

²⁸ Ex. 2 at 2-2-2-6; Test. of J. Voyda.

²⁹ Ex. 2-1; Test. of J. Voyda.

³⁰ Ex. 2 at 2-1; Test. of J. Voyda; Test. of A. Jahed.

³¹ Test. of A. Jahed.

³² *Id.*

³³ *Id.*

³⁴ *Id.* The family friends are not identified in the record. The employment status of these individuals related to Licensee's operations is somewhat unclear. The record suggests that these family friends may not have been employees of Licensee, but were present at Mounds Park Market as volunteers to assist Mr. Jahed, though they did exercise the ability to make product stocking decisions. *Id.*

individuals minded the store for him.³⁵ These individuals had experience running similar stores of their own.³⁶

22. Mr. Jahed did not give instructions to any employees or helpers about ordering tobacco products in his absence.³⁷ Instead, Mr. Jahed asked them to operate Mounds Park Market as they ran their own stores.³⁸ He assumed they would not order prohibited tobacco products.³⁹

23. During the time he was in Iraq, Mr. Jahed was unable to direct daily operations at Mounds Park Market or to make regular contact with those operating the store in his stead.⁴⁰

24. Mr. Jahed returned to Minnesota approximately 24 hours before Inspector Voyda's visit to Mounds Park Market.⁴¹ Between the time he returned to Minnesota and the inspection, Mr. Jahed had been at the Mounds Park Market only briefly to address issues related to a break in at the store.⁴²

25. When Inspector Voyda asked Mr. Jahed about prohibited items he found in the store, Mr. Jahed told Inspector Voyda that the products were for personal use.⁴³

26. On June 7, 2022, DSI issued a Notice of Violation and Request for Revocation of License (Notice of Revocation) notifying Licensee that it had determined a violation occurred and that it would pursue revocation of Licensee's license to sell tobacco products.⁴⁴ The Notice of Revocation advised Licensee that it could contest the proposed adverse action and request a hearing.⁴⁵

27. By letter dated June 15, 2022, Licensee notified DSI that it disputed the facts, contested the proposed adverse action, and requested a hearing.⁴⁶

28. Any Conclusion of Law more properly considered to be a Finding of Fact is incorporated herein.

29. Any portion of the Memorandum or fact contained therein that should be considered as a Finding of Fact is adopted as such.

Based on these Findings of Fact, the Administrative Law Judge makes the following:

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ Ex. 2 at 2-1; Test. of J. Voyda.

⁴⁴ Ex. 1.

⁴⁵ *Id.* at 1-3-1-4.

⁴⁶ Ex. 8.

CONCLUSIONS OF LAW

1. The Administrative Law Judge and the City Council have authority to hear this matter pursuant to St. Paul Legislative Code § 310.05(c), Minn. Stat. § 14.55 (2022).

2. The hearing in this matter was conducted in accordance with St. Paul Legislative Code § 310.05 and the contested case procedures of Minn. Stat. §§ 14.57-.62 (2022).

3. DSI provided proper notice of the hearing and fulfilled all procedural requirements of rule and law.

4. DSI must show by a preponderance of the evidence that Licensee committed the alleged violation.⁴⁷

5. Under St. Paul Legislative Code § 324.07(j), no person may sell, offer for sale, or otherwise distribute any flavored tobacco products unless a specific exception identified in section 324.07(l) applies. No exception found in St. Paul Legislative Code § 324.07(l) applies here. Therefore, Licensee was prohibited from selling, offering for sale, or distributing flavored products.

6. DSI has established that Licensee violated St. Paul Legislative Code § 324.07(j) by offering prohibited flavored tobacco products for sale.

7. Because Licensee engaged in another flavored tobacco product violation within the preceding 24 months, the current violation constitutes Licensee's second appearance.⁴⁸

8. Under St. Paul Legislative Code § 324.10(b), the presumptive penalty for a second appearance related to the display, possession, or multiple incidents of sales of flavored tobacco products is revocation of Licensee's Tobacco Shop License.

9. DSI has shown that grounds exist for imposition of the matrix penalty of license revocation.

10. Any Finding of Fact more properly deemed a Conclusion of Law is incorporated herein.

11. Any portion of the accompanying Memorandum that is more properly considered to be a conclusion of law is adopted herein.

Based upon these Conclusions of Law, and for the reasons explained in the accompanying Memorandum, the Administrative Law Judge makes the following:


⁴⁷ Minn. R. 1400.7300, subp. 5 (2021).

⁴⁸ St. Paul Legislative Code § 324.10(d)(1).

RECOMMENDATION

The City should find Licensee violated St. Paul Legislative Code § 324.07(j) and **REVOKE** Licensee's Tobacco Shop License.

Dated: January 11, 2023


JESSICA A. PALMER-DENIG
Administrative Law Judge

Reported: Digitally Recorded
No transcript prepared

NOTICE

This Report is a recommendation, not a final decision. The Saint Paul City Council will make a final decision after a review of the record and may adopt, reject, or modify these Findings of Fact, Conclusions of Law, and Recommendation. Pursuant to Saint Paul Legislative Code § 310.05 (c-1), the City Council shall not make a final decision until the parties have had the opportunity to present oral or written arguments to the City Council. Parties should contact the St. Paul City Clerk, 310 City Hall, 15 W. Kellogg Blvd., Saint Paul, MN 55102, to ascertain the procedure for filing exceptions or presenting arguments.

MEMORANDUM

The record establishes that Licensee offered flavored tobacco products for sale in violation of St. Paul Legislative Code § 324.07(j). The prohibited items were obviously flavored products, with packaging identifying flavors such as berries and cream, white peach sangria, and honey bourbon.⁴⁹ No valid argument can be made that the violation in this case resulted from confusion. Though Mr. Jahed informed Inspector Voyda that the prohibited products were for personal use, the sheer volume of flavored tobacco products on hand belies that assertion. Inspector Voyda found over 300 individual prohibited items and estimated that about 60 percent of all tobacco products in the store were prohibited products.⁵⁰

In response, Licensee offers explanations and seeks mitigation of the penalty to be imposed. Licensee asserts Mr. Jahed's ability to manage Licensee's compliance with tobacco regulations was compromised because he could not promptly return to

⁴⁹ Ex. 2-2-2-6.

⁵⁰ *Id.*; Test. of J. Voyda.

Minnesota from Iraq, and because he experienced difficulty communicating about the store while outside the country. Licensee contends that DSI employees who testified at the hearing have an incorrect understanding of the relevant ordinance. Finally, Licensee argues that revocation will result in irreparable harm to Mr. Jahed and his family. For these reasons, Licensee argues that suspension is the appropriate remedy, not revocation.

The record supports finding that Mr. Jahed was in Iraq until shortly before the inspection in May 2022. There is no evidence that Mr. Jahed personally ordered or authorized the sale of prohibited items found during the inspection. Yet, Mr. Jahed did not adequately provide for the direction and supervision of the store to ensure that Licensee operated lawfully in his absence. While he was in Iraq, his brother and several family friends operated the store.⁵¹ Mr. Jahed did not provide them with specific instructions about tobacco purchasing decisions or advise them not to offer flavored tobacco products while he was gone.⁵² Further, Licensee is a corporation and was required to operate within its license at all times, whether Mr. Jahed was present or not.

Licensee contends that Inspector Voyda misunderstands the flavored tobacco provision of the ordinance. This argument relates to testimony at the hearing regarding whether a violation could be found based on the presence of a prohibited item in the store, such as a flavored tobacco product accidentally left in a bathroom, even if the item was not offered for sale. Arguments about these hypothetical circumstances does not sway the outcome in this case because that is not the situation presented here. Instead, there were over 300 individual prohibited items stashed throughout the store, including on shelves, in snack food boxes, behind and under the clerk's counter, and in a tub on the floor. This was not a solitary incident or an accident.

Mr. Jahed testified that his family depends on Licensee's operations for financial support, and that tobacco products represent a substantial percentage of Licensee's sales.⁵³ Mr. Jahed believes that if Licensee's Tobacco Shop License is revoked the Mounds Park Market will be required to close.⁵⁴ The Administrative Law Judge does not doubt that loss of the license, and resulting financial consequences, will cause hardship for Mr. Jahed and his family. At the same time, the importance of Licensee's revenue to his family created a strong incentive for Mr. Jahed to actively manage Licensee in a manner that would have ensured lawful operation of the market, particularly after Licensee engaged in two prior flavored tobacco violations. As noted previously, Mr. Jahed did not take sufficient steps to ensure Licensee operated within the scope of its license.

Licensee engaged in a flavored tobacco violation in July 2021, making this case its second violation within 24 months. Under St. Paul Legislative Code § 324.10(d)(1), this case constitutes a second appearance. The presumptive matrix penalty for a

⁵¹ Test. of A. Jahed.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

second violation related to flavored tobacco products is revocation of the license.⁵⁵ In connection with recent amendments to the regulations related to tobacco licenses, the City Council expressed strong concerns about the use of tobacco products by young people, and the harmful impacts of smoking on Minnesota’s youth.⁵⁶ The City Council provided that licensees holding a Tobacco Shop License are those accessible to patrons under the age of 21, and that these licensees are authorized to sell more limited products as a result of that broader access.⁵⁷ The imposition of enhanced penalties, including revocation resulting from a second appearance, is consistent with the gravity of these concerns.

The City Council may deviate from the presumptive penalty if it finds “substantial and compelling reasons” support a deviation.⁵⁸ The Administrative Law Judge respectfully recommends that no such circumstances are present here. Licensee engaged in three violations related to flavored tobacco products between 2019 and 2022. While the City Council found that the first violation resulted from Mr. Jahed’s confusion, that is not a valid excuse for the subsequent violations. Further, Licensee’s current violation and the 2021 violation are separated by only ten months, showing that Licensee engaged in another violation despite the recent imposition of a penalty. Finally, the violation here is substantial, given that Inspector Voyda found over 300 prohibited items and the majority of tobacco products in the store were in violation of the ordinance.

The Administrative Law Judge notes that the record also contains evidence showing that Inspector Voyda found tobacco materials during the inspection that did not contain a tax stamp, and DSI made arguments related to this issue during the hearing. DSI did not identify the tax stamp issue, or any facts related to this concern, as a basis for adverse action in the Notice of Revocation. DSI also did not plead any facts regarding the absence of a tax stamp or identify this as an issue for the Administrative Law Judge’s decision in its hearing notice commencing this case.⁵⁹ Therefore, the Administrative Law Judge determines that issues related to the absence of a tax stamp are not properly before her. The Administrative Law Judge has not made findings on this point and has not relied on any evidence related to the absence of a tax stamp in making this recommendation.

The City Council should find that Licensee violated St. Paul Legislative Code § 324.07(j) by offering flavored tobacco products for sale. The City Council should impose the presumptive penalty and revoke Licensee’s Tobacco Shop License.

J. P. D.

⁵⁵ St. Paul Legislative Code § 324.10(b).

⁵⁶ Ex. 12 at 12-1–12-2.

⁵⁷ *Id.* at 12-1. In contrast, a Tobacco Products Shop License is for specialized stores selling tobacco products that can only be entered by individuals who are over age 21. *Id.*; St. Paul Legislative Code § 324.03(17).

⁵⁸ St. Paul Legislative Code § 324.10(a).

⁵⁹ See Notice of Prehearing Telephone Conference (July 14, 2022).

Docket No.: OAH 71-6020-38502/In the Matter of the Cigarette/Tobacco License Held by
Moundsview Retail Inc. d/b/a Mounds Park Market for the Premises Located at 241 Earl Street in
St. Paul

CITY EXHIBIT LIST

Exhibit No.	Date	Description	Received	Not Offered	Offered Not Received	Under Seal
1-1 – 1-4	June 7, 2022	Notice of Violation and Request for Revocation of License dated 6/7/2022	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2-1 – 2-6	May 12, 2022	Inspector Report with attachments including photographs	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3-1	N/A	Properties for License Printout (Aki I Jahed)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4-1	May 16, 2022	STAMP Ownership Zoning Information	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5-1	May 16, 2022	License Group Comments Text	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6-1	May 16, 2022	Adverse Action Comments Text	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7-1	May 16, 2022	License Group Conditions Text	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8-1	June 15, 2022	Letter requesting AU hearing from opposing counsel	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9-1 – 9-10	N/A	Mailing list for Tobacco Licensees	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10-1 – 10-10	August 26, 2021	August 26, 2021 Notice of Public Hearing on changes to Saint Paul Legislative Code 324 w/ attachment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11-1	September 1, 2021	Notice of date change	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12-1 – 12-11	November 9, 2021	Signature Copy of Ord 21-29 of the changes to Legislative Code 324	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13-1 – 13-2	December 2, 2021	December 2, 2021 letter to licensees summarizing changes sent to all licensees	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Exhibit No.	Date	Description	Received	Not Offered	Offered Not Received	Under Seal
14-1 – 14-15	2022	Other examples of educational materials given to licensees	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15-1 – 15-15	June 27, 2019	June 27, 2019 Notice of Violation Recommendation for Imposition of \$500 matrix penalty and Signature Copy of RES PH I 9-330	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16-1 – 16-44	August 21, 2021	August 24, 2021 Notice of Violation for Youth Compliance Failure and Flavored products	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17	April 11, 2022	Copy of April 11, 2022 Complaint	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	October 12, 2022	Saint Paul Legislative Code § 310	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	October 12, 2022	Saint Paul Legislative Code § 324	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

RECEIVED

By: OAH on 11/18/2022 4:04 PM

FAX COVER SHEET

TO	Judge
COMPANY	Palmer-Denig
FAX NUMBER	16515390310
FROM	Derek Thooft
DATE	2022-11-18 21:59:35 GMT
RE	Closing Argument for OAH 71-6020-38502

COVER MESSAGE

Dear Judge,

I am submitting this by e-fax as well just to ensure that it is received. The same was sent by email and will be filed as soon as my filing issue is resolved.

I apologize again for the inconvenience.

Derek

STATE OF MINNESOTA
COUNTY OF RAMSEY

DISTRICT COURT
SECOND JUDICIAL DISTRICT

In re the Tobacco Shop License held by)
 Moundsview Retail Inc., d/b/a Mounds)
 Park Market for the Premises Located at)
 241 Earl Street in St. Paul.)
)
)
 City of St. Paul,)
 Plaintiff,)
 v.)
 Moundsview Retail Inc. d/b/a)
 Mounds Park Market,)
)
 Defendants.)

LICENSEE'S CLOSING
ARGUMENT

INTRODUCTION

The Licensee respectfully requests that this Court recommend an imposition of a suspension of licensee's tobacco license instead of a revocation as is wrongfully requested by the City of St. Paul. A suspension is the appropriated punishment because 1) the Licensee was stranded in Iraq and in a compromised position during the date of the incident; 2) the City has failed to demonstrate that its Inspectors have a correct understanding of the law; and 3) the Licensee would be significantly damaged in an unrepairable way if the license was revoked.

ARGUMENT

Licensee respectfully requests that this Court consider any penalty other than a violation for the following reasons:

1) LICENSEE'S COMPROMISED POSITION ON DATE OF INCIDENT

Prior to the alleged violation he had been in Iraq for approximately six months in an attempt to secure a visa to the United States for his wife. (Testimony of Licensee at Hearing). Due to international issues, the global covid pandemic, travel difficulties, and the general unstableness of the region the Licensee's planned trip of less than a month turned into him being stranded in Iraq for six months. To further complicate the matter, the internet and cell phone reception was intermittent and not very effective even when it was working. The Licensee was also unable to receive mail including anything from the City or the store, which includes but is not limited to any changes in the law. Finally, the time zone is eight to nine hours different than in Minnesota. (Id.)

Due to this series of unfortunate events, the Licensee was unable to monitor his store or place orders for products as he had done in the past. (Id.) In an attempt to keep the store functioning while the Licensee was out of town he relied on family friends who were also Tobacco Store

owners and License Holders. They were not employees or contractors of the Licensee but friends who he was forced to rely on due to the extreme situation he was in. He thought that this was the only solution and trusted these individuals as they had tobacco stores and licenses of their own. (Id.)

The friends that Licensee relied on lead to this immediate issue. Due to the issues in communication and Licensee's complete inability to return he was unable to order products, supervise what was in the store, or otherwise monitor what was going on with his business. It was during this time that the alleged flavor tobacco products were brought into the store.

Licensee returned from Iraq roughly twenty-four hours prior to the alleged violation. (Id.) While licensee admits that he did stop at the store prior to the incident, however, it was to deal with a break in at the store and he did not examine what was in the store or the products being sold. He stopped by at night and was focused on the alarm and cash register instead of products. (Id.)

On the day of the alleged violation, Licensee received a call from the clerk who was at the store stating that an inspector was there, and they were in violation. Licensee immediately drove to the store to address the issue. This was the first time that he had been to the store in the daylight since his return from Iraq approximately twenty-four hours before. (Id.)

It was at this time that for the first time the Licensee was able to fully understand how his store had been run since his departure. Immediately after learning of the violations all of the individuals helping with the store were asked to not return and their relationship with the Licensee has been irreparably damaged. Additionally, the Licensee returned all products, created a process to supervise all orders and products coming into the store, revisited all agreements with vendors and discussed the issue with vendors to ensure no further issues, and finally handles all orders and pick ups of new materials himself. (Id.)

In conclusion, the Licensee's alleged violation was not intentional, planned or calculated. Rather, it was unavoidable and due to circumstances beyond his control. Due to being stranded in another country, communication issues exacerbated by cell phone/internet connection, and the length he was stranded; the Licensee did the best he could to manage the store and the penalty of Revocation is unduly harsh.

2) CITY INSPECTOR'S HAVE AN INCORRECT UNDERSTANDING OF TOBACCO LICENSE ENFORCEMENT

At the hearing, based on the City Inspectors testimony, it is clear that license enforcement in the city of St. Paul is both unpredictable and subjective. According to the City Inspector the mere possession of a Flavored Tobacco device by a customer or worker at a St. Paul tobacco store which is set down on a countertop, thrown in a garbage or inadvertently left somewhere would be a violation of the flavored tobacco ordinance. (Paraphrased/summary of Inspector Testimony at the Hearing.) Based on this reading of the law, if a customer throws away a flavored tobacco device in the garbage of a tobacco store, without any knowledge of the store or its owners, this could be a violation of the St. Paul tobacco license ordinances.

If this broad and subjective interpretation of the ordinance is applied, it is both unfair and impossible for St. Paul tobacco shops to operate within the guidelines. Further, such harsh punishment as a revocation of license is not appropriate when even the City Inspectors are unable to properly and articulable explain the ordinance.

Additionally, the city has determined that this case warrants a departure of their own guidelines. According to the ordinance the first offense of this nature is supposed to end in a 10-day suspension not revocation. What makes this case special that it warrants a departure from their own guidelines? The short answer is it doesn't. The only thing that the Licensee is guilty of is having these products in his store. They were not even labeled for sale. If a departure from the guidelines were to be made in this case it should have been in favor of leniency.

3) IREPARABLE DAMAGE TO LICENSEE IF LICENSE IS REVOKED

The Licensee's sole income and that of his family is through his store. A revocation of his license to sell tobacco would ultimately force him to close his store and family business. Not only would this affect the Licensee but it would be detrimental to his whole family – his mother and father rely on this income for all their necessities, his brother's sole income is through the store, his sister's sole income is through the store and finally his family, including his new wife brought over from Iraq are dependent on the store for all of their income and necessities. (Testimony of Licensee).

The entire family of Licensee that is with him in the United States relies on this store for their income and needs. In essence, revoking Licensee's ability to sell tobacco products in his store will end his and his families American Dream.

CONCLUSION

In conclusion, the imposition of a suspension on the Licensee's tobacco license is the correct penalty given the facts and circumstances in the immediate case. A revocation of the Licensee's license would be overly harsh and prejudicial to the licensee while the city has also been unable to prove that its inspector is able to adequately apply the law or the enforce it. For these reasons the Licensee respectfully requests that this Court recommend the imposition of a suspension as opposed to a revocation of Licensee's tobacco license.

Date: 11/18/2022

THOOF LAW, LLC,

By: /s/ Derek Thoof
Derek D. Thoof, (#0398561)
8101 34th Ave. S., #340
Bloomington, MN 55425
(651) 485-1254
ThoofLaw@gmail.com

OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE COUNCIL OF
THE CITY OF SAINT PAUL

OAH File 71-6020-38502

In re the Tobacco Shop License held by
Moundsview Retail Inc, d/b/a Mounds Park Market
for the premises located at 241 Earl Street
in Saint Paul.

CITY'S CLOSING ARGUMENT

INTRODUCTION

Adverse action is defined as “the revocation or suspension of a license, the imposition of conditions upon a license, the denial of an application for the grant, issuance or renewal of a license, the imposition of a fine, the assessment of the costs of a contested hearing and any other disciplinary or unfavorable action taken with respect to a license, licensee or applicant for a license.” Saint Paul Legislative Code (“SPLC”) §310.01.

Under SPLC §310.05 (m)(2) and SPLC §310.06 (b)(6), the City of Saint Paul (“City”) can take adverse action against a license for a variety of reasons including a violation of any of the provisions of a statute or ordinance reasonably related to the licensed activity. Under SPLC §310.17, “Any act or conduct by any clerk, employee, manager or agent of a licensee, or by any person providing entertainment or working for or on behalf of a licensee, whether compensated or not, which act or conduct takes place either on the licensed premises or in any parking lot or other area adjacent to (or under the lease or control of the licensed premises, and which act or conduct violates any state or federal statutes or regulations, or any city ordinance, shall be considered to be and treated as the act or conduct of the licensee for the purpose of adverse

action against all or any licenses held by such licensee.”

The City of St. Paul regulates tobacco and requires a city license to sell tobacco pursuant to Chapter 324 of the City’s Legislative Code. SPLC §324.07 (j) prohibits any person from “offering for sale or otherwise distributing any flavored products unless excepted under section 324.07(1)”. Under SPLC §324.07 (1), exceptions to the prohibition of flavored products are laid out, which includes a licensee being the holder of a Tobacco Product Shop License.¹ SPLC §324.10 (b) lays out the presumptive penalties for tobacco related violations of Chapter 324 and states that the presumptive penalty for a second appearance related to the display, possession or multiple incidents of single cigarettes, menthol tobacco products; or flavored tobacco products is revocation. Because the evidence demonstrates that the Mounds Park Market Licensee possessed numerous flavored tobacco products for distribution, the City has demonstrated a violation occurred. This is Licensee’s third flavored tobacco violation since 2019 and his second violation in 24 months, so the presumptive penalty for the violation is revocation of the tobacco license.

I. Facts.

Mounds Park Market is a convenience store owned by Akil Jahed (“Licensee”).² Licensee was granted license #20170000776 to sell tobacco and tobacco products by the Department in 2017.³ Since receiving his License, Licensee has incurred the following violations against his License:

- A 2019 inspection that documented the presence of prohibited flavored products. This violation was resolved under Council File 19-330, the Licensee admitted the violation

¹ A tobacco products shop license means a license issued to an establishment that must derive at least ninety percent of revenue from sale of licensed products, must prohibit persons under the age of twenty-one, must be accessible through an outside door, and staffed by one person solely dedicated to the tobacco products shop.

² Ex. 3-1.

³ Ex. 5-1.

and Council stayed the fine for 1 year on the condition that the Licensee have no same or similar violations.⁴

- A 2021 Youth Compliance Check Failure that also included observation and documentation of prohibited flavored tobacco products. This violation was resolved after the Licensee paid the \$500 fine on or about September 14, 2021.⁵

On April 11, 2022, the Department received a complaint stating that the Licensee was “selling flavored products from candy boxes + (Newport’s/Camel) without tax stamps”.⁶ On May 12, 2022, Inspector Joseph Voyda conducted a complaint inspection at the Licensed Premises and observed and documented with a report and photos, prohibited flavored tobacco products and cigarettes without tax stamps in plain sight behind the counter, in candy boxes, in a tub/tote and under the base of the counter.⁷

On June 7, 2022, the Department of Safety and Inspections (“Department”) initiated Adverse Action through a Notice of Violation (“NOV”) against the Tobacco Shop License held by Moundsview Retail Inc., d/b/a Mounds Park Market for the premises located at 241 Earl Street in Saint Paul (“Licensed Premises”) after an inspection, based on an anonymous complaint, uncovered numerous prohibited tobacco products both in plain view and hidden within the Licensed Premises.⁸ The Licensee holds a Tobacco Shop License not a Tobacco Product Shop License, and is therefore prohibited from selling prohibited flavored products.⁹ Based on a prior adverse action for possession of prohibited flavored products in 2021, the Department recommended the standard matrix penalty for a second appearance of revocation.¹⁰

4 Ex. 5-1, 15-1 – 15-15.

5 Ex. 16-1 – 16-44.

6 Ex. 17.

7 Ex. 2-1 – 2-6.

8 Ex. 1-4 – 1-4, 2-1 – 2-6, 17.

9 Hudak Testimony 17:51 – 18:02, Ex. 16-44, SPLC §324.03.

10 Ex. 16-1 – 16-44, 1-1 – 1-4, SPLC §324.10 (b)(2), SPLC §324.10 (d).

II. The City has met its burden and proven by a preponderance of the evidence that the Licensee possessed and sold prohibited flavored products within the Licensed Premises in violation of SPLC §324 on May 12, 2022.

Both Licensing Manager Eric Hudak (“Hudak”) and Inspector Joseph Voyda (“Voyda”) testified at the administrative hearing regarding the License history, inspections of the Licensed Premises, education and training given to licensees, and interactions with the Licensee over time. Their testimony was credible and unrefuted. The complaint-based inspection that Voyda conducted at the Licensed Premises on May 12, 2022 was part of his assigned job duties. His findings were documented with both a report and photographs. He carefully reviewed each photo and testified as to which prohibited flavored tobacco products he found, why an item was a prohibited flavored tobacco product and where he found the item.¹¹ Voyda testified he found numerous flavored products of different varieties and that it was his opinion that some of the prohibited flavored tobacco items he found were purposefully hidden in a Mott snack box, Reese’s candy box on a refrigerator area open to the public, under the clerk counter, shelves in plain sight and open for sale, and in a tube/tote bin behind the counter.¹² In total, Voyda testified that he observed well over 300 individual flavored tobacco items.¹³ Voyda also testified that he understood that the purpose of the changes to SPLC §324 were to ensure that children were not exposed to flavored tobacco products.¹⁴ Voyda testified that the Licensee told him he had just gotten back from Iraq and that the prohibited flavored tobacco products were for personal use.¹⁵

11 Voyda Testimony 1:14:07.

12 Voyda Testimony 1:23-1:

13 Voyda Testimony 1:38.

14 Voyda Testimony 1:49.

15 Voyda Testimony 1:36.

Voyda also documented this in his report writing that the Licensee told him that the unstamped cigarettes were for personal use.¹⁶

Hudak testified that he reviewed Voyda's report and photographs, agreed with the recommendation for adverse action and the imposition of the standard matrix penalty.¹⁷ They have no personal stake in the outcome of this matter. They both testified as to their training in recognizing prohibited flavored products and how they handle their individual assignments. Their testimony was credible and reasonable. When unsure, they reviewed their reports and refreshed their recollection. The testimony of the City's witnesses was not challenged by the Licensee or any direct evidence.

The Licensee testified and provided additional details about the license history and the violations found by Voyda. Licensee testified that he does not personally use tobacco products.¹⁸ As to why the prohibited flavored products were located within and being offered for sale on the Licensed Premises, the Licensee offered the explanation that he had been out of the country for six months to assist his wife with her visa, and he didn't have control over what was happening. Licensee testified that he left the Licensed Premises in the care of his brother and friends and thought the store would be fine operating by itself.¹⁹ He asserted that he did not have access to internet or communications while out of the country, so he was unable to check in on the business.²⁰ Licensee admitted he did not have any manuals or instructions about how to run the store or what products to order.²¹ Through his testimony, Licensee suggested that the friends

¹⁶ Ex. 2-1.

¹⁷ Hudak Testimony 47:28.

¹⁸ Licensee Testimony 2:15.

¹⁹ Licensee Testimony 1:58.

²⁰ Licensee Testimony 2:03-2:04.

²¹ Licensee Testimony 2:32.

who were running the Licensed Premises, without pay, in his absence, were responsible for the presence of prohibited flavored tobacco products within the Licensed Premises.

Licensee testified that he had just returned to the country the day before the inspection and that he immediately responded to the Licensed Premises when he learned of Voyda's inspection.²² The Licensee also admitted that he had talked with the inspector in the prior 2021 offense and that it wouldn't happen again.²³ After the 2021 violation, Licensee testified that he told his team that any tobacco ordered would go through him.²⁴ Nevertheless, Licensee testified that "anyone working at the store" would have been responsible for ordering tobacco products while Licensee was out of the country from December 2021 to May 2022.²⁵ Licensee's testimony attempted to show that he didn't believe he was responsible for the current violations as he told Voyda "it wasn't on me I was gone".²⁶

The witness testimony and exhibits demonstrate that Licensee knew flavored tobacco products were prohibited in his convenience store. Licensee had two prior flavored related violations in 2019 and 2021, and after the 2021 violation, he said all tobacco orders would go through him to ensure it wouldn't happen again. However, Licensee admitted that when he left the country in December 2021, he left the store completely in the hands of family and friends without any instructions or oversight. Whether he is physically present or not, the Licensee is responsible for the prohibited flavored tobacco products found on the Licensed Premises. Under the City's Uniform License Procedures, SPLC §310.17, the Licensee is the ultimate responsible

²² Licensee Testimony 2:07.

²³ Licensee Testimony 2:10.

²⁴ Licensee Testimony 2:17.

²⁵ Licensee Testimony 2:13-2:14.

²⁶ Voyda Testimony 1:12, Licensee Testimony 2:07.

party: “Any act or conduct by any clerk, employee, manager or agent of a licensee, or by any person providing entertainment or working for or on behalf of a licensee, whether compensated or not, which act or conduct takes place either on the licensed premises or in any parking lot or other area adjacent to (or under the lease or control of the licensed premises, and which act or conduct violates any state or federal statutes or regulations, or any city ordinance, shall be considered to be and treated as the act or conduct of the licensee for the purpose of adverse action against all or any licenses held by such licensee.” Travel out of the country for an extended period and/or lack of control over the Licensed Premises is not an excuse and there is no defense to the violations observed and documented by Voyda.

Licensee’s attorney also asked questions to suggest that the tobacco products weren’t actually sold or transferred. SPLC §324.07 (j) does not require a completed sale because it prohibits any person from “offering for sale or otherwise distributing any flavored products unless excepted under section 324.07(1)”. The City’s penalty matrix also includes language providing penalties for “Display, possession or multiple incidents of sales of single cigarettes, menthol tobacco products or flavored tobacco products.” According to Voyda’s testimony and his report, some of the flavored products were in plain sight and open for sale on open shelving behind the clerk counter. Other products were found in candy boxes on top of a fridge in an area open and accessible to the public. Individual shoppers could have easily accessed and attempted to purchase the items in the candy box, or could have requested the products in the open shelving behind the clerk counter. Although Licensee claimed that at least some products were for personal use during the inspection, Licensee testified that he did not use tobacco products. Further, the sheer amount of flavored products was well over 300 and suggests that the products

were not for personal consumption. In light of all the evidence and circumstances, the placement and number of the prohibited flavored products demonstrate by a preponderance of the evidence that Licensee possessed, displayed and offered the items for sale. Licensee failed to learn from his past mistakes as this is the third time that prohibited flavored products have been found at the Licensed Premises.

III. The May 12, 2022, violation is the Licensee's second appearance within 24 months and the presumptive penalty of revocation of the Tobacco Shop License requested by the Department is appropriate.

The Department based its recommendation for revocation of the Tobacco Shop License held by Licensee on the penalty matrix laid out in SPLC § 324.10. Chapter 324 of the SPLC was updated by City Council in 2021 and the changes became effective in December 2021.²⁷ Evidence presented by the City showed that Licensees were provided with notice of the changes along with the proposed new ordinance language and given information on public hearing dates.²⁸ This included a letter summarizing the changes with effective dates was also mailed to licensees. The testimony of Voyda and whereas clauses in ORD 21-29 document City Council's rationale for the updates.²⁹ These include the City Council's understanding of the harm that access to flavored tobacco products for individuals under the age of 21 causes.³⁰ ORD 21-29 also updated the penalty matrix with greater penalties and SPLC §324.01 (d) removed any exception that would have allowed the Department to issue another license to the same location under a new licensee within 5 years of revocation for any other reason than nonpayment of fines.

27 Exhibit 12-1 – 12-11, 13-1, 13-2.

28 Exhibits 10-1 – 10-10, 11-1, 13-1 – 13-2.

29 Exhibits 10-1 – 10-10, 11-1, 12-1 – 12-11, 13-1-13-2.

30 Exhibit 12-1, 12-2.

Under SPLC Section 324.10(d)(1) a “second violation within 24 months shall be treated as a second appearance”. When it amended SPLC §324.10 City Council laid out its intention to treat youth sales and prohibited flavor violations more harshly than some of the more germane violations laid out in the penalty matrix in SPLC §310.01(m). Under the amended penalty matrix in SPLC §324.10 (b), if the second appearance is related to the “Display, possession or multiple incidents of sales of single cigarettes, menthol tobacco products or flavored tobacco products, the presumed penalty is revocation.” While revocation might seem harsh, it is within the matrix set by the city council and given the seriousness of the offenses in this penalty matrix, revocation is reasonable. The City’s application of the penalties laid out in SPLC §324.10 is also consistent with the method it uses to determine other licensing penalties. Except for the now unused food code, the City’s licensing code has always used the number of appearances to determine which box of the penalty matrix contains the applicable penalty. The City is applying the penalty matrix laid out in SPLC § 324.10 in the same manner that it has historically applied the matrix in SPLC § 310.05 (m) by recommending the presumptive penalty for the violation or violations giving rise to the subsequent appearance without regard to the violation or violations that were the subject of the first or prior appearance. Additionally, as laid out in SPLC 324.10 (a), while the penalties are presumed appropriate, the council may deviate in an existing case when the council finds substantial and compelling reasons.

A reading that the penalty matrix is not progressive by appearance also conflicts with the provisions that give City Council the authority to upwardly depart if substantial and compelling reasons are found. While the Department believes that the standard matrix penalty of revocation is applicable, there are more than ample grounds in this case for an upward departure to

revocation based on the number of prior violations, the amount of prohibited flavored tobacco products found during each of those violations, the short timeframe in between violations, the failure of the Licensee to manage the Licensed Premises in a manner that would have ensured that violations did not continue to occur and the evidence of concealment observed and documented by Inspector Voyda.

IV. Conclusion

The City provided ample evidence including written documents, photographs, and testimony in support of its request for revocation of the License. The ongoing behavior and facts surrounding the Licensee's repeated violations related to prohibited flavored tobacco products merit a recommendation of revocation. The City submits that it has shown by a preponderance of the evidence that the licensee has violated provisions of an ordinance reasonably related to the licensed activity and that the Licensee has been caught with prohibited flavored tobacco products twice before. The License held by Licensee belongs to the City and the City ought not be compelled to license a business for any purpose, when the license is used, in part, to facilitate illegal or prohibited activity. The City should not be made an unwilling partner to the continuation of this type of conduct in the Licensed Premises. The City has shown that revocation of the license is necessary to ensure that continued violations related to the sale of prohibited tobacco products do not occur and that City Council's intent to keep prohibited flavored tobacco products out of the hands and sight of underaged individuals is upheld and the License held by the Licensee revoked.

Dated: November 18, 2022

Respectfully submitted,

A handwritten signature in cursive script that reads "Therese Skarda /s.m.". The signature is written in black ink and is positioned above a horizontal line.

Therese A. Skarda
Assistant City Attorney
400 City Hall/Courthouse
15 West Kellogg Blvd.
Saint Paul, MN 55102
(651)266-8710
Atty. ID: 240989

STATE OF MINNESOTA)
) ss.

AFFIDAVIT OF SERVICE BY E-MAIL & U.S.
MAIL

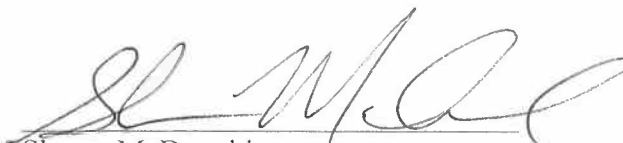
COUNTY OF RAMSEY)

Shawn McDonald, being first duly sworn, deposes and says that on the 18th day of November, he served the attached **CITY'S CLOSING ARGUMENT** and a correct copy thereof in an envelope addressed as follows:

Derek Thooft
Attorney at Law
Thooft Law LLC
3460 Washington Dr, Suite 212
Eagan, MN 55122

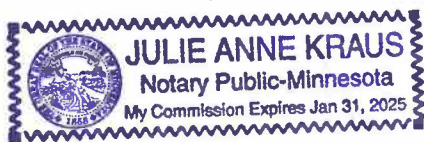
Judge Jessica A. Palmer-Denig
P.O. Box 64620
Saint Paul, MN 55164

(which is the last known address of said person) depositing the same, with postage prepaid, in the United States mail at St. Paul, Minnesota.


Shawn McDonald

Subscribed and sworn to before me
This 18th day of November 2022


Notary Public



November 7, 2022

VIA EMAIL ONLY

Therese Skarda
St. Paul City Attorney's Office
400 City Hall & Courthouse
15 W Kellogg Blvd
Saint Paul, MN 55102
Therese.Skarda@ci.stpaul.mn.us;
shawn.mcdonald@ci.stpaul.mn.us

VIA EMAIL ONLY

Derek Thooff
Thooff Law LLC
3460 Washington Dr Ste 212
Eagan, MN 55122
derek@thoofflawllc.com

Re: *In the Matter of the Cigarette/Tobacco License Held by Moundsview Retail Inc. d/b/a Mounds Park Market for the Premises Located at 241 Earl Street in St. Paul*
OAH 71-6020-38502

Dear Parties:

Enclosed and served upon you please find the **POST-HEARING SCHEDULING ORDER** in the above-entitled matter.

If you have any questions, please contact me at (651) 361-7857, nichole.helmuelle@state.mn.us, or via facsimile at (651) 539-0310.

Sincerely,



NICHOLE HELMUELLER
Legal Assistant

Enclosure

cc: Docket Coordinator

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
PO BOX 64620
600 NORTH ROBERT STREET
ST. PAUL, MINNESOTA 55164

CERTIFICATE OF SERVICE

In the Matter of the Cigarette/Tobacco License Held by Moundsview Retail Inc. d/b/a Mounds Park Market for the Premises Located at 241 Earl Street in St. Paul	OAH Docket No.: 71-6020-38502
--	----------------------------------

On November 7, 2022, a true and correct copy of the **POST-HEARING SCHEDULING ORDER** was served by United States mail, unless otherwise indicated below, addressed to the following:

VIA EMAIL ONLY

Therese Skarda
St. Paul City Attorney's Office
400 City Hall & Courthouse
15 W Kellogg Blvd
Saint Paul, MN 55102
Therese.Skarda@ci.stpaul.mn.us;
shawn.mcdonald@ci.stpaul.mn.us

VIA EMAIL ONLY

Derek Thooff
Thooff Law LLC
3460 Washington Dr Ste 212
Eagan, MN 55122
derek@thoofflawllc.com

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE CITY OF ST. PAUL

In the Matter of the Cigarette/Tobacco License Held by Moundsview Retail Inc. d/b/a Mounds Park Market for the Premises Located at 241 Earl Street in St. Paul

POST-HEARING SCHEDULING ORDER

This matter came before Administrative Law Judge Jessica A. Palmer-Denig for a hearing on November 3, 2022.

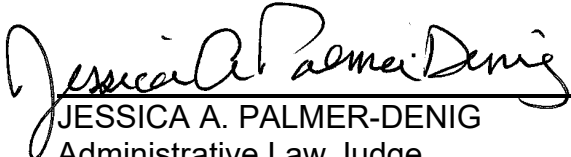
Therese Skarda, Assistant City Attorney, appears on behalf of the City of St. Paul. Derek Thooft, Thooft Law LLC, appears on behalf of Moundsview Retail Inc., d/b/a Mounds Park Market.

Based upon the record herein, the Administrative Law Judge issues the following:

ORDER

1. The parties shall file and serve written closing arguments no later than **4:30 p.m.** on **November 18, 2022.**
2. The record in this matter shall close upon receipt of the parties' final submissions.

Dated: November 7, 2022


JESSICA A. PALMER-DENIG
Administrative Law Judge

October 31, 2022

VIA EMAIL ONLY

Therese Skarda
St. Paul City Attorney's Office
400 City Hall & Courthouse
15 W Kellogg Blvd
Saint Paul, MN 55102
Therese.Skarda@ci.stpaul.mn.us;
shawn.mcdonald@ci.stpaul.mn.us

VIA EMAIL & US MAIL

Derek Thooff
Thooff Law LLC
3460 Washington Dr Ste 212
Eagan, MN 55122
derek@thoofflawllc.com

Re: *In the Matter of the Cigarette/Tobacco License Held by Moundsview Retail Inc. d/b/a Mounds Park Market for the Premises Located at 241 Earl Street in St. Paul*
OAH 71-6020-38502

Dear Parties:

Enclosed and served upon you please find the **THIRD PREHEARING ORDER** in the above-entitled matter.

Please note that the start time of the hearing has changed to **10:30 a.m.**, as indicated in the Order.

If you have any questions, please contact me at (651) 361-7874, michelle.severson@state.mn.us, or via facsimile at (651) 539-0310.

Sincerely,



MICHELLE SEVERSON
Legal Assistant

Enclosure

cc: Docket Coordinator

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
PO BOX 64620
600 NORTH ROBERT STREET
ST. PAUL, MINNESOTA 55164

CERTIFICATE OF SERVICE

In the Matter of the Cigarette/Tobacco License Held by Moundsview Retail Inc. d/b/a Mounds Park Market for the Premises Located at 241 Earl Street in St. Paul	OAH Docket No.: 71-6020-38502
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On October 31, 2022, a true and correct copy of the **THIRD PREHEARING ORDER** was served by United States mail, unless otherwise indicated below, addressed to the following:

VIA EMAIL ONLY

Therese Skarda
St. Paul City Attorney's Office
400 City Hall & Courthouse
15 W Kellogg Blvd
Saint Paul, MN 55102
Therese.Skarda@ci.stpaul.mn.us;
shawn.mcdonald@ci.stpaul.mn.us

VIA EMAIL & US MAIL

Derek Thooff
Thooff Law LLC
3460 Washington Dr Ste 212
Eagan, MN 55122
derek@thoofflawllc.com

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE CITY OF ST. PAUL

In the Matter of the Cigarette/Tobacco
License Held by Moundsview Retail Inc.
d/b/a Mounds Park Market for the Premises
Located at 241 Earl Street in St. Paul

THIRD PREHEARING ORDER

This matter is pending before Administrative Law Judge Jessica A. Palmer-Denig.


Therese Skarda, Assistant City Attorney, appears on behalf of the City of St. Paul. Derek Thooft, Thooft Law LLC, appears on behalf of Moundsview Retail Inc. d/b/a Mounds Park Market.

Based upon the record herein, the Administrative Law Judge issues the following:

ORDER

1. A hearing in this matter will be held at the Office of Administrative Hearings, 600 North Robert Street, St. Paul, Minnesota 55101, on **November 3, 2022, beginning at 10:30 a.m.**
2. Unless amended herein, the terms of prior prehearing orders remain in effect.

Dated: October 31, 2022



JESSICA A. PALMER-DENIG
Administrative Law Judge

RECEIVED

By: OAH on 10/25/22 at 5:49 pm

OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE COUNCIL OF
THE CITY OF SAINT PAUL

In Re: The Cigarette/Tobacco Licenses held by Moundsview Retail Inc. d/b/a Mounds Park Market for the premises located at 241 Earl Street in Saint Paul.

CITY'S
EXHIBIT LIST

DATE: October 25, 2022

TO: Judge Jessica A. Palmer-Denig - Office of Administrative Hearings, 600 North Robert Street.

The following constitutes a list of the City's exhibits submitted in conjunction with the November 3, 2022, Administrative Hearing:

Exhibit No.	Description
Ex. No. 1-1- 1-4	Notice of Violation and Request for Revocation of License dated 6/7/2022
Ex. No. 2-1 - 2-6	Inspector Report with attachments including photographs
Ex. No. 3-1	Properties for License Printout (Akil Jahed)
Ex. No. 4-1	STAMP Ownership Zoning Information
Ex. No. 5-1	License Group Comments Text
Ex. No. 6-1	Adverse Action Comments Text
Ex. No. 7-1	License Group Conditions Text
Ex. No. 8-1	Letter requesting ALJ hearing from opposing counsel
Ex. No. 9-1 - 9-10	Mailing list for Tobacco Licensees
Ex. No. 10-1 - 10-10	August 26, 2021 Notice of Public Hearing on changes to Saint Paul Legislative Code 324 w/ attachment
Ex. No. 11-1	Notice of date change
Ex. No. 12-1 - 12-11	Signature Copy of Ord 21-29 of the changes to Legislative Code 324
Ex. No. 13-1 - 13-2	December 2, 2021 letter to licensees summarizing changes sent to all licensees
Ex. No. 14-1 - 14-15	Other examples of educational materials given to licensees
Ex. No. 15-1-15-15	June 27, 2019 Notice of Violation Recommendation for Imposition of \$500 matrix penalty and Signature Copy of RES PH 19-330
Ex. No. 16-1 - 16-44	August 24, 2021 Notice of Violation for Youth Compliance Failure and Flavored products
Ex. No. 17	Copy of April 11, 2022 Complaint

Also attached please find courtesy copies of applicable City of Saint Paul city ordinances:

Saint Paul Legislative Code § 310
Saint Paul Legislative Code § 324

Respectfully submitted the 25th day of October 2022



Therese Skarda, Assistant City Attorney
License No: 0240989
Office of the City Attorney
400 City Hall & Courthouse
15 West Kellogg Boulevard
Saint Paul, Minnesota 55102

STATE OF MINNESOTA)
) ss.

AFFIDAVIT OF SERVICE BY E-MAIL & U.S.
MAIL

COUNTY OF RAMSEY)

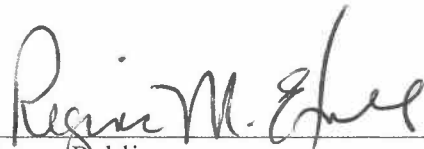
Shawn McDonald, being first duly sworn, deposes and says that on the 25th day of October, he served the attached **CITY'S PROPOSED EXHIBITS, EXHIBIT LIST, AND WITNESS LIST** and a correct copy thereof in an envelope addressed as follows:

Derek Thooft
Attorney at Law
Thooft Law LLC
3460 Washington Drive, Ste 212
Eagan, MN 55122

(which is the last known address of said person) depositing the same, with postage prepaid, in the United States mail at St. Paul, Minnesota.


Shawn McDonald

Subscribed and sworn to before me
This 25th day of October 2022


Notary Public





October 25, 2022

Derek Thooft
Attorney at Law
Thooft Law LLC
3460 Washington Drive, Ste 212
Eagan, MN 55122

RE: Cigarette/Tobacco License held by Moundsvew Retail Inc. d/b/a Mounds Park Market for the premises located at 241 Earl Street in Saint Paul
License ID #20170000776
OAH Docket No.: 71-6020-38502

Dear Mr. Thooft:

Below is the list of witnesses the City may call to testify. If I add any witnesses to this list, I will provide you with that information as well.

1. Eric Hudak, DSI Licensing Manager, 375 Jackson Street, Ste. 220, St. Paul, MN 55101 (651)-266-9110
2. Joseph Voyda, DSI Inspector, 375 Jackson Street, Ste. 220, St. Paul, MN 55101 (651) 266-9014

Sincerely,

Therese Skarda
Assistant City Attorney
License No: 0240989

Cc: Jessica A. Palmer-Denig, Administrative Law Judge, Office of Administrative Hearings, P.O. Box 64620, St. Paul, MN 55164-0620

STATE OF MINNESOTA)

) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

Shawn McDonald, being first duly sworn, deposes and says that on the 7th day of June, he served the attached **NOTICE OF VIOLATION AND REQUEST FOR REVOCATION OF LICENSE** and a correct copy thereof in an envelope addressed as follows:

Moundsview Retail Inc.
d/b/a Mounds Park Market
241 Earl Street
Saint Paul, MN 55106
Attn: Akil Jahed

Akil Jahed
8126 Pleasantview Circle
Moundsview, MN 55112

241 Earl LLC
2303 Parkview Lane
Woodbury, MN 55125

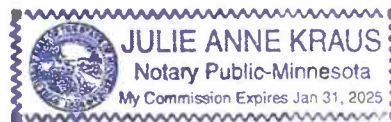
Lissa Jones-Lofgren, Executive Director
East Side Enterprise Center
804 Margaret Street
Saint Paul, MN 55107

(which is the last known address of said person) depositing the same, with postage prepaid, in the United States mail at St. Paul, Minnesota.


Shawn McDonald

Subscribed and sworn to before me
This 7th day of June 2022


Notary Public





June 7, 2022

NOTICE OF VIOLATION AND
REQUEST FOR
REVOCAION OF LICENSE

Moundsviiew Retail Inc.
d/b/a Mounds Park Market
241 Earl Street
Saint Paul, MN 55106
Attn: Akil Jahed

RE: Cigarette/Tobacco license held by Moundsviiew Retail Inc., d/b/a Mounds Park Market, for the premises located at 241 Earl Street in Saint Paul.
License ID #: 20170000776

Dear Licensee:

The Department of Safety and Inspections (the "Department") is recommending adverse action against the Cigarette/Tobacco license held by Moundsviiew Retail Inc., d/b/a Mounds Park Market (the "Licensee"), for the premises located at 241 Earl Street in Saint Paul (the "Licensed Premises") for a second flavored tobacco violation.

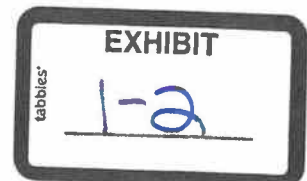
Saint Paul Legislative Code section 324.07(j) prohibits a licensee from selling, offering for sale, or otherwise distributing any flavored tobacco products.

Saint Paul Legislative Code section 324.10(b)(2) sets the presumptive penalties for violations of provisions of the Legislative Code relating to the display, possession, or multiple incidents of sales of menthol or flavored tobacco products. Under section 324.10(b)(2), the presumptive penalty for a second violation within a 24-month period is revocation of the license.

Records from the Department show that on August 9, 2021, during an inspection of the Licensed Premises, an inspector discovered flavored tobacco products.

CITY OF SAINT PAUL
MELVIN CARTER, MAYOR

STPAUL.GOV





The Department asserts that the following facts, along with photos of the violations attached herein, constitute proof of a second violation of section 324.07(j) of the Saint Paul Legislative Code by preponderance of the evidence.

Synopsis of Alleged Facts:

On August 9, 2021, a Department inspector conducted an inspection of the Licensed Premises and found numerous flavored tobacco products. Based on these findings, the Department recommended adverse action against your Cigarette/Tobacco license and the imposition of a \$500 fine. By paying the \$500 fine, you admitted to the violation.

On May 12, 2022, Department Inspector Joseph Voyda went to the Licensed Premises for a complaint inspection. Upon arrival, he spoke with the store clerk, Amu, and informed him that the Department received a complaint of the business selling flavored tobacco products. He asked the clerk for permission to conduct an inspection, which permission the clerk granted. During the inspection, Inspector Voyda observed and documented with photographs multiple flavored tobacco products behind the counter. He also observed and documented with photographs flavored tobacco products hidden in boxes of candy, in a tote/tub, and in drawers under the base of the service counter. After the inspection, Voyda asked the clerk if there were any other flavored tobacco products and the clerk responded that there were not. The license holder, Akil Jahed, arrived while Voyda was still inside of the Licensed Premises. Jahed was advised to remove all flavored tobacco products into a back storage and call a distributor to pick them up.

You have three (3) options to proceed:

1. If you do not contest the imposition of the proposed adverse action, you may do nothing. If I have not heard from you by **June 21, 2022**, I will presume that you have chosen not to contest the proposed adverse action and the matter will be placed on the City Council Consent Agenda for revocation of your license.

2. If you wish to admit the facts but you contest the revocation of your license, you may have a public hearing before the Saint Paul City Council. You will need to send me a letter with a statement admitting to the facts and requesting a public hearing no later than **June 21, 2022**. The matter will then be scheduled before the City Council to determine whether to revoke the license. You will have an opportunity to appear before the Council and make a statement.

CITY OF SAINT PAUL
MELVIN CARTER, MAYOR

STPAUL.GOV





SAINT PAUL
CITY ATTORNEY

OFFICE OF THE CITY ATTORNEY
LYNDESEY M. OLSON, CITY ATTORNEY

Civil Division, 15 Kellogg Blvd. West, 400 City Hall
Saint Paul, MN 55102
Tel: 651-266-8710 | Fax: 651-298-5619

3. If you dispute the facts outlined above, you may request a hearing before an Administrative Law Judge (the "ALJ"). You will need to send me a letter disputing the facts and requesting an administrative hearing no later than **June 21, 2022**. At that hearing, both you and the City will appear and present witnesses and evidence and cross-examine each other's witnesses. After receipt of the ALJ's report (usually within 30 days), a public hearing will need to be scheduled. At the public hearing, the City Council will decide whether to adopt, modify, or reject the ALJ's report and recommendation. Please note: If you choose an administrative hearing, the Department reserves the right to request that City Council impose the costs of the administrative hearing, per Saint Paul Legislative Code section 310.05(k).

If you have not contacted me by June 21, 2022, I will assume that you do not contest the Revocation of your licenses. In that case, the matter will be placed on the City Council Consent Agenda for approval of the recommended penalty.

Sincerely,

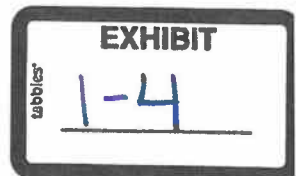
Stephen Earnest
Assistant City Attorney
License No.: 0402652

cc: Akil Jahed, 8126 Pleasantview Circle, Moundsvew, MN 55112
241 Earl LLC, 2303 Parkview Lane, Woodbury, MN 55125
Lissa Jones-Lofgren, Executive Director, 804 Margaret Street, Saint Paul, MN 55107

Attachments: Inspector's Report
Licensee Information on Eclips System
License Group Conditions Text
License Group Comments Text
Adverse Action Comments Text
STAMP - Ownership/Zoning Information
Photos of Tobacco Products

CITY OF SAINT PAUL
MELVIN CARTER, MAYOR

STPAUL.GOV





Inspector's Report

Inspectors Name: Joseph Voyda

Date & Time: 5/12/2022 - 9:45am

Staff Member's Name: Amu (clerk - refused to give real name)

Business/DBA Name: Mounds Park Market

Property Address: 241 Earl Street

Reason for Visit: Complaint Inspection

Observations: Selling Flavored Tobacco Products

Photos Taken: Yes No – Area(s) of where the Photo(s) where taken: Behind the counter and shelving

Action Taken: Education / warning

Request for Adverse Action

Other: -

Details of Conversations (Statements to and by Person Responsible for Property):

Upon arrival on May 12, 2022 at 9:45am I spoke with the clerk Amu (refused to give real name) I introduced myself as a licensing Inspector for the City of Saint Paul with Department of Safety and Inspections. I explained I was there for an inspection from a complaint that was received by DSI for flavor tobacco product being sold.

With permission from Amu to go behind the counter to conduct an inspection, I asked him to contact the license holder, Amu's response was that he was back in Iraq. In plain sight behind the counter and hidden in boxes of candy (Reese's and Mott's), tub/tote and drawers under the base of the counter, multiple flavor tobacco product were discovered (see attached photos - 4 pages total) intended for sale (see listed products below). I asked Amu if there were any other flavor products that were hidden, Amu response was "no, I don't know anything I'm just helping today until the owner gets here".

Continuing the inspection the license holder arrived, I stated to Akil Jahed (license holder), "I was told that you were in Iraq!"

I advised Akil to remove all the tobacco products that were found in violation and be moved into the back storage room, to contact his distributor for a pickup, I educated Akil on the flavor violations that were discovered.

A carton of Camel Crush menthol was discovered with no tax stamps, Akil tried to convince me that they were for his personal use and he bought them from out of state. I explained to him that we went over, all the do's and don'ts of flavor tobacco sales during an inspection held on 8/9/2021, when it was explained that he did not possess a tobacco product shop license to offer for sale of flavor tobacco products, per ordinance it is forbidden to have any flavor tobacco products within a busines that isn't a tobacco products shop, personal use or not.



Types of flavored tobacco products:

'Camel' menthol cigarettes (no tax stamp)

'American Spirits' - Black

'Grizzly' wintergreen

'Kodiak' wintergreen

'Black and Mild' wine cigars

'High Hemp' - Plain

'Backwoods' - Honey Berry, Honey Bourbon & Russian Cream

'Dutch' - Sweet Fusion, Honey Fusion, Irish Fusion & Java Fusion

'Black & Mild' - Wine

'Dutch Master' - Russian Cream

'Dutch' - Ripe Berry

'Swisher Sweets' - Honey

'White Owl' - Berries Cream, white peaches sangria & Strawberry

'Al Capone' - rolling papers & Leaf wraps = Cognac

Vape Pen - Watermelon Cherry

'Game' - White Peach



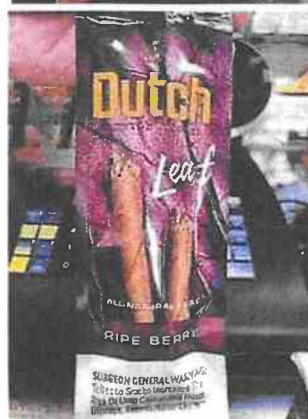


EXHIBIT
tabbica 2-3



EXHIBIT
 2-4

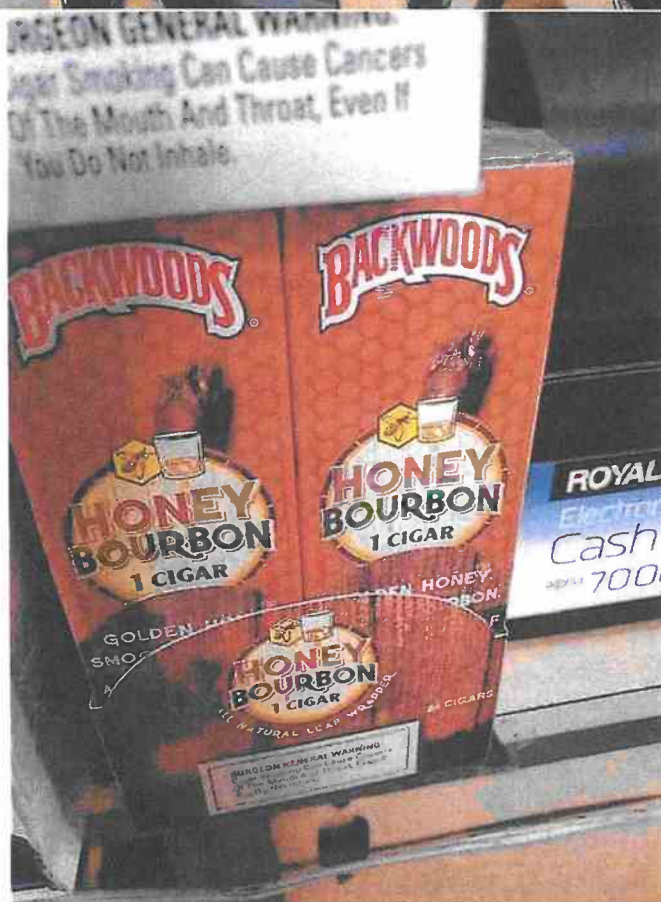


EXHIBIT
 2-5



EXHIBIT
tabbier 2-6

Properties For License 241 EARL ST

Licensee: MOUNDSVIEW RETAIL INC
DBA: MOUNDS PARK MARKET

License Licensee Lic Types Insurance Bond Requirements

Licensee Name: MOUNDSVIEW RETAIL INC
DBA: MOUNDS PARK MARKET
Sales Tax Id: ***** Non-Profit Worker's Comp: 00/00/0000
AA Contract Rec'd: 00/00/0000 AA Training Rec'd: 00/00/0000
AA Fee Collected: 00/00/0000 Discount Rec'd:

Other Agency Licenses Financial Hold Reasons

Other Licensing Agency Name / License Type	License #	Expiration	Reason	Active	Date

Contacts for this Licensee

Last Name	First Name	Title	Bus. Phone	Home Phone	Contact Address
JAHED	AKIL	OWNER	(651) 772-8511	(763) 221-7633	241 EARL ST 8126 PLEASANTVIEW

Background Check Required Contact Properties

License # 170000776 Save Changes to History OK Cancel Help

Properties For License 241 EARL ST

Licensee: MOUNDSVIEW RETAIL INC
DBA: MOUNDS PARK MARKET

License Licensee Lic Types Insurance Bond Requirements

Licensee Name: MOUNDSVIEW RETAIL INC
DBA: MOUNDS PARK MARKET
Sales Tax Id: ***** Non-Profit Worker's Comp: 00/00/0000
AA Contract Rec'd: 00/00/0000 AA Training Rec'd: 00/00/0000
AA Fee Collected: 00/00/0000 Discount Rec'd:

Other Agency Licenses Financial Hold Reasons

Other Licensing Agency Name / License Type	License #	Expiration	Reason	Active	Date

Contacts for this Licensee

Contact Address	City	Zip	DOB	Last Check	Drn
241 EARL ST	ST PAUL	55106	00/00/0000	00/00/0000	
8126 PLEASANTVIEW CIRCL	MOUNDSVIEW	55112	08/01/1998	00/00/0000	R41815

Background Check Required Contact Properties

License # 170000776 Save Changes to History OK Cancel Help

EXHIBIT
3-1

STAMP - Ownership / Zoning Information

[New Search](#)

[Help using this report](#)

Run Date: 05/16/22 03:07 PM

Last updated from Ramsey County data on:

House#:

Street Name:

Click on "Other Application" links below to access GISmo, MapIT, and Ramsey County Info

241 Earl St - Mounds Park Market - 55106-6402 - [Other Applications](#)

PIN: 332922340114

Census Tract: 34500 **Census Block:** 2011

Council Ward: 7 **District Council:** 4

Year Built:

Foundation Sq Feet: **Loan Company:**

Land Value: 23800

Building Value: 119200

Existing Primary Use: C- **Legality of Use:** Legal Non-Conforming Grocery Store

Occupancy Group Type: M

Units: 2

Zoning: RT1

Legal Desc: SUBURBAN HILLS SUBURBAN HILLS S 33 FT OF E 120 FT OF LOT 19 BLK 30

Owner:

241 Earl Llc
2303 Parkview Ln
Woodbury MN 55125-9377

Tax Owner:

241 Earl Llc
2303 Parkview Ln
Woodbury MN

Certificate of Occupancy Responsible Party:

Ahmad Khatib & Nadia Khatib (Zafer Bro In Law)
2303 Parkview Lane
Woodbury MN 55125-9377
651-772-2229



License Group Comments Text

05/16/2022

Licensee: **MOUNDSVIEW RETAIL INC**

DBA: **MOUNDS PARK MARKET**

License #: **20170000776**

9/22/2021 Authorize to Adjust refund of \$300 due to combining the AA of two penalties, one from the City's penalty matrix and the other from State Statutes form a TYCC failure that was conducted on 7/13/2021 and will remain on file as a failure. JNV
09/07/2021 \$50.00 fine to clerk paid. LKK
9/7/2021 \$800 fine paid. SLH
8/10/2021 Sent to the CAO for a flavor inspection failure \$500 fine JNV
8/9/2021 Flavor inspection failure- Sent to JNV for AA review KY
7/29/2021 Sent to the CAO for AA for a TYCC for a \$300 & a \$50 fine to the clerk JNV
07/28/2021 Sent to JNV for AA review KY
07/13/2021 Youth compliance check fail KY
02/10/2020 CSO Complaint inspection. CS# 20-008502. No violations of selling single menthol Newports behind the counter. KY
10/2/2019 Resolved CF 19-330 Imposes a \$500 matrix to be stayed pending no same or sim for 12 months. SLH
4/12/19 Tobacco compliance check, fail flavors. ARM
8/8/2018 Tobacco youth compliance check-Pass JNV
4/20/2018 Menthol education / inspection Pass JNV
03/13/2017 passed tobacco compliance check YD/BLB
03/01/2017 Rcvd. signed lic. cond. affidavit. JWF



Adverse Action Comments Text

05/16/2022

Licensee: MOUNDSVIEW RETAIL INC

DBA: MOUNDS PARK MARKET

License #: 20170000776

8/24/2021 Notice of Violation sent with an 9/7/2021 deadline to respond. SM
6/27/2019- Sent Notice of Violation with an 8/7/2019 deadline to respond. SM
Public Hearing Council Agenda. SM

9/13/2019-Notice of Council Hearing sent. On 10/2/2019



Licensee: MOUNDSVIEW RETAIL INC

DBA: MOUNDS PARK MARKET

License #: 20170000776

The Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the Re-establishment of Nonconforming Use Permit approved in Zoning File # 99-178351 for a grocery and carry-out restaurant at 241 Earl St is hereby re-approved for a grocery only (carry-out restaurant deleted) and modified on 1/12/07 with conditions #1-12

- 1. The sale of tobacco products at this store shall comply with Chapter 324 of the legislative code and shall be limited to packaged cigarettes, cigars, smokeless tobacco, and lighters. No other tobacco accessories shall be sold at this store.
- 2. None of the following items shall be sold at the store: Diluents and adulterants, separation gins and sifters, hypodermic syringes or needles, metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, permanent screens, hashish heads or punctured metal bowls, water pipes, carburetion tubes and devices, smoking and carburetion masks, roach clips, miniature cocaine spoons, and cocaine vials, chamber pipes, carburetor pipes, electric pipes, air-driven pipes, chillums, bongos, and ice pipes or chillers.
- 3. No drug paraphernalia shall be sold.
- 4. No individual razor blades or portions of opened packages of razor blades shall be sold.
- 5. The sale of blunts and single cigarettes is prohibited at this store, and tobacco products must be sold in the original packaging, as per §324.07 of the Saint Paul Legislative Code.
- 6. The store hours shall be no earlier than 8 a.m. and no later than 9 p.m.
- 7. There shall be no permanent or affixed temporary exterior signs that advertise products. All other signage shall comply with provisions of §64.640 Dayton's Bluff special district sign plan.
- 8. There shall be no flashing lights or signs in store windows.
- 9. No pay telephone shall be installed on the exterior of the store.
- 10. The rear portion of the lot shall be paved to provide off-street parking. The lot shall be paved in accordance with a site plan approved by city staff no later than June 4, 2007. At site plan review, site plan review staff must ensure that the site plan adequately addresses issues related to rubbish and other waste disposal for the tenants of the building.
- 11. Indoor and outdoor trash receptacles shall be located near the main entrance of the store and shall be regularly emptied.
- 12. This nonconforming use permit shall be reviewed by the zoning administrator for compliance at one (1) year from the date of the approval of this modified permit.

ADDITIONAL LICENSE CONDITION

- 13. Per City Ordinance, temporary window signs placed between the height of four (4) to seven (7) feet above grade shall not cover more than thirty (30) percent of this window space area, and cannot block views into the clerk or cashier station.



Derek Thooft
Attorney, Founder
(651) 485-1254
derek@thooftlawllc.com

Adam Pilon
Associate Attorney
(651) 419-8895 ext. 102
adam@thooftlawllc.com



THOOFT LAW
- LLC -

3460 Washington Dr.
Suite # 212
Eagan MN 55122
thooftlaw@gmail.com

ATTN: Attorney Lyndsey M. Olson
Civil Division
15 Kellogg Blvd. West
400 City Hall
Saint Paul, MN 55102

SENT VIA U.S. MAIL and EMAIL

RE: Cigarette/Tobacco License - Moundsview Retail Inc., d/b/a Mounds Park Market,
for the premises located at 241 Earl Street in Saint Paul; License ID #: 20170000776

June 15, 2022

Dear Ms. Olson,

Please be advised that Thooft Law LLC represents the Licensee relating to a letter dated June 7, 2022, and labeled Notice of Violation and Request for Revocation of License. The purpose of this correspondence is to dispute the facts, contest the revocation of license, and to request a hearing before an Administrative Law Judge regarding these issues.

Please do not hesitate to contact my office to discuss and see if we can find a resolution. I can be reached by email at derek@thooftlawllc.com or by phone at 651-485-1254 to discuss this matter further.

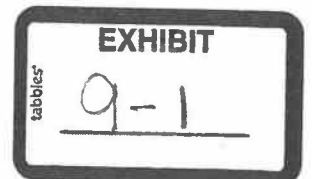
Sincerely,

THOOFT LAW, LLC
Derek D. Thooft
Attorney at Law

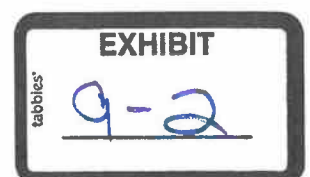


Page 1 of 1

lic_no	dba_nm	Address
20180001675	35E GAS ARCO	306 LARPEN TEUR AVE E
20170000483	7 WHITE BEARS LIQUOR	1785 7TH ST E
20160003802	75 MARKET AND DELI INC	1189 MINNEHAHA AVE E
20140002629	7TH GROCERY	43 7TH ST W
20170000328	A A MARKET	191 WESTERN AVE N STE 2
20010001028	ADAM'S FOOD & FUEL	1390 3RD ST E
20160002665	AIDAN CONVENIENCE STORE INC	400 ROBERT ST N
20070004801	AIRPORT BP	2526 7TH ST W
20160003307	ANNAPOLIS SUPER USA #002	1333 THOMAS AVE
20210000282	ARCADE WINE & SPIRITS	1100 ARCADE ST
20180001260	ARMON SUPER USA	97 ANNAPOLIS ST E UNIT 1
20160002560	ASIAN MARKET	1423 RICE ST
20210001553	AVALON ON GRAND	1652 GRAND AVE
20080003854	BIG DISCOUNT LIQUOR	945 RICE ST STE C
20180002156	BIG TOP LIQUORS	1544 UNIVERSITY AVE W
20210001384	BLAIZE LIQUOR	137 MARYLAND AVE W
20150002465	BLAIZE LIQUOR CORPORATION	137 MARYLAND AVE W
20040000866	CAPITAL WINE & SPIRIT	531 RICE ST
20070002376	CAPITOL CITY STATION	1205 HOMER ST
20060003657	CARTER'S BP	623 COMO AVE
20060001417	CASE MINI MARKET	933 CASE AVE
20180002499	CHARLIE'S	444 CEDAR ST UNIT 207
20140000142	CHI-TOWN GRILL AND GROCERY	1201 EDGERTON ST
0021293	CHRISTINE LIQUORS	111 CESAR CHAVEZ ST
20060001908	COMO RAYMOND BP	2102 COMO AVE
0077411	COOPER'S FOODS	633 7TH ST W
20080003333	CUB FOODS	1177 CLARENCE ST
0064490	CUB FOODS	1440 UNIVERSITY AVE W
20040001004	CUB FOODS SUNRAY	2197 OLD HUDSON ROAD
20130000151	CUB LIQUOR	2215 OLD HUDSON ROAD
20130003588	D & L FOOD AND GAS	626 LARPEN TEUR AVE W
20070004714	DANNECKER'S GROCERY & LIQUORS	793 RANDOLPH AVE
20170002905	DOLLAR GENERAL STORE #19171	1990 SUBURBAN AVE
20170002904	DOLLAR GENERAL STORE #19172	1055 PAYNE AVE
20170002903	DOLLAR GENERAL STORE #19173	1546 WHITE BEAR AVE N
20010005079	DOUBLE DRAGON FOODS	121 MARYLAND AVE W
20140001795	DOWNTOWN BP	542 ROBERT ST N
20150003728	DRAGON STAR ORIENTAL FOOD	633 MINNEHAHA AVE W
20120003366	EAST 7TH LIQUOR	385 7TH ST E UNIT 1
20200001880	EAST MARKET GROCERY AND TOBACCO	913 PAYNE AVE
20190003644	EAST SIDE GROCERY	1340 PAYNE AVE UNIT B
0018084	EAST SIDE LIQUOR STORE	1361 MARYLAND AVE E
20170004641	EASTERN HEIGHTS BP	1785 SUBURBAN AVE
20030004635	FAMILY DOLLAR STORE #25718	1536 UNIVERSITY AVE W
20010001023	FAMILY DOLLAR STORES	2463 7TH ST W
0063580	FIRST GRAND AVENUE LIQUORS	918 GRAND AVE
20170003741	FOOD PLANET	842 WHITE BEAR AVE N
20130003695	FORD PKWY BP	2005 FORD PKWY STE 2
20200001735	FRESH FOOD MARKET	65 GEORGE ST W
20150001660	FRIENDLY GROCERY	537 RICE ST
20200002430	GARSO MINI MART	189 7TH ST E



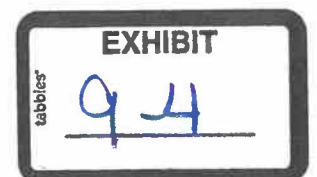
20130003229	GRAND STOP	236 GRAND AVE
20210000366	GREENWOLF HEMP & ORGANICS	55 5TH ST E STE 315
0097163	HASKELL'S	2221 FORD PKWY
20190001092	HEIMIE'S HABERDASHERY	400 ST PETER ST
20030003255	HIGHLAND PARK AMOCO	1191 RANDOLPH AVE
19980007193	HIGHLAND SERVICE/MINNOCO	485 SNELLING AVE S
20210000873	HILLCREST LIQUOR	1511 WHITE BEAR AVE N
20120000274	HILLCREST LIQUORS INC	1511 WHITE BEAR AVE N
20170001478	HOLIDAY 3503	1770 OLD HUDSON ROAD
20140002290	HOLIDAY STATION STORE #3587	281 SNELLING AVE N
0016584	HOLIDAY STATIONSTORE	500 7TH ST E STE 1
0014986	HOLIDAY STATIONSTORE	600 SNELLING AVE N
0018094	HOLIDAY STATIONSTORE	1444 MINNEHAHA AVE E
20000002046	HOLIDAY STATIONSTORE #167	1608 RICE ST
0014862	HOLIDAY STATIONSTORE #31	1400 ARCADE ST
20030004160	HOLIDAY STATIONSTORE #341	1345 MARSHALL AVE
20190003256	HOLIDAY STATIONSTORE #45	200 WABASHA ST S STE 1
0014861	HOLIDAY STATIONSTORE #5	629 RICE ST STE 1
20060000288	HOLIDAY STATIONSTORES INC	2199 UNIVERSITY AVE W
20210000510	INTERNATIONAL WINES & LIQUORS	710 CLEVELAND AVE S
0078350	JIMMY'S FOOD MARKET	532 WHITE BEAR AVE N Unit B
0012161	JUBILEE - ST MARIE'S	101 5TH ST E
0044113	KAMP'S	1059 WESTERN AVE N
20180003614	KELLOGG GROCERY	111 KELLOGG BLVD E STE 230
20160000243	KITTY'S CORNER 2	1530 SHERWOOD AVE
20190002709	LEXINGTON CONVENIENCE STORE INC	374 LEXINGTON PKWY N
20120000541	LIQUOR VILLAGE	2289 FORD PKWY
20040001923	LOWERTOWN WINE & SPIRITS	262 4TH ST E
20120002023	LUCKY'S STATION #6	1351 RANDOLPH AVE
0000231	M & H GAS STATION	721 ARCADE ST
0042028	MAHARAJA'S	205 7TH ST W
19980003487	MARSHALL CRETIN MINNOCO	2178 MARSHALL AVE
0033515	MARSHALL LIQUORS	2027 MARSHALL AVE
20150000203	MARSHALL STOP	2057 MARSHALL AVE UNIT A
20050003472	MARYLAND AMOCO/BP MARKET PLACE	1200 WHITE BEAR AVE N
20170001259	MARYLAND FUEL & AUTO SERVICE	406 MARYLAND AVE E
20160002943	MARYLAND SUPERMARKET INC	444 MARYLAND AVE W STE C
20010005143	MCCAFFERTY'S LIQUOR STORE	1325 RANDOLPH AVE
20090000223	MCKNIGHT MARKET	275 MCKNIGHT ROAD S
20040004319	METRO LIQUOR WAREHOUSE	854 7TH ST E
0016385	MGM LIQUOR WAREHOUSE	275 WHITE BEAR AVE N
20110004129	MIDWAY LIQUOR STORE	1955 UNIVERSITY AVE W UNIT 104
20190002891	MIDWEST AMERICAN SHAMAN	729 7TH ST E
20210000750	MINI PAC	1184 MARYLAND AVE E
20180004316	MINI PAC	1184 MARYLAND AVE E
20130000384	MINNEHAHA GROCERY	1818 MINNEHAHA AVE W
20200001653	MINNEHAHA LIQUORS	945 MINNEHAHA AVE W
20130005314	MINNOCO	1200 RICE ST
20210001131	MJ MARKET INC	922 THOMAS AVE
20160003381	MOUNDS LIQUOR	1047 HUDSON ROAD
20170000776	MOUNDS PARK MARKET	241 EARL ST
20190003616	NEW HOPE GROCERY LLC	1132 PAYNE AVE



20190002848	NOTHING BUT HEMP	844 GRAND AVE
20200000499	NOUR FOOD MARKET	361 EARL ST
0086811	PARK LIQUOR STORE	140 SNELLING AVE N
0092381	PARKWAY BP	304 WHEELOCK PKWY E
20130000654	PARKWAY LIQUOR BARREL	301 WHEELOCK PKWY E
0011821	PAT & MIKE'S LOBBY SHOPPE	85 7TH PLACE E
20010001998	PAT & MIKE'S LOBBY SHOPPE III	401 ROBERT ST N
20140001898	PAYNE AVENUE WINE & SPIRITS	980 PAYNE AVE
20200000171	PAYNE GROCERY	993 PAYNE AVE
20190003743	PAYNE ORIENTAL MARKET	1048 PAYNE AVE
20120000515	PERRIER WINES & LIQUORS	666 GRAND AVE
20200001649	PETERS MARKET	530 ST PETER ST
0028333	PHOENIX MARKET	685 3RD ST E
20030003402	PREMIUM STOP	1529 WHITE BEAR AVE N
20190002725	RED SEA MARKET	348 WABASHA ST N
0082865	RICE STREET SPUR	1440 RICE ST
20120005384	RITE LIQUOR	645 SNELLING AVE S
20150004127	RSS	180 5TH ST E UNIT 215
20150000459	SCOTT'S LIQUOR	1464 ST CLAIR AVE
19980007002	SELBY WINES & SPIRITS	778 SELBY AVE
20120005702	SEVENTH STREET LIQUOR BARREL	665 7TH ST W
19990006428	SHAMROCK PLAZA LIQUOR	289 MCKNIGHT ROAD S
20150002552	SHANGHAI MARKET	1546 COMO AVE
0016227	SHARRETT'S LIQUORS	2389 UNIVERSITY AVE W
20000003940	SKINNER'S PUB	919 RANDOLPH AVE
20200000610	SKY WAY MINI MART	55 5TH ST E STE 313
20200000417	SNACK SHOP MARKET	879 FREMONT AVE
20190001517	SNAP MARKET	957 RICE ST
20150003726	SNELLING AVE FINE WINES	500 SNELLING AVE N
20190000981	SNELLING ONE CO	717 SNELLING AVE N
20100004235	SPEEDWAY #4020	399 LEXINGTON PKWY N
20100004236	SPEEDWAY #4023	577 SMITH AVE S
20100004242	SPEEDWAY #4030	1625 RICE ST
20100004269	SPEEDWAY #4032	1734 7TH ST W
20100004245	SPEEDWAY #4038	390 MARYLAND AVE E
20100004267	SPEEDWAY #4040	1771 OLD HUDSON ROAD
20130001466	SPEEDWAY #4126	1445 7TH ST W
20100004247	SPEEDWAY #4151	1580 FORD PKWY
20100004248	SPEEDWAY #4356	56 SNELLING AVE N
20100004249	SPEEDWAY #4358	756 SNELLING AVE N
20100004250	SPEEDWAY #4359	950 LEXINGTON PKWY N
20100004251	SPEEDWAY #4413	2051 GRAND AVE
20100004253	SPEEDWAY #4419	925 GRAND AVE
20100004254	SPEEDWAY #4420	1125 7TH ST W
20100004256	SPEEDWAY #4421	970 UNIVERSITY AVE W
20100004262	SPEEDWAY #4428	232 FAIRVIEW AVE S
20100004268	SPEEDWAY #4430	846 JOHNSON PKWY
20100004264	SPEEDWAY #4601	296 7TH ST E
20190002472	SPEEDY FOOD	968 DALE ST N
20190001709	SPEEDY MARKET	589 DALE ST N
20090000399	SUN FOODS II INC	544 UNIVERSITY AVE W
20150000438	SUNRAY BP	344 RUTH ST N

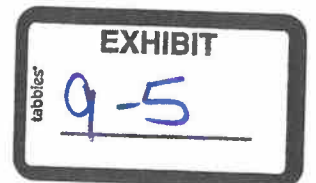


20200000955	SUNRISE GROCERY	440 UNIVERSITY AVE W STE 1
20140000218	SUNSHINE MARKET	1658 7TH ST E
20200001856	SUPER FOOD	896 RICE ST
0016326	SWEENEY'S SALOON	96 DALE ST N
20200002119	THE COURT SHOPPE	2550 UNIVERSITY AVE W 129 N
20130000044	THE LIQUOR VAULT	170 10TH ST E
20190001624	THE ONE STOP MARKET	1541 MARYLAND AVE E
0013412	THE ST PAUL HOTEL	350 MARKET ST
20130004840	THE TURF CLUB	1601 UNIVERSITY AVE W
20200001333	THE WHITE SQUIRREL BAR	974 7TH ST W
0078142	THOMAS LIQUORS	1941 GRAND AVE
20130000138	TOASTED WINE+SPIRITS+ALES	560 COMO AVE
20000005568	TOBASI STOP #2	933 MINNEHAHA AVE W
0096215	TOBASI STOP 1	809 SELBY AVE STE A
20190003653	TOM AND JOES MARKET	684 WESTERN AVE N
20090004071	TOWN MART	1980 STILLWATER AVE
20160002240	TWINS MARKET & MEAT	1055 4TH ST E
20210001463	TWINS MARKET AND MEAT	1055 4TH ST E
20190000978	UNIVERSITY ONE	525 LAFAYETTE ROAD
20210001128	W & T INC	604 WESTERN AVE N
0018370	WALGREENS #03665	1401 MARYLAND AVE E
20020005083	WALGREENS #06995	1788 OLD HUDSON ROAD
20030004339	WALGREENS #07388	1665 WHITE BEAR AVE N
20070004951	WALGREENS #11421	1180 ARCADE ST
20110000828	WALGREENS #13690	2099 FORD PKWY
20120003757	WALGREENS #15272	1110 LARPENTEUR AVE W
20170004001	WALGREENS #16476	398 WABASHA ST N
20060003027	WALGREENS #9795	1585 RANDOLPH AVE
0065780	WALGREENS #9795	734 GRAND AVE
20140003325	WEST SIDE GROCERY	466 ROBERT ST S
20080004170	WEST ST PAUL BP INC	675 7TH ST W
20100001282	WINNER GAS	2233 ENERGY PARK DRIVE STE 900 A
20210000879	WINNIPEG GROCERY	864 RICE ST
0036114	WOLTER BROTHERS PHARMACY & LIQUOR	438 UNIVERSITY AVE W
20100001866	YARMO LIQUOR	2489 7TH ST W
20020000728	YASIN FOOD MARKET	741 EDMUND AVE
20180003823	A A TOBACCO	191 WESTERN AVE N STE 1
20180004391	ARMON SUPER USA- TOBACCO	97 ANNAPOLIS ST E UNIT 2
20160002078	BEST OF TIMES	201 7TH ST W
20160002087	BEST OF TIMES	385 7TH ST E UNIT 2
20190002473	DALE TOBACCO	968 DALE ST N
20170004292	DOWNTOWN SMOKE SHOP	381 MINNESOTA ST
20190000870	EAST SIDE TOBACCO	1198 EARL ST UNIT 2
20180004216	EASTERN HEIGHTS SMOKE SHOP	1785 SUBURBAN AVE
20180002292	GO GET IT TOBACCO LLC	2484 UNIVERSITY AVE W
20180002285	HOLIDAY STATIONSTORE	629 RICE ST STE 2
20180002280	HOLIDAY STATIONSTORE	200 WABASHA ST S STE 2
20160001630	IMPERIAL VAPOR	227 SNELLING AVE N
20210000025	JIMMY'S TOBACCO	532 WHITE BEAR AVE N
20200002452	MARSHALL STOP	2057 MARSHALL AVE
20200002242	MARYLAND TOBACCO	1375 MARYLAND AVE E
20180003636	MARYLAND TOBACCO	444 MARYLAND AVE W STE B



20190001565 MAX TOBACCO
20190001567 MAX TOBACCO
20140002749 MCKNIGHT TOBACCO
20190002389 METRO TOBACCO
20140000379 MIDWAY TOBACCO
20160001653 MIDWAY TOBACCO AND VAPOR
20180003005 MINI TOBACCO 2
20180000598 MINNI MARKET TOBACCO
20200000433 MSP TOBACCO & VAPOR
20150001586 RICE ST TOBACCO
20180001947 RICE STREET TOBACCO
20100002067 STOGIES ON GRAND
20140001530 SUNRAY TOBACCO OUTLET PLUS
20170003892 THIRD STREET TOBACCO LLC
20180002265 TOBACCO
20070000804 TOBACCO & BEYOND
20190000924 TOBACCO SHOP
20170004026 TOBACCO SHOP
20180004026 TOBASI STOP 1
20180003705 TWONES TOBACCO
20200002181 UNION TOBACCO INC
20160000960 VAPE PROS
20140001994 WHITE BEAR TOBACCO

516 RICE ST STE 1
962 BURR ST STE 1
279 MCKNIGHT ROAD S
664 PAYNE AVE
1418 UNIVERSITY AVE W
1475 UNIVERSITY AVE W
929 MINNEHAHA AVE W
2019 MINNEHAHA AVE E UNIT 1
2439 7TH ST W
956 RICE ST
1196 RICE ST
961 GRAND AVE
2111 OLD HUDSON ROAD
937 3RD ST E
162 PENNSYLVANIA AVE W STE A
898 ARCADE ST
1390 3RD ST E STE 2
440 UNIVERSITY AVE W UNIT 2
809 SELBY AVE
2005 FORD PKWY STE 1
567 STRYKER AVE
681 SNELLING AVE N
1662 WHITE BEAR AVE N



City, State & Zip

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CITY OF SAINT PAUL

Business Licensing
375 Jackson Street, Suite 220
Saint Paul, Minnesota 55101-1806

Telephone: 651-266-8989
Facsimile: 651-266-9124
Web: www.stpaul.gov/dsi

August 26, 2021

NOTICE OF PUBLIC HEARING

Cigarette/Tobacco License Holder:

The Saint Paul City Council will hold a public hearing to consider ordinance amendments to Chapter 324 – Tobacco to create separate licenses for Tobacco Products Shops and Tobacco Shops, to restrict pricing discounts or coupons, and to create a distance requirement between establishments licensed to sell tobacco. Ordinance language for the proposed revisions can be found below.

The public hearing will be held:

Date:	October 20, 2021
Time:	3:30 P.M.
Location:	Remotely

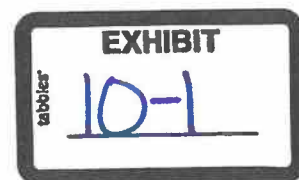
The public may comment on public hearing items in writing or via voicemail. Any comments and materials submitted by 12:00 pm of the day before the meeting will be attached to the public record and available for review by the City Council. Comments may be submitted as follows:

Written public comment on public hearing items can be submitted to Contact-Council@ci.stpaul.mn.us, CouncilHearing@ci.stpaul.mn.us, or by voicemail at 651-266-6805. Comments can also be mailed to:

Offices of the Saint Paul City Council
310 City Hall
15 Kellogg Boulevard West
Saint Paul, MN 55102

More information regarding public comment can be found at: <https://www.stpaul.gov/departments/city-council>

If you have questions, please call the Department of Safety and Inspections at 651-266-8989.



An Equal Opportunity Employer

..Title

An Ordinance amending Chapter 324 of the Saint Paul Legislative Code in order to create separate licenses for Tobacco Products Shops and Tobacco Shops, to restrict pricing discounts or coupons, and to create a distance requirement between establishments licensed to sell tobacco.

..Body

SECTION 1

WHEREAS, the Saint Paul Zoning Code has a separate use identified as a "Tobacco Products Shop", St. Paul Leg. Code § 65.535; and

WHEREAS, Saint Paul Legislative Code, Chapter 324 regulates tobacco licenses in general, but does not distinguish between or define a Tobacco Products Shop and a Tobacco Shop; and

WHEREAS, the Council wishes to distinguish between a retail store that that is accessible to minors and can sell limited products (Tobacco Shop) and a retail store that that can only be entered by persons who are age 21 or over that can sell additional types of products (Tobacco Products Shop); and

WHEREAS, a clearer definition will allow the City to more easily enforce existing regulations; and

WHEREAS, Minnesota Statute § 609.685 regulates the sale of tobacco to persons under 21 imposing administrative, petty misdemeanor, and misdemeanor penalties and it is not necessary for a separate ordinance penalty; and

WHEREAS, price is the single most important factor in reducing smoking; and

WHEREAS, tobacco is a leading cause of premature, preventable death in Minnesota and high prices are the single most effective way of preventing youth from starting to smoke and encouraging adults to quit; and

WHEREAS, cigarettes, e-cigarettes, cigars and smokeless tobacco, contain nicotine, which is highly addictive; and

WHEREAS, Minnesota's progress in reducing smoking among youth and adults is undermined by price discounts and price promotions and in 2018 the rate of tobacco used among youth increased for the first time in 17 years; and

WHEREAS, tobacco companies spent \$9.1 billion in 2018 to lower the price of tobacco products by using strategies like coupons and retail promotions; and they send coupons in birthday cards, pass them out at events and bars, promote them inside stores, and send emails and text alerts through their smartphone apps; and

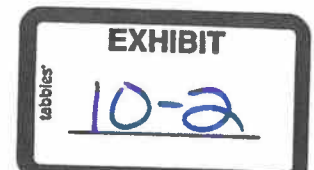
WHEREAS, Minnesota adult smokers who redeemed cigarette coupons were less likely to quit smoking than those who didn't use coupons; and Minnesota adult nonsmokers who receive tobacco coupons are twice as likely to become smokers; and

WHEREAS, young smokers, women, and African Americans are more likely to use tobacco coupons or promotions; and

WHEREAS, Saint Paul already has a minimum price of \$2.60 per cigar; and

WHEREAS, Youth who lived in neighborhoods with more tobacco outlets were more likely to try smoking and studies recommend tobacco prevention policies to decrease the number of tobacco outlets; and

WHEREAS, 41% of US teens (ages 13-16) lived within ½ mile of a tobacco outlet, and 44.4% attended school within 1,000 feet of tobacco outlet; and



WHEREAS, young adults ages 18-24 who lived in neighborhoods with more tobacco outlets were more likely to try non-cigarette combustible products like cigars, and adults ages 25-34 who lived in neighborhoods with high tobacco outlet density were more likely to try cigarettes; and

WHEREAS, combining density policies with menthol sales restrictions has the greatest potential to reduce cigarette smoking in communities disproportionately impacted by the tobacco industry and the general Minnesota population; and

WHEREAS, research has also shown that density of tobacco outlets normalizes tobacco use, increases the amount of tobacco advertising and promotion that youth encounter, and that communities with higher density of tobacco outlets have higher smoking rates; now, therefore be it

RESOLVED, that the Council of the City of Saint Paul does hereby ordain:

SECTION 2

Section 324.01 of the Saint Paul Legislative Code is hereby amended as follows:

Sec. 324.01. License required.

- (a) No person shall sell or offer for sale at retail within the city any ~~tobacco, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery~~ licensed product or in any manner represent or hold himself or herself out as one who sells or offers for sale at retail any licensed ~~tobacco, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery~~ product or maintain a tobacco vending machine for the sale of ~~tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery~~ licensed products without a license from the city.
- (b) A tobacco vending machine may be located in a public accommodation, provided that:
 - (1) All tobacco vending machines shall be operable only by the activation of an electronic switch operated by an employee of the establishment before each sale, or by insertion of a token provided to the purchaser by an employee of the licensee;
 - (2) Any machine shall be located in the immediate vicinity, plain view and control of a responsible employee so that all ~~tobacco~~ purchases will be readily observable by that employee. The tobacco vending machine shall not be located in a coatroom, restroom, unmonitored hallway, outer waiting area or similar unmonitored areas. The tobacco vending machine shall be inaccessible to the public when the establishment is closed.
 - (3) Any tobacco vending machine shall have posted on or near it a sign with the statement, in letters at least one-half (½) inch high, "The sale of tobacco products or electronic delivery devices to persons under twenty-one is prohibited."
- (c) Any license issued pursuant to this chapter shall be issued to the person, firm or corporation that operates the principal business at that address. Each vending machine shall be required to have a separate license.
- (d) No license may be issued pursuant to this chapter for a location or place of sale if a tobacco license previously issued for that location or place of sale has been revoked for any reason other than nonpayment of license fees within the past five (5) years; ~~subject to the following exceptions:~~
 - (1) ~~Notwithstanding subdivision (d), a license may be issued if the new applicant:~~
 - a. ~~Currently holds another tobacco license in the city;~~
 - b. ~~Has held the license for at least five (5) years; and~~
 - c. ~~The license:~~
 1. ~~Has not been subject to adverse action within the past two (2) years;~~
 2. ~~Has been subject to no more than one (1) adverse action within the past five (5) years; and~~
 3. ~~Is not the subject of any pending adverse actions.~~



- ~~(2) Notwithstanding subdivision (d), a license may be issued if the new applicant is otherwise able to demonstrate at least five (5) years of previous experience operating a tobacco retail establishment in a law abiding manner in the State of Minnesota. In considering an application made pursuant to this subsection, the factors to be considered by the council include, but are not limited to:~~
- ~~a. Any adverse or disciplinary actions against any business licenses held by the applicant in the previous five (5) years; and~~
 - ~~b. Any violations of the law related to operating a retail establishment, committed by the applicant in the previous five (5) years, regardless of whether any criminal charges have been brought in connection therewith.~~
- ~~(3) Any license granted pursuant to subpart (d)(1) or (d)(2) must be approved by the affirmative vote of no less than five (5) members of the council.~~

SECTION 3

Section 324.02 of the Saint Paul Legislative Code is hereby amended as follows:

Sec. 324.02. License for each location or vending machine.

A license shall permit the licensee to sell ~~tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery~~ licensed products at retail at the one (1) location specified in said license, and a separate license shall be required for each location or tobacco vending machine.

SECTION 4

Section 324.03 of the Saint Paul Legislative Code is hereby amended to read as follows:

Sec. 324.03. - Definitions.

The following words and phrases, as used in this chapter, ~~shall will~~, for the purposes of this chapter, have the meanings respectively ascribed to them in this section, except in those cases where the context clearly indicates a different meaning:

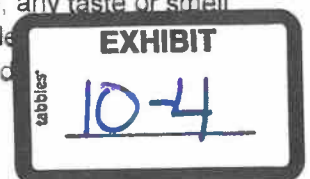
(1) *Cigar* means any roll of tobacco that is wrapped in tobacco leaf, or in any other substance containing tobacco, with or without a tip or mouthpiece, that is not a cigarette as defined in Minn. Stat. § 297F.01, subd. 3, as may be amended from time to time.

(2) *Cigarette* means and includes any roll for smoking, made wholly or in part of tobacco, irrespective of size and shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except whole tobacco leaf, and includes any cigarette as defined in Minn. Stat. § 297F.01, subd. 3.

(3) *Drug paraphernalia* means drug paraphernalia as defined in Saint Paul Legislative Code Section 255.01.

~~(23) *Electronic delivery device* means any product containing or delivering nicotine, lobelia, or any other substance, whether natural or synthetic, intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately. Electronic delivery device does not include any product that has been approved or certified by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose.~~

~~(3) *Flavored product* means any tobacco product, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product that contains a taste or smell, other than the taste or smell of tobacco that is distinguishable by an ordinary consumer either prior to or during the consumption of the tobacco product, electronic delivery device, or nicotine or lobelia delivery product, including, but not limited to, any taste or smell relating to menthol, mint, wintergreen, chocolate, cocoa, vanilla, honey, fruit or any candy, de beverage, herb, or spice. A public statement or claim, whether express or implied, made or d~~



the manufacturer of a tobacco product, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such product or device, that the product or device has or produces a taste or smell other than tobacco shall will constitute presumptive evidence that the product or device is a flavored product.

(5) Licensed products means collectively any tobacco, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product.

(46) Nicotine or lobelia delivery product means any product containing or delivering nicotine or lobelia, whether natural or synthetic, intended for human consumption, or any part of such a product, that is not a tobacco product or an electronic delivery device, as defined in this section. Nicotine or lobelia delivery product does not include any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose.

(7) Non-discounted price means the higher of the price listed for licensed products on a package or the price listed on any related shelving, posting, advertising or display at the place where the tobacco product is sold or offered for sale plus all applicable taxes if such taxes are not included in the sale price.

(8) Price reduction instrument means any coupon, voucher, rebate, card, paper, note, form, statement, ticket, image, or other issue, whether in paper, digital, or any other form, not included in the nondiscounted price, used for commercial purposes to receive an article, product, service, or accommodation without charge or at a discounted price.

(59) Sale means and includes any transfer, conditional or otherwise, of title or possession.

(610) Sale at retail means and includes all sales except those where the merchandise is sold for the purpose of resale by a person principally engaged in selling merchandise for resale.

(11) Snuff means any tobacco product that consists of cut, ground, powdered, or leaf tobacco and that is intended to be placed in the oral or nasal cavity.

(12) Snus means any smokeless tobacco product marketed and sold as snus, and sold in ready-to-use pouches or loose as a moist powder.

(713) Tobacco or tobacco product means any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product, including, but not limited to cigarettes, cigars, little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snus; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobacco; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco. Tobacco products excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

(14) Tobacco License means either a Tobacco Shop or a Tobacco Products Shop license.

(15) Tobacco Shop License means a license issued to a person, firm, or corporation for an establishment that:

a. May offer for sale licensed products which are accessible to the public only with the intervention of a store employee; and,

b. May allow persons who are under the age of 21 to enter the establishment; and

(16) Tobacco Products Shop License means a license issued to a person, firm, or corporation for an establishment that:

a. Must derive at least ninety (90) percent of its revenue from the sale of licensed products;



- b. Must prohibit persons who are under the age of 21 from entering the establishment;
- c. Must be accessible only through a door opening directly to the outside; and
- d. Must be staffed by at least one individual solely dedicated to the tobacco products shop during all operating hours.

(817) *Tobacco-related devices* means cigarette papers, pipes for smoking, or other devices intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking, or inhalation of vapors of tobacco or tobacco products. Tobacco-related devices include components of tobacco-related devices which may be marketed or sold separately.

(18) *Tobacco vending machine* means a machine for vending ~~tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery devices~~ licensed products by the insertion of money, tokens, or other form of payment.

SECTION 5

Section 324.04 of the Saint Paul Legislative Code is hereby amended to read as follows:

Sec. 324.04. - Fee, duration, limitation on number of licenses.

(a) License fee, duration: The annual license fee for each ~~location of sale or each tobacco vending machine license issued under this chapter shall~~ will be established by ordinance as specified in section 310.09(b) of the Legislative Code. ~~The Each license shall~~ will expire one (1) year from the date of issuance during each calendar year. The annual license fee ~~shall~~ will be prorated for licenses in force less than a full year.

(b) Limitation on number of licenses and location:

(1) The total number of Tobacco Shop licenses issued under this chapter ~~by the city for the retail sale of tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products~~ shall will not exceed ~~two hundred forty-two (242)~~ one hundred fifty (150). The total number of Tobacco Products Shop licenses issued under this chapter will not exceed twenty-five 25. Establishments or locations holding either Tobacco Shop or Tobacco Product Shop licenses on ~~July 1, 2018, July 31, 2021,~~ or with an application of a license pending on July 1, 2018, July 31, 2021, that is ultimately granted ~~shall will~~ not be affected by this limitation, but ~~shall~~ will be entitled to have such licenses renewed or new license granted, subject to the following conditions exceptions:

(a) The establishment or location is in compliance with all other requirements of law and there exist no grounds for adverse actions against such licenses;

(b) The previous license has not terminated or expired more than one two (12) ~~two (12)~~ years before the new license had been first applied for;

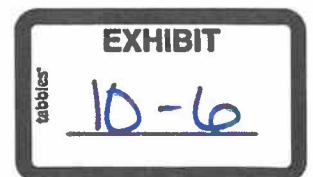
(c) A previous license has not been revoked by the council

(2) No Tobacco License may be issued to a person, firm, or corporation for any establishment located within one-half mile (2,640 feet) of another establishment possessing a Tobacco License. Said one-half mile being calculated and computed as the distance measured from the property line of the premises or building proposed as the location for the Tobacco License to the property line of any other Tobacco License.

SECTION 6

Section 324.05 of the Saint Paul Legislative Code is hereby amended to read as follows:

Sec. 324.05. - Application.



In addition to any other information required by the director, the applicant ~~shall~~ must state the true name of the applicant, the name under which he or she ~~shall~~ will conduct his or her business, whether such business is that of an individual, sole trader, firm, partnership, or corporation, and the address where such business is to be conducted. Any person applying for more than one (1) license ~~shall~~ must file with the department of safety and inspections a list of all locations of sale ~~and/or the location of each vending machine~~ for which license applications are being filed. Any change in the location of the place of sale ~~shall~~ will require a new license application be reported to the director within five (5) days of said change.

SECTION 7

Section 324.07 of the Saint Paul Legislative Code is hereby amended to read as follows:

Sec. 324.07. - Sales prohibited.

(a) No person ~~shall~~ may sell a cigarette outside its original packaging containing health warnings satisfying the requirements of federal law. No cigarettes ~~shall~~ may be sold individually or in packages of fewer than twenty (20) cigarettes.

(b) No person ~~shall~~ may sell or dispense ~~tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery devices-~~ licensed products from a motor vehicle or other movable place of business.

(c) No person ~~shall~~ may sell ~~tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery-~~ licensed products from vending machines unless the vending machines are in a facility that cannot be entered at any time by persons younger than twenty-one (21) years of age.

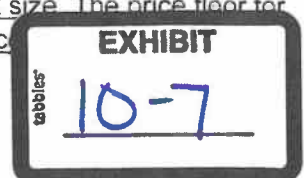
(d) No person ~~shall~~ may offer for sale ~~tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery-~~ licensed products in any open displays which are accessible to the public without the intervention of a store employee. This restriction ~~shall~~ does not apply to establishments holding a Tobacco Products Shop license, retail stores which derive at least ninety (90) percent of their revenue from tobacco and tobacco-related devices, and where the retailer ensures that no person younger than twenty-one (21) years of age is present, or permitted to enter, at any time.

(e) No person ~~shall~~ may sell, offer for sale, or otherwise distribute cigars in original packages containing three (3) or fewer cigars for a sale price, after any coupons, multipack or buy-one/get-one promotions, or any other discounts are applied and prior to applicable sales taxes being imposed, of less than two dollars and sixty cents (\$2.60) per cigar contained within. In addition, no person ~~shall~~ may sell, offer for sale, or otherwise distribute cigars in original packages of four (4) or more cigars for a sale price, after any coupons, multipack or buy-one/get-one promotions, or any other discounts are applied and prior to applicable sales taxes being imposed, of less than ten dollars and forty cents (\$10.40) per package.

(f) No person may sell or offer for retail sale cigarette packages or cartons for a sales price, prior to applicable sales taxes being imposed, of less than ten dollars (\$10) per pack.

(g) No person may sell or offer for retail sale moist snuff retail packages or multipacks for a sales price, prior to applicable sales taxes being imposed, of less than ten dollars (\$10) per 1.2 ounce package. No person may sell or offer for retail sale any smokeless tobacco/moist snuff unless it is sold in a package of at least 1.2 ounces minimum package size. The price floor for packages larger than 1.2 ounces shall be computed by adding \$2.50 for each 0.3 ounces or any fraction thereof in excess of 1.2 ounces, excluding all applicable taxes.

(h) No person may sell or offer for sale or otherwise distribute snus for a sales price, prior to applicable sales taxes being imposed, of less than ten dollars (\$10) per .32 ounce package. No person may sell or offer for retail sale any snus unless it is sold in a package of at least 0.32 ounces minimum pack size. The price floor for packages larger than .32 ounces shall be computed by adding \$2.50 for each 0.08 ounce thereof in excess of .32 ounces, excluding all applicable taxes.



~~(h) Sale to persons under the age of twenty-one (21) years prohibited.~~

~~(1) Whoever sells or furnishes tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to a person under the age of twenty-one (21) years is guilty of a misdemeanor for the first violation. Whoever violates this section a subsequent time within five (5) years of a previous conviction is guilty of a gross misdemeanor.~~

~~(2) It is an affirmative defense to a charge under this subdivision if the defendant proves by a preponderance of the evidence that the defendant reasonably and in good faith relied on proof of age as described in Minn. Stat. § 340A.503, subd. 6.~~

~~(i) No person shall may sell, offer for sale, or otherwise distribute any flavored products, unless excepted under section 324.07(k) of this chapter.~~

(j) Coupons and Price Promotions. No holder of a license issued under this chapter, nor any employee or agent of same, may:

(1) accept or redeem, offer to accept or redeem, or cause or hire any person to accept or redeem or offer to accept or redeem any price reduction instrument or other offer that provides any licensed product without charge or for less than the listed or non-discounted price; or

(2) sell or offer to sell licensed products, to consumers through any multi-pack discounts (e.g., "buy-two-get-one-free") or otherwise provide or distribute to consumers any licensed products, without charge or for less than the listed or non-discounted price in exchange for the purchase of any other licensed products.

Nothing in this ordinance is intended to prohibit communication of pricing information or other truthful, non-misleading information to consumers.

~~(hk) Exceptions~~

~~(1) Notwithstanding section (gj), individuals exempted under Minn. Stat. § 609.685 are also exempt from this section.~~

~~(2) The penalties in this section do not apply to a person under the age of twenty-one (21) years who purchases or attempts to purchase ~~tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia~~ licensed products while under the direct supervision of a responsible adult for training, education, research, or enforcement purposes.~~

~~(3) Retail stores holding a Tobacco Products Shop license that derive at least ninety (90) percent of their revenue from the sale of ~~tobacco products, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products~~ and where the retailer ensures that no person under twenty-one (21) years of age is permitted to enter, at any time are permitted to sell and offer for sale flavored tobacco products.~~

~~(4) Establishments holding an off-sale intoxicating liquor license issued by the City of Saint Paul under chapter 409 of the Saint Paul Legislative Code who also hold a license for tobacco sales under this chapter shall be permitted to sell and offer for sale flavored tobacco products only in the following flavors: menthol, mint, and wintergreen.~~

~~(il) Any violation of this chapter shall will subject the licensee to provisions of chapter 310 and section 324.10 of the Saint Paul Legislative Code.~~

SECTION 8

Section 324.08 of the Saint Paul Legislative Code is hereby amended to read as follows:

Sec. 324.08. Distribution of free products prohibited.



No person in the business of selling or promoting tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products or agent or employee of such person shall distribute any products free to any person on the sidewalks, pedestrian concourses, pedestrian malls or pedestrian skyway systems within the city.

SECTION 9

Section 324.09 of the Saint Paul Legislative Code is hereby amended to read as follows:

Sec. 324.09. ~~Use of false identification by minors prohibited.~~ Reserved.

~~No person under the age of twenty one (21) years shall purchase tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery licensed products using a driver's license, a Minnesota identification card, or other form of identification which is false, fictitious, altered or counterfeited as to age or any other material fact of identification. Use of false identification to purchase tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products is a misdemeanor.~~

SECTION 10

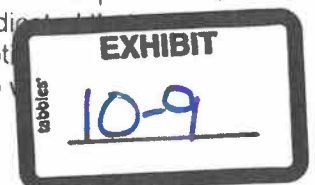
Section 324.10 of the Saint Paul Legislative Code is hereby amended to read as follows:

Sec. 324.10. Presumptive penalties.

- (a) *Purpose.* The purpose of this section is to establish a standard by which the city council determines the amount of fines, length of license suspensions and the propriety of revocations for licensees. These penalties are presumed to be appropriate for every case; however, the council may deviate therefrom in an individual case where the council finds and determines that there exist substantial and compelling reasons which make it appropriate to do so, except, the council may not deviate below statewide minimum penalties for licensees. When deviating from these standards, the council shall provide written reasons that specify why the penalty selected was more appropriate. Where no penalty is listed below, the presumptive penalty under Saint Paul Legislative Code Section 310.
- (b) *Presumptive penalties for licensees for violations.* Adverse penalties for licensees for violations or convictions shall be presumed as follows:

Type of Violation	Appearance			
	1st	2nd	3rd	4th
(1) Sale to a person under twenty-one (21) years of age	\$500.00 <u>200.00</u> fine	\$1000.00 <u>400.00</u> fine	\$2,000.00 <u>800.00</u> fine and 7-day suspension	Revocation
(2) <u>Display, possession or multiple incidents of sales of:</u> <ul style="list-style-type: none"> • <u>single cigarettes,</u> • <u>menthol tobacco products,</u> • <u>or</u> • <u>flavored tobacco products.</u> 	<u>10- day suspension</u>	<u>Revocation</u>		

- (c) *Fines payable without hearing.* Notwithstanding the provisions of section 310.05(l), a licensee who would be making a first or second appearance before the council may elect to pay the fine to the department of safety and inspections without a council hearing, unless the notice of violation has indicated that a hearing is required because of circumstances which may warrant deviation from the presumptive penalty. Payment of the recommended fine will be considered to be a waiver of the hearing to the department of safety and inspections.



is entitled, and will be considered an "appearance" for the purpose of determining presumptive penalties for subsequent violations.

(d) Computation of time. Except as otherwise provided by Minn. Stat. § 461.12, subd. 2, subsequent violations are subject to the following:

- (1) Second, third and fourth appearances. A second violation within twenty four (24) months shall be treated as a second appearance, a third within twenty four (24) months treated as a third appearance, and a fourth within twenty four (24) months treated as a fourth appearance for the purpose of determining the presumptive penalty.
- (2) Any appearance not covered by subsections (1) above shall be treated as a first appearance. Measurement of the twenty four (24) month period shall be as follows: The beginning date shall be the earliest violation's date of appearance before the council, and the ending date shall be the date of the new violation. In case of multiple new violations, the ending date to be used shall be the date of the violation last in time.

SECTION 11

This Ordinance will take effect and be in force thirty (30) days following passage, approval, and publication.





CITY OF SAINT PAUL

Business Licensing
375 Jackson Street, Suite 220
Saint Paul, Minnesota 55101-1806

Telephone: 651-266-8989
Facsimile: 651-266-9124
Web: www.stpaul.gov/dsi

September 1, 2021

MOUNDS PARK MARKET
241 EARL ST
ST PAUL, MN 55106-6402

NOTICE OF PUBLIC HEARING – DATE CHANGE

Cigarette/Tobacco License Holder:

The City recently mailed a Notice of Public Hearing dated August 26, 2021 providing notice that the Saint Paul City Council will hold a public hearing to consider ordinance amendments to Chapter 324 – Tobacco.

The public hearing date provided in that notice has been changed. The public hearing will now be held:

Date: October 20, 2021
Time: 3:30 P.M.
Location: Remote

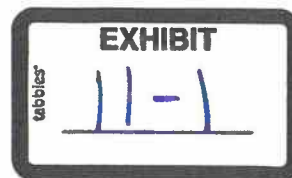
The public may comment on public hearing items in writing or via voicemail. Any comments and materials submitted by 12:00 pm of the day before the meeting will be attached to the public record and available for review by the City Council. Comments may be submitted as follows:

Written public comment on public hearing items can be submitted to Contact-Council@ci.stpaul.mn.us, CouncilHearing@ci.stpaul.mn.us, or by voicemail at 651-266-6805. Comments can also be mailed to:

Offices of the Saint Paul City Council
310 City Hall
15 Kellogg Boulevard West
Saint Paul, MN 55102

More information regarding public comment can be found at: <https://www.stpaul.gov/department/city-council>

If you have questions, please call the Department of Safety and Inspections at 651-266-8989.



An Equal Opportunity Employer



City of Saint Paul

City Hall and Court
House
15 West Kellogg
Boulevard
Phone: 651-266-8560

Signature Copy

Ordinance: Ord 21-29

File Number: Ord 21-29

Amending Chapter 324 of the Legislative Code in order to create separate licenses for Tobacco Products Shops and Tobacco Shops, to restrict pricing discounts or coupons, and to create a distance requirement between establishments licensed to sell tobacco.

THE COUNCIL OF THE CITY OF SAINT PAUL DOES ORDAIN:

SECTION 1

WHEREAS, the Saint Paul Zoning Code has a separate use identified as a "Tobacco Products Shop", St. Paul Leg. Code § 65.535; and

WHEREAS, Saint Paul Legislative Code, Chapter 324 regulates tobacco licenses in general, but does not distinguish between or define a Tobacco Products Shop and a Tobacco Shop; and

WHEREAS, the Council wishes to distinguish between a retail store that that is accessible to minors and can sell limited products (Tobacco Shop) and a retail store that that can only be entered by persons who are age 21 or over that can sell additional types of products (Tobacco Products Shop); and

WHEREAS, a clearer definition will allow the City to more easily enforce existing regulations; and

WHEREAS, Minnesota Statute § 609.685 regulates the sale of tobacco to persons under 21 imposing administrative, petty misdemeanor, and misdemeanor penalties and it is not necessary for a separate ordinance penalty; and

WHEREAS, price is the single most important factor in reducing smoking; and

WHEREAS, tobacco is a leading cause of premature, preventable death in Minnesota and high prices are the single most effective way of preventing youth from starting to smoke and encouraging adults to quit; and

WHEREAS, cigarettes, e-cigarettes, cigars and smokeless tobacco, contain nicotine, which is highly addictive; and

WHEREAS, Minnesota's progress in reducing smoking among youth and adults is undermined by price discounts and price promotions and in 2018 the rate of tobacco used among youth increased for the first time in 17 years; and

WHEREAS, tobacco companies spent \$9.1 billion in 2018 to lower the price of tobacco products by using strategies like coupons and retail promotions; and they send coupons in birthday cards, pass them out at events and bars, promote them inside stores, and send emails and text alerts through

EXHIBIT

tabbies

12-1

their smartphone apps; and

WHEREAS, Minnesota adult smokers who redeemed cigarette coupons were less likely to quit smoking than those who didn't use coupons; and Minnesota adult nonsmokers who receive tobacco coupons are twice as likely to become smokers; and

WHEREAS, young smokers, women, and African Americans are more likely to use tobacco coupons or promotions; and

WHEREAS, Saint Paul already has a minimum price of \$2.60 per cigar; and

WHEREAS, Youth who lived in neighborhoods with more tobacco outlets were more likely to try smoking and studies recommend tobacco prevention policies to decrease the number of tobacco outlets; and

WHEREAS, 41% of US teens (ages 13-16) lived within ½ mile of a tobacco outlet, and 44.4% attended school within 1,000 feet of tobacco outlet; and

WHEREAS, young adults ages 18-24 who lived in neighborhoods with more tobacco outlets were more likely to try non-cigarette combustible products like cigars, and adults ages 25-34 who lived in neighborhoods with high tobacco outlet density were more likely to try cigarettes; and

WHEREAS, combining density policies with menthol sales restrictions has the greatest potential to reduce cigarette smoking in communities disproportionately impacted by the tobacco industry and the general Minnesota population; and

WHEREAS, research has also shown that density of tobacco outlets normalizes tobacco use, increases the amount of tobacco advertising and promotion that youth encounter, and that communities with higher density of tobacco outlets have higher smoking rates; now, therefore be it

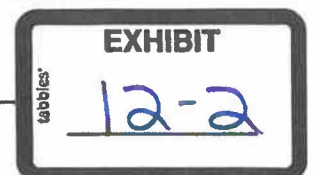
RESOLVED, that the Council of the City of Saint Paul does hereby ordain:

SECTION 2

Section 324.01 of the Saint Paul Legislative Code is hereby amended as follows:

Sec. 324.01. License required.

- (a) No person shall sell or offer for sale at retail within the city any ~~tobacco, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery~~ licensed product or in any manner represent or hold himself or herself out as one who sells or offers for sale at retail any licensed ~~tobacco, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery~~ product or maintain a tobacco vending machine for the sale of ~~tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery~~ licensed products without a license from the city.
- (b) A tobacco vending machine may be located in a public accommodation, provided that:
- (1) All tobacco vending machines shall be operable only by the activation of an electronic switch operated by an employee of the establishment before each sale, or by insertion of a token provided to the purchaser by an employee of the licensee;



- (2) Any machine shall be located in the immediate vicinity, plain view and control of a responsible employee so that all ~~tobacco~~ purchases will be readily observable by that employee. The tobacco vending machine shall not be located in a coatroom, restroom, unmonitored hallway, outer waiting area or similar unmonitored areas. The tobacco vending machine shall be inaccessible to the public when the establishment is closed.
 - (3) Any tobacco vending machine shall have posted on or near it a sign with the statement, in letters at least one-half (½) inch high, "The sale of tobacco products or electronic delivery devices to persons under twenty-one is prohibited."
- (c) Any license issued pursuant to this chapter shall be issued to the person, firm or corporation that operates the principal business at that address. Each vending machine shall be required to have a separate license.
- (d) No license may be issued pursuant to this chapter for a location or place of sale if a tobacco license previously issued for that location or place of sale has been revoked for any reason other than nonpayment of license fees within the past five (5) years, ~~subject to the following exceptions:~~
- (1) ~~Notwithstanding subdivision (d), a license may be issued if the new applicant:~~
 - a. ~~Currently holds another tobacco license in the city;~~
 - b. ~~Has held the license for at least five (5) years; and~~
 - c. ~~The license:~~
 - 1. ~~Has not been subject to adverse action within the past two (2) years;~~
 - 2. ~~Has been subject to no more than one (1) adverse action within the past five (5) years; and~~
 - 3. ~~Is not the subject of any pending adverse actions.~~
 - (2) ~~Notwithstanding subdivision (d), a license may be issued if the new applicant is otherwise able to demonstrate at least five (5) years of previous experience operating a tobacco retail establishment in a law abiding manner in the State of Minnesota. In considering an application made pursuant to this subsection, the factors to be considered by the council include, but are not limited to:~~
 - a. ~~Any adverse or disciplinary actions against any business licenses held by the applicant in the previous five (5) years; and~~
 - b. ~~Any violations of the law related to operating a retail establishment, committed by the applicant in the previous five (5) years, regardless of whether any criminal charges have been brought in connection therewith.~~
 - (3) ~~Any license granted pursuant to subpart (d)(1) or (d)(2) must be approved by the affirmative vote of no less than five (5) members of the council.~~

SECTION 3

Section 324.02 of the Saint Paul Legislative Code is hereby amended as follows:

Sec. 324.02. License for each location or vending machine.

A license shall permit the licensee to sell ~~tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery~~ licensed products at retail at the one (1) location specified in said license, and a separate license shall be required for each location or tobacco vending machine.

SECTION 4

Section 324.03 of the Saint Paul Legislative Code is hereby amended to read as follows:

Sec. 324.03. - Definitions.



The following words and phrases, as used in this chapter, ~~shall~~will, for the purposes of this chapter, have the meanings respectively ascribed to them in this section, except in those cases where the context clearly indicates a different meaning:

(1) *Cigar* means any roll of tobacco that is wrapped in tobacco leaf, or in any other substance containing tobacco, with or without a tip or mouthpiece, that is not a cigarette as defined in Minn. Stat. § 297F.01, subd. 3, as may be amended from time to time.

(2) *Cigarette* means and includes any roll for smoking, made wholly or in part of tobacco, irrespective of size and shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except whole tobacco leaf, and includes any cigarette as defined in Minn. Stat. § 297F.01, subd. 3.

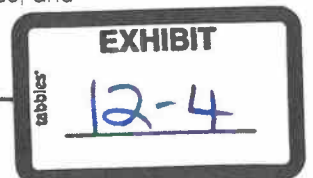
(3) *Drug paraphernalia* means drug paraphernalia as defined in Saint Paul Legislative Code Section 255.01.

(23) *Electronic delivery device* means any product containing or delivering nicotine, lobelia, or any other substance, whether natural or synthetic, intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately. Electronic delivery device does not include any product that has been approved or certified by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose.

(3)4 *Flavored product* means any tobacco product, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product that contains a taste or smell, other than the taste or smell of tobacco that is distinguishable by an ordinary consumer either prior to or during the consumption of the tobacco product, electronic delivery device, or nicotine or lobelia delivery product, including, but not limited to, any taste or smell relating to menthol, mint, wintergreen, chocolate, cocoa, vanilla, honey, fruit or any candy, dessert, alcoholic beverage, herb, or spice. A public statement or claim, whether express or implied, made or disseminated by the manufacturer of a tobacco product, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such product or device, that the product or device has or produces a taste or smell other than tobacco ~~shall~~ will constitute presumptive evidence that the product or device is a flavored product.

(5) *Licensed products* means collectively any tobacco, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product.

(46) *Nicotine or lobelia delivery product* means any product containing or delivering nicotine or lobelia, whether natural or synthetic, intended for human consumption, or any part of such a product, that is not a tobacco product or an electronic delivery device, as defined in this section. Nicotine or lobelia delivery product does not include any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose.



(7) Non-discounted price means the higher of the price listed for licensed products on a package or the price listed on any related shelving, posting, advertising or display at the place where the tobacco product is sold or offered for sale plus all applicable taxes if such taxes are not included in the sale price.

(8) Price reduction instrument means any coupon, voucher, rebate, card, paper, note, form, statement, ticket, image, or other issue, whether in paper, digital, or any other form, not included in the nondiscounted price, used for commercial purposes to receive an article, product, service, or accommodation without charge or at a discounted price.

(59) Sale means and includes any transfer, conditional or otherwise, of title or possession.

(610) Sale at retail means and includes all sales except those where the merchandise is sold for the purpose of resale by a person principally engaged in selling merchandise for resale.

(11) Snuff means any tobacco product that consists of cut, ground, powdered, or leaf tobacco and that is intended to be placed in the oral or nasal cavity.

(12) Snus means any smokeless tobacco product marketed and sold as snus and sold in ready-to-use pouches or loose as a moist powder.

(713) Tobacco or tobacco product means any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product, including, but not limited to cigarettes, cigars, little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snus; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobacco; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco. Tobacco products excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

(14) Tobacco License means either a Tobacco Shop or a Tobacco Products Shop license.

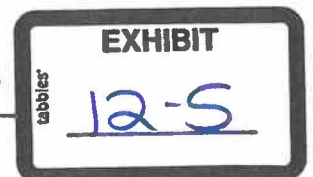
(15) Tobacco Shop License means a license issued to a person, firm, or corporation for an establishment that:

- a. May offer for sale licensed products which are accessible to the public only with the intervention of a store employee; and,
- b. May allow persons who are under the age of 21 to enter the establishment; and

(16) Tobacco Products Shop License means a license issued to a person, firm, or corporation for an establishment that:

- a. Must derive at least ninety (90) percent of its revenue from the sale of licensed products;
- b. Must prohibit persons who are under the age of 21 from entering the establishment;
- c. Must be accessible only through a door opening directly to the outside; and
- d. Must be staffed by at least one individual solely dedicated to the tobacco products shop during all operating hours.

(817) Tobacco-related devices means cigarette papers, pipes for smoking, or other devices



intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking, or inhalation of vapors of tobacco or tobacco products. Tobacco-related devices include components of tobacco-related devices which may be marketed or sold separately.

(18) *Tobacco vending machine* means a machine for vending ~~tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery devices~~ licensed products by the insertion of money, tokens, or other form of payment.

SECTION 5

Section 324.04 of the Saint Paul Legislative Code is hereby amended to read as follows:

Sec. 324.04. - Fee, duration, limitation on number of licenses.

(a) License fee, duration: The annual license fee for each ~~location of sale or each tobacco vending machine~~ license issued under this chapter shall will be established by ordinance as specified in section 310.09(b) of the Legislative Code. ~~The~~ Each license shall will expire one (1) year from the date of issuance during each calendar year. The annual license fee shall will be prorated for licenses in force less than a full year.

(b) Limitation on number of licenses and location:

(1) The total number of Tobacco Shop licenses issued under this chapter by the city for the retail sale of ~~tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products~~ shall will not exceed ~~two hundred forty two (242)~~ one hundred fifty (150). The total number of Tobacco Products Shop licenses issued under this chapter will not exceed twenty-five (25). Establishments or locations holding either Tobacco Shop or Tobacco Product Shop licenses on ~~July 1, 2018, July 31, 2021,~~ or with an application of a license pending on ~~July 1, 2018, July 31, 2021,~~ that is ultimately granted shall will not be affected by this limitation, but shall will be entitled to have such licenses renewed or new license granted, subject to the following conditions exceptions:

- (a) The establishment or location is in compliance with all other requirements of law and there exist no grounds for adverse actions against such licenses;
- (b) The previous license has not terminated or expired more than ~~one two (12)~~ years before the new license had been first applied for;
- (c) A previous license has not been revoked by the council

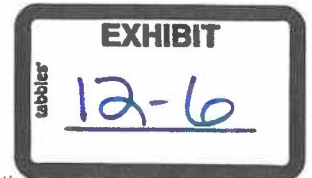
(2) No Tobacco License may be issued to a person, firm, or corporation for any establishment located within one-half mile (2,640 feet) of another establishment possessing a Tobacco License. Said one-half mile being calculated and computed as the distance measured from the property line of the premises or building proposed as the location for the Tobacco License to the property line of any other Tobacco License.

SECTION 6

Section 324.05 of the Saint Paul Legislative Code is hereby amended to read as follows:

Sec. 324.05. - Application.

In addition to any other information required by the director, the applicant shall must state the true name of the applicant, the name under which he or she shall will conduct his or her business, whether such business is that of an individual, sole trader, firm, partnership, or corporation, and the address where such business is to be conducted. Any person applying for more than one (1)



license shall ~~must~~ file with the department of safety and inspections a list of all locations of sale and/or the location of each vending machine for which license applications are being filed. Any change in the location of the place of sale shall will require a new license application be reported to the director within five (5) days of said change.

SECTION 7

Section 324.07 of the Saint Paul Legislative Code is hereby amended to read as follows:

Sec. 324.07. - Sales prohibited.

(a) No person shall ~~may~~ sell a cigarette outside its original packaging containing health warnings satisfying the requirements of federal law. No cigarettes shall ~~may~~ be sold individually or in packages of fewer than twenty (20) cigarettes.

(b) No person shall ~~may~~ sell or dispense ~~tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery devices~~ licensed products from a motor vehicle or other movable place of business.

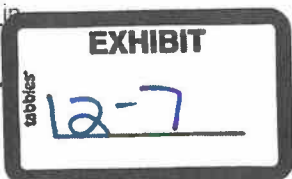
(c) No person shall ~~may~~ sell ~~tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery~~ licensed products from vending machines unless the vending machines are in a facility that cannot be entered at any time by persons younger than twenty-one (21) years of age.

(d) No person shall ~~may~~ offer for sale ~~tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery~~ licensed products in any open displays which are accessible to the public without the intervention of a store employee. This restriction shall does not apply to establishments holding a Tobacco Products Shop license, retail stores which derive at least ninety (90) percent of their revenue from tobacco and tobacco-related devices, and where the retailer ensures that no person younger than twenty-one (21) years of age is present, or permitted to enter, at any time.

(e) No person shall ~~may~~ sell, offer for sale, or otherwise distribute cigars in original packages containing three (3) or fewer cigars for a sale price, after any coupons, multipack or buy-one/get-one promotions, or any other discounts are applied and prior to applicable sales taxes being imposed, of less than two dollars and sixty cents (\$2.60) per cigar contained within. In addition, no person shall ~~may~~ sell, offer for sale, or otherwise distribute cigars in original packages of four (4) or more cigars for a sale price, after any coupons, multipack or buy-one/get-one promotions, or any other discounts are applied and prior to applicable sales taxes being imposed, of less than ten dollars and forty cents (\$10.40) per package.

(f) No person may sell or offer for retail sale cigarette packages or cartons for a sales price, prior to applicable sales taxes being imposed, of less than ten dollars (\$10) per pack.

(g) No person may sell or offer for retail sale moist snuff retail packages or multipacks for a sales price, prior to applicable sales taxes being imposed, of less than ten dollars (\$10) per 1.2 ounce package. No person may sell or offer for retail sale any smokeless tobacco/moist snuff unless it is sold in a package of at least 1.2 ounces minimum package size. The price floor for packages larger than 1.2 ounces shall be computed by adding \$2.50 for each 0.3 ounces or any fraction thereof in excess of 1.2 ounces, excluding all applicable taxes.



(h) No person may sell or offer for sale or otherwise distribute snus for a sales price, prior to applicable sales taxes being imposed, of less than ten dollars (\$10) per .32 ounce package. No person may sell or offer for retail sale any snus unless it is sold in a package of at least 0.32 ounces minimum pack size. The price floor for packages larger than .32 ounces shall be computed by adding \$2.50 for each 0.08 ounces or any fraction thereof in excess of .32 ounces, excluding all applicable taxes.

(i) No holder of a license issued under this chapter, nor any employee or agent of same may sell tobacco products to a person under the age of twenty-one (21) years. Sale to persons under the age of twenty-one (21) years prohibited.

~~(1) Whoever sells or furnishes tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to a person under the age of twenty-one (21) years is guilty of a misdemeanor for the first violation. Whoever violates this section a subsequent time within five (5) years of a previous conviction is guilty of a gross misdemeanor.~~

~~(1-2) It is an affirmative defense to a charge under this subdivision if the defendant proves by a preponderance of the evidence that the defendant reasonably and in good faith relied on proof of age as described in Minn. Stat. § 340A.503, subd. 6.~~

(j) No person shall may sell, offer for sale, or otherwise distribute any flavored products, unless excepted under section 324.07(k) of this chapter.

(k) Coupons and Price Promotions. No holder of a license issued under this chapter, nor any employee or agent of same, may:

(1) accept or redeem, offer to accept or redeem, or cause or hire any person to accept or redeem or offer to accept or redeem any price reduction instrument or other offer that provides any licensed product without charge or for less than the listed or non-discounted price; or

(2) sell or offer to sell licensed products, to consumers through any multi-pack discounts (e.g., "buy-two-get-one-free") or otherwise provide or distribute to consumers any licensed products, without charge or for less than the listed or non-discounted price in exchange for the purchase of any other licensed products.

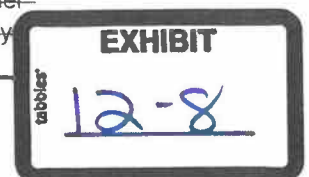
Nothing in this ordinance is intended to prohibit communication of pricing information or other truthful, non-misleading information to consumers.

(h) Exceptions

(1) Notwithstanding section (gk), individuals exempted under Minn. Stat. § 609.685 are also exempt from this section.

(2) The penalties in this section do not apply to a person under the age of twenty-one (21) years who purchases or attempts to purchase ~~tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia~~ licensed products while under the direct supervision of a responsible adult for training, education, research, or enforcement purposes.

(3) Retail stores holding a Tobacco Products Shop license that derive at least ninety (90) percent of their revenue from the sale of tobacco products, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products and where the retailer ensures that no person under twenty-one (21) years of age is permitted to enter, at any



are permitted to sell and offer for sale flavored tobacco products.

~~(4) Establishments holding an off-sale intoxicating liquor license issued by the City of Saint Paul under chapter 409 of the Saint Paul Legislative Code who also hold a license for tobacco sales under this chapter shall be permitted to sell and offer for sale flavored tobacco products only in the following flavors: menthol, mint, and wintergreen.~~

~~(im)~~ Any violation of this chapter shall will subject the licensee to provisions of chapter 310 and section 324.10 of the Saint Paul Legislative Code.

SECTION 8

Section 324.08 of the Saint Paul Legislative Code is hereby amended to read as follows:

Sec. 324.08. Distribution of free products prohibited.

~~No person in the business of selling or promoting tobacco, tobacco-related devices, electronic-delivery devices, or nicotine or lobelia-delivery products or agent or employee of such person shall distribute any tobacco products free to any person on the sidewalks, pedestrian concourses, pedestrian malls or pedestrian skyway systems within the city.~~

SECTION 9

Section 324.09 of the Saint Paul Legislative Code is hereby amended to read as follows:

Sec. 324.09. ~~Use of false identification by minors prohibited. Reserved.~~
~~No person under the age of twenty-one (21) years shall purchase tobacco, tobacco-related devices, electronic-delivery devices, or nicotine or lobelia-delivery licensed products using a driver's license, a Minnesota identification card, or other form of identification which is false, fictitious, altered or counterfeited as to age or any other material fact of identification. Use of false identification to purchase tobacco, tobacco-related devices, electronic-delivery devices, or nicotine or lobelia-delivery products is a misdemeanor.~~



SECTION 10

Section 324.10 of the Saint Paul Legislative Code is hereby amended to read as follows:

Sec. 324.10. Presumptive penalties.

(a) *Purpose.* The purpose of this section is to establish a standard by which the city council determines the amount of fines, length of license suspensions and the propriety of revocations for licensees. These penalties are presumed to be appropriate for every case; however, the council may deviate therefrom in an individual case where the council finds and determines that there exist substantial and compelling reasons which make it appropriate to do so, except, the council may not deviate below statewide minimum penalties for licensees. When deviating from these standards, the council shall provide written reasons that specify why the penalty selected was more appropriate. Where no penalty is listed below, the presumptive penalty under Saint Paul Legislative Code Section 310.

(b) *Presumptive penalties for licensees for violations.* Adverse penalties for licensees for violations or convictions shall be presumed as follows:

SEE ATTACHMENT

(c) *Fines payable without hearing.* Notwithstanding the provisions of section 310.05(l), a licensee who would be making a first or second appearance before the council may elect to pay the fine

to the department of safety and inspections without a council hearing, unless the notice of violation has indicated that a hearing is required because of circumstances which may warrant deviation from the presumptive fine amount. Payment of the recommended fine will be considered to be a waiver of the hearing to which the licensee is entitled, and will be considered an "appearance" for the purpose of determining presumptive penalties for subsequent violations.

(d) Computation of time. Except as otherwise provided by Minn. Stat. § 461.12, subd. 2, subsequent violations are subject to the following:

- (1) Second, third and fourth appearances. A second violation within twenty four (24) months shall be treated as a second appearance, a third within twenty four (24) months treated as a third appearance, and a fourth within twenty four (24) months treated as a fourth appearance for the purpose of determining the presumptive penalty.
- (2) Any appearance not covered by subsections (1) above shall be treated as a first appearance. Measurement of the twenty four (24) month period shall be as follows: The beginning date shall be the earliest violation's date of appearance before the council, and the ending date shall be the date of the new violation. In case of multiple new violations, the ending date to be used shall be the date of the violation last in time.

SECTION 11

This Ordinance will take effect and be in force thirty (30) days following passage, approval, and publication.



At a meeting of the City Council on 11/3/2021, this Ordinance was Passed.

Yea: 7 Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince, Councilmember Jalali, and Councilmember Yang

Nay: 0

Vote Attested by Trudy Moloney
Council Secretary Trudy Moloney

Date 11/3/2021

Approved by the Mayor Melvin Carter III
 Melvin Carter III

Date 11/8/2021

Clerk Shari Moore
 Shari Moore

Date _____

Test Signature Shari Moore
Shari Moore

Date _____





CITY OF SAINT PAUL

Business Licensing
375 Jackson Street, Suite 220
Saint Paul, Minnesota 55101-1806

Telephone: 651-266-8989
Facsimile: 651-266-9124
Web: www.stpaul.gov/dsi

December 2, 2021

[ADDRESS]

Cigarette/Tobacco License Holder,

The Saint Paul City Council recently amended Chapter 324 – Tobacco of the Saint Paul Legislative Code which governs the sale of tobacco, tobacco-related devices, electronic delivery devices or nicotine or lobelia delivery products. **The amended Chapter goes into effect December 11, 2021.** Primary changes to the Chapter include:

- Off-Sale liquor store operators may no longer offer any flavored Licensed Products to include menthol, mint and wintergreen flavors.
- Definition of a *Licensed Product* is collectively any tobacco, tobacco-related device, electronic delivery device or nicotine or lobelia delivery product.
- Definition of a *Tobacco License* is either a Tobacco Shop or a Tobacco Products Shop license.
- Definition of *Tobacco Shop License* is a license that may offer Licensed Products only through the intervention of a store employee AND may allow persons under the age of 21 into the establishment.
- Definition of *Tobacco Products Shop License* is a license for an establishment that must derive at least 90% of its revenue from licensed products; must prohibit persons under the age of 21 from entering; must be accessible only through a door opening directly to the outside; and must be staffed by a least one individual solely dedicated to it during all hours of operation.
- The City will issue no more than 150 Tobacco Shop licenses going forward.
- The City will issue no more than 25 Tobacco Products Shop licenses going forward.
- No Tobacco License will be issued to an establishment within on-half mile of an existing establishment possessing a Tobacco License.

AA-ADA-EEO Employer

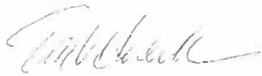


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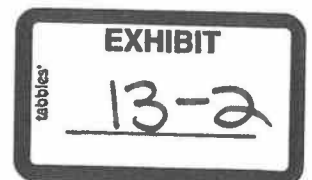
- Any change of location of an establishment possessing a Tobacco License will require a new license application.
- No cigarettes may be sold individually or in packages of less than 20.
- The minimum price for a package of cigarettes (individually or in cartons) is \$10.
- The minimum price for a package of moist snuff is \$10 per 1.2 ounce package.
- The minimum package size for moist snuff and smokeless tobacco is 1.2 ounces. The price floor for packages larger than 1.2 ounces shall be computed by adding \$2.50 for each 0.3 ounces or any fraction in excess of 1.2 ounces.
- The minimum price for a package of snus is \$10 per .32 ounce package.
- The minimum package size for snus is .32 ounces. The price floor for packages larger than .32 ounces shall be computed by adding \$2.50 for each 0.08 ounces or any fraction in excess of .32 ounces.
- Price promotions and/or the acceptance of coupons to reduce the price of any Licensed Product below the minimum price required by Chapter 324 is prohibited.
- Distribution of free Licensed Products is prohibited.
- Increase penalties for the sale of Licensed Products to person under the age of 21, and for the display, possession or multiple sales of single cigarettes or flavored products where prohibited.

License holders who have questions regarding this notice or questions regarding tobacco regulations or requirements may be directed to DSI Inspector Joseph Voyda at phone number (651) 266-9014.

Respectfully,



Eric Hudak
Licensing Manager, City of Saint Paul





[DATE 2022]

[ADDRESS BLOCK]

Tobacco License Holder,

The Saint Paul Legislative Code establishes minimum cigar, cigarette and smokeless tobacco prices, prohibits the sale of flavored tobacco products at most retail locations, prohibits the sale of all tobacco products to **anyone under the age of twenty-one (21)**, limits the size of temporary window signs in stores, and regulates customer access to the tobacco and tobacco-related products on display. Compliance checks for these items are typically conducted a minimum of once per calendar year where tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products are sold. The checks include but are not limited to DSI Licensing Inspectors visiting tobacco licensed establishments unannounced to observe product placement, labeling, provide regulation education to clerks, take photos, attempt a tobacco purchase with an underage buyer and to monitor for tobacco regulation(s) compliance.

Consider this letter a formal notice that the Department of Safety and Inspections (DSI) will soon begin to conduct the 2022 routine compliance checks for cigar, cigarette, smokeless tobacco pricing, discounts/coupons, flavored tobacco to include off sale liquor store establishments for menthol, mint and wintergreen flavors, underage sales compliance, temporary window sign(s), and tobacco display requirements. Compliance checks may be conducted at any time during the year and may be in response to complaints or reported alleged violation(s) of these or other applicable requirements.

Ordinance violations may be forwarded to the City Attorney's Office for adverse licensing action that may result in fines and potential license suspension or revocation.

NOTE: Presumptive penalties and additional ordinance information on the reverse side of this document.

If you have any questions about license requirements or inspection procedures, you may contact me by phone at 651-266-9014 or via email at joseph.voyda@ci.stpaul.mn.us.

Respectfully,

Joseph Voyda,
Inspector, DSI Licensing



Penalties: Sales to an Underage Buyer and Display, possession or sale of flavor tobacco products, chapter 324.10 section (b) of the Saint Paul Legislative Code.

Presumptive penalties for license holders for violations. Adverse penalties for licensees for violations or convictions shall be presumed as follows:

Type of Violation	Appearance			
	1st	2nd	3rd	4th
(1) Sale to a person under twenty-one (21) years of age	\$500.00 fine	\$1,000.00 fine	\$2,000.00 fine and 7-day suspension	Revocation
(2) Display, possession or multiple incidents of sales of; <ul style="list-style-type: none"> • single cigarettes; • menthol tobacco products; or • flavored tobacco products 	10-day suspension	Revocation		

Per Section 324.01(d) of the Legislative Code

No license may be issued pursuant to this chapter for a location or place of sale if a tobacco license previously issued for that location or place of sale has been revoked for any reason other than nonpayment of license fees within the past five (5) years.

NOTE: The Cigarette/Tobacco license is now referred to as "**Tobacco Shop**" license and the Cigarette/tobacco-product shop license is now referred to as a "**Tobacco Products Shop**" license per chapter 324 of the City of Saint Paul's Legislative code (see below).

Sec. 324.03. Definitions.

(15) *Tobacco license* means either a tobacco shop or a tobacco products shop license.

(16) *Tobacco shop license* means a license issued to a person, firm, or corporation for an establishment that:

- a. May offer for sale licensed products which are accessible to the public only with the intervention of a store employee; and,
- b. May allow persons who are under the age of twenty-one (21) to enter the establishment; and

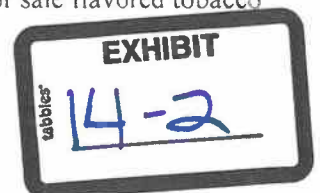
(17) *Tobacco products shop license* means a license issued to a person, firm, or corporation for an establishment that:

- a. Must derive at least ninety (90) percent of its revenue from the sale of licensed products;
- b. Must prohibit persons who are under the age of twenty-one (21) from entering the establishment;
- c. Must be accessible only through a door opening directly to the outside; and
- d. Must be staffed by at least one individual solely dedicated to the tobacco products shop during all operating hours.

Sec. 324.07. Sales prohibited.

(1) *Exceptions.*

(3) Retail stores holding a tobacco products shop license are permitted to sell and offer for sale flavored tobacco products.



Tobacco Ordinance



EXHIBIT
tabbles 14-3



CITY OF SAINT PAUL

Business Licensing
375 Jackson Street, Suite 220
Saint Paul, Minnesota 55101-1806

Telephone: 651-265-8989
Facsimile: 651-366-9124
Web: www.stpaul.gov/dsi

ACKNOWLEDGEMENT OF RECEIPT OF TOBACCO ORDINANCE 324

The undersigned, and applicant for a Cigarette/Tobacco-Product Shop License Located at _____, acknowledges that he/she was given a copy of the Department of Safety and Inspections (DSI) City of Saint Paul's Legislative code 324, 295 & 65.535 of the Tobacco ordinance. The applicant understands that he/she is responsible for reading, understanding and complying with the information contained therein.

Signature

Date

AA-ADA-EEO Employer



Chapter 324. - Tobacco

Sec. 324.01. - License required.

- (a) No person shall sell or offer for sale at retail within the city any tobacco, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product or in any manner represent or hold himself or herself out as one who sells or offers for sale at retail any tobacco, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product or maintain a tobacco vending machine for the sale of tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products without a license.
- (b) A tobacco vending machine may be located in a public accommodation, provided that:
 - (1) All tobacco vending machines shall be operable only by the activation of an electronic switch operated by an employee of the establishment before each sale, or by insertion of a token provided to the purchaser by an employee of the licensee;
 - (2) Any machine shall be located in the immediate vicinity, plain view and control of a responsible employee so that all tobacco purchases will be readily observable by that employee. The tobacco vending machine shall not be located in a coatroom, restroom, unmonitored hallway, outer waiting area or similar unmonitored areas. The tobacco vending machine shall be inaccessible to the public when the establishment is closed.
 - (3) Any tobacco vending machine shall have posted on or near it a sign with the statement, in letters at least one-half ($\frac{1}{2}$) inch high, "The sale of tobacco products or electronic delivery devices to persons under twenty-one is prohibited."
- (c) Any license issued pursuant to this chapter shall be issued to the person, firm or corporation that operates the principal business at that address. Each vending machine shall be required to have a separate license.
- (d) No license may be issued pursuant to this chapter for a location or place of sale if a tobacco license previously issued for that location or place of sale has been revoked for any reason other than nonpayment of license fees within the past five (5) years, subject to the following exceptions:
 - (1) Notwithstanding subdivision (d), a license may be issued if the new applicant:
 - a. Currently holds another tobacco license in the city;
 - b. Has held the license for at least five (5) years; and
 - c. The license:
 1. Has not been subject to adverse action within the past two (2) years;
 2. Has been subject to no more than one (1) adverse action within the past five (5) years; and
 3. Is not the subject of any pending adverse actions.
 - (2) Notwithstanding subdivision (d), a license may be issued if the new applicant is otherwise able to demonstrate at least five (5) years of previous experience operating a tobacco retail establishment in a law abiding manner in the State of Minnesota. In considering an application made pursuant to this subsection, the factors to be considered by the council include, but are not limited to:
 - a. Any adverse or disciplinary actions against any business licenses held by the applicant in the previous five (5) years; and
 - b. Any violations of the law related to operating a retail establishment, committed by the applicant in the previous five (5) years, regardless of whether any criminal charges have been brought in connection therewith.
 - (3) Any license granted pursuant to subpart (d)(1) or (d)(2) must be approved by the affirmative vote of no less than five (5) members of the council.

(Code 1956, § 366.02; Ord. No. 17714, § 1, 2-20-90; C.F. No. 94-341, § 1, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; Ord 15-12, § 1, 4-22-15; Ord 15-57, § 1, 1-6-16; Ord 19-57, § 1, 10-16-19)

Sec. 324.02. - License for each location or vending machine.

A license shall permit the licensee to sell tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products at retail at the one (1) location specified in said license, and a separate license shall be required for each location or tobacco vending machine.



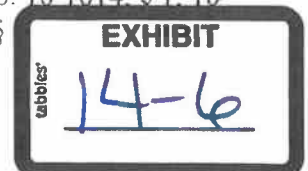
Sec. 324.03. - Definitions.

The following words and phrases, as used in this chapter, shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this section, except in those cases where the context clearly indicates a different meaning:

- (1) *Cigar* means any roll of tobacco that is wrapped in tobacco leaf, or in any other substance containing tobacco, with or without a tip or mouthpiece, that is not a cigarette as defined in Minn. Stat. § 297F.01, subd. 3, as may be amended from time to time.
- (2) *Electronic delivery device* means any product containing or delivering nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately. Electronic delivery device does not include any product that has been approved or certified by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose.
- (3) *Flavored product* means any tobacco product, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product that contains a taste or smell, other than the taste or smell of tobacco that is distinguishable by an ordinary consumer either prior to or during the consumption of the tobacco product, electronic delivery device, or nicotine or lobelia delivery product, including, but not limited to, any taste or smell relating to menthol, mint, wintergreen, chocolate, cocoa, vanilla, honey, fruit or any candy, dessert, alcoholic beverage, herb, or spice. A public statement or claim, whether express or implied, made or disseminated by the manufacturer of a tobacco product, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such product or device, that the product or device has or produces a taste or smell other than tobacco shall constitute presumptive evidence that the product or device is a flavored product.
- (4) *Nicotine or lobelia delivery product* means any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not a tobacco product or an electronic delivery device, as defined in this section. Nicotine or lobelia delivery product does not include any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose.
- (5) *Sale* means and includes any transfer, conditional or otherwise, of title or possession.
- (6) *Sale at retail* means and includes all sales except those where the merchandise is sold for the purpose of resale by a person principally engaged in selling merchandise for resale.
- (7) *Tobacco or tobacco product* means any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product, including, but not limited to cigarettes, cigars, little cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobacco; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco. Tobacco products excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.
- (8) *Tobacco-related devices* means cigarette papers, pipes for smoking, or other devices intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking, or inhalation of vapors of tobacco or tobacco products. Tobacco-related devices include components of tobacco-related devices which may be marketed or sold separately.
- (9) *Tobacco vending machine* means a machine for vending tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery devices by the insertion of money, tokens, or other form of payment.

(Code 1956, § 336.01; C.F. No. 94-341, § 3, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; C.F. No. 10-1014, § 1, 10-13-10; Ord 13-8, § 1, 4-24-13; Ord 14-34, § 1, 8-27-14; Ord 15-57, § 1, 1-6-16; Ord 17-28, §

Sec. 324.04. - Fee, duration, limitation on number of licenses.



The annual license fee for each location of sale or each tobacco vending machine shall be established by ordinance as specified in section 310.09(b) of the Legislative Code. The license shall expire one (1) year from the date of issuance during each calendar year. The annual license fee shall be prorated for licenses in force less than a full year.

The total number of licenses issued by the city for the retail sale of tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products shall not exceed two hundred forty-two (242). Establishments or locations holding licenses on July 1, 2018, or with an application of a license pending on July 1, 2018, that is ultimately granted shall not be affected by this limitation, but shall be entitled to have such licenses renewed or new license granted, subject to the following exceptions:

1. The establishment or location is in compliance with all other requirements of law and there exist no grounds for adverse actions against such licenses;
2. The previous license has not terminated or expired more than two (2) years before the new license had been first applied for;
3. A previous license has not been revoked by the council.

(Code 1956, § 336.03; Ord. No. 17386, § 1, 8-19-86; C.F. No. 92-1930, § 1, 1-14-93; C.F. No. 94-341, § 4, 4-13-94; C.F. No. 95-1271, § 1, 11-8-95; C.F. No. 97-314, § 1, 4-20-97; Ord 18-19, § 1, 6-27-18)

Sec. 324.05. - Application.

In addition to any other information required by the director, the applicant shall state the true name of the applicant, the name under which he or she shall conduct his or her business, whether such business is that of an individual, sole trader, firm, partnership, or corporation, and the address where such business is to be conducted. Any person applying for more than one (1) license shall file with the department of safety and inspections a list of all locations of sale and/or the location of each vending machine for which license applications are being filed. Any change in the location of the place of sale shall be reported to the director within five (5) days of said change.

(Code 1956, § 336.04; C.F. No. 94-341, § 5, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; C.F. No. 07-149, § 81, 3-28-07)

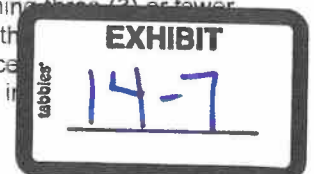
Sec. 324.06. - License to be displayed.

The license shall be displayed by the licensee in a prominent and conspicuous place at the licensed location. In the case of a tobacco vending machine, the operator shall also affix his or her name, address and telephone number in a conspicuous place on each machine.

(Code 1956, § 336.06; C.F. No. 94-341, § 6, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; Ord 15-57, § 1, 1-6-16)

Sec. 324.07. - Sales prohibited.

- (a) No person shall sell a cigarette outside its original packaging containing health warnings satisfying the requirements of federal law. No cigarettes shall be sold in packages of fewer than twenty (20) cigarettes.
- (b) No person shall sell or dispense tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery devices from a motor vehicle or other movable place of business.
- (c) No person shall sell tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products from vending machines unless the vending machines are in a facility that cannot be entered at any time by persons younger than twenty-one (21) years of age.
- (d) No person shall offer for sale tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products in any open displays which are accessible to the public without the intervention of a store employee. This restriction shall not apply to retail stores which derive at least ninety (90) percent of their revenue from tobacco and tobacco-related devices, and where the retailer ensures that no person younger than twenty-one (21) years of age is present, or permitted to enter, at any time.
- (e) No person shall sell, offer for sale, or otherwise distribute cigars in original packages containing three (3) or fewer cigars for a sale price, after any coupons, multipack or buy-one/get-one promotions, or any other discounts are applied and prior to applicable sales taxes being imposed, of less than two dollars and sixty cents (\$2.60) contained within. In addition, no person shall sell, offer for sale, or otherwise distribute cigars in



four (4) or more cigars for a sale price, after any coupons, multipack or buy-one/get-one promotions, or any other discounts are applied and prior to applicable sales taxes being imposed, of less than ten dollars and forty cents (\$10.40) per package.

- (f) No person shall sell, offer for sale, or otherwise distribute any flavored products.
- (g) Sale to persons under the age of twenty-one (21) years prohibited.
 - (1) Whoever sells or furnishes tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to a person under the age of twenty-one (21) years is guilty of a misdemeanor for the first violation. Whoever violates this section a subsequent time within five (5) years of a previous conviction is guilty of a gross misdemeanor.
 - (2) It is an affirmative defense to a charge under this subdivision if the defendant proves by a preponderance of the evidence that the defendant reasonably and in good faith relied on proof of age as described in Minn. Stat. § 340A.503, subd. 6.
- (h) Exceptions.
 - (1) Notwithstanding section (g), individuals exempted under Minn. Stat. § 609.685 are also exempt from this section.
 - (2) The penalties in this section do not apply to a person under the age of twenty-one (21) years who purchases or attempts to purchase tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia products while under the direct supervision of a responsible adult for training, education, research, or enforcement purposes.
 - (3) Retail stores that derive at least ninety (90) percent of their revenue from the sale of tobacco products, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products and where the retailer ensures that no person under twenty-one (21) years of age is permitted to enter, at any time are permitted to sell and offer for sale flavored tobacco products.
 - (4) Establishments holding an off-sale intoxicating liquor license issued by the City of Saint Paul under chapter 409 of the Saint Paul Legislative Code who also hold a license for tobacco sales under this chapter shall be permitted to sell and offer for sale flavored tobacco products only in the following flavors: menthol, mint, and wintergreen.
- (i) Any violation of this chapter shall subject the licensee to provisions of chapter 310 and section 324.10 of the Saint Paul Legislative Code.

(Code 1956, § 336.07; Ord. No. 17714, § 1, 2-20-90; C.F. No. 94-341, § 7, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; C.F. No. 06-872, § 1, 10-11-06; C.F. No. 10-1014, § 2, 10-13-10; Ord 13-8, § 2, 4-24-13; Ord 14-34, § 2, 8-27-14; Ord 15-57, § 1, 1-6-16; Ord 17-28, § 2, 11-1-17; Ord 19-57, § 2, 10-16-19)

Editor's note— Ord 17-28, § 2, adopted November 1, 2017, shall take effect and be in force beginning November 1, 2018.

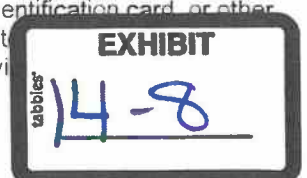
Sec. 324.08. - Distribution of free products prohibited.

No person in the business of selling or promoting tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products or agent or employee of such person shall distribute any products free to any person on the sidewalks, pedestrian concourses, pedestrian malls or pedestrian skyway systems within the city.

(Code 1956, § 336.08; Ord. No. 17714, § 1 2-20-90; C.F. No. 92-1930, § 2, 1-14-93; C.F. No. 94-341, § 8, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; Ord 15-57, § 1, 1-6-16)

Sec. 324.09. - Use of false identification by minors prohibited.

No person under the age of twenty-one (21) years shall purchase tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products using a driver's license, a Minnesota identification card, or other form of identification which is false, fictitious, altered or counterfeited as to age or any other matter. Use of false identification to purchase tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products is a misdemeanor.



(Ord. No. 17733, § 1, 5-8-90; C.F. No. 94-341, § 9, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; Ord 13-8, § 3, 4-24-13; Ord 15-57, § 1, 1-6-16; Ord 19-57, § 3, 10-16-19)

Sec. 324.10. - Presumptive penalties.

(a) *Purpose.* The purpose of this section is to establish a standard by which the city council determines the amount of fines, length of license suspensions and the propriety of revocations. These penalties are presumed to be appropriate for every case; however, the council may deviate therefrom in an individual case where the council finds and determines that there exist substantial and compelling reasons which make it appropriate to do so. When deviating from these standards, the council shall provide written reasons that specify why the penalty selected was more appropriate.

(b) *Presumptive penalties for violations.* Adverse penalties for violations or convictions shall be presumed as follows:

Type of Violation	Appearance			
	1st	2nd	3rd	4th
(1) Sale to a person under twenty-one (21) years of age	\$200.00 fine	\$400.00 fine	\$800.00 fine and 7-day suspension	Revocation

(c) *Fines payable without hearing.* Notwithstanding the provisions of section 310.05(l), a licensee who would be making a first or second appearance before the council may elect to pay the fine to the department of safety and inspections without a council hearing, unless the notice of violation has indicated that a hearing is required because of circumstances which may warrant deviation from the presumptive fine amount. Payment of the recommended fine will be considered to be a waiver of the hearing to which the licensee is entitled, and will be considered an "appearance" for the purpose of determining presumptive penalties for subsequent violations.

(d) *Computation of time.*

- (1) Second, third and fourth appearances. A second violation within twenty four (24) months shall be treated as a second appearance, a third within twenty four (24) months treated as a third appearance, and a fourth within twenty four (24) months treated as a fourth appearance for the purpose of determining the presumptive penalty.
- (2) Any appearance not covered by subsections (1) above shall be treated as a first appearance. Measurement of the twenty four (24) month period shall be as follows: The beginning date shall be the earliest violation's date of appearance before the council, and the ending date shall be the date of the new violation. In case of multiple new violations, the ending date to be used shall be the date of the violation last in time.

(Ord. No. 17733, § 3, 5-8-90; C.F. No. 94-341, § 11, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; C.F. No. 02-898, § 1, 11-6-02; C.F. No. 07-149, § 82, 3-28-07; Ord. No. 11-114, § 1, 12-28-11; Ord 15-57, § 1, 1-6-16; Ord 19-57, § 5, 10-16-19)

Editor's note— Ord 19-57, §§ 4, 5, repealed § 324.10 and renumbered § 324.11 as § 324.10. Former § 324.10 pertained to the use of tobacco prohibited and derived from Ord. No. 17733, § 2, adopted May 8, 1990; C.F. No. 94-341, § 10, adopted April 13, 1994; C.F. No. 97-314, § 1, adopted April 20, 1997; Ord 13-8, § 4, adopted April 24, 2013; and Ord 15-57, § 1, adopted January 6, 2016.



Chapter 295. - Sale of Imitation Tobacco Products and Novelty Lighters

Sec. 295.01. - Purpose and findings of fact.

The city council finds that:

Studies in journals such as BMJ (formerly British Medical Journal), Pediatrics, and Preventive Medicine have demonstrated that candy cigarettes and other imitation tobacco products predispose children to use tobacco later in life by desensitizing them and promoting tobacco use as culturally or socially acceptable. One such study concluded that 22% of adults who had regularly consumed candy cigarettes were regular or former smokers, compared with only 12% of adults who had never consumed candy cigarettes.

The World Health Organization's Framework Convention on Tobacco Control, which has been ratified by more than 160 countries which represent 85% of the world's population, lists the prohibition of "the manufacture and sale of sweets, snacks, toys or any other objects in the form of tobacco products which appeal to minors" as an effective legislative measure that discourages youth tobacco use.

Several countries, including Australia, Canada, Finland, Kuwait, Norway, Saudi Arabia, Thailand, and the United Kingdom have prohibited the sale of candy cigarettes. Several national retailer chains, including Conoco-Phillips, CVS, Exxon-Mobil, and Wal-Mart have agreed not to sell candy cigarettes and/or other imitation tobacco products.

Internal tobacco company documents disclosed as part of Minnesota's 1998 tobacco settlement reveal that tobacco manufacturers consented to the use of their trademarks by candy cigarette manufacturers in the hopes that such products would encourage children to become smokers. Tobacco companies viewed candy cigarettes as "effective advertising for future smokers."

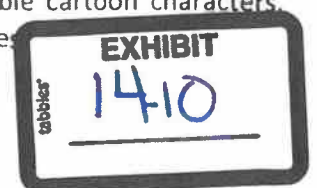
Under the terms of the 1998 Master Settlement Agreement between 46 states and the largest tobacco manufacturers, the manufacturers agreed not to oppose the passage of any state or local legislative proposals "intended by their terms to reduce youth access ... to tobacco products." A specific example of such a proposal is "limitations on non-tobacco products which are designed to look like tobacco products, such as bubble gum cigars, candy cigarettes, etc."

Sec. 295.02. - Definitions.

(a) *Imitation tobacco product* means either: any edible non-tobacco product designed to resemble a tobacco product; or any non-edible non-tobacco product designed to resemble a tobacco product that is intended to be used by children as a toy.

Examples of imitation tobacco products include, but are not limited to, candy or chocolate cigarettes, bubble gum cigars, shredded bubble gum resembling spit tobacco, and shredded beef jerky in containers resembling snuff tins. An electronic cigarette is not an imitation tobacco product.

(b) *Novelty lighter* means a a mechanical or electrical device typically used for lighting cigarettes, cigars or pipes that is designed to appear to be a toy, has entertaining audio or visual effects, or that resembles, in physical form or function, articles commonly recognized as appealing to or intended for use by children. Examples of novelty lighters include, but are not limited to, lighters that resemble cartoon characters, toys, guns, watches, musical instruments, vehicles, toy animals, food or beverages, notes or have flashing lights or other entertaining features.



(C.F. No. 09-313, § 2, 4-8-09)

Sec. 295.03. - Prohibitions.

No person shall sell or offer for sale any imitation tobacco product or novelty lighter within the city. No licensed establishment shall give away any imitation tobacco product or novelty lighter within the city.

This section shall not apply to cigarette lighters that were made before January 1, 1980, or that are considered to be collectable items.

(C.F. No. 09-313, § 3, 4-8-09)

Sec. 295.04. - Violations and penalties.

- (a) It is a violation for any person to fail to comply with the requirements of this chapter.
- (b) Penalties. Failure to comply with the requirement of this chapter shall be a basis for adverse action under Saint Paul Legislative Code § 310.06.
- (c) A violation of any provision of this chapter shall be a misdemeanor.

(C.F. No. 09-313, § 4, 4-8-09)

Sec. 295.05. - Severability and savings clause. If any portion of this chapter, or its application to any circumstances, is held invalid, the remaining portions shall be considered severable, and shall be given effect to the maximum effect possible.

ZONING

Sec. 65.535. - Tobacco products shop.

A retail establishment with a principal entrance door opening directly to the outside that derives more than ninety (90) percent of its gross revenue from the sale of loose tobacco, plants, or herbs and cigars, cigarettes, electronic cigarettes, pipes, and other smoking devices for burning tobacco and related smoking accessories and in which the sale of other products is merely incidental. "Tobacco products shop" does not include a tobacco department or section of any individual business establishment with any type of liquor, food, or restaurant license.

Standards and conditions:

- (a) No tobacco products shop shall be located within one-half (½) mile (2,640 feet) of another tobacco products shop.
- (b) In the BC community business (converted) and T2 traditional neighborhood districts, a conditional use permit is required for tobacco products shops with a floor area greater than two thousand five hundred (2,500) square feet.

(Ord. No. 11-26, § 1, 3-23-11; Ord 18-1, § 1, 1-24-2018)



It is illegal to sell tobacco to any person under the age of 18.

Always ask for an ID



Before Selling Tobacco

Check the valid photo ID of any person who appears to be under the age of 35.

Acceptable ID

Valid driver's license, instruction permit, or identification card of any state or providence of Canada

Valid U.S. Armed Forces ID

Valid Passport

How to Read a Minnesota Driver's License

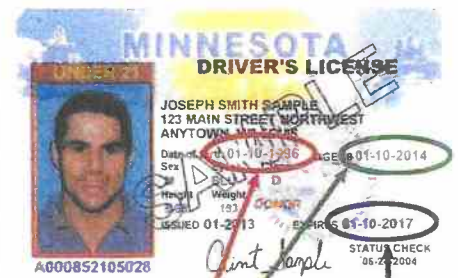
Standard Driver's License



Date of Birth

Expiration Date

Under 18 Provisional Driver's License



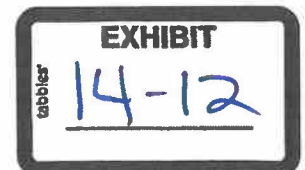
Date of Birth

Date Card Holder Turns 18
(No need to do any math)

Expiration Date

Selling tobacco to a minor is a misdemeanor and may result in a fine up to \$1,000 and/or 90 days in jail.

North Suburban Tobacco Compliance Project is a program of Association for Nonsmokers-MN www.ansrmn.org





St. Paul's New Menthol Sales Requirement

As of November 1, 2018, menthol, mint and wintergreen tobacco products may only be sold in adult-only tobacco product shops and liquor stores licensed to sell tobacco.

General reminders about the sale of tobacco:

Flavored tobacco products, such as kiwi strawberry hemp wraps and grape cigarillos, can only be sold in adult-only tobacco product shops (a store where at least 90 percent of revenue comes from tobacco sales). Menthol flavored tobacco products, including cigarettes, can only be sold in adult-only tobacco shops and liquor stores licensed to sell tobacco.

Cigars must be sold for a minimum price of \$2.60 each plus sales tax. The minimum price of cigars is as follows:

- o Single cigar = \$2.60 + sales tax
- o 2 Pack = \$5.20 + sales tax
- o 3 Pack = \$7.80 + sales tax
- o 4 Pack or larger = \$10.40 + sales tax

License holders must keep all tobacco products behind the counter or in a locked cabinet, unless minors under the age of 18 years are prohibited from entering at all times.

Penalties and adverse actions will be imposed for violations of the tobacco ordinance.

Dear Saint Paul Tobacco Vendor,

As of November 1, 2018, menthol, mint and wintergreen tobacco products can only be sold in adult-only tobacco product shops and liquor stores licensed to sell tobacco. This restriction includes all tobacco products such as cigarettes, cigars, blunt wraps, e-cigarettes and e-juice, smokeless tobacco products, and shisha. If a tobacco product has a taste or smell of menthol, mint, or wintergreen, these restrictions apply.

If you have questions or concerns, please contact the City of Saint Paul Licensing Department:

651-266-8989 or DSIComplaints@ci.stpaul.mn.us

Association for Nonsmokers-Minnesota
2395 University Avenue West, Suite 310
Saint Paul, MN 55114

NON-PROFIT ORG.
U.S. POSTAGE
PAID
Twin Cities, MN
Permit No. 2985



SAINT PAUL'S NEW CIGAR PRICING REQUIREMENT

As of April 13, 2016, if you sell non-premium cigars in Saint Paul, they must be sold at the following prices:



1 Cigar for at least

\$2.60
+sales tax



A Pack of
2 Cigars for at least

\$5.20
+sales tax



A Pack of
3 Cigars for at least

\$7.80
+sales tax



A pack of 4 or more
cigars for at least

\$10.40
+sales tax



General reminders about the sale of tobacco

- Stores must be licensed as a tobacco vendor to sell tobacco products, including electronic cigarettes.
- Tobacco products with flavors other than mint, menthol or wintergreen can only be sold in adult-only tobacco products shops (at least 90 percent of revenue from tobacco sales). Tobacco products include items such as cigars, shisha, blunt wraps, smokeless tobacco, e-cigarettes and e-cigarette liquid.
- Stores must keep all tobacco products behind the counter or in a locked cabinet, unless anyone under 18 is prohibited from entering at all times.
- Liquid sold for use in an electronic delivery device must be sold in child-resistant packaging. Stores are required to provide written proof from the manufacturer upon request from the City that packaging is child-resistant.
- Penalties for violating the minimum cigar pricing or flavored product restrictions are the same as other tobacco license-related violations: \$200 for a first violation; \$400 for a second violation; \$800 and license suspension for a third violation; and license revocation for a fourth violation.

Dear Saint Paul Tobacco Vendor,

As of April 13, 2016, flavored tobacco products, excluding menthol, mint c can only be sold in tobacco products shops accessible exclusively by older. Additionally, non-premium cigars must be sold for a minimum of \$2.60 each plus sales tax. The minimum price of cigars is as follows:

- Single Cigar - \$2.60 + sales tax
- 2 Pack - \$5.20 + sales tax
- 3 Pack - \$7.80 + sales tax
- 4 Pack or larger - \$10.40 + sales tax

This requirement applies regardless of promotional offering, such as buy one get one free. Please use this postcard as a guide for how to price non-premium cigars.

If you have any questions or concerns, please contact the City of Saint Paul Licensing Department: 651-266-8989 or DSLComplaints@ci.stpaul.mn.us

Association for Nonsmokers- Minnesota
2395 University Avenue West, Suite 310
Saint Paul, MN 55114

STANDARD MAIL PERMIT
US POSTAGE PAID
ZIP CODE 55171
PERMIT #92025

EXHIBIT

145

55171

STATE OF MINNESOTA)

) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

Shawn McDonald, being first duly sworn, deposes and says that on June 27, 2019, he served the attached **NOTICE OF VIOLATION, RECOMMENDATION FOR IMPOSITION OF \$500.00 MATRIX PENALTY** and a correct copy thereof in an envelope addressed as follows:

Mounds Park Market
241 Earl St
Saint Paul, MN 55106
Attn: Moundsview Retail INC

241 Earl LLC/C/O Adam Khatib
2303 Parkview Lane
Woodbury, MN 55125

Lissa Jones-Lofgren, Executive Director,
Dayton's Bluff Community Council;
804 Margaret Street
Saint Paul, MN 55107

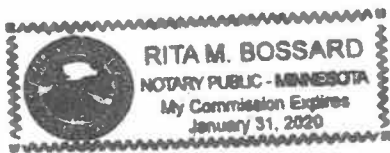
(which is the last known address of said person) depositing the same, with postage prepaid, in the United States mail at St. Paul, Minnesota.



Shawn McDonald

Subscribed and sworn to before me
This 27th day of June 2019


Notary Public





CITY OF SAINT PAUL

Mayor Melvin Carter

Civil Division
400 City Hall and Court House
15 West Kellogg Boulevard
Saint Paul, Minnesota 55102

Telephone: 651 266-8710
Facsimile: 651 298-5619

June 27, 2019

NOTICE OF VIOLATION
RECOMMENDATION FOR IMPOSITION
OF \$500 MATRIX PENALTY

Mounds Park Market
241 Earl St
Saint Paul, MN 55106
Attn: Moundsview Retail INC

RE: Cigarette/Tobacco license held by Moundsview Retail INC d/b/a Mounds Park Market for the premises located at 241 Earl St in Saint Paul
License ID #: 20170000776

Dear Moundsview Retail INC:

The Department of Safety and Inspections ("Department") will recommend adverse action against the Cigarette/Tobacco license held by Moundsview Retail INC ("Licensee") for the premises known as Mounds Park Market located at 241 Earl St in Saint Paul. ("Licensed Premises").

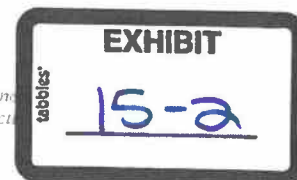
Saint Paul Legislative Code §310.05(m)(2) provides for a presumptive penalty of \$500 for a first-time violation of a provision of the legislative code related to the licensed activity.

Saint Paul Legislative Code §324.07(f) prohibits a licensee from selling, offering for sale, or otherwise distributing any flavored products.

The Department asserts the following facts along with attachments herein constitute proof of a violation of Saint Paul Legislative Code §324.07(f) by a preponderance of the evidence.

On April 4, 2019 all cigarette/tobacco licensees in the City of Saint Paul were notified by letter that cigar pricing, flavored tobacco, temporary window sign and tobacco display requirement compliance checks would be conducted during the week of April 8th through May.

The Saint Paul City Attorney's Office does not discriminate based on race, color, national origin, religion, sex, gender, orientation, gender identity, age, or veteran status in the delivery of services or employment practices.



On April 12, 2019, Inspector Muhammad conducted a cigarette/tobacco and price compliance inspection at 241 Earl Street, Saint Paul, 55106. Inspector Muhammad observed and documented violations of Saint Paul Legislative Code §324.07(f). Specifically, he observed flavored products: Hemp Zone Kush, Bee Berry and Jamaican Buzz being offered for sale.

As the Licensee you have four (4) options:

1. If you do not contest the imposition of the proposed adverse action, you may do nothing. If I have not heard from you by **July 17, 2019**, I will presume that you have chosen not to contest the proposed adverse action and the matter will be placed on the **August 7, 2019** City Council Consent Agenda for approval of the proposed remedy.
2. You can admit to the violation and pay the \$500.00 matrix penalty. If this is your choice, send the payment directly to DSI at 375 Jackson Street, Ste. 220, St. Paul, Minnesota 55101-1806 no later than **July 17, 2019**. A self-addressed envelope is enclosed for your convenience. Payment of the \$500.00 matrix penalty will be considered a waiver of the hearing to which you are entitled.
3. If you wish to admit the facts but you contest the \$500.00 matrix penalty, you may have a public hearing before the Saint Paul City Council. You will need to send me a letter with a statement admitting to the facts and requesting a public hearing no later than **July 17, 2019**. The matter will then be scheduled before the City Council to determine whether to impose the \$500.00 matrix penalty. You will have an opportunity to appear before the Council and make a statement on your own behalf.
4. If you dispute the facts outlined above, you may request a hearing before an Administrative Law Judge (ALJ). You will need to send me a letter disputing the facts and requesting an administrative hearing no later than **July 17, 2019**. At that hearing both you and the City will appear and present witnesses, evidence and cross-examine each other's witnesses. After receipt of the ALJ's report (usually within 30 days), a public hearing will need to be scheduled. At that time, the City Council will decide whether to adopt, modify or reject the ALJ's report and recommendation.

Please note: If you choose an administrative hearing, the Department of Safety and Inspections reserves the right to request that City Council impose the costs of the administrative hearing, per Saint Paul Legislative Code § 310.05 (k).

If you have not contacted me by July 17, 2019, I will assume that you do not contest the imposition of the \$500.00 matrix penalty. In that case, the matter will be placed on the August 7, 2019 City Council Consent Agenda for approval of the recommended penalty.

If you have questions about these options, please contact Shawn McDonald, my Legal Assistant at (651) 266-8729.

Sincerely,



Therese Skarda
Assistant City Attorney
License No.: 0240989



d/b/a Mounds Park Market

June 27, 2019

Page 3

cc: Moundsview Retail INC; 241 Earl St; Saint Paul, MN 55106
Adam and Nadia Khatib; 2303 Parkview Ln; Woodbury, MN 55125
Lissa Jones-Lofgren, Dayton's Bluff Community Council; 804 Margaret Street; Saint Paul, MN 55107

Attachments: Inspector's Report and Supporting Documentation.





CITY OF SAINT PAUL

Business Licensing
375 Jackson Street, Suite 220
Saint Paul, Minnesota 55101-2808

Telephone: 651-266-5259
Facsimile: 651-266-9124
Web: www.stpaul.gov/ds

Inspector's Report

Inspectors Name: Akbar R. Muhammad

Date of Inspection: April 12th, 2019

Date sent to the CAO: May 2, 2019

Business/Property Name: Mounds Park Market

Property Address: 241 Earl St.

License #: 20170000776

Reason for Visit: Flavor/Price Compliance Check

Observations: Flavor Violations: Hemp Zone: KUSH, Bee Berry, and Jamaican Buzz

Photos Taken: Yes, Location of Photo(s):

No

Action Taken: Citation

Warning

Other: Sent to the CAO for Adverse Licensing Action

Details of Conversations (Statements to and by Person Responsible for Property): Upon arrival for a cigarette/tobacco flavor and price compliance inspection, I Akbar R. Muhammad, an inspector for the DSI, introduced myself as inspector from DSI to the supervisor, Mr. Mounem. I asked him if he received the letter that was mailed out dated April 4, 2019. As I conducted my inspection I observed Hemp Zone Wraps: KUSH, Bee Berry, and Jamaican Buzz. I advised him that these were all flavors violations and needed to be removed asap to be in compliance with ordinance 324.

AA-ADA-ES0 Employer





CITY OF SAINT PAUL

Business Licensing Telephone: 651-266-8989
135 Jackson Street, Suite 139 Franklin: 651-266-7114
Saint Paul, Minnesota 55101-1606 Web: www.stpaul.gov

April 4, 2019

Dear Cigarette/Tobacco License Holder,

The Saint Paul Legislative Code establishes minimum cigar prices, prohibits the sale of flavored tobacco products at most retail locations, limits the size of temporary window signs in stores, and regulates customer access to the tobacco and tobacco-related products on display. Compliance checks for these items are typically conducted a minimum of once per calendar year where tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lozenge delivery products are sold. These checks consist of a DSI Licensing Inspector visiting the establishment unannounced then observing product placement and labeling, speaking with clerks, taking photos, etc. to monitor for compliance with retail tobacco requirements.

Please consider this letter formal notice that the Department of Safety and Inspections (DSI) will begin to conduct the 2019 routine compliance checks for cigar pricing, flavored tobacco, temporary window sign, and tobacco display requirements the week of April 8th and expects to complete the initial checks of all vendors by late May. Of further note, compliance checks may be conducted at any time during the year in response to complaints or reported violations of these or other applicable requirements. Ordinance violations will be forwarded to the City Attorney's Office for adverse action against your license(s) that will result in fines and potential license suspension.

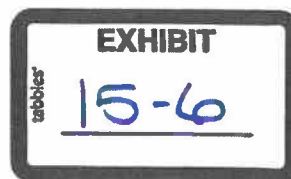
A link to the Cigarette/Tobacco License webpage is further below for your reference and if you have any questions about license requirements or inspection procedures, contact me at 651-266-9014 or Joseph.Voyda@ci.stpaul.mn.us. Other DSI Licensing Inspectors are available during my absence at 651-266-8989 to answer questions as well.

Cigarette / Tobacco License | Saint Paul, Minnesota
<https://www.stpaul.gov/departments/safety-inspections/licenses/business/cigarette-tobacco-license>

Sincerely,

Joseph Voyda,
Inspector, DSI Licensing

AA-ADA-EEO Employer





CITY OF SAINT PAUL

Business Licensing
335 Jackson Street, Suite 220
Saint Paul, Minnesota 55101-1806

Telephone: 651-266-8989
Facsimile: 651-262-2134
Web: www.spsul.gov/dsl

Tobacco Compliance Inspection Sheet

2017000776
MOUNDS PARK MARKET
241 EARL ST

Business Type:

- Convenience
- Convenience / Gas
- Gas
- Drug Store / Pharmacy
- Tobacco / Smoke Shop
- Supermarket / Grocery
- General Merchant
- Liquor Store / Bar Restaurant
- Other (private club, bowling, etc.)

Cigar prices: Single 2 Pack 3 Pack 4 Pack or More
 \$ _____ \$ _____ \$ _____ \$ _____ \$ _____

Menthol, mint & wintergreen
flavored products on premises?
 Yes or No

Flavored tobacco issues present
during inspection?
 Yes or No (if Yes, list below)

Were pictures taken of
flavored items/issues?
 Yes or No

More than thirty (30) percent
of the store window / doors
covered by temporary signs?
 Yes or No

Were pictures taken of the
windows / doors?
 Yes or No

Name of (Owner) or (Clerk): Ali Mounaim

Notes/Issues: Flavors Hemp Zone Kush, Bee Berry, and Jamaican Buzz

Reason no inspection was conducted:

- Does not sell tobacco
- Unsatisfactory/unsafe conditions
- Out of business
- After business hours
- Refused inspection Why? _____
- Other: _____

Inspector: Abbas R. Muhammad Date: 4, 12, 19 Time: 12:41 a.m. / p.m.
 MM DD YY

AA-ADA-ESO Employer



Properties For License 241 EARL ST

Licensee: MOUNDSVIEW RETAIL INC
DBA: MOUNDS PARK MARKET

License | Licensee | Lic Types | Insurance | Bond | Requirements

Licensee Name: MOUNDSVIEW RETAIL INC [Browse...]
DBA: MOUNDS PARK MARKET
Sales Tax Id: ***** Non-Profit: Worker's Comp: 00/00/0000 [Properties...]
AA Contract Rec'd: 00/00/0000 AA Training Rec'd: 00/00/0000
AA Fee Collected: 00/00/0000 Discount Rec'd:

Other Agency Licenses | Financial Hold Reasons

Other Licensing Agency Name / License Type	License #	Expiration	Reason	Active	Date

Contacts for this Licensee

Addr. Type	Active	Inactive	Last Name	First Name	Title	Bus. P
Business/M	03/01/2017	00/00/0000		MOUNDS PARK MARKET		(651) 77:
Other	03/01/2017	00/00/0000	JAHED	AKIL	OWNER	(651) 77:

Mail License To:
 Mail To Contact
 License Address

Mail Invoice To:
 Mail To Contact
 License Address

Background Check Required Contact Properties...

License # 170000776 Save Changes to History OK Cancel Help

Properties For License 241 EARL ST

Licensee: MOUNDSVIEW RETAIL INC
DBA: MOUNDS PARK MARKET

License | Licensee | Lic Types | Insurance | Bond | Requirements

Licensee Name: MOUNDSVIEW RETAIL INC [Browse...]
DBA: MOUNDS PARK MARKET
Sales Tax Id: ***** Non-Profit: Worker's Comp: 00/00/0000 [Properties...]
AA Contract Rec'd: 00/00/0000 AA Training Rec'd: 00/00/0000
AA Fee Collected: 00/00/0000 Discount Rec'd:

Other Agency Licenses | Financial Hold Reasons

Other Licensing Agency Name / License Type	License #	Expiration	Reason	Active	Date

Contacts for this Licensee

Home Phone	Contact Address	City	Zip	DOB	Las
	241 EARL ST	ST PAUL	55106	00/00/0000	00/00/0000
(763) 221-7633	8126 PLEASANTVIEW CIRCL	MOUNDSVIEW	55112	08/01/1998	00/00/0000

Mail License To:
 Mail To Contact
 License Address

Mail Invoice To:
 Mail To Contact
 License Address

Background Check Required Contact Properties...

License # 170000776 Save Changes to History OK Cancel Help

EXHIBIT
15-8

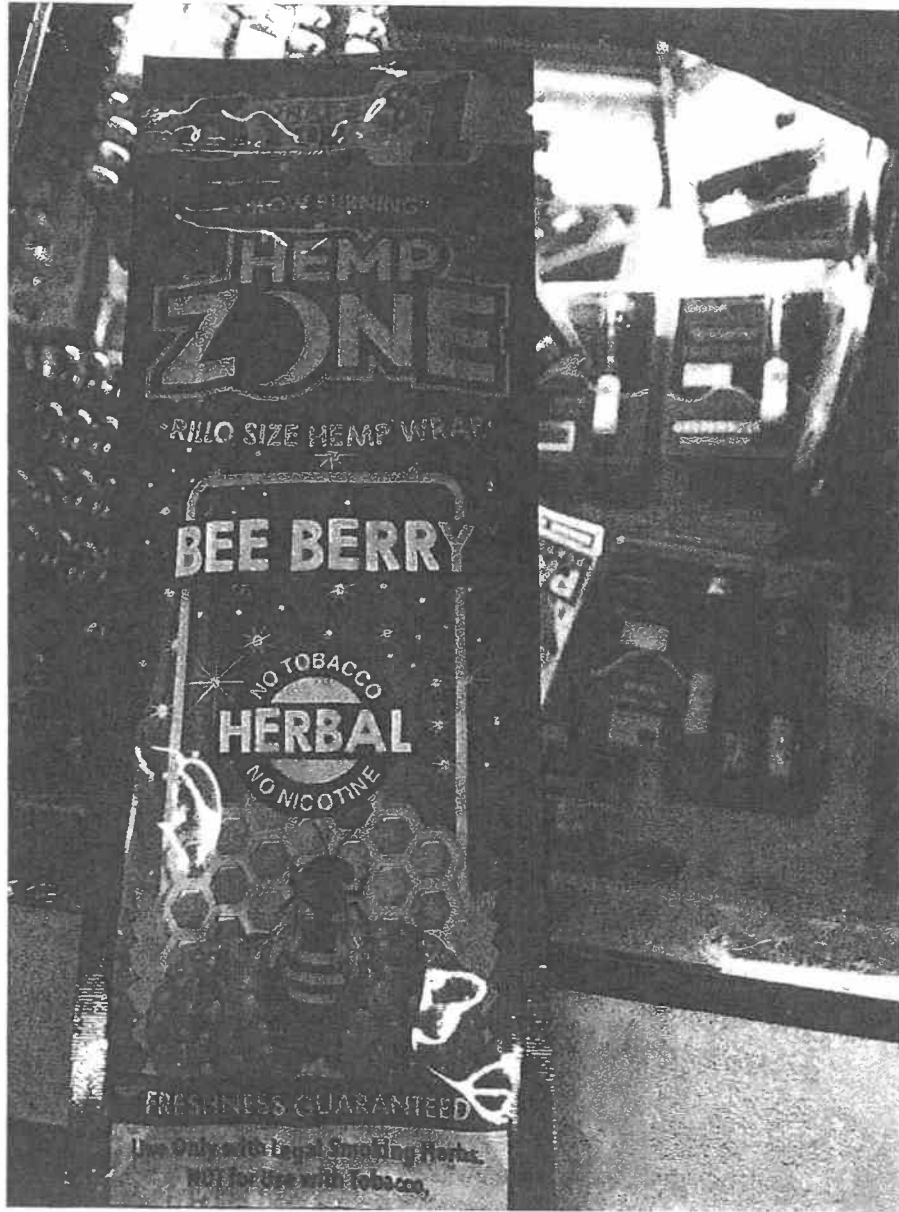


EXHIBIT
tabbica 15-9



EXHIBIT
tabbler
15-10



Golden Valley Wholesale
 7800 Beech Street NE
 Fridley, MN 55432
 Tel: 763-502-7777 || Fax: 763-786-9252
 www.goldenvalleycorp.us

Invoice

Invoice #: **703857**

Date: 3/18/2019

Via:

Representative: WC

Terms: Net 7 Days

Collect:

Stop Number: Ayman

Bill To

Mounds Park Market.
 Moundsview Retail Inc.
 241 Earl St.
 St. Paul, MN, 55106

Ship To

Mounds Park Market.
 Moundsview Retail Inc.
 241 Earl St.
 St. Paul, MN, 55106

Tob#: 20170000776 - EXP. C3/01/2019

QTY	ITEM SKU	DESCRIPTION	PRICE	AMOUNT
1	TFKS13	TROPICAL FANTASY KIWI STRAWBERRY 24/22.5OZ BOTTLES	15.60	15.60
1	TFLIT9	TROPICAL FANTASY LEMON ICED TEA 24/22.5OZ BOTTLES	15.60	15.60
1	PDJM6	PURE DELIGHT JUICE MANGO 24/16OZ. BOTTLES	8.50	8.50
1	PDJBR1	PURE DELIGHT JUICE BLUE RASPBERRY 24/16OZ. BOTTLES	8.50	8.50
1	PDJGB	PURE DELIGHT JUICE GRAPE 24/16OZ. BOTTLES	8.50	8.50
1	PDJP4	PURE DELIGHT JUICE PUNCH 24/16OZ. BOTTLES	8.50	8.50
1	PDJST5	PURE DELIGHT JUICE STRAWBERRY 24/16OZ. BOTTLES	8.50	8.50
1	PDJBR1	PURE DELIGHT JUICE BLUE RASPBERRY 24/16OZ. BOTTLES	8.50	8.50
1	VHHP	VAN HOLTEN'S JUMBO HOT PICKLE 12CT.	9.23	9.23
1	MRMCC	MARUCHAN RAMEN NOODLES SOUP CREAMY CHICKEN 24/3OZ.	5.18	5.18
5	ACBBC	DOG FOOD ALPO BEEF BACON & CHERSE 13.2OZ.CAN	0.94	4.70
3	ACCG	DOG FOOD ALPO CHICKEN GRAVY 13.2OZ CAN	0.94	2.82
4	ACBG	DOG FOOD ALPO BEEF GRAVY 13.2OZ CAN	0.94	3.76
4	ACBSV	DOG FOOD ALPO BEEF STEW & VEGETABLES 13.2OZ CAN	0.94	3.76
4	ACLR	DOG FOOD ALPO LAMB & RICE 13.2OZ CAN	0.94	3.76
4	ACTB	DOG FOOD ALPO TURKEY & BACON 13.2OZ CAN	0.94	3.76
2	PCCHW	PURINA CAT CHOW 18OZ BOX	2.50	5.00
3	9LCBS18	9 LIVES DAILY ESSENTIALS CHICKEN,BEEF,SALMON 18OZ. BAG	1.85	5.55
1	MIOF	MIKE & IKE ORIGINAL FRUITS 24CT. BOX	4.32	4.32
3	MMO1B	CAT FOOD MEOW MIX ORIGINAL 18OZ. BAG	1.88	5.64
6	GCR8	GERBER RICE CEREAL 8OZ.	2.57	15.42
1	VHHP	VAN HOLTEN'S JUMBO SOUR PICKLE 12CT.	9.23	9.23
1	AMZ152	APPLE MINI ZIPLOC BAG 15X20	8.00	8.00
2	ZFTKR	ZEN FILTER TUBES KING REGULAR 4/ 25OCT.	7.70	15.40
	CRD	CREDIT	-3.73	-3.73
1	HZ2XJ	HERBAL ZONE WRAP 2XL JAMAICAN BUZZ 25CT.	12.50	12.50
1	HZ2XN	HERBAL ZONE WRAP 2XL NATURAL 25CT.	12.50	12.50
1	HZ2XG	HERBAL ZONE WRAP 2XL GRAPE 25CT.	12.50	12.50
1	HZWKU	HERBAL ZONE WRAP KUSH 5/\$1 15CT.	9.25	9.25
1	HZWBB	HERBAL ZONE WRAP BEEBERRY 5/\$1 15CT.	9.25	9.25
2	GSM6	GOOD STUFF MENTHOL PIPE TOBACCO 6OZ. BAG	7.75	15.50
4	GSR6	GOOD STUFF RED PIPE TOBACCO 6OZ. BAG	7.75	31.00

NOT PAID

TOTAL RETURN:	Driver Initial	Store Initial	Total Due: \$286.50
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STAMP - Ownership / Zoning Information

[New Search](#)

[Help using this report](#)

Run Date: 06/27/19 09:46 AM

House#: 241

Last updated from Ramsey County data on: 07/07/2018

Street Name: earl

Click on "Other Application" links below to access GISmo, MapIT, and Ramsey County Info

241 Earl St - Mounds Park Market - 55106-6402 - [Other Applications](#)

PIN: 332922340114	Census Track: 34500	Census Block: 2011	Council Ward: 7	District Council: 4
Year Built:	Foundation Sq Feet:	Loan Company:	Land Value: 23800	Building Value: 119200
Existing Primary Use: C-Grocery Store	Legality of Use: Legal Non-Conforming		Occupancy Group Type: M	Units: 2
Zoning: RT1				

Legal Desc: SUBURBAN HILLS S 33 FT OF E 120 FT OF LOT 19 BLK 30

Owner:
241 Earl Llc/C/O Adam Khatib
2303 Parkview Ln
Woodbury MN 55125-9377

Certificate of Occupancy Responsible Party:
Ahmad Khatib & Nadia Khatib (Zafer Bro In Law)
2303 Parkview Lane
Woodbury MN 55125-9377
651-772-2229





CITY OF SAINT PAUL

375 Jackson Street, Suite 220
Saint Paul, Minnesota 55101-1806

Telephone: 651-266-8989
Facsimile: 651-266-9124
Web: www.stpaul.gov/dsi

October 8, 2019

NOTICE OF CITY COUNCIL ACTION

Mounds Park Market
241 Earl Street
St. Paul, MN 55106
Attn: Moundsview Retail Inc

Mounds Park Market:

Enclosed is a copy of City Council Resolution RES 19-330 which imposes a fine against the Cigarette/Tobacco license issued to you by the City of Saint Paul for the following:

Flavored tobacco product displayed for sale.

The fine was approved and ordered by the Saint Paul City Council at the Council's public hearing meeting on October 2, 2019. The payment of the fine in the amount of **\$500** will be stayed for one (1) year pending there are no same or similar offenses.

If you have any questions regarding this matter, you may contact me at 651-266-9132.

Sincerely,

Eric Hudak, Licensing Manager
Department of Safety and Inspections

Enclosure

- c: Shawn McDonald, Legal Assistant-CAO
- Ricardo X. Cervantes, Director-DSI
- Kris Schweinler, Senior License Inspector-DSI
- Joseph Voyda, License Inspector-DSI
- 241 Earl LLC/C/O Adam Khatib, 2303 Parkview Lane, Woodbury, MN 55125





City of Saint Paul

City Hall and Court
House
15 West Kellogg
Boulevard
Phone: 651-266-8560

Signature Copy

Resolution-Public Hearing: RES PH 19-330

File Number: RES PH 19-330

Approving adverse action against the Cigarette/Tobacco License held by Moundsview Retail Inc., d/b/a Mounds Park Market (License ID #20170000776) at 241 Earl Street.

WHEREAS, the Cigarette/Tobacco license held by Moundsview Retail Inc. d/b/a Mounds Park Market (License ID #20170000776) for the premises located at 241 Earl Street in Saint Paul was the subject of a Notice of Violation sent June 27, 2019; and

WHEREAS, the Notice stated that during a cigarette/tobacco and price compliance check on April 12, 2019, a DSI Inspector observed Hemp Zone Wraps: Kush, Bee Berry and Jamaican Buzz in violation of Saint Paul Legislative Code § 324.07 (f); and

WHEREAS, per Saint Paul Legislative Code § 310.05 (m) (2), the licensing office recommended a \$500.00 matrix penalty; and

WHEREAS, the licensee did respond to the Notice of Violation matrix via email and requested a public Hearing on August 27, 2019; and

WHEREAS, a public hearing was held on October 2, 2019 and

WHEREAS, the Licensee appeared and explained to Council that his distributor had told him that Hemp Zone Wraps: Kush, Bee Berry and Jamaican Buzz were not flavored products; and

WHEREAS, the Licensee showed a copy of an invoice from his distributor that showed he returned the prohibited flavored products and received a refund; and

WHEREAS, Council believed that based on the testimony of the Licensee there had been a case of genuine confusion; now therefore be it

RESOLVED, that the \$500 matrix penalty requested by the licensing office against Moundsview Retail Inc. d/b/a Mounds Park Market (License ID #20170000776) for the premises located at 241 Earl Street is hereby suspended for 12 months as long as there are no same or similar violations, ordered to pay a \$500.00 matrix penalty for the Hemp Zone Wraps: Kush, Bee Berry and Jamaican Buzz.

Payment of such penalty shall be made within thirty (30) days of the date of the adoption of this resolution.

At a meeting of the City Council on 10/2/2019, this Resolution-Public Hearing was Passed.



Yea: 7 Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince, Councilmember Jalali Nelson, and Councilmember Busuri

Nay: 0

Vote Attested by Trudy Moloney
Council Secretary Trudy Moloney

Date 10/2/2019

Approved by the Mayor Melvin Carter III
Melvin Carter III

Date 10/4/2019

Clerk Shari Moore
Shari Moore

Date _____

Test Signature Shari Moore
Shari Moore

Date _____



STATE OF MINNESOTA)
) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

Shawn McDonald, being first duly sworn, deposes and says that on the 24th day of August, he served the attached **NOTICE OF VIOLATION RECOMMENDATION FOR IMPOSITION OF \$300 ADMINISTRATIVE PENALTY FOR TOBACCO YOUTH COMPLIANCE CHECK FAILURE AND \$500 MATRIX PENALTY FOR SELLING FLAVORED TOBACCO PRODUCTS** and a correct copy thereof in an envelope addressed as follows:

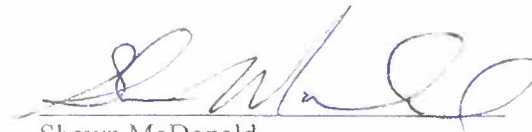
Moundsview Retail Inc.
d/b/a Mounds Park Market
241 Earl Street
Saint Paul, MN 55106

Akil Jahed
8126 Pleasantview Circle
Moundsview, MN 55112

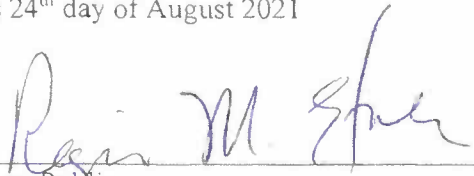
241 Earl LLC/C/O Adam Khatib
2303 Parkview Lane
Woodbury, MN 55125-9377

Lissa Jones-Lofgren, Executive Director
Dayton's Bluff Community Council
804 Margaret Street
Saint Paul, MN 55107

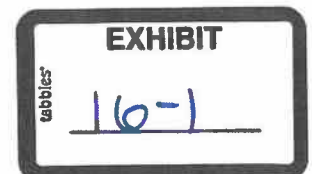
(which is the last known address of said person) depositing the same, with postage prepaid, in the United States mail at St. Paul, Minnesota.


Shawn McDonald

Subscribed and sworn to before me
This 24th day of August 2021



Notary Public





August 24, 2021

**NOTICE OF VIOLATION
RECOMMENDATION FOR IMPOSITION
OF \$300 ADMINISTRATIVE PENALTY FOR TOBACCO YOUTH COMPLIANCE
CHECK FAILURE AND \$500 MATRIX PENALTY FOR SELLING FLAVORED
TOBACCO PRODUCTS**

Moundsview Retail Inc.
d/b/a Mounds Park Market
241 Earl Street
Saint Paul, MN 55106

RE: Cigarette/Tobacco license held by Moundsview Retail Inc. d/b/a Mounds Park Market for the premises located at 241 Earl Street in Saint Paul
License ID #: 20170000776

Moundsview Retail Inc.:

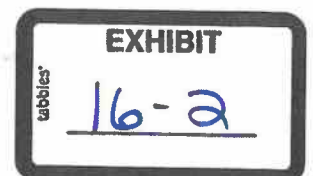
The Department of Safety and Inspections ("Department") will recommend adverse action against the Cigarette/Tobacco license held by Moundsview Retail Inc. ("Licensee") for the premises located at 241 Earl Street in Saint Paul. ("Licensed Premises").

Minnesota Statute § 461.12, Subd. 5 states: "A licensing authority shall conduct unannounced compliance checks at least once each calendar year at each location where tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products are sold to test compliance with sections 609.685 and 609.6855."

Minnesota Statute §461.12, Subd 2 states; "If a licensee or employee of a licensee sells, give, or otherwise furnishes tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to a person under the age of 21 years, or violates any other provision of this chapter, the licensee shall be charged an administrative penalty of \$300 for the first violation."

CITY OF SAINT PAUL
MELVIN CARTER, MAYOR

STPAUL.GOV





Saint Paul Legislative Code Section 310.06 sets forth a variety of reasons under which adverse actions can be based. Section 310.06(b)(c) says that adverse action can be pursued for failure to comply with laws related to the licensed activity or from which an inference of lack of fitness or good character may be drawn.

Saint Paul Legislative Code §310.05(m)(2) provides for a presumptive penalty of \$500 for a first-time violation of a provision of the legislative code related to the licensed activity.

Saint Paul Legislative Code §324.07(g) prohibits the sale of tobacco products to person under the age of twenty-one (21) years.

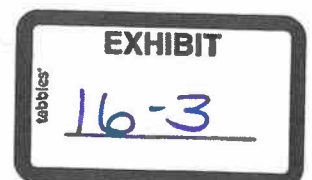
Saint Paul Legislative Code §324.07(f) prohibits a licensee from selling, offering for sale, or otherwise distributing any flavored products.

The Department asserts the following facts along with attachments herein constitute proof of a violation of Minnesota Statute § 461.12, Subd. 2, Saint Paul Legislative Code §324.07(g) and §324.07(f) by a preponderance of the evidence.

Synopsis of alleged facts:

On July 13, 2021 at 10:52am, a tobacco compliance check was conducted at Mounds Park Market located at 241 Earl Street. A twenty-year-old female entered your store and attempted to purchase cigarettes. She was not asked to show her identification which indicated she was underage. Nevertheless, the clerk sold her a package of American Spirit cigarettes. Inspector Yang came into the establishment afterward and spoke to the clerk, Fadelallah Ali Mouneim. He was informed that he failed the youth compliance check by selling American Spirits cigarettes to an underage person.

During the compliance check Inspector Yang also observed and documented violations of Saint Paul Legislative Code §324.07(f). Specifically, he observed 'Black & Mild' - Casino, 'Black & Mild' - Casino Wood Tip, High Hemp - Organic Artisanal Cones, Posh - Frozen Mango, Mr. Fog Mint Menthol, Super Chill Flavor CBD in multiple flavors - Blueberry Cones, Bubble Gum Cones, Grape Cones, Mango Cones, Pineapple Cones and Strawberry Cones, 'Backwoods' - Dark Stout, 'Backwoods' - Honey Berry, Swisher sweets leaf, Mr. Fog - Strawberry Guava, Royal - Mango Pineapple, Mr. Fog raspberry dark berries on ice, Blow - disposable vape stix, Sanm X2 Pro - Pina Colada Lychee ice, Apple lemon grape ice, Newport menthol, POP disposable device - mango peach pineapple, Vape Soul banana ice, POSH





frozen mango, Royal cool mint, Mr. Fog Raspberry Strawberry Lychee, POSH plus – pina colada, POSH plus – Minty Berry, Puff XXL – Papaya Strawberry, Watermelon Cherry, Blow – Deeeewy, Blow – Snow, Royal – gummie bear ice, POSH plus – O.M.G tropical, CoCo Mazaya charcoal cubes of coconut shells. Inspector Yang asked the clerk if there were any other flavored products. The Clerk was advised to remove all flavored products and place them in a backroom and have owner call distributor to pick them up.

As the Licensee you have four (4) options:

1. If you do not contest the imposition of the proposed adverse action, you may do nothing. If I have not heard from you by **September 7, 2021**, I will presume that you have chosen not to contest the proposed adverse action and the matter will be placed on the City Council Consent Agenda for approval of the proposed remedy.
2. You can admit to the violation and pay the \$300.00 administrative penalty and \$500 matrix penalty. If this is your choice, send the payment directly to DSI at 375 Jackson Street, Ste. 220, St. Paul, Minnesota 55101-1806 no later than **September 7, 2021**. A self-addressed envelope is enclosed for your convenience. Payment of the \$300.00 administrative penalty and \$500 matrix penalty will be considered a waiver of the hearing to which you are entitled.
3. If you wish to admit the facts but you contest the \$300.00 administrative penalty and \$500 matrix penalty, you may have a public hearing before the Saint Paul City Council. You will need to send me a letter with a statement admitting to the facts and requesting a public hearing no later than **September 7, 2021**. The matter will then be scheduled before the City Council to determine whether to impose the \$300.00 administrative penalty and \$500 matrix penalty. You will have an opportunity to appear before the Council and make a statement on your own behalf.
4. If you dispute the facts outlined above, you may request a hearing before an Administrative Law Judge (ALJ). You will need to send me a letter disputing the facts and requesting an administrative hearing no later than **September 7, 2021**. At that hearing both you and the City will appear and present witnesses, evidence and cross-examine each other's witnesses. After receipt of the ALJ's report (usually within 30 days), a public hearing will need to be scheduled. At that time, the City Council will decide whether to adopt, modify or reject the ALJ's report and recommendation.

CITY OF SAINT PAUL
MELVIN CARTER, MAYOR

STPAUL.GOV





SAINT PAUL
CITY ATTORNEY

OFFICE OF THE CITY ATTORNEY
LYNDESE M. OLSON, CITY ATTORNEY

Civil Division, 15 Kellogg Blvd. West, 400 City Hall
Saint Paul, MN 55102
Tel: 651-266-8710 | Fax: 651-298-5619

Please note: If you choose an administrative hearing, the Department of Safety and Inspections reserves the right to request that City Council impose the costs of the administrative hearing, per Saint Paul Legislative Code § 310.05 (k).

If you have not contacted me by September 7, 2021, I will assume that you do not contest the imposition of the \$300.00 administrative penalty and \$500 matrix penalty. In that case, the matter will be placed on the City Council Consent Agenda for approval of the recommended penalty.

Please be advised the clerk who made the sale on this date and will be charged a \$50.00 administrative penalty pursuant to Minn. Stat. §461.12, subd. 3. This is a separate action from this license matter.

If you have questions about these options, please contact Shawn McDonald, my Legal Assistant at (651) 266-8729.

Sincerely,

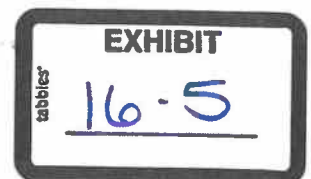
Therese Skarda
Assistant City Attorney
License No.: 0240989

Cc: Akil Jahed, 8126 Pleasantview Circle, Moundsvew, MN 55112
241 Earl LLC/C/O Adam Khatib, 2303 Parkview Lane, Woodbury, MN 55125-9377
Lissa Jones-Lofgren, Executive Director, Dayton's Bluff Community Council, 804 Margaret Street, Saint Paul, MN 55107

Attachments: Inspector's Report
Screenshots EClips System
License Group Comments Text
License Group Conditions Text

CITY OF SAINT PAUL
MELVIN CARTER, MAYOR

STPAUL.GOV





SAINT PAUL
CITY ATTORNEY

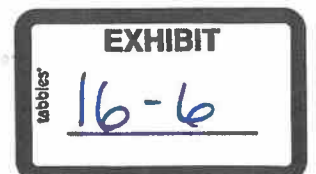
OFFICE OF THE CITY ATTORNEY
LYNDESEY M. OLSON, CITY ATTORNEY

Civil Division, 15 Kellogg Blvd. West, 400 City Hall
Saint Paul, MN 55102
Tel: 651-266-8710 | Fax: 651-298-5619

STAMP - Ownership/Zoning Information
Tobacco Youth Compliance Check Purchase Form
Clerk Identification form
Photos of purchased cigarettes
Photos of flavored tobacco products

CITY OF SAINT PAUL
MELVIN CARTER, MAYOR

STPAUL GOV





CITY OF SAINT PAUL

Business Licensing
375 Jackson Street, Suite 220
Saint Paul, Minnesota 55101-1806

Telephone: 651-266-8989
Facsimile: 651-266-9124
Web: www.stpaul.gov/dsv

Inspector's Report

Inspectors Name: Kaozouapang Yang

Time & Date: 07/13/2021 at 10:52 AM

Business/Property Name: Mounds Park Market

Property Address: 241 Earl Street - Saint Paul, MN 55106

Reason for Visit: Annual Cigarette/Tobacco Youth Compliance Check

Observations: Youth purchased a Pack of American Spirit Cigarettes

Photos Taken: Yes No - Area(s) of where the Photo(s) were taken:

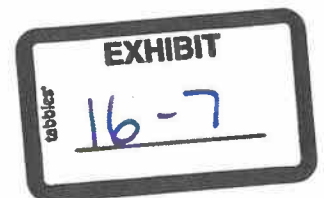
Action Taken: Education / warning

Request for Adverse Action

Other: -

Details of Conversations (Statements to and by Person Responsible for Property):

Upon arrival I spoke to the clerk Fadelallah Ali Mounem, I introduced myself as a DSI Licensing Inspector for the City of Saint Paul. I informed him that he failed a youth compliance check, an attempted purchase of a pack of American Spirits cigarettes was successfully made from an underage buyer at 10:52 a.m.



Properties For License 241 EARL ST

Licensee: MOUNDSVIEW RETAIL INC
DBA: MOUNDS PARK MARKET

Licensee Licensee Lic Types Insurance Bond Requirements

Licensee Name: MOUNDSVIEW RETAIL INC
DBA: MOUNDS PARK MARKET
Sales Tax ID: [blank] Non-Profit: Worker's Comp: 12/31/2021
AA Contract Rec'd: 00/00/0000 AA Training Rec'd: 00/00/0000
AA Fee Collected: 00/00/0000 Discount Rec'd:

Other Agency Licenses

Other Licensing Agency Name / License Type	License #	Expiration	Reason	Active	Date

Financial Hold Reasons

Contacts for this Licensee

Addr. Type	Active	Inactive	Last Name	First Name	Title	Bus. Phone	Ho
Business	<input checked="" type="checkbox"/>	<input type="checkbox"/>	MOUNDPAR	MOUNDPAR		(651) 772-8511	
Other	<input type="checkbox"/>	<input type="checkbox"/>	JAHED	AKL	OWNER	(651) 772-8511	78C

Mail License To:
 Mail To Contact
 License Address

Mail Invoice To:
 Mail To Contact
 License Address

Background Check Required: Contact Properties

License # 170000776 Save Changes to History OK Cancel Help

Properties For License 241 EARL ST

Licensee: MOUNDSVIEW RETAIL INC
DBA: MOUNDS PARK MARKET

Licensee Licensee Lic Types Insurance Bond Requirements

Licensee Name: MOUNDSVIEW RETAIL INC
DBA: MOUNDS PARK MARKET
Sales Tax ID: [blank] Non-Profit: Worker's Comp: 12/31/2021
AA Contract Rec'd: 00/00/0000 AA Training Rec'd: 00/00/0000
AA Fee Collected: 00/00/0000 Discount Rec'd:

Other Agency Licenses

Other Licensing Agency Name / License Type	License #	Expiration	Reason	Active	Date

Financial Hold Reasons

Contacts for this Licensee

Contact Address	City	Zip	DOB	Last Check	On
241 EARL ST	ST PAUL	55108	00/00/0000	00/00/0000	
8126 PLEASANTVIEW CIRL	MOUNDSVIEW	55112	08/01/1938	00/00/0000	R41815

Mail License To:
 Mail To Contact
 License Address

Mail Invoice To:
 Mail To Contact
 License Address

Background Check Required: Contact Properties

License # 170000776 Save Changes to History OK Cancel Help

EXHIBIT
tabler 16-8

License Group Conditions Text

07/14/2021

Licensee: MOUNDSVIEW RETAIL INC

DBA: MOUNDS PARK MARKET

License #: 20170000776

The Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the Re-establishment of Nonconforming Use Permit approved in Zoning File # 99-178351 for a grocery and carry-out restaurant at 241 Earl St is hereby re-approved for a grocery only (carry-out restaurant deleted) and modified on 1/12/07 with conditions #1-12.

- 1. The sale of tobacco products at this store shall comply with Chapter 324 of the legislative code and shall be limited to packaged cigarettes, cigars, smokeless tobacco, and lighters. No other tobacco accessories shall be sold at this store.
- 2. None of the following items shall be sold at the store: Diluents and adulterants; separation gins and filters; hypodermic syringes or needles; metal, wooden, acrylic, glass, stone, plastic or ceramic pipes; permanent screens; hashish heads or punctured metal bowls; water pipes; carburation tubes and devices; smoking and carburation masks; roach clips; miniature cocaine spoons; and cocaine vials; chamber pipes; carburetor pipes; electric pipes; air-driven pipes; chillum; bong; and ice pipes or chillers.
- 3. No drug paraphernalia shall be sold.
- 4. No individual razor blades or portions of opened packages of razor blades shall be sold.
- 5. The sale of bunts and single cigarettes is prohibited at this store, and tobacco products must be sold in the original packaging, as per §324.07 of the Saint Paul Legislative Code.
- 6. The store hours shall be no earlier than 8 a.m. and no later than 9 p.m.
- 7. There shall be no permanent or affixed temporary exterior signs that advertise products. All other signage shall comply with provisions of §54.640 Dayton's Bluff special district sign plan.
- 8. There shall be no flashing lights or signs in store windows.
- 9. No pay telephone shall be installed on the exterior of the store.
- 10. The rear portion of the lot shall be paved to provide off-street parking. The lot shall be paved in accordance with a site plan approved by city staff no later than June 4, 2007. At site plan review, site plan review staff must ensure that the site plan adequately addresses issues related to rubbish and other waste disposal for the tenants of the building.
- 11. Indoor and outdoor trash receptacles shall be located near the main entrance of the store and shall be regularly emptied.
- 12. This nonconforming use permit shall be reviewed by the zoning administrator for compliance at one (1) year from the date of the approval of this modified permit.

ADDITIONAL LICENSE CONDITION

- 13. Per City Ordinance, temporary window signs placed between the height of four (4) to seven (7) feet above grade shall not cover more than thirty (30) percent of this window space area, and cannot block views into the clerk or cashier station.

License Group Comments Text

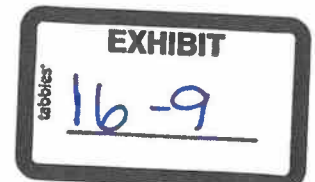
07/14/2021

Licensee: MOUNDSVIEW RETAIL INC

DBA: MOUNDS PARK MARKET

License #: 20170000776

- 02/10/2020 CSO Complaint Inspection: CS# 20-038502. No violations of selling single menthol Newports behind the counter. KY
- 10/2/2019 Resolved CF 19-330 Imposes a \$500 matrix to be stayed pending no same or sim for 12 months. SLH
- 4/12/19 Tobacco compliance check, full flavors. ARM
- 8/8/2018 Tobacco youth compliance check-Pass JNV
- 4/20/2018 Menthol education - Inspector Pass JNV
- 03/13/2017 passed tobacco compliance check YD/BLB
- 03/01/2017 Prov'd signed to bond, affidavit. JWF



Licensee: MOUNDVIEW RETAIL INC

DBA: MOUNDS PARK MARKET

License #: 2017000877E

6/27/2019- Sent Notice of Violation with an 8/7/2019 deadline to respond. SM
Public Hearing Council Agenda. SM

9/13/2019-Notice of Council Hearing sent. On 10/2/2019

7/14/2021

STAMP - Ownership / Zoning Information

STAMP - Ownership / Zoning Information

[New Search](#)

[Help using this report](#)

Run Date: 07/14/21 12:51 PM

House#: 241

Last updated from Ramsey County data on:

Street Name: Earl

Click on "Other Application" links below to access GISmo, MapIT, and Ramsey County Info

241 Earl St - Mounds Park Market - 55106-6402 - [Other Applications](#)

PIN: 332922340114

Census Tract: 34500 Census Block: 2011

Council Ward: 7 District Council: 4

Year Built:

Foundation Sq Feet: Loan Company:

Land

Building

Value: 23800

Value: 119200

Existing Primary Use: C- Legality of Use: Legal Non-Conforming
Grocery Store

Occupancy
Group

Units: 2

Type: M

Zoning: RT1

Legal Desc: SUBURBAN HILLS S 33 FT OF E 120 FT OF LOT 19 BLK 30

Owner:

241 Earl LLC/C/O Adam Khatib
2303 Parkview Ln
Woodbury MN 55125-9377

Certificate of Occupancy Responsible Party:

Ahmad Khatib & Nadia Khatib (Zafer Bro In Law)
2303 Parkview Lane
Woodbury MN 55125-9377
651-772-2229





CITY OF SAINT PAUL

Business Licensing
375 Jackson Street, Suite 220
Saint Paul, Minnesota 55101-1806

Telephone: 651-206-8989
Facsimile: 651-266-9134
Web: www.spsnet.gov/ds

Tobacco Youth Compliance Check Purchase Form

20170000776
MOUNDS PARK MARKET
241 EARL ST
ST PAUL, MN 55106-6402
4

Fail

Business Type:

- Convenience
- Convenience / Gas
- Gas
- Drug Store / Pharmacy
- Tobacco Product Shop
- Supermarket / Grocery
- General Merchant
- Liquor Store / Bar Restaurant
- Other (private club, bowling, etc.)

Inspector: Kazuo Yamaguchi
Name

Date: 07 / 13 / 2021
MM DD YYYY

Time: 0652 a.m. / p.m.

Was purchase attempted?

- Yes
- No

If NO, check reason:

- Does not sell tobacco
- After business hours
- Not applicable
- Unsatisfactory/unsafe conditions
- Out of business
- Other

Buyer: [Redacted]

Age: [Redacted]

Sex: Female

Did adult or officer view transaction?
 Yes No

Was sale made?
 Yes No

Was age asked?
 Yes No

Was ID requested?
 Yes No

Was ID shown?
 Yes No

Type of purchase:

- Self Service
- Clerk assisted
- Vending machine - Unlocked
- Location of machine _____
- Vending machine - Locked
- Location of machine _____

Type of product:

- Cigarettes
- Smokeless
- Cigars
- Shisha
- E-juice
- Other (cigarette papers, lighter, etc.)

Amount spent: \$ _____

Clerk Information: Female Male Approximate Age: 18 or Under 18 Actual age if known 25

Name of Clerk: Fadelallah Ali Mounem Address: 8126 Pleasant View Ct.

City & State: Mounds View, MN Zip Code: 55112

Driver's license # or State ID: [Redacted] Date of Birth: 7/4/2000

Description / Notes: White/male 25ish
[Redacted]
[Redacted]

AA-ADA-EEO Employer

EXHIBIT
16-11



CITY OF SAINT PAUL

Business Licensing
375 Jackson Street, Suite 220
Saint Paul, Minnesota 55101-1806

Telephone: 651-266-8989
Facsimile: 651-266-9124
Web: www.sppaul.gov/biz

Clerk Identification Form

As it appears on Driver's License or State I.D. Card

Name: Mouneim, Fadelallah Ali

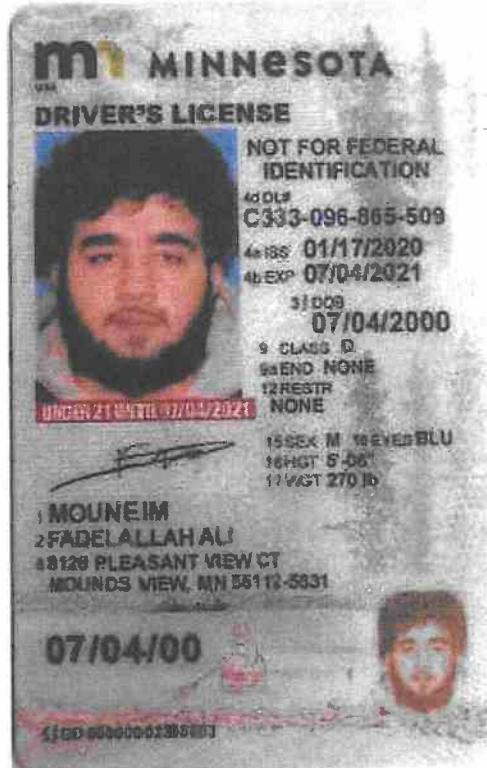
Primary address: 8126 Pleasant View Ct,

Secondary address: N/A

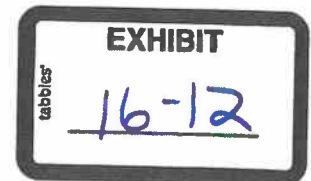
City: Mounds View State: MN Zip code: 55112-5831 DOB: 07/04/2000

Identification Number: DD00000002395853

Place Snip of I.D. below



AA-ADA-EEO Employer





CITY OF SAINT PAUL

Business Licensing
375 LaSalle Street, Suite 200
Saint Paul, Minnesota 55102-2000
Telephone: 612-224-8800
Facsimile: 612-224-2414
Web: www.sppaul.gov

Tabacco Youth Compliance Check Purchase Form

20170000776
MOUNDS PARK MARKET
241 EARL ST
ST PAUL MN 55108-6402
4

Business Type:

- Convenience
- Convenience Gas
- Gas
- Drug Store Pharmacy
- Licensed Product Shop
- Supermarket Grocery
- Other (specify below)



Was sold
 Yes

Type of purchase:
 Self Service
 Clerk assisted
 Vending machine
 Location of purchase:
 Vending machine
 Location of purchase

Clerk Information:

Name of Clerk: _____
 City & State: _____
 Driver's license #: _____
 Description Notes: _____

EXHIBIT
 16-13



CITY OF SAINT PAUL

Business Licensing
575 Jackson Street, Suite 220
Saint Paul, Minnesota 55101-1306

Telephone: 651-266-8989
Facsimile: 651-266-9124
Web: www.stpaul.gov/dsi

Inspector's Report

Inspectors Name: Kaozouapang Yang

Date: 07/13/2021

Business/Property Name: Mounds Park Market

Property Address: 241 Earl St

Reason for Visit: Youth Tobacco Compliance checks

Observations: Flavor violations found behind counter

Photos Taken: Yes No – Area(s) of where the Photo(s) were taken:

Behind the counter/register

Action Taken: Education / warning

Request for Adverse Action

Other: -

Adverse Action

Details of Conversations (Statements to and by Person Responsible for Property):

Upon arrival on July 13, 2021, I spoke with the clerk Fadelallah Ali Mounieum, I introduced myself as an Inspector for the City of Saint Paul with DSI. I explained that I was doing youth tobacco compliance checks and he sold cigarettes to a minor.

In plain sight located behind the counter/cash register was a flavor tobacco product violation (See Attached Photo). I asked Fadelallah if there were any other flavor products that were present or hidden, his response was "no we don't sell menthol and no other flavor products". Continuing the inspection, I advised Fadelallah to move all products that where flavor violation into the back-storage room and advised him to have the owner call the distributor for a pickup. Joseph educated Fadelallah on the flavor violations that were discovered.

Types of flavored tobacco products found: 'Black & Mild' – Casino, Black & Mild – Casino Wood Tip, High Hemp – Organic Artisanal Cones, Posh – Frozen Mango, Mr Fog Mint Menthol, Super Chill Flavor CBD in multiple flavors – Guava, Apple, Cotton Candy, Apple, Grapefruit, and Strawberry, Wild Hemp cigarettes, Tasty Puff in multiple flavors - Blueberry Cones, Bubble Gum Cones, Grape Cones, Mango Cones, Pineapple Cones and Strawberry Cones, Backwoods Russian Cream, Cookies vape pen, Al Capone Leaf wrap – rum flavor, Dutch – honey fusion and berry fusion, Backwoods – dark stout, Backwoods – Honey berry, Swisher sweets leaf, Mr Fog – Strawberry Guava, Royal – Mango pineapple, Mr Fog raspberry dark berries on ice, Blow – disposable vape stix, Sanm X2 Pro – Pina Colada Lychee ice, Apple lemon grape ice, Newport menthol, POP disposable device – mango peach pineapple, Vape Soul banana ice, POSH frozen mango, Royal

AA-ADA-ZEO Employee



cool mint, Mr Fog Raspberry Strawberry lychee, POSH plus - pina colada, POSH plus - Minty Berry Puff
XXL - Papaya Strawberry, Watermelon Cherry, Blow - Deeeewy, Blow - Snow, Royal - gummy bear ice,
POSH plus - O.M.G tropical, CoCo Mazaya charcoal cubes of coconut shells



License# MOUNDSVIEW RETAIL INC
DBA MOUNDS PARK MARKET
License # 20170000776

The Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the Re-establishment of Nonconforming Use Permit approved in Zoning File # 95-178351 for a grocery and carry-out restaurant at 341 Earl St is hereby re-approved for a grocery only (carry-out restaurant deleted) and modified on 1/12/07 with conditions #1-12:

1. The sale of tobacco products at this store shall comply with Chapter 324 of the legislative code and shall be limited to packaged cigarettes, cigars, smokeless tobacco, and lighters. No other tobacco accessories shall be sold at this store.
 2. None of the following items shall be sold at the store: Diluents and adulterants; separation gins and strainers; hypodermic syringes or needles; metal, wooden, acrylic, glass, stone, plastic or ceramic pipes; permanent screens; hashish heads or punctured metal bowls; water pipes; carburetion tubes and devices; smoking and carburetion masks; roach clips; miniature cocaine spoons; and cocaine vials; chamber pipes; carburetor pipes; electric pipes; air-driven pipes; chillums; bongos; and ice pipes or chillers.
 3. No drug paraphernalia shall be sold.
 4. No individual razor blades or portions of opened packages of razor blades shall be sold.
 5. The sale of burnt and single cigarettes is prohibited at this store, and tobacco products must be sold in the original packaging, as per §324.07 of the Saint Paul Legislative Code.
 6. The store hours shall be no earlier than 5 a.m. and no later than 9 p.m.
 7. There shall be no permanent or affixed temporary exterior signs that advertise products. All other signage shall comply with provisions of §54.640, Dayton's Bluff special district sign plan.
 8. There shall be no flashing lights or signs in store windows.
 9. No pay telephone shall be installed on the exterior of the store.
 10. The rear portion of the lot shall be paved to provide off-street parking. The lot shall be paved in accordance with a site plan approved by city staff no later than June 4, 2007. At site plan review, site plan review staff must ensure that the site plan adequately addresses issues related to rubbish and other waste disposal for the tenants of the building.
 11. Indoor and outdoor trash receptacles shall be located near the main entrance of the store and shall be regularly emptied.
 12. This nonconforming use permit shall be reviewed by the zoning administrator for compliance at one (1) year from the date of the approval of this modified permit.
- ADDITIONAL LICENSE CONDITION:
13. Per City Ordinance, temporary window signs placed between the height of four (4) to seven (7) feet above grade shall not cover more than thirty (30) percent of this window space area, and cannot block views into the clerk or cashier station.

License# MOUNDSVIEW RETAIL INC
DBA MOUNDS PARK MARKET
License # 20170000776

02/12/2020 CSO Complaint Inspection, CS# 20-008502. No violations of selling single menthol Newports behind the counter. KR
10/2/2018 Resolved OF 19-330 imposes a \$500 matrix to be stayed pending no same or sim for 12 months. SLH
4/12/19 Tobacco compliance check, fail favors. ARM
3/8/2018 Tobacco youth compliance check-Pass JNV
4/20/2018 Mental education / inspection Pass JNV
03/13/2017 passed tobacco compliance check YD/B/B
03/09/2017 Royal signed Jo cond. affidavit. JWF

License# MOUNDSVIEW RETAIL INC
DBA MOUNDS PARK MARKET
License # 20170000776

5/27/2019- Sent Notice of Violation with an 8/7/2019 deadline to respond. SM
Public Hearing Council Agenda. SM

9/13/2019-Notice of Council Hearing sent. On 10/2/2019



Properties For License 241 EARL ST

Licensee: MOUNDSVIEW RETAIL INC
 DBA: MOUNDS PARK MARKET

License | Licensee | Lic. Types | Insurance | Bond | Requirements

Licensee Name: MOUNDSVIEW RETAIL INC
 DBA: MOUNDS PARK MARKET
 Sales Tax Id: [REDACTED] Non-Profit Workers Comp: 12/31/2021
 AA Contract Recd: 00000000 AA Training Recd: 00000000
 AA Fee Collected: 00000000 Discount Recd:

Other Agency Licenses

Other Licensing Agency Name / License Type	License #	Expiration	Reason	Active	Date

Financial Hold Reasons

Contacts for this Licensee

Addr. Type	Active	Inactive	Last Name	First Name	Title	Bus. Phone	HO	Mail License To:
Business	03/11/2017	00000000	MOUNDS PAR			(651) 772-8511		<input checked="" type="radio"/> Mail To Contact <input type="radio"/> License Address
Other	03/11/2017	00000000	JARED	ARL	OWNER	(651) 772-8511 (762)		Mail Invoice To: <input checked="" type="radio"/> Mail To Contact <input type="radio"/> License Address

Background Check Required Contact Properties

License #: 170080779 Save Changes to History OK Cancel Help

Properties For License 241 EARL ST

Licensee: MOUNDSVIEW RETAIL INC
 DBA: MOUNDS PARK MARKET

License | Licensee | Lic. Types | Insurance | Bond | Requirements

Licensee Name: MOUNDSVIEW RETAIL INC
 DBA: MOUNDS PARK MARKET
 Sales Tax Id: [REDACTED] Non-Profit Workers Comp: 12/31/2021
 AA Contract Recd: 00000000 AA Training Recd: 00000000
 AA Fee Collected: 00000000 Discount Recd:

Other Agency Licenses

Other Licensing Agency Name / License Type	License #	Expiration	Reason	Active	Date

Financial Hold Reasons

Contacts for this Licensee

Contact Address	City	Zip	DOB	Last Check	DOB	Mail License To:
241 EARL ST	ST PAUL	55108	00000000	00000000		<input checked="" type="radio"/> Mail To Contact <input type="radio"/> License Address
8126 PLEASANTVIEW CIRCLE	MOUNDSVIEW	55112	00000000	00000000	R41619	Mail Invoice To: <input checked="" type="radio"/> Mail To Contact <input type="radio"/> License Address

Background Check Required Contact Properties

License #: 170080779 Save Changes to History OK Cancel Help

EXHIBIT
 16-17

STAMP - Ownership / Zoning Information

[New Search](#)

[Help using this report](#)

Run Date: 07/14/21 12:51 PM

House#: 241

Last updated from Ramsey County data on:

Street Name: earl

Click on "Other Application" links below to access GISmo, MapIT, and Ramsey County Info

241 Earl St - Mounds Park Market - 55106-6402 - [Other Applications](#)

PIN: 332922340114

Census Tract: 34500 Census Block: 2011

Council Ward: 7 District Council: 4

Year Built:

Foundation Sq Feet: Loan Company:

Land Value: 23800

Building Value: 119200

Existing Primary Use: Grocery Store Legality of Use: Legal Non-Conforming

Occupancy Group Type: M

Units: 2

Zoning: RT1

Legal Desc: SUBURBAN HILLS S 33 FT OF E 120 FT OF LOT 19 BLK 30

Owner:

241 Earl Llc/C/O Adam Khatib
2303 Parkview Ln
Woodbury MN 55125-9377

Certificate of Occupancy Responsible Party:

Ahmad Khatib & Nadia Khatib (Zafer Bro In Law)
2303 Parkview Lane
Woodbury MN 55125-9377
651-772-2229





EXHIBIT
tabbles® 116-19



EXHIBIT
16-20
tabbies



EXHIBIT
16-21



EXHIBIT
tabbles 16-22



EXHIBIT
16-23



EXHIBIT
tabbles®
16-24

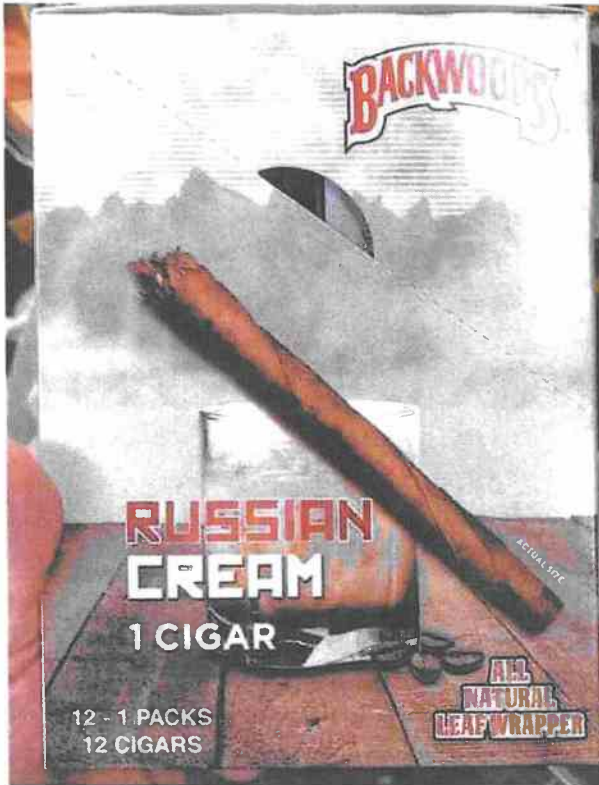


EXHIBIT
tabbles® 16-25



EXHIBIT
tabbler
16-26



EXHIBIT
 tabbies 16-27



EXHIBIT
tabbies
16-28



EXHIBIT
 16-29
 tabbies

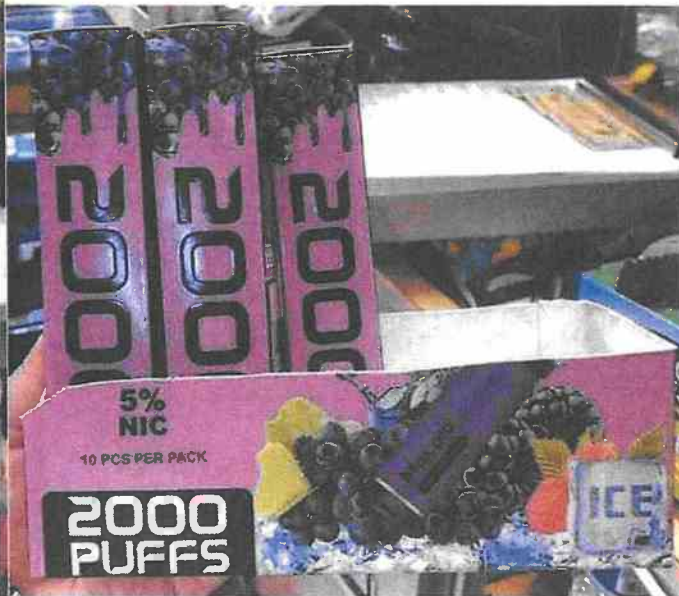


EXHIBIT
tabbics® 16-30



EXHIBIT
tabbies 16-31



EXHIBIT
16-32



EXHIBIT
 16-33

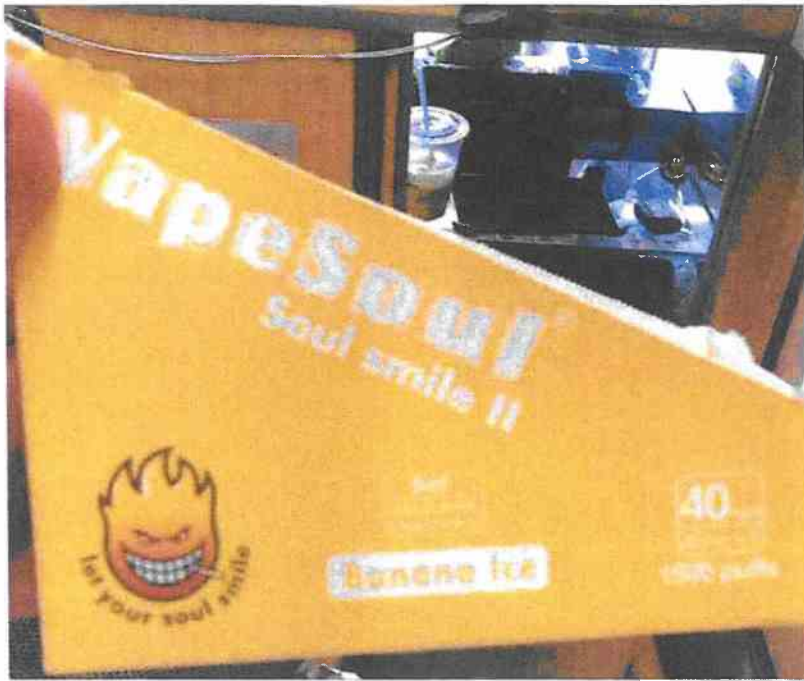
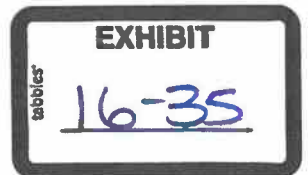


EXHIBIT
tabbies 16-34



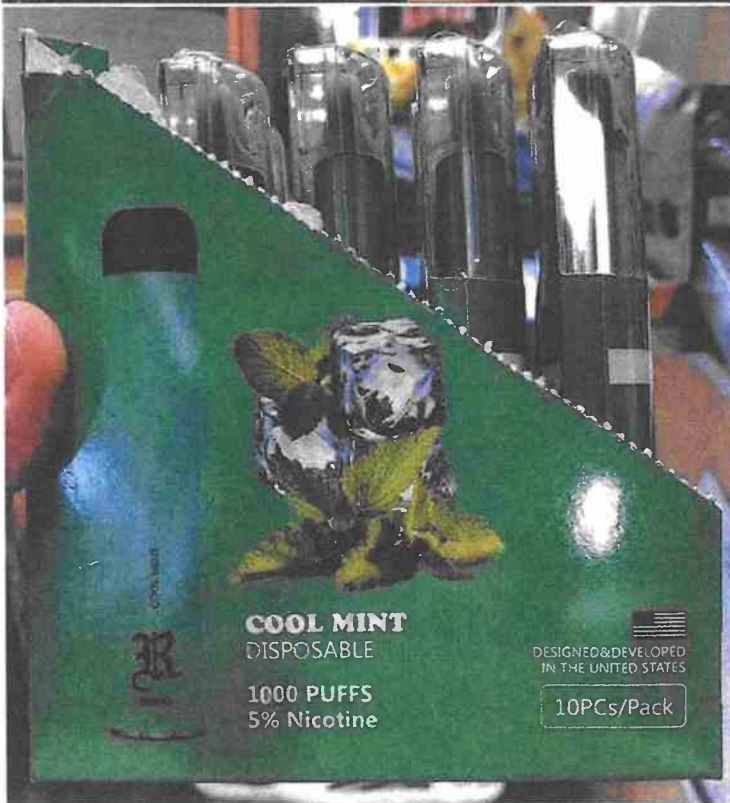
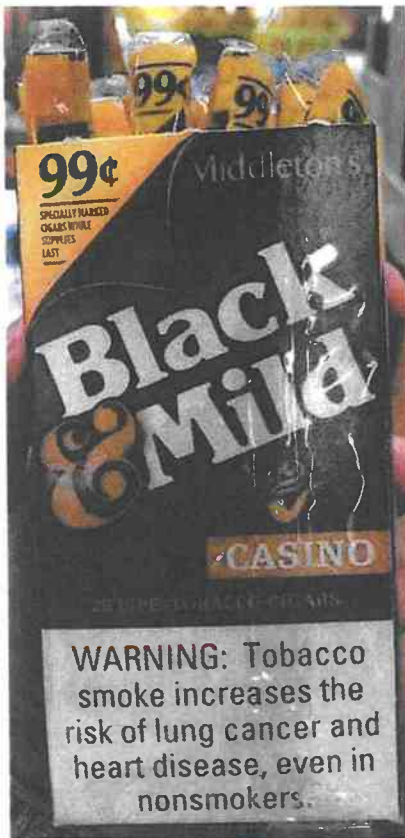


EXHIBIT
tabbier 16-30

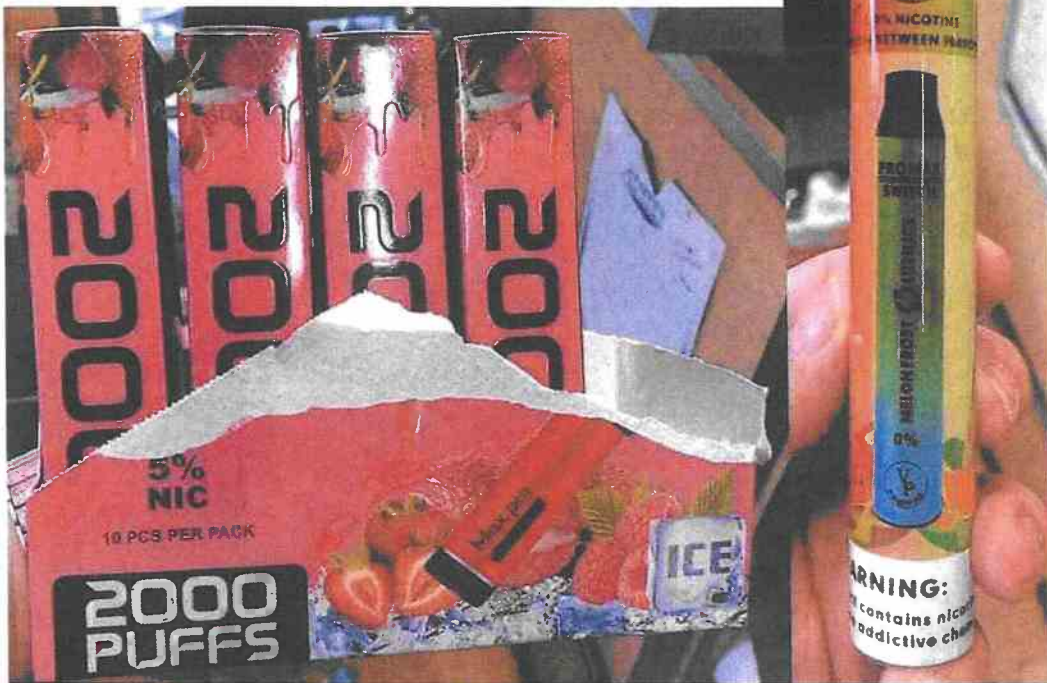


EXHIBIT
tabbies® 116-37



EXHIBIT
tabbler 16-38

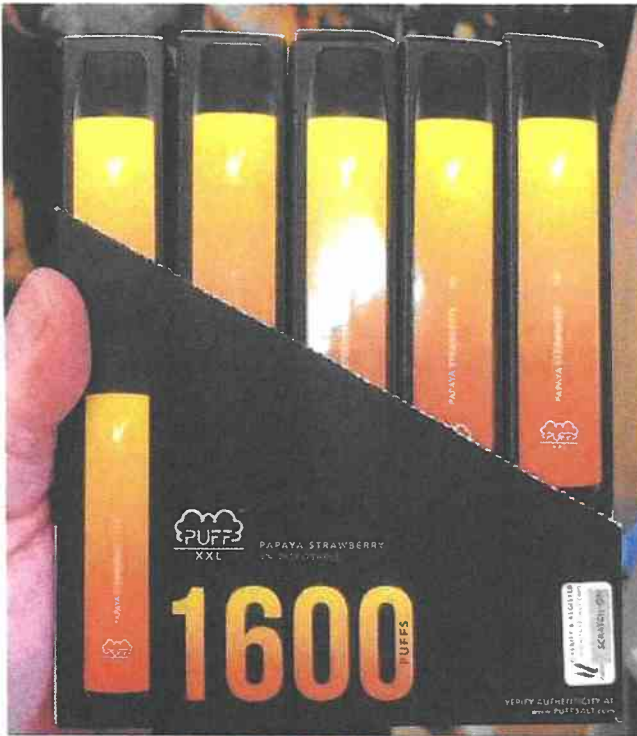


EXHIBIT
tabbies 16-39



EXHIBIT
tabbler
16-40



EXHIBIT
tabbles® 16-41



EXHIBIT
16-42
tabbles



EXHIBIT
 16-43
 tabaker

Skarda, Therese (CI-StPaul)

From: Voyda, Joseph (CI-StPaul)
Sent: Tuesday, September 14, 2021 3:26 PM
To: McDonald, Shawn (CI-StPaul)
Subject: 241 Earl

Shawn, all three fines paid.

Properties For License 241 EARL ST

Pay Print Warn Hist Summ

Licensee: MOUNDSVIEW RETAIL INC
 DBA: MOUNDS PARK MARKET

License | Licensee | Lic. Types | Insurance | Bond | Requirements

Property Licensee Unofficial

Street #: 241
 Street Name: EARL
 Street Type: ST Direction:
 Unit Ind: Unit #:
 City: ST PAUL
 State: MN Zip: 55106
 Ward: 7
 Dist Council: 04

Project Facilitator: ZANGS, LAWRENCE (LARRY)

Adverse Action Comments
 8/24/2021 Notice of Violation sent with an 9/7/2021 deadline to respond. SM
 6/27/2019- Sent Notice of Violation with an 8/7/2019 deadline to respond. SM

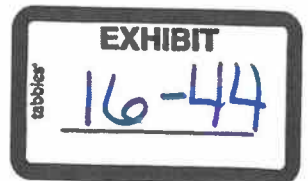
License Group Comments:
 09/07/2021 \$50.00 fine to clerk paid. LKK
 9/7/2021 \$800 fine paid. SLH
 8/10/2021 Sent to the CAO for a flavor Violation \$500 fine JNV

Licensee: MOUNDSVIEW RETAIL INC Licensee
 DBA: MOUNDS PARK MARKET Comments:
 Sales Tax Id: ***** Bus Phone: (651) 772-8511

License Type	Class	Effective	Expiration	Conditions	License Fee
False Alarms	R	01/01/2018	12/31/2018	N	\$0.00
Alarm Permit (New)	R	03/01/2017	03/01/2021	N	\$39.00
Cigarette/Tobacco	R	03/01/2017	03/01/2022	N	\$488.00



Joseph Voyda – Inspector III
 License Investigations & Compliance Checks
 Department of Safety and Inspections (DSI)
 375 Jackson Street, Suite 220
 Saint Paul, MN 55101-1806
 Tel: 651-266-9014 Fax: 651-266-9124
 General Information & Complaints 651-266-8989



Folder #: 2022 043518 LIC PIN: 332922340114 Status: Under Review
 In Date: 4/11/22 Ward: 7 Zoning: RT1 Subtype: License
 Dist Council: 4 Owner: Worktype: Complaint
 Complaint Location: 241 EARL ST
 Census Tract: 34500 241 Earl Llc
 Census Block: 2011 2303 Parkview Ln Woodbury MN 55125- 9377
 Homesteader:
 Tax Owner:

Legal Desc: SUBURBAN HILLS S 33 FT OF E 120 FT OF LOT 19 BLK 30

Complainant:

Details: Tobacco - selling flavored products from candy boxes + (Newport's/Camel) without tax stamps

This complaint has been referred to the following departments:

DSI Licensing Response - Scheduled Date: 4/11/22

Comment:

Inspector Assigned: Joseph Voyda, Phone: 651- 266- 9014

Results	Entered By	Comment
5/12/22 Closed with Comments	Voyda, Joseph	Complaint inspection - Found multiple flavor violations

Comment:

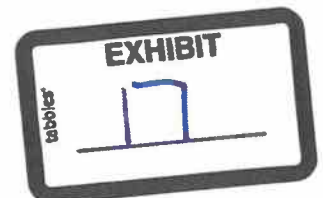
Inspector Assigned: Joseph Voyda, Phone: 651- 266- 9014

Results	Entered By	Comment
7/14/22 Under Review	Voyda, Joseph	License Holder Requested an ALJ

Comment:

Inspector Assigned: Joseph Voyda, Phone: 651- 266- 9014

Results	Entered By	Comment
5/17/22 Under Review	Voyda, Joseph	Sent to the CAO for AA for revocation of Tobacco License



Chapter 310. Uniform License Procedures

Sec. 310.01. Definitions.

For the purposes of this chapter, any chapter of the Legislative Code pertaining to licenses as hereinafter mentioned, and subsequently enacted ordinances establishing or relating to the requirements for Class R, for routinely issued licenses, Class T for temporary licenses and Class N for licenses in which neighbors are required to be notified, under authority of the City of Saint Paul, the terms defined in this section shall have the meanings ascribed to them:

Adverse action means the revocation or suspension of a license, the imposition of conditions upon a license, the denial of an application for the grant, issuance or renewal of a license, the imposition of a fine, the assessment of the costs of a contested hearing, and any other disciplinary or unfavorable action taken with respect to a license, licensee or applicant for a license. "Adverse action" includes any of the foregoing directed at one (1) or more licenses held by a licensee at any location in the city. "Adverse action" also includes disapproval of licenses issued by the state under statutory provisions which permit the governing body to disapprove the issuance of the license.

Bond means a bond meeting the requirements of section 310.07 and indemnifying the city against all claims, judgments or suits caused by, resulting from or in connection with any licensed business, activity, premises, thing, facility, occurrence or otherwise under these chapters.

Building official means the official in the department of safety and inspections charged with the responsibility of enforcement of the building code.

Chapters and these chapters shall mean this uniform license ordinance, any chapter of the Legislative Code pertaining to licenses as hereinafter mentioned, and subsequently enacted ordinances establishing or relating to the requirements for class R, class T and class N licenses under authority of the city.

Class R licenses means those licenses which can be approved and issued or denied by the director of the department of safety and inspections, subject to the procedures required by these chapters. The following licenses are so classified, and the numbers shown opposite them correspond to the chapters in the Legislative Code pertaining to each license:

Class R Licenses	Legislative Code Chapter
Animal Foods Manufacturing and Distributing	316
Amusement Rides	317
Mechanical Amusement Devices	318
Bed and Breakfast	378
Bituminous Contractors	320
Rooming and Boardinghouses; Dormitories	321
Christmas Tree Sales	323
Cigarettes/Tobacco	324
Commercial Vehicles	167
Building Contractors	326
Courtesy Bench	127

Dry Cleaning Establishments and Pickup Stations; Laundries	327
Alarm Devices	329
Food Protection Standards	331A
Fuel Dealers—Liquid Fuel	332
Fuel Dealers—Solid Fuel	333
Pest Control	334
House Sewer Contractors	338
Keeping of Animals	198
Lawn Fertilizer and Pesticide Application	377
Mercantile Broker	340
Oil—Bulk Storage	342
Peddlers	345
Solicitors	345
Pet Grooming Facility	382
Pet Shops	347
Solid Waste Hauler	357
Rental of Hospital Equipment	350
Rental of Kitchenware	351
Rental of Trailers	352
Roller Rinks	353
Sanitary Disposal Vehicle	354
Secondhand Dealers (Single Location, Multiple Dealers)	355
Sidewalk Cafe	106
Sidewalk Contractors	356
Solid Waste Transfer Station	357
Sign and Billboard Construction	66 and 33
Sound Trucks and Broadcasting Vehicles	359
Public Swimming Pools	360
Tanning Facility	380
Wreckers and Tow Trucks	361
Taxicab Driver	376
Taxicab Vehicle	376
Tree Trimming	362
Food Vending Machines	363
Veterinary Hospital	364
Window Cleaning	365
Block Parties	366
Wrecking of Buildings	368
Building Trades Business Licenses	369
Building Trades Certificates of Competency	370
Finishing Shop	371
Tire Recapping Plants	372
Massage Center	412
Therapeutic Massage Practitioner	414
Vehicle Immobilization	383
Short-term Rental Platform	379
Short-term Rental Host	379

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(Supp. No. 122, Update 2)

Class T licenses means those licenses which must be approved or denied by the director, subject to the procedures required by these chapters. The following licenses are so classified, and the numbers shown opposite them correspond to the chapters in the Legislative Code pertaining to each license:

Class T Licenses	Legislative Code Chapter
Amusement Rides—Temporary	317
Close-Out Sales	325
Transient Merchants	345
Gambling—Temporary	402.06
Entertainment—Temporary	411
Extension of Service Area-Liquor	409
Soliciting Funds—Tag Days	391
Temporary On-Sale Malt (3.2)	410
Temporary Wine, Wine Licenses for Festivals and Liquor	409
Secondhand Dealer—Exhibition	355
Temporary World Cup Soccer License	409, 410

Class N licenses means those licenses which can be approved or denied only by the council, subject to the procedures required by these chapters. The following licenses are so classified, and the numbers shown opposite them correspond to the chapters in the Legislative Code pertaining to each license:

Class N Licenses	Legislative Code Chapter
Automobile Repair Garage and Body Shop	423
Pool Hall, Bowling Center	322
New Motor Vehicle Dealer	401
Bingo	402
Bingo Halls	403
Cabaret	426
Private Clubs - Liquor	409
Dance or Rental Halls	405
Firearms Dealer	225
Gambling Hall	278
Game Rooms	406
Gas Station	424
Gambling Location	409
Hotel/Motel	407
Health/Sports Club	427
Infectious Waste Processing	429
Recycling Collection Center/Recycling Processing Center	408
Second Hand Dealer—Motor Vehicle Parts	401
Motor Vehicle Salvage Dealer	422
Intoxicating Liquor—On and Off Sale	409

Brewpub/Off-Sale	409
Off-Sale Brewery	409
Motorcycle Dealer	401
Pawn Shop	344
Nonintoxicating Liquor-On and Off Sale	410
Entertainment	411
Conversation/Rap Parlors	413
Steam Room/Bathhouse	428
Theatres and Movie Theaters	415
Motion Picture Drive-In Theatres	416
Second Hand Dealer—Motor Vehicle	401
Parking Lots and Parking Garages	417
Scrap and Metal Processor	420
Liquor Extension of Service Hours	409
Liquor Outdoor Service Area (Patio)	409
Currency Exchange	381
Small Brewer Off-Sale—128 Ounces License	409

Department means the department of safety and inspections.

Director means the director of the department of safety and inspections, unless otherwise defined in the specific chapter, section or subdivision referred to.

Fee means and includes both the license fee and application fee unless otherwise provided.

Inspector as used in these chapters means the director of the department of safety and inspections or his or her designee.

License means and includes all licenses and permits provided for or covered by these chapters. License also includes licenses issued by the state under statutory provisions which permit the governing body to disapprove the issuance of such licenses, for the purposes of making procedures in chapter 310 of the Legislative Code applicable to the approval or disapproval of such licenses.

Person means and includes any person, firm, corporation, partnership, company, organization, agency, club or any group or association thereof. It shall also include any executor, administrator, trustee, receiver or other representative appointed by law.

Zoning administrator means the official in the department of safety and inspections charged with responsibility for enforcement of the zoning code.

(Code 1956, § 510.01; Ord. No. 17085, § 1, 12-6-83; Ord. No. 17303, § 3, 10-29-85; Ord. No. 17569, § 1, 6-7-88; Ord. No. 17919, § 1, 3-31-92; C.F. No. 93-1645, § 8, 12-30-93; C.F. No. 94-46, § 6, 2-2-94; C.F. No. 94-500, § 2, 7-6-94; C.F. No. 94-898, § 1, 7-13-94; C.F. No. 95-473, § 1, 5-31-95; C.F. No. 99-500, § 1, 7-7-99; C.F. No. 01-400, § 1, 11-7-01; C.F. No. 02-1031, § 1, 11-27-02; C.F. No. 03-102, § 1, 3-12-03; C.F. No. 03-694, § 1, 9-3-03; C.F. No. 06-574, § 1, 7-26-06; C.F. No. 06-821, § 1, 9-27-06; C.F. No. 07-149, § 71, 3-28-07; Ord 12-50, § 1, 9-12-12; Ord 17-48, § 1, 10-25-17; Ord 16-68, § 1, 1-9-19; Ord 22-35, § 2, 8-3-22)

Sec. 310.02. Application.

- (a) *Form.* All applicants for licenses or permits issued pursuant to these chapters shall make both original and renewal applications to the inspector on such forms as are provided by the division. Such applications shall

not be received by the inspector until completely filled out, accompanied by all fees, insurance policies, bonds, deposits, sureties, and indemnifications or certificates required by these chapters, together with the certification required in paragraph (b) below.

- (b) *Taxes.* No person shall be granted a license or a renewal of a license required by the Saint Paul Legislative Code unless, prior to and in addition to any other requirements, rules or ordinances heretofore or hereafter required, the Ramsey County Department of Property Taxation certifies that said applicant has paid any and all taxes, real or personal, before said taxes become delinquent, on any property, real or personal, situated within the City of Saint Paul and used in connection with the business operated under said license.

Notwithstanding the previous paragraph, the council, the director or the inspector may issue or renew a license if it is found that:

- (1) The applicant has made an agreement satisfactory to the Ramsey County attorney to pay delinquent taxes in periodic installments;
- (2) The applicant has properly commenced a proceeding to contest the amount of tax due or the valuation of his property, and has made all partial payments required by law in connection with such proceeding; or
- (3) The business property with respect to which taxes are delinquent is not owned by the applicant, but by a lessor, and it would be inequitable to require the lessee to pay such taxes.

If a license is issued or renewed because of the existence of an agreement as described in subsection (1) above, the license may be revoked if the licensee defaults upon such agreement.

- (c) *Additional information.* The inspector shall prescribe the information required to be submitted by each applicant in their application, in addition to that required by specific sections in these chapters, as may be necessary to carry out and enforce any provision hereunder. The inspector shall require in every case the applicant to submit their name; business or corporate name; names of partners, officers, directors, shareholders or trustees involved in the business; age; address; description or blueprint of the premises, if any, and the owner thereof, and locations and addresses of other business locations in Minnesota.
- (d) *No reapplication within one (1) year after denial or revocation.* Unless an applicant is claiming that they have evidence of rehabilitation as outlined in Minnesota Statute 364.03, subd. 3, no person may apply for any license within one (1) year of the denial or revocation of the same or similar license by the city council, if such denial or revocation was based solely or partially upon misconduct or unfitness of the applicant, evidence of violations of law involving licensed premises, evidence that the applicant had been involved in the operation of a nuisance, or fraud or deception in the license application. A license is "similar," within the meaning of this paragraph, if the basis upon which the revocation or denial of the original license was made would have been a relevant basis on which to deny or revoke a license of the type subsequently applied for.
- (e) *Reapplication after denial; "interest" of applicant in revoked license.* An application by a person having an interest in, or whose shareholders or officers have an interest in, any premises or enterprise whose license has been revoked or to which a license has been denied shall be treated as an application by the person whose license was denied or revoked. The term "interest," as used in this paragraph, includes any pecuniary interest in the ownership, operation, management or profits of an establishment, but does not include: bona fide loans; bona fide rental agreements; bona fide open accounts or other obligations held with or without security arising out of the ordinary and regular course of business of selling or leasing merchandise, fixtures or supplies to such establishment; an interest in a corporation owning or operating a hotel but having at least one hundred fifty (150) or more rental units holding a license in conjunction therewith; or ten (10) percent or less interest in any other corporation holding a license.
- (f) *Prohibition on reapplication; exception.* The prohibition on reapplication herein provided shall not apply in cases where it is otherwise expressly provided by statute or ordinance.

-
- (g) *Waiting period after filing of petition.* Any petition required to be filed with the application for any license shall not be considered as officially filed and irrevocable until seven (7) working days after a petition is received in the inspector's office. During the seven-day waiting period, any signator of any petition may withdraw their name therefrom by written request, and such request shall be appended to the subject petition and made a part thereof. After the seven-day waiting period, signatures may not be withdrawn unless it is shown they were obtained by fraud or duress. Signatures withdrawn or obtained by fraud or duress shall not be counted in determining the sufficiency of the petition. This subdivision shall apply in any case where the applicant for a license must present a statement in writing signed by a specified number or percentage of persons that they have given their consent to the grant of the license.

(Code 1956, § 510.02; C.F. No. 95-473, § 2, 5-31-95; Ord. 21-26, § 2, 7-28-21)

Sec. 310.03. Investigation and review of new applications, etc.

The inspector shall determine the sufficiency and accuracy of each new application and obtain such criminal history information as may be used under Minnesota Statutes, chapter 364, and is otherwise available by law. The inspector shall make reasonable and appropriate investigation of the premises or personal property, vehicles or facilities, as may be involved in or related to the licensed activity, and shall request, where appropriate, the assistance of other city divisions or departments in making additional investigations for the purpose of determining whether the applicant is or will be in compliance with all applicable ordinances and statutes. The approval of such other divisions or departments is not required for issuance of a license unless otherwise required by specific sections in these chapters. All new applications shall be reviewed by the zoning administrator or his designee for compliance with all requirements of the Saint Paul Zoning Code, and no new license shall be granted without full compliance with said requirements. All new applications involving a premises, location, building or structure shall be referred to the department of safety and inspections for investigation and recommendation.

(Code 1956, § 510.03; Ord. No. 17361, § 1, 6-5-86; C.F. No. 07-149, § 72, 3-28-07)

Sec. 310.04. Levels of approval; recommendations.

- (a) *Class R licenses.* Where an application for the grant, issuance or renewal of a Class R license meets all the requirements of law, and there exists no ground for denial, revocation or suspension of, or the imposition of conditions upon, such license, the director shall grant, issue or renew said license in accordance with the application.
- (b) *Class T licenses.* Where an application for the grant, issuance or renewal of a Class T license meets all the requirements of law, and there exists no ground for denial, revocation or suspension of, or the imposition of conditions upon, such license, the director shall grant, issue or renew said license in accordance with the application.
- (c) *Class R and Class T licenses, if denied by director.* In the event the director, in the case of both Class R and Class T licenses, determines that the application for grant, issuance or renewal of the license does not meet all the requirements of law or that there exist grounds for denial, revocation, suspension or other adverse action against the license or the licensee, the director shall recommend denial of the application and follow the procedures for notice and hearing as set forth in section 310.05.
- (d) *Class N licenses.*
- (1) *Grant, issuance or transfer.* Upon receipt of a fully completed application and required fees for a Class N license, the director shall conduct such investigation as is required to determine whether the application meets all the requirements of law or whether there exist grounds for denial or imposition of conditions on the license. The director shall, in writing, notify the council, and the affected

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neighborhood organization(s) established for citizen participation purposes, of the existence of the application for all Class N licenses. In any case where the director recommends denial of the grant, issuance or renewal of a Class N license, the director on his or her own initiative, or at the direction of the council, shall follow the procedures for notice and hearing as set forth in section 310.05. If the director is recommending issuance of the license, but the affected neighborhood organization(s) or other interested persons give notice within thirty (30) days of receipt of notice of the existence of the application (or within forty-five (45) days if the application involves a liquor license) of objection to issuance of the license, the matter shall be referred for a hearing before the legislative hearing officer, who shall give notice of the time, place and date of the hearing to the affected neighborhood organization(s) and the applicant. The legislative hearing officer shall take testimony from all interested persons and shall make a recommendation to the council as to whether the matter should be referred for a hearing before an independent hearing examiner in accordance with the procedures set forth in section 310.05. Where the application for the grant, issuance or renewal of a Class N license meets all the requirements of law, and where there exists no ground for adverse action, the director shall issue such license in accordance with law.

- (2) *Renewal.* The director shall in writing notify the council, and the affected neighborhood organization(s) established for citizen participation purposes, at least sixty (60) days before the expiration date of all Class N licenses. A public hearing on the renewal of any such license shall not be held except on the request of a councilmember, which request shall be incorporated in the form of a council resolution. Upon the passage of such resolution, the director shall give written notice of such hearing to the affected neighborhood organizations. Such public hearing does not replace or amend any of the procedures set forth in section 310.05 of the Legislative Code. If no request for a public hearing is made before the expiration of any such license, and where there exists no ground for adverse action, the director shall issue the license in accordance with law.
- (e) *Appeal; Class R or Class T licenses.* An appeal to the city council may be taken by any person aggrieved by the grant, issuance or renewal of a Class R or Class T license; provided, however, that the appeal shall have been filed with the city clerk within thirty (30) days after the action by the director. The only grounds for appeal shall be that there has been an error of law in the grant, issuance or renewal of the license. The appeal shall be in writing and shall set forth in particular the alleged errors of law. The council shall conduct a hearing on the appeal within thirty (30) days of the date of filing and shall notify the licensee and the appellant at least ten (10) days prior to the hearing date. The procedures set forth in section 310.05, insofar as is practicable, shall apply to this hearing. Following the hearing, the council may affirm or remand the matter to the inspector or director, or may reverse or place conditions upon the license based on the council's determination that the decision was based on an error of law. The filing of an appeal shall not stay the issuance of the license.
- (f) *No waiver by renewal.* The renewal of any license, whether Class R, T or N, shall not be deemed to be a waiver of any past violations or of any grounds for imposition of adverse action against such license.

(Code 1956, § 510.04; Ord. No. 17455, § 1, 5-21-87; Ord. No. 17551, § 1, 4-19-88; C.F. No. 94-500, § 1, 7-6-94; C.F. No. 95-473, § 3, 5-31-95; C.F. No. 95-1517, 1-31-96; C.F. No. 97-1446, § 1, 12-30-97; C.F. No. 99-500, § 2, 7-7-99)

Sec. 310.05. Hearing procedures.

- (a) *Adverse action; notice and hearing requirements.* In any case where the council may or intends to consider any adverse action, including the revocation or suspension of a license, the imposition of conditions upon a license, or the denial of an application for the grant, issuance or renewal of a license, or the disapproval of a license issued by the State of Minnesota, the applicant or licensee shall be given notice and an opportunity to be heard as provided herein. The council may consider such adverse actions when recommended by the

inspector, by the director, by the director of any executive department established pursuant to Chapter 9 of the Charter, by the city attorney or on its own initiative.

- (b) *Notice.* In each such case where adverse action is or will be considered by the council, the applicant or licensee shall have been notified in writing that adverse action may be taken against the license or application, and that he or she is entitled to a hearing before action is taken by the council. The notice shall be served or mailed a reasonable time before the hearing date, and shall state the place, date and time of the hearing. The notice shall state the issues involved or grounds upon which the adverse action may be sought or based. The council may request that such written notice be prepared and served or mailed by the inspector or by the city attorney.
- (c) *Hearing.* Where there is no dispute as to the facts underlying the violation or as to the facts establishing mitigating or aggravating circumstances, the hearing shall be held before the council. Otherwise the hearing shall be conducted before a hearing examiner appointed by the council or retained by contract with the city for that purpose. The applicant or the licensee shall be provided an opportunity to present evidence and argument as well as meet adverse testimony or evidence by reasonable cross-examination and rebuttal evidence. The hearing examiner may in its discretion permit other interested persons the opportunity to present testimony or evidence or otherwise participate in such hearing.
- (c-1) *Procedure; hearing examiner.* The hearing examiner shall hear all evidence as may be presented on behalf of the city and the applicant or licensee, and shall present to the council written findings of fact and conclusions of law, together with a recommendation for adverse action.

The council shall consider the evidence contained in the record, the hearing examiner's recommended findings of fact and conclusions, and shall not consider any factual testimony not previously submitted to and considered by the hearing examiner. After receipt of the hearing examiner's findings, conclusions, and recommendations, the council shall provide the applicant or licensee an opportunity to present oral or written arguments alleging error on the part of the examiner in the application of the law or interpretation of the facts, and to present argument related to the recommended adverse action. Upon conclusion of that hearing, and after considering the record, the examiner's findings and recommendations, together with such additional arguments presented at the hearing, the council shall determine what, if any, adverse action shall be taken, which action shall be by resolution. The council may accept, reject or modify the findings, conclusions and recommendations of the hearing examiner.

- (c-2) *Ex-parte contacts.* If a license matter has been scheduled for an adverse hearing, council members shall not discuss the license matter with each other or with any of the parties or interested persons involved in the matter unless such discussion occurs on the record during the hearings of the matter or during the council's final deliberations of the matter. No interested person shall, with knowledge that a license matter has been scheduled for adverse hearing, convey or attempt to convey, orally or in writing, any information, argument or opinion about the matter, or any issue in the matter, to a council member or his or her staff until the council has taken final action on the matter; provided, however, that nothing herein shall prevent an inquiry or communications regarding status, scheduling or procedures concerning a license matter. An interested person, for the purpose of this paragraph, shall mean and include a person who is an officer or employee of the licensee which is the subject of the scheduled adverse hearing, or a person who has a financial interest in such licensee.
- (d) *Licensee or applicant may be represented.* The licensee or applicant may represent himself or choose to be represented by another.
- (e) *Record; evidence.* The hearing examiner shall receive and keep a record of such proceedings, including testimony and exhibits, and shall receive and give weight to evidence, including hearsay evidence, which possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs.

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- (f) *Council action, resolution to contain findings.* Where the council takes adverse action with respect to a license, licensee or applicant for a license, the resolution by which such action is taken shall contain its findings and determination, including the imposition of conditions, if any. The council may adopt all or part of the findings, conclusions and recommendations of the hearing examiner, and incorporate the same in its resolution taking the adverse action.
- (g) *Additional procedures where required.* Where the provisions of any statute or ordinance require additional notice or hearing procedures, such provisions shall be complied with and shall supersede inconsistent provisions of these chapters. This shall include, without limitation by reason of this specific reference, Minnesota Statutes, Chapter 364 and Minnesota Statutes, Section 340A.415.
- (h) *Discretion to hear notwithstanding withdrawal or surrender of application or license.* The council may, at its discretion, conduct a hearing or direct that a hearing be held regarding revocation or denial of a license, notwithstanding that the applicant or licensee has attempted or purported to withdraw or surrender said license or application, if the attempted withdrawal or surrender took place after the applicant or licensee had been notified of the hearing and potential adverse action.
- (i) *Continuances.* Where a hearing for the purpose of considering revocation or suspension of a license or other disciplinary action involving a license has been scheduled before the council, a continuation of the hearing may be granted by the council president or by the council at the request of the licensee, license applicant, an interested person or an attorney representing the foregoing, upon a showing of good cause by the party making the request.
- (j) If the council imposes an adverse action as defined in section 310.01 above, a generic notice of such action shall be prepared by the license inspector and posted by the licensee so as to be visible to the public during the effective period of the adverse action. The licensee shall be responsible for taking reasonable steps to make sure the notice remains posted on the front door of the licensed premises, and failure to take such reasonable precautions may be grounds for further adverse action.
- (k) *Imposition of costs.* The council may impose upon any licensee or license applicant some or all of the costs of a contested hearing before an independent hearing examiner. The costs of a contested hearing include, but are not limited to, the cost of the administrative law judge or independent hearing examiner, stenographic and recording costs, copying costs, city staff and attorney time for which adequate records have been kept, rental of rooms and equipment necessary for the hearing, and the cost of expert witnesses. The council may impose all or part of such costs in any given case if (i) the position, claim or defense of the licensee or applicant was frivolous, arbitrary or capricious, made in bad faith, or made for the purpose of delay or harassment; (ii) the nature of the violation was serious, or involved violence or the threat of violence by the licensee or employees thereof, or involved the sale of drugs by the licensee or employees thereof, and/or the circumstances under which the violation occurred were aggravated and serious; (iii) the violation created a serious danger to the public health, safety or welfare; (iv) the violation involved unreasonable risk of harm to vulnerable persons, or to persons for whose safety the licensee or applicant is or was responsible; (v) the applicant or licensee was sufficiently in control of the situation and therefore could have reasonably avoided the violation, such as but not limited to, the nonpayment of a required fee or the failure to renew required insurance policies; (vi) the violation is covered by the matrix in section 409.26 of the Legislative Code; or (vii) the violation involved the sale of cigarettes to a minor.
- (l) *Imposition of fines.* The council may impose a fine upon any licensee or license applicant as an adverse license action. A fine may be in such amount as the council deems reasonable and appropriate, having in mind the regulatory and enforcement purposes embodied in the particular licensing ordinance. A fine may be in addition to or in lieu of other adverse action in the sole discretion of the council. To the extent any other provision of the Legislative Code provides for the imposition of a fine, both provisions shall be read together to the extent possible; provided, however, that in the case of any conflict or inconsistency, the other provision shall be controlling.

(m) *Presumptive penalties for certain violations.* The purpose of this section is to establish a standard by which the city council determines the amount of fines, the length of license suspensions and the propriety of revocations, and shall apply to all license types, except that in the case of a violation involving a liquor license § 409.26 shall apply where a specific violation is listed. In the case of an adverse action filed for a violation of chapter 331A, the licensee shall be given a fine for each individual violation of chapter 331A. The total fine amount for violations of chapter 331A may exceed the maximum fine outlined below due to multiple violations in one (1) appearance. All penalty recommendations for chapter 331A violations shall be based on the food penalty guideline referred to in chapter 331A. These penalties are presumed to be appropriate for every case; however the council may deviate therefrom in an individual case where the council finds and determines that there exist substantial and compelling reasons making it more appropriate to do so. When deviating from these standards, the council shall provide written reasons that specify why the penalty selected was more appropriate.

Type of Violation	Appearance			
	1st	2nd	3rd	4th
(1) Violations of conditions placed on the license	\$500.00 fine	\$1,000.00 fine	\$2,000.00 fine and 10-day suspension	Revocation
(2) Violation of provisions of the legislative code relating to the licensed activity	\$500.00 fine	\$1,000.00 fine	\$2,000.00 fine and 10-day suspension	Revocation
(3) Violation of provisions of the legislative code relating to the licensed activity, other than violations of the food code	\$500.00 fine	\$1,000.00 fine	\$2,000.00 fine and 10-day suspension	Revocation
(4) Failure to permit entrance or inspection by DSI inspector or police	5-day suspension	10-day suspension	15-day suspension	Revocation
(5) Commission of a crime other than a felony on the premises by a licensee or employee	\$700.00	\$1,500.00	5-day suspension	Revocation
(6) Commission of a felony on the premises by a licensee or employee	\$2,000.00	Revocation	n/a	n/a

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(7) Death or great bodily harm in establishment related to violation of law or license conditions	30-day suspension	60-day suspension	Revocation	n/a
(8) Failure to pay license fees	Suspension	Revocation		
(9) Critical violations under 331A	\$250.00	\$500.00	\$1,000.00, 5-day suspension	Revocation
(10) Non-critical violation under 331A	\$150.00	\$250.00	\$500.00	\$1,000.00
(11) Taxi fail to display driver's license as required by 376.16(f)	\$100.00	\$250.00	\$500.00	Revocation
(12) Taxi fail to display number of information and complaint office as required by 376.11(v)	\$100.00	\$250.00	\$500.00	Revocation
(13) Violation of restrictions upon sidewalk café license under 106.01(b)	\$200.00	\$400.00	\$800.00	Revocation

(i) *Fines payable without hearing.*

- A. Notwithstanding the provisions of section 310.05(c), a licensee who would be making a first or second appearance before the council may elect to pay the fine to the department of safety and inspections without a council hearing, unless the notice of violation has indicated that a hearing is required because of circumstances which may warrant deviation from the presumptive fine amount. Payment of the recommended fine will be considered to be a waiver of the hearing to which the licensee is entitled, and will be considered an "appearance" for the purpose of determining presumptive penalties for subsequent violations.
- B. For adverse action initiated under chapter 331A of this Code, a fine may be paid without a hearing regardless of how many prior appearances that licensee has made before the council. The above council hearing requirement applies to violations under chapter 331A unless the fine recommended by the department of safety and inspections is equal to or less than the fine amount outlined in the above matrix. Payment of the recommended fine will be considered to be a waiver of the hearing to which the licensee is entitled, and will be considered an "appearance"

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for the purpose of determining presumptive penalties for subsequent violations. A non-critical violation under chapter 331A shall not be considered an "appearance" for purposes of determining presumptive penalties for non-331A violations. A council hearing is required if the department of safety and inspections recommends a fine that is an upward departure for the amount outlined above.

- (ii) *Multiple violations.* At a licensee's first appearance before the city council, the council shall consider and act upon all the violations that have been alleged and/or incorporated in the notices sent to the licensee under the administrative procedures act up to and including the formal notice of hearing. The council in that case shall consider the presumptive penalty for each such violation under the "1st Appearance" column in paragraph (b) above. The occurrence of multiple violations shall be grounds for departure from such penalties in the council's discretion.
- (iii) *Violations occurring after the date of the notice of hearing.* Violations occurring after the date of the notice of hearing that are brought to the attention of the city attorney prior to the hearing date before an administrative law judge (or before the council in an uncontested facts hearing) may be added to the notice(s) by stipulation if the licensee admits to the facts, and shall in that case be treated as though part of the "1st Appearance." In all other cases, violations occurring after the date of the formal notice of hearing shall be the subject of a separate proceeding and dealt with as a "2nd Appearance" before the council. The same procedures shall apply to a second, third or fourth appearance before the council.
- (iv) *Subsequent appearances.* Upon a second, third or fourth appearance before the council by a particular licensee, the council shall impose the presumptive penalty for the violation or violations giving rise to the subsequent appearance without regard to the particular violation or violations that were the subject of the first or prior appearance. However, non-critical violations of chapter 331A shall not be counted as an "appearance" before the council in relation to any violation other than another violation of chapter 331A.
- (v) *Computation of time.*
 - (1) *Second appearance.* A second violation within twelve (12) months shall be treated as a second appearance for the purpose of determining the presumptive penalty.
 - (2) *Third appearance.* A third violation within eighteen (18) months shall be treated as a third appearance for the purpose of determining the presumptive penalty.
 - (3) *Fourth appearance.* A fourth violation within twenty-four (24) months shall be treated as a fourth appearance for the purpose of determining the presumptive penalty.
 - (4) Any appearance not covered by subsections (1), (2) or (3) above shall be treated as a first appearance. Measurement of the twelve-, eighteen-, or twenty-four-month period shall be as follows: The beginning date shall be the earliest violation's date of appearance before the council, and the ending date shall be the date of the new violation. In case of multiple new violations, the ending date to be used shall be the date of the violation last in time.
 - (5) Notwithstanding subsections (iv)(1), (2), (3) or (4) above, a second appearance before the council regarding a death or great bodily harm in a licensed establishment that is related to a violation of the law or license conditions shall be counted as a second appearance, regardless of how much time has passed since the first appearance if the first appearance was also regarding a death or great bodily harm in a licensed establishment. A third appearance for the same shall be counted as a third appearance regardless of how much time has passed since the first or second appearance.
 - (6) For the purpose of a second, third or fourth appearance under this section, "violation" shall mean either one of those violations listed in paragraph (m) or a violation of section 409.26(b).

(Code 1956, § 510.05; Ord. No. 17551, § 2, 4-19-88; Ord. No. 17559, §§ 1, 2, 5-17-88; Ord. No. 17659, § 1, 6-13-89; Ord. No. 17911, § 1, 3-10-92; C.F. No. 94-46, § 7, 2-2-94; C.F. No. 94-898, §§ 2, 3, 7-13-94; C.F. No. 94-1340, § 2, 10-19-94; C.F. No. 95-473, § 4, 5-31-95; C.F. No. 05-180, § 1, 4-6-05; C.F. No. 06-954, § 1, 11-8-06; C.F. No. 06-1072, § 1, 12-27-06; C.F. No. 07-149, § 73, 3-28-07; C.F. No. 07-1053, § 1, 11-28-07; C.F. No. 08-1208, § 1, 12-17-08; C.F. No. 10-665, § 1, 7-28-10; Ord. No. 11-93, § 1, 9-28-11; Ord. No. 11-94, § 1, 10-12-11; Ord 12-42, § 1, 8-22-12; Ord 12-85, § 1, 1-23-13)

Sec. 310.06. Revocation; suspension; adverse actions; imposition of conditions.

- (a) *Council may take adverse action.* The council is authorized to take adverse action, as defined in section 310.01 above, against any or all licenses or permits, licensee or applicant for a license, as provided in and by these chapters. Adverse actions against entertainment licenses issued under chapter 411 of the Legislative Code may be initiated for the reasons set forth in subsection (b) below, or upon any lawful grounds which are communicated to the license holder in writing prior to the hearing before the council. Such actions shall be initiated and carried out in accordance with the procedures outlined in section 310.05; provided, however, that the formal notice of hearing shall be used to initiate the adverse action without the use of prior procedural steps.
- (b) *Basis for action.* Such adverse action may be based on one (1) or more of the following reasons, which are in addition to any other reason specifically provided by law or in these chapters:
- (1) The license or permit was procured by misrepresentation of material facts, fraud, deceit or bad faith.
 - (2) The applicant or one acting in his or her behalf made oral or written misstatements or misrepresentations of material facts in or accompanying the application.
 - (3) The license was issued in violation of any of the provisions of the zoning code, or the premises which are licensed or which are to be licensed do not comply with applicable health, housing, fire, zoning and building codes and regulations.
 - (4) The license or permit was issued in violation of law, without authority, or under a material mistake of fact.
 - (5) The licensee or applicant has failed to comply with any condition set forth in the license, or set forth in the resolution granting or renewing the license.
 - (6) a. The licensee or applicant (or any person whose conduct may by law be imputed to the licensee or applicant) has violated, or performed any act which is a violation of, any of the provisions of these chapters or of any statute, ordinance or regulation reasonably related to the licensed activity, regardless of whether criminal charges have or have not been brought in connection therewith;
 - b. The licensee or applicant has been convicted of a crime that may disqualify said applicant from holding the license in question under the standards and procedures in Minnesota Statutes chapter 364; or
 - c. The licensee or applicant (or any person whose conduct may by law be imputed to the licensee or applicant) has engaged in or permitted a pattern or practice of conduct of failure to comply with laws reasonably related to the licensed activity or from which an inference of lack of fitness or good character may be drawn.
 - (7) The activities of the licensee in the licensed activity created or have created a serious danger to the public health, safety or welfare, or the licensee performs or has performed his or her work or activity in an unsafe manner.

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- (8) The licensed business, or the way in which such business is operated, maintains or permits conditions that unreasonably annoy, injure or endanger the safety, health, morals, comfort or repose of any considerable number of members of the public.
 - (9) Failure to keep sidewalks or pedestrian ways reasonably free of snow and ice as required under chapter 114 of the Saint Paul Legislative Code.
 - (10) The licensee or applicant has shown by past misconduct or unfair acts or dealings: physical abuse, assaults or violent actions done to others, including, but not limited to, actions meeting the definition of criminal sexual conduct pursuant to Minnesota Statutes sections 609.342 through 609.3451; sexual abuse, physical abuse or maltreatment of a child as defined in Minnesota Statutes section 626.556, subdivisions 2 and 10e, including, but not limited to, acts which constitute a violation of Minnesota Statutes sections 609.02, subdivision 10; 609.321 through 609.3451; or 617.246; neglect or endangerment of a child as defined in Minnesota Statutes section 626.557, subdivision 2; the manufacture, distribution, sale, gift, delivery, transportation, exchange or barter of a controlled substance as defined in Minnesota Statutes chapter 152; the possession of a controlled substance as defined in Minnesota Statutes chapter 152 in such quantities or under circumstances giving rise to a reasonable inference that the possession was for the purpose of sale or distribution to others; or by the abuse of alcohol or other drugs, that such licensee or applicant is not a person of the good moral character or fitness required to engage in a licensed activity, business or profession.
 - (11) The licensee or applicant has materially changed or permitted a material change in the design, construction or configuration of the licensed premises without the prior approval of the city council in the case of Class N licenses, the director in the case of Class T licenses, and the inspector in the case of Class R licenses, or without first having obtained the proper building permits from the city.
 - (12) The licensee or applicant has violated section 294.01 of the Legislative Code, or has made or attempted to make a prohibited ex parte contact with a council member as provided in section 310.05(c-2) of the Legislative Code.
 - (13) The licensee violated the law or any license condition and that violation is related to a death or great bodily harm, as defined in Minnesota Statute section 609.02, subd. 8, in or near the establishment.
 - (14) The licensee has failed to pay license fees within sixty (60) days of the date the fees are due. Licensee must pay any outstanding fees and delinquent fees in total. Failure to do so within sixty (60) days of the due date may result in revocation of the license. A revocation for this reason, however, is not considered a revocation resulting from misconduct or unfitness of the licensee, evidence of violations of law involving licensed premises, evidence that the applicant had been involved in the operation of a nuisance, or fraud or deception in the license application. Therefore, the requirement of § 310.02(d) prohibiting re-application within one year of revocation shall not apply to revocations under this paragraph.

The terms "licensee" or "applicant" for the purpose of this section shall mean and include any person who has any interest, whether as a holder of more than five (5) percent of the stock of a corporation, as a partner, or otherwise, in the premises or in the business or activity which are licensed or proposed to be licensed.

With respect to any license for activities entitled to the protection of the First Amendment, notwithstanding the foregoing provisions, neither the lack of good moral character or fitness of the licensee or applicant nor the content of the protected speech or matter shall be the basis for adverse action against the license or application.

- (c) *Imposition of reasonable conditions and/or restrictions.* When a reasonable basis is found to impose reasonable conditions and/or restrictions upon a license issued or held under these chapters, any one (1) or more such reasonable conditions and/or restrictions may be imposed upon such license for the purpose of promoting public health, safety and welfare, of advancing the public peace and the elimination of conditions or actions that constitute a nuisance or a detriment to the peaceful enjoyment of urban life, or promoting

security and safety in nearby neighborhoods. Such reasonable conditions and/or restrictions may include or pertain to, but are not limited to:

- (1) A limitation on the hours of operation of the licensed business or establishment, or on particular types of activities conducted in or on said business or establishment;
- (2) A limitation or restriction as to the location within the licensed business or establishment where particular type of activities may be conducted;
- (3) A limitation as to the means of ingress or egress from the licensed establishment or its parking lot or immediately adjacent area;
- (4) A requirement to provide off-street parking in excess of other requirements of law;
- (5) A limitation on the manner and means of advertising the operation or merchandise of the licensed establishment;
- (6) Any other reasonable condition or restriction limiting the operation of the licensed business or establishment to ensure that the business or establishment will harmonize with the character of the area in which it is located, or to prevent the development or continuation of a nuisance.

The inspector may impose such conditions on Class R licenses with the consent of the license holder, or may recommend the imposition of such conditions as an adverse action against the license or licenses; the inspector has the same power with respect to Class T licenses. The council may impose such conditions on Class N licenses with the consent of the license holder, or upon any class of license as an adverse action against the license or licenses following notice and hearing as may be required. Such conditions may be imposed on a license or licenses upon issuance or renewal thereof, or upon and as part of any adverse action against a license or licenses, including suspension. Conditions imposed on a license or licenses shall remain on such licenses when renewed and shall continue thereafter until removed by the council in the case of conditions on Class N licenses or conditions imposed by adverse action, and by the inspector in the case of Class R and T licenses.

(d) *Standards for multiple license determination.* In any case in which the council is authorized to take adverse action against less than all of the licenses held by a licensee, or applied for by an applicant, the following standards may be used:

- (1) The nature and gravity of the grounds found by the council to exist upon which the adverse action would be based;
- (2) The policy and/or regulatory goals for the particular licenses involved, either as embodied in the Legislative Code or as found and determined by the council;
- (3) The interrelationship of the licenses and their relative importance to the overall business enterprise of the licensee or applicant;
- (4) The management practices of the licensee or applicant with respect to each of such licenses;
- (5) The extent to which adverse action against less than all of the licenses or applications would result in difficulty in enforcing and monitoring the adverse action taken;
- (6) The hardship to the licensee or applicant that would be caused by applying adverse action to all licenses or applications; and
- (7) The hardship and/or danger to the public, or to the public health and welfare, that would result from adverse action against less than all of the licenses or applications.

(Code 1956, § 510.06; Ord. No. 17584, § 1, 8-25-88; Ord. No. 17657, § 15, 6-8-89; Ord. No. 17659, § 2, 6-13-89; Ord. No. 17901, §§ 2, 3, 1-14-92; Ord. No. 17917, §§ 2, 3, 3-31-92; Ord. No. 17922, § 1, 4-28-92; C.F. No. 94-500, § 3, 7-6-94; C.F. No. 94-1340, § 3, 10-19-94; C.F. No. 95-473, § 5, 5-31-95; C.F. No. 99-500, § 3, 7-7-99; C.F. No. 06-954, § 2, 11-8-06; C.F. No. 06-1072, § 2, 12-27-06)

Sec. 310.07. Termination of licenses; surety bonds; insurance contracts.

- (a) Automatic termination, reinstatement; responsibility of licensee. All licenses or permits which must, by the provisions of these chapters or other ordinances or laws, be accompanied by the filing and maintenance of insurance policies, deposits, guarantees, bonds or certifications shall automatically terminate on cancellation or withdrawal of said policies, deposits, bonds or certifications. No licensee may continue to operate or perform the licensed activity after such termination. The licensee is liable and responsible for the filing and maintenance of such policies, deposits, guarantees, bonds or certifications as are required in these chapters, and shall not be entitled to assert the acts or omissions of agents, brokers, employees, attorneys or any other persons as a defense or justification for failure to comply with such filing and maintenance requirements. In the event the licensee reinstates and files such policies, bonds or certifications without a lapse within thirty (30) days, the license is automatically reinstated on the same terms and conditions, and for the same period as originally issued. After thirty (30) days, the applicant must apply for a new license as though it were an original application.

If there is a lapse in insurance, the licensee is subject to adverse action in accordance with Saint Paul Legislative Code § 310.05. License is null and void during the lapse.

- (b) *Bonds and insurance requirements:*

- (1) *Surety Companies:* All surety bonds running to the City of Saint Paul shall be written by surety companies authorized to do business in the State of Minnesota. All insurance policies required by these chapters shall be written by insurance companies authorized to do business in the State of Minnesota.
- (2) *Approved as to Form:* All bonds filed with the City of Saint Paul in connection with the issuance of licenses for whatever purpose, and all policies of insurance required to be filed with or by the City of Saint Paul in connection with the issuance of licenses for any purpose whatsoever, shall first be approved as to form by the city attorney.
- (3) *Uniform Endorsement:* Each insurance policy required to be filed pursuant to these chapters shall contain the endorsement set forth in Chapter 7 of the Saint Paul Legislative Code.
- (4) *Conditions:* All bonds required by these chapters shall be conditioned that the licensee shall observe all ordinances and laws in relation to the licensed activity, business, premises or facilities and that he shall conduct all such activities or business in conformity therewith. Such bonds shall also indemnify the City of Saint Paul against all claims, judgments or suits caused by, resulting from or in connection with the licensed business, premises, activity, thing, facility, occurrence or otherwise licensed under these chapters.

- (c) *Termination of bonds and insurance required by city.* Termination of bonds and insurance required to be filed with the city pursuant to these chapters shall be in accordance with the requirements of Chapter 8 of the Saint Paul Legislative Code.

- (d) *Expiration date to be concurrent with term of license or permit.* The expiration date of all such policies, bonds, guarantees or certifications shall be concurrent with the expiration date of the license or permit.

(Code 1956, § 510.07; Ord 12-74, § 1, 11-28-12)

Sec. 310.08. Terms of licenses; uniform dates.

- (a) All licenses or permits shall be valid for a period of one (1) year from the date of issuance by the inspector, except as otherwise provided herein or in these chapters or in cases of revocation, suspension or termination under section 310.06.

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- (b) Licensees may continue to operate their business after the expiration date of their license; provided, that the licensee has filed with the inspector on or before the expiration date the appropriate license application, license fees, insurance and bonds. The inspector shall process the renewal application in the manner provided for in this Code.
 - (c) Whenever any licensee is the holder of the two (2) or more licenses of the City of Saint Paul which expire on different dates, the inspector is authorized, at the request of the licensee, to determine a uniform date for the expiration of all or any number of such licenses, notwithstanding the term and expiration dates of such licenses as originally issued, and notwithstanding any provision as to term of license of any ordinance of the city heretofore or hereafter enacted. The provisions hereof shall govern the issuance of any new license to one already holding a license.
 - (d) In order to conform to the foregoing provisions, new licenses may be issued for a term of less than one (1) year, and the license fee therefor shall be prorated for the period of issuance.

(Code 1956, § 510.08; Ord. No. 17360, § 1, 6-5-86)

Sec. 310.09. Fees.

- (a) *Exempt organizations.* The Legislative Code exempts certain organizations from paying the customary license or permit fees or establishes a nominal fee of less than seven dollars (\$7.00). The terms and conditions of such exemptions are stated within the applicable chapters. Such organizations shall pay a five dollars (\$5.00) minimum processing fee for each and every application for a license or permit to be issued by the division manager, director or council of the city.
- (b) *Fee schedule.* The council may by ordinance determine and establish one (1) fee schedule for any or all licenses and permits issued pursuant to these chapters, and a separate fee schedule for applications for such licenses and permits, which may include fees to cover costs incurred by reason of the late filing. Such fees, in either schedule, shall be reasonably related to the costs of administration incurred in connection with each such application, license or permit. Costs of administration shall mean and include, but without limitation by this specification, both direct and indirect costs and expenses, such as salaries, wages, benefits and all personnel costs including training, seminars and schooling, expenses of investigations and inspections, handling of inquiries and requests for assistance, telephone and communications, stationery, postage, paper, reproduction, office capital equipment and all office supplies. Such fee schedules as adopted by ordinance and posted in the office of the inspector shall supersede inconsistent fee provisions in these chapters or in other ordinances or laws.
- (c) *Fee for one year; may be prorated.* Unless otherwise specifically provided, the license fee stated is for a period of one (1) year. Such fee may be prorated where a license is issued for a period of less than a year.
- (d) *Late fee.* Unless otherwise specifically provided by the particular licensing provisions involved, an applicant for the renewal of a license who makes application for such renewal after the expiration date of such license shall be charged a late fee for each such license. The late fee shall be in addition to any other fee or payment required, and shall be ten (10) percent of the annual license fee for such license for each thirty-day period or portion thereof which has elapsed after the expiration date of such license. The late fee shall not exceed fifty (50) percent of the annual license fee. If any provision of these chapters imposes more stringent or additional requirements for the issuance of an original license than would be the case for mere renewal, those requirements must be met when the license has lapsed by reason of expiration.
- (e) *Environmental change of ownership fee.* Unless otherwise stated, the environmental change of ownership fee shall be 25% of the environmental plan review fee for each license type.

(Code 1956, § 510.09; Ord. No. 16884, 2-11-82; Ord. No. 17802, § 1, 1-10-91; C.F. No. 03-893, § 1, 11-5-03)

Sec. 310.10. Refunds of fees.

- (a) *Refund where application withdrawn; service charge.* Unless otherwise specifically provided by the particular licensing provisions involved, where an application for any license is withdrawn, the inspector shall refund to the applicant the license fee submitted less a service charge to recover in part the costs incurred in processing the application in the amount of twenty-five (25) percent of the annual license fee.
- (b) *Limitation on refund; other cases.* In all other cases as provided in paragraph (c), the director of the department of safety and inspections, or his designee, may upon receipt of a written request refund the license fee, less a service charge to recover in part the costs incurred in processing the application up to twenty-five (25) percent of the annual licensee fee.
- (c) *Bases for refunds.* Refunds under paragraph (b) may be made to the licensee or his estate:
 - (1) Where the place of business of the licensee or his principal equipment is destroyed or so damaged by fire or any other cause that the licensee ceases for the remainder of the licensed period to engage in the licensed activity or business;
 - (2) Where the business or licensed activity ceases by reason of the death or illness of the licensee or the sole employee or manager; or
 - (3) Where it has become unlawful for the licensee to continue in the business or licensed activity other than by cancellation, termination, revocation, suspension, denial or any criminal activity on the part of the licensee.

(Code 1956, § 510.10; C.F. No. 09-516, § 1, 6-10-09; Ord. No. 11-69, § 1, 8-24-11; Ord 12-33, § 1, 6-27-12)

Sec. 310.11. Transfers; general.

- (a) *License a privilege, not property.* All licenses or permits issued by the City of Saint Paul pursuant to these chapters or other ordinances or laws confer a privilege on the licensee to engage in the activity or occupation so licensed, and do not constitute property or property rights or create any such rights in any licensee. No such license or permit may be seized, levied upon, attached, executed upon, assessed or in any manner taken for the purpose of satisfaction of any debt or obligation whatever.
- (b) *Licenses not transferable; conditions.* Notwithstanding any other provision of the Saint Paul Legislative Code to the contrary, no licenses issued by the City of Saint Paul shall be transferable.
- (c) *Transfer; definition.* "Transferable" means the ability to transfer a license or licenses from one (1) person to another, or from one (1) location to another. "Transfer," as used in these chapters, shall include a transfer from person to person, or from place to place, or a transfer of stock in a corporate licensee, or of shares or interests in a partnership or other legal entity. "Transfer," as used in these chapters, shall not include the instance where a license is held by an individual or partnership and the transfer is by said individual or partnership to a corporation in which the majority of the stock is held by said individual or by the members of said partnership.
- (d) *Deceased licensee.* Notwithstanding any other provision of these chapters, in any case where a liquor license is held by a person not incorporated and where the license would, by reason of the death of said licensee, lapse to the city in the absence of this paragraph, the authorized representative of the estate of the deceased licensee may consent to and seek to reissue said license to the beneficiary to the licensed establishment. The reissuance shall be subject to all applicable requirements of these chapters and existing law.

(Code 1956, § 510.11; Ord. No. 16822, 9-3-81; Ord. No. 17551, § 3, 4-19-88; C.F. No. 95-473, § 6, 5-31-95)

Sec. 310.12. Inspection of premises.

The premises, facilities, place, device or anything named in any license issued pursuant to any provision of the Saint Paul Legislative Code or other law shall at all times while open to the public or while being used or occupied for any purpose be open also to inspection and examination by any police, fire, or health officer or any building inspector of the city, as well as the inspector.

(Code 1956, § 510.12)

Sec. 310.13. Renewal.

Every license renewal under these chapters may be denied for any licensee who is delinquent in any payment or contribution to a health and welfare trust or pension trust, or similar program, established for the benefit of his employees.

(Code 1956, § 510.13)

Sec. 310.14. Savings clause.

- (a) If any provision in these chapters is held unconstitutional or invalid by a court of competent jurisdiction, the invalidity shall extend only to the provision involved and the remainder of these chapters shall remain in force and effect to be construed as a whole.
- (b) The repeal of any ordinance by this ordinance (which enacts the Uniform License Ordinance) shall not affect or impair any act done, any rights vested or accrued, or any suit, proceeding or prosecution had or commenced in any matter, prior to the date this ordinance became effective. Every such act done or right vested or accrued shall remain in full force and effect to all intents and purposes as if the repealed ordinances had themselves remained in force and effect. Every such suit, proceeding or prosecution may be continued after repeal as though the repealed ordinances were fully in effect. A suit, proceeding or prosecution which is based upon an act done, a right vested or accrued, or a violation committed prior to repeal of the repealed ordinances, but which is commenced or instituted subsequent to repeal of the repealed ordinances, shall be brought pursuant to and under the provisions of such repealed ordinances as though they continued to be in full force and effect.

(Code 1956, § 510.14)

Sec. 310.15. Penalty.

Any person who violates any provision of these chapters, or other ordinances or laws relating to licensing, or who aids, advises, hires, counsels or conspires with or otherwise procures another to violate any provision of these chapters or other ordinances or laws relating to licensing is guilty of a misdemeanor and may be sentenced in accordance with section 1.05 of the Saint Paul Legislative Code. The term "person," in addition to the definition in section 310.01, shall for the purpose of this section include the individual partners or members of any partnership or corporation, and as to corporations, the officers, agents or members thereof, who shall be responsible for the violation.

(Code 1956, § 510.15)

Sec. 310.16. Reserved.

Editor's note(s)—Section 310.16, pertaining to license fees and annual increases, and derived from Ord. No. 16885, adopted Feb. 11, 1982; Ord. No. 17059, adopted Oct. 20, 1983; and Ord. No. 17303, adopted Oct. 29, 1985, was repealed by Ord. No. 17884, § 1, adopted Nov. 19, 1991.

Sec. 310.17. Licensee's responsibility.

Any act or conduct by any clerk, employee, manager or agent of a licensee, or by any person providing entertainment or working for or on behalf of a licensee, whether compensated or not, which act or conduct takes place either on the licensed premises or in any parking lot or other area adjacent to (or under the lease or control of) the licensed premises, and which act or conduct violates any state or federal statutes or regulations, or any city ordinance, shall be considered to be and treated as the act or conduct of the licensee for the purpose of adverse action against all or any of the licenses held by such licensee. To the extent this section is in conflict with sections 409.14 and 410.09 of the Legislative Code, this section shall be controlling and prevail; but shall not otherwise amend, alter or affect such sections.

(Ord. No. 17629, § 1, 1-31-89)

Sec. 310.18. License fee schedule.

Notwithstanding the provision of any other ordinance or law to the contrary, the following fees are hereby provided for all the licenses listed herein. These fees supersede all inconsistent provisions, including, but not limited to, graduated fee provisions, in these chapters and in other ordinances and laws, and include the fee for the license application as part of the license fee; provided, however, that this section does not amend or modify sections 310.09(a) or 310.09(d) of the Legislative Code with respect to exempt organizations or late fees. Pursuant to section 310.09(b) of the Legislative Code, these schedules shall be posted in the office of the director. These fees shall be effective for license renewals and new license applications occurring on and after January 1, 1995, or on the effective date of this section, whichever is later; provided, however, that with respect to all licenses whose renewal dates occur after the effective date of this new schedule, there shall be no increases in, nor offsets or refunds of, the existing fees paid, or due and owing.

(a) ENFORCEMENT LEVEL 1

Chapter/Section		
No.	License Description	Fee
165	Agricultural Vehicle Parking Permit	\$21.00
316.02	Animal Foods Manufacturing and Distribution	79.00
317.01	Amusement Rides	79.00
323.02	Christmas Tree Sales	79.00
325.02	Close Out Sale	79.00
327.03	Laundry Dry Cleaning Pickup Station	79.00
332.03	Liquid Fuel Vehicle	79.00
333.03	Solid Fuel Vehicle	79.00
340.04	Mercantile Broker	79.00
345.04	Peddler (Solicitor/Transient)	79.00
346.03	Mobile Retail Vehicle	79.00
348.01	Animal Day Care	77.00

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348.01	Animal Boarding	77.00
350.02	Rental of Hospital Equipment	79.00
350.02	Rental of Hospital Equipment Vehicle	79.00
351.03	Rental of Kitchenware	79.00
353.02	Roller Rinks	79.00
355.02	Secondhand Dealer-Single Location	79.00
357.03	Solid Waste Hauler—Each Vehicle Over One	79.00
359.03	Sound Trucks and Broadcast Vehicles	79.00
371.02	Finishing Shop	79.00
361.01	Tow Truck/Wrecker Vehicle	79.00
362.02	Tree Trimmer—Additional Vehicle	79.00
372.02	Tire Recapping Plant	79.00
377.03	Lawn Fertilizer and Pesticide Application	79.00
382.03	Pet Grooming Facility	79.00
409.05(b), 410.07(c)	Liquor-Outdoor Service Area (Patio)	79.00
424.02	Gas Stations	104.00

(b) ENFORCEMENT LEVEL 2

Chapter/Section		
No.	License Description	Fee
320.03	Bituminous Contractor	\$194.00
322.02(a)	Pool Halls	194.00
322.02(b)	Bowling Centers	194.00
326.06	Building Contractors	194.00
327.03	Laundry/Dry Cleaning Plants	194.00
332.03	Fuel Dealers—Liquid	194.00
333.03	Fuel Dealers—Solid	194.00
334.03	Pest Control	194.00
338.02	House Sewer Contractors	194.00
342.02	Bulk Oil Storage	194.00
347.03	Pet Shop	194.00
352.03	Rental of Trailers	194.00
355.02	Secondhand Dealer—Exhibitions	194.00
356.02	Sidewalk Contractors	194.00
362.02	Tree Trimming (with One Vehicle)	194.00
364.02	Veterinary Hospital	194.00
365.02	Window Cleaning	194.00
401.02	Motorcycle Dealer	194.00
405.02	Dance or Rental Hall	297.00
406.04	Game Room	194.00
408.03	Recycling Collection Center	194.00

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415.04	Theaters and Movie Theaters	194.00
416.03	Motion Picture Drive-in Theater	194.00
426.04	Cabaret (Class A and B)	194.00

(c) ENFORCEMENT LEVEL 3

Chapter/Section		
No.	License Description	Fee
225.04(a)	Firearms	\$375.00
324.04	Cigarettes	495.00
354.02	Sanitary Disposal Vehicle	375.00
355.02	Secondhand Dealer-Multiple Dealers	375.00
357.03	Solid Waste Hauler and Vehicle	375.00
360.03	Public Swimming Pools	375.00
360.03	Whirlpools	375.00
361.13	Tow Truck/Wrecker Operator	375.00
383.03	Vehicle Immobilization Service	375.00
376.04	Taxicabs	434.00
376.05	Taxicabs (Reciprocity Event)	34.00
379.02	Short-term Rental Platform License	10,353.00
379.02	Short-term Rental Host License	42.00
381.02(d)	Currency Exchanges	375.00
401.02	New Motor Vehicle Dealer	375.00
401.02	Secondhand Dealer Motor Vehicle Parts	469.00
401.02	Secondhand Motor Vehicle Dealer	469.00
407.03	Hotel/Motel—To 50 rooms	375.00
407.03	Hotel—Each additional room over 50	13.00
409.07.1(a), 410.04(c)	Liquor—Extension of Service Hours	375.00
412A.03	Massage Center—Adult	375.00
412A.03	Environmental Plan Review Massage Center Adult	413.00
413.04	Conversation/Rap Parlor (A and B)	375.00
415.04	Mini-Motion Picture Theater—Adult	375.00
417.04	Parking Lots and Parking Garages	375.00
417.04	Parking Garages (Government)	0.00
417.04	Parking Garages (Private)	367.00
422.02	Motor Vehicle Salvage Dealer	375.00
423.02(b)	Auto Body Repair Garage	469.00
423.02(a)	Auto Repair Garage	469.00
427.04	Health/Sports Clubs	375.00
427A.04	Health/Sports Club (Adult)	375.00
428.04	Steam Room/Bath House (Class A and B)	375.00
423.02(b)	Auto Body Repair/Painting Shop	469.00

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(d) ENFORCEMENT LEVEL 4

Chapter/Section		
No.	License Description	Fee
331A.04	Catering-Limited	\$ 326.00
331A.04	Environmental Plan Review—Catering—Limited	380.00
331A.04	Catering	570.00
331A.04	Environmental Plan Review—Catering	625.00
331A.04	Catering—Add on	250.00
331A.04	Environmental Plan Review—Catering—Add on	380.00
331A.04	Customer Appreciation—Food Sales	55.00
331A.04	Day Care Food	109.00
331A.04	Food Give-Away	55.00
331A.04	Food Processing/Packaging/Distributing	217.00
331A.04	Environmental Plan Review—Food Processing/Packaging/Distributing	380.00
331A.04	Food Vehicle	92.00
331A.04; 363.02(a)	Food Vending Machine	16.00
331A.04; 363.02(a)	Food Vending Machine Operator	136.00
331A.04	Food/Boarding Facility	353.00
331A.04	Environmental Plan Review—Food/Boarding Facility	380.00
331A.04	K—12 School Food Service	217.00
331A.04	Environmental Plan Review — K—12 School Food Service	272.00
331A.04	K—12 School Food Service—Limited	109.00
331A.04	Environmental Plan Review—K—12 School Food Service—Limited	136.00
331A.04	Mobile Food Vehicle	244.00
331A.04	Mobile Food Cart—Limited	110.00
331A.04	Mobile Food Cart—Full	217.00
331A.04	Environmental Plan Review—Restaurant (1)	381.00
331A.04	Environmental Plan Review—Restaurant (2)	381.00
331A.04	Environmental Plan Review—Restaurant (3)	625.00
331A.04	Environmental Plan Review—Restaurant (4)	625.00
331A.04	Environmental Plan Review—Restaurant (5)	625.00
331A.04	Restaurant (D)—Add-On	272.00
331A.04	Environmental Plan Review Restaurant (D) Add-On	381.00
331A.04	Restaurant (D)—Add-on (Bar Only)	109.00
331A.04	Environmental Plan Review Restaurant (D) Add-On (Bar Only)	190.00
331A.04	Restaurant (E)—Extension	164.00
331A.04	Environmental Plan Review—Restaurant (E)—Extension	136.00
331A.04	Environmental Plan Review—Restaurant (L)—Limited	381.00

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331A.04	Restaurant (L)—Limited	272.00
331A.04	Restaurant (1)—no seats	435.00
331A.04	Restaurant (2)—1—12	478.00
331A.04	Restaurant (3)—13—50	580.00
331A.04	Restaurant (4)—51—150	631.00
331A.04	Restaurant (5)— 151 and over	673.00
331A.04	Retail Food Establishment (A)—1 to 100 Sq. Ft.	82.00
331A.04	Environmental Plan Review—Retail Food Establishment (A)	136.00
331A.04	Retail Food Establishment (B)—101 to 1000 Sq. Ft.	109.00
331A.04	Environmental Plan Review Retail Food Establishment (B)	272.00
331A.04	Retail Food Establishment (C)—1001 to 3000 Sq. Ft.	408.00
331A.04	Environmental Plan Review Retail Food Establishment (C)	408.00
331A.04	Retail Food Establishment (D)—3001 to 6000 Sq. Ft.	652.00
331A.04	Environmental Plan Review Retail Food Establishment (D)	516.00
331A.04	Retail Food Establishment (E)—6001 to 10,000 Sq. Ft.	978.00
331A.04	Environmental Plan Review Retail Food Establishment (E)	652.00
331A.04	Retail Food Establishment (F)—over 10,000 Sq. Ft.	1,413.00
331A.04	Environmental Plan Review Retail Food Establishment (F)	816.00
331A.04	Retail Food Establishment—Farmers' Market	164.00
331A.04	Retail Food Establishment—Temporary	65.00
331A.04	Retail Food Establishment—Nonprofit	27.00
331A.04	Environmental Plan Review—Retail Food Establishment—Nonprofit	55.00
331A.04	Retail Food Establishment—Secondary Facility	82.00
331A.04	Environmental Plan Review Retail Food Establishment—Secondary Facility	381.00
331A.04	Retail Food Establishment—Restricted Food Service	79.00
331A.04	Special Event Food Sales—1 to 3 days (up to 150 sq. feet)	190.00
331A.04	Special Event Food Sales—4 to 10 days (up to 150 sq. feet)	217.00
331A.04	Special Event Food Sales—Up to 3 events (up to 150 sq. feet)	217.00
331A.04	Special Event Food Sales—late fee	50% of special event food sales fee
331A.04	Special Event Food Sales (Nonprofit) (up to 150 sq. feet)	55.00
331A.04	Special Event Food Sales—Extension (up to 150 sq. feet)	109.00
331A.04	Special Event Food Sales—Each additional 150 square feet portion thereof	25% of special event foods sales fee
331A.04	Special Event Food Sales—Each additional location fee	85.00
331A.04	Nonprofit 1 Day Special Event—1—10 Stands	275.00

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331A.04	Nonprofit 1 Day Special Event—Each Additional 10 Stands or Portion of 10 Stands	275.00
331A.04	Seasonal Temporary Food Stand	244.00

(e) ENFORCEMENT LEVEL 5

Chapter/Section		
No.	License Description	Fee
409.27	2:00 a.m. closing	\$55.00
409.05(i)	Intoxicating Liquor—Fee waived for government agencies	0.00
409.01(c)	Liquor Catering Permit—Annual	178.00
409.02	Off-Sale Microdistillery	190.00
409.05(b)	Liquor Catering Permit—Temporary	55.00
409.05(b)	On-Sale—100 seats or less	4,964.00
409.05(b)	On-Sale—101—180 seats	5,497.00
409.05(b)	On-Sale—181—290 seats	5,889.00
409.05(b)	On-Sale—291 or more seats	5,970.00
409.05(b)	On-Sale—Theater	1,772.00
409.25(b)	Temporary Liquor	55.00
409.05(f)	On-sale Club—Under 200 members	300.00
409.05(f)	On-sale Club—201—500 members	500.00
409.05(f)	On-sale Club—501—1,000 members	650.00
409.05(f)	On-sale Club—1,001—2,000 members	800.00
409.05(f)	On-sale Club—2,001—4,000 members	1,000.00
409.05(f)	On-sale Club—4,001—6,000 members	2,000.00
409.05(f)	On-sale Club—6,000+ members	3,000.00
409.05(h)	Additional family members	57.00
409.02	Brewpub/Off-sale (Growler)	190.00
409.02	Off-Sale Brewery	190.00
409.05	Off-Sale	1,398.00
409.07(b)(2)	Sunday On-Sale	200.00
409.11(b)	Extension of Service Area—Temporary	63.00
410.07(a)(8), 409.15(b)	Wine On-Sale	2,000.00
409.25	Temporary Wine	55.00
409.25	Wine Licenses for Festivals	55.00
409.15(d)	On-Sale Malt (Strong)	659.00
409.28	Brewery Taproom	659.00
409.31	Microdistillery Cocktail Room	659.00
410.02	On-Sale Malt (3.2)	659.00
410.02, 410.11	On-Sale Malt—Fee waived for municipal golf courses	0.00
410.02	Off-Sale Malt	208.00
410.10(a)	Temporary Malt	55.00

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411.03	Entertainment—Class A	257.00
411.03	Entertainment—Class B	622.00
411.03	Entertainment—Class C	2,955.00
411.05	Entertainment Temporary	32.00
409.08	Live Music Event—18 and Up	32.00
409.15(e)	Culinary On-sale	236.00
409.01	Private Event—Restaurant/Liquor Caterer	32.00
409	Small Brewer Off-Sale—128 Ounces License	30.00
409, 410	Temporary World Cup Soccer	250.00 Per event

(f) ENFORCEMENT LEVEL 6

Chapter/Section		
No.	License Description	Fee
329.02	Alarm Permits	\$40.00
317.01	Amusement Rides—Temporary	30.00
106.01(b)	Sidewalk Café—Food Only	37.00
106.01(b)(4)	Sidewalk Café—Liquor	37.00
127.04	Courtesy Benches	24.00
127	Courtesy Benches Transfer	16.00
293.09	Noise Variance	178.00
368.02	Wrecking of Buildings	60.00
369.03	Building Trades Business License	174.00
370.09	Building Trades Certificates of Competency	22.00
370.17	Trade Worker—Tier 1	34.00
370.17	Trade Worker—Tier 2	65.00
278.03	Gambling Hall	412.00
318.02	Mechanical Amusement Device	19.00
318.02	Music Machine	19.00
318.02	Amusement Rides	19.00
318.02	T.V. Units	19.00
344.02(a)	Pawn Shops	2,955.00
344.02(b)	Pawn Shop Billable Transaction Fee	3.00
373	Transportation Network Companies	38,069.00
374.3	Commercial Pedal Car Driver	47.00
374.3	Commercial Pedal Car Vehicle	109.00
374.3	Commercial Pedal Car Business	326.00
375.2(a)	Pedicab Vehicle	105.00
375.2(b)	Pedicab Driver	47.00
376	Taxicab Vehicle—Duplicate Sticker	19.00
376	Taxicab Replacement Vehicle Sticker	52.00
376.05	Taxicab Driver (Reciprocity Event)	33.00
376.16(d)	Taxicab Driver (new)	47.00

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376.16(i)	Taxicab Driver Renewal	47.00
376	Taxicab Driver Duplicate Identification Card	6.00
376.17(d)	Taxicab Driver (provisional)	47.00
391.02	Soliciting Funds—Tag Days	24.00
402.08	Temporary Gambling (3 types)	55.00
403.03	Bingo Halls	212.00
409.05(g)	Gambling Location	78.00
409.08(11)	Modification of Parking	445.00
359.03	Sound Trucks and Broadcast Vehicles Nonprofit Organizations)	29.00
380.04	Tanning Facility	98.00
380.04	Environmental Plan Review Tanning Facility	178.00
414.02	Massage or Bodywork Practitioner—One Location	98.00
414.02	Massage or Bodywork Practitioner—Each Additional Location	29.00
414.02	Massage Center (Class A)—One practitioner	93.00
412.04	Massage Center (Class A)—Two or more practitioners	243.00
412.04	Therapeutic Massage Practitioner—Temporary	46.00
412.04	Environmental Plan Review Massage Center (Class A)	437.00
412.04	Massage Center (Class B)	98.00
412.04	Environmental Plan Review Massage Center (Class B)	178.00
357.03	Solid Waste Transfer Station	1,771.00
408.03	Recycling Processing Center	887.00
429.03	Infectious Waste Processing Facility	1,771.00
198.04(c)	Keeping of Animal (includes more than three (3) chickens	77.00
198.04(c)	Keeping of Animal—Renewal	28.00
198.04(c)	Tier 1 Chicken Permit	26.00
198.04(c)	Tier 1 Chicken Permit Renewal	16.00
198.04(c)	Tier 2 Chicken Permit	77.00
198.04(c)	Tier 2 Chicken Permit Renewal	28.00
198.04(c)	Keeping of More than Three (3) Cats	77.00
198.04(c)	Keeping of More than Three (3) Cats (Renewal)	28.00
200.03	Dog License—Annual Altered	20.00
200.03	Dog License—Annual Unaltered	81.00
200.03	Dog License—Annual Altered Reduced	10.00
200.03	Dog License—Lifetime (with Microchip, altered)	142.00
200.03	Dog License—Reduced, Lifetime (with Microchip and altered)	71.00
	Dog License—Reduced Rate, Lifetime (with Microchip, unaltered)	34.00
	Declared, Animal (microchip and altered)	142.00
	Declared, Animal (microchip and altered)	284.00
200.04	Dog License—Replacement	10.00

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200.07	Impounding Fee	36.00
200.02(a)	Unlicensed Dog	59.00
200.121(e)	Dangerous Dog Registration	305.00
200.07	Boarding Fee—Per Day	19.00
	Animal Adoption—St. Paul Resident	51.00
	Rabies Vaccination for impounded dogs, cats, ferrets	30.00
	Microchipping for impounded animals	30.00
	Delinquent License Renewal fee (per month)	5.00
376.17	Taxicab Service Company	422.00

(C.F. No. 92-1742, § 1, 12-8-92; C.F. No. 93-1650, § 1, 12-9-93; C.F. No. 94-201, § 1, 3-16-94; C.F. No. 94-1447, § 1, 12-14-94; C.F. No. 95-519, § 2, 6-7-95; C.F. No. 95-1457, § 1, 1-3-96; C.F. No. 96-391, § 3, 5-8-96; C.F. No. 96-1095, § 1, 10-2-96; C.F. No. 97-912, § 1, 8-20-97; C.F. No. 99-500, § 4, 7-7-99; C.F. No. 99-812, § 1, 9-8-99; C.F. No. 00-457, § 1, 6-7-00; C.F. No. 00-1064, § 1, 12-12-00; C.F. No. 00-1065, § 1, 12-20-00; C.F. No. 01-613, §§ 1, 2, 7-5-01; C.F. No. 01-1244, § 1, 12-26-01; C.F. No. 02-770, § 1, 10-2-02; C.F. No. 1031, § 2, 11-27-02; C.F. No. 03-102, § 2, 3-12-03; C.F. No. 03-694, § 2, 9-3-03; C.F. No. 03-695, § 1, 9-3-03; C.F. No. 03-893, § 2, 11-5-03; C.F. No. 04-670, § 1, 8-4-04; C.F. No. 04-960, § 1, 11-3-04; 04-961, § 1, 11-10-04; C.F. No. 05-631, § 1, 8-10-05; C.F. No. 05-697, § 1, 8-24-05; C.F. No. 06-409, § 1, 5-24-06; C.F. No. 06-574, § 2, 7-26-06; C.F. No. 06-752, § 1, 9-13-06; C.F. No. 06-821, § 2, 9-27-06; C.F. No. 07-149, § 74, 3-28-07; C.F. No. 07-966, § 1, 12-12-07; C.F. No. 07-967, § 1, 12-12-07; C.F. No. 08-382, § 1, 5-14-08; C.F. No. 08-568, § 1, 6-25-08; C.F. No. 08-1009, § 1, 10-8-08; C.F. No. 08-1208, § 2, 12-17-08; C.F. No. 09-478, § 1, 5-27-09; C.F. No. 09-684, § 1, 7-22-09; C.F. No. 09-893, § 1, 10-14-09; C.F. No. 09-987, § 1, 10-14-09; Ord No. 11-56, § 1, 7-13-11; Ord No. 11-63, § 1, 4-25-12; Ord No. 12-24, § 1, 6-13-12; Ord 12-49, § 1, 9-12-12; Ord 12-45, § 1, 10-10-12; Ord 12-83, § 1, 1-9-13; Ord 13-1, § 1, 1-23-13; Ord 13-31, § 1, 5-22-13; Ord 13-34, § 1, 6-26-13; Ord 14-33, § 1, 8-27-14; Ord 14-40, § 1, 12-3-14; Ord 15-29, § 7, 5-27-15; Ord 15-65, § 1, 12-2-15; Ord 16-9, 4-20-16; Ord 16-16, § 2, 7-27-16; Ord 16-66, § 1, 1-4-16; Ord 17-47, § 1, 10-25-17; Ord 17-53, § 1, 11-8-2017; Ord 17-25, § 1, 8-2-17; Ord 18-65, § 1, 1-9-19; Ord 18-68, § 2, 1-9-19; Ord 19-78, § 1, 1-8-20; Ord 20-5, § 1, 2-20-20; Ord 21-65, § 2, 12-22-21; Ord 22-35, § 2, 8-3-22)

Sec. 310.19. Discount from certain license fees.

- (a) A discount will be provided for on-sale and off-sale liquor licenses, on-sale and off-sale 3.2 malt liquor licenses and on-sale strong beer and wine licenses. Such fees mentioned shall be reduced seven (7) percent, contingent upon each of the following conditions:
- (1) *Driver's license guide; compilation of laws.* The licensee shall maintain on the premises, in a location accessible at all times to all employees of the licensed establishment:
 - a. A current driver's license guide, which shall include license specifications for both adults and minors for each state (including Canadian provinces), and shall list such information from at least five (5) years prior to the present date; and
 - b. A current compilation of the laws relating to the sale and possession of alcoholic beverages in the state as outlined in Chapter 7515 of the State of Minnesota Rules and Minn. Stat. Ch. 340A. This compilation must also include chapters 240 through 246, 409 and 410 of the Saint Paul Legislative Code.
 - (2) *Signage.* The licensee shall maintain on the premises, in all customer areas, current signage relating to underage consumption of alcoholic beverages, and relating to driving under the influence of alcohol. One (1) sign must be located behind the bar, and one (1) sign must be present in each additional room or section within the lounge area in which the writing on the sign behind the bar is not clearly legible.

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(Supp. No. 122, Update 2)

The sign(s) must have dimensions of at least one (1) foot by one (1) foot with letters at least one-half (½) inch in height. All signs must be comfortably readable from a distance of fifteen (15) feet.

(3) *Contract with security agency.*

- a. *Generally.* The licensee shall participate in a training program with an approved private security agency, firm or association (hereafter "security agency") which is selected and contracts with the city for the purpose of providing investigations and training to the licensee pursuant to this subsection. The city contract shall provide (i) that the security agency shall not be reimbursed by the city, but that it shall recover its costs and profit by fees collected from the licensees which choose to receive the training program and investigative services, and (ii) that the security agency shall charge the same amount to all licensees who choose to receive such services, so that all such licensees are treated equally and without discrimination.
- b. *Investigation.* The contract with the city shall provide for and require one (1) or more investigations by the security agency each calendar year into the practices of the licensee with respect to (i) age identification of customers in order to prevent sales of alcoholic beverages to minors, and (ii) preventing the sale of alcoholic beverages to persons who are obviously intoxicated. The contract shall require that the security agency disclose the results of all such investigations to both the licensee and, at no cost to the city, to the department, within ten (10) days after such investigations are concluded. Failure to do so will be grounds for adverse action against the licensee's licenses. The contract shall require that all such investigations shall include unannounced and random attempts by minors to purchase alcoholic beverages in the licensed premises, and surveillance within the licensed premises. The security agency shall employ reasonable measures to minimize or eliminate conflicts of interest in providing and reporting on investigations of licensees.
- c. *Training.* The contract shall also provide for alcohol awareness training by the security agency of all officers, employees or agents of the licensee who work in the licensed premises at least once during the calendar year. All newly hired employees or new officers or agents hired during the calendar year shall receive such training within four (4) weeks following their hiring, and shall not work in the premises after that four-week period until they have received such training.
- d. *Standards for approval.* In addition to the requirements specified elsewhere in this subsection, the security agency and its investigations and training must meet or exceed the following:
 1. The alcohol awareness course shall cover all of the topics listed herein. The content of each training course shall include, but need not be limited to:
 - (a) Pertinent laws and ordinances regarding the sale of alcohol.
 - (b) Verification of age, forms of identification, and forms of false or misleading age identification.
 - (c) The effect of alcohol on humans and the physiology of alcohol intoxication.
 - (d) Recognition of the signs of intoxication.
 - (e) Strategies for intervention to prevent intoxicated persons from consuming further alcohol.
 - (f) The licensee's policies and guidelines, and the employee's role in observing these policies.
 - (g) Liability of the person serving alcohol.
 - (h) Effect of alcohol on pregnant women and their fetuses, and in other vulnerable situations.

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- (i) Training available in languages other than English that are spoken by the license holders and/or the license holders employees.
2. The security agency shall have a minimum of two (2) years actual experience in alcohol awareness training. The courses may be given by one (1) or more instructors, but each instructor must have a formal education and/or training in each area they teach. The courses may be supplemented by audio-visual instruction.
 3. The security agency shall have sufficient personnel and physical resources to provide an alcohol awareness training course to newly hired employees within four (4) weeks after their hiring by the licensee with whom there is a contract. The cost covering the training and investigation service provided to license holders shall be identified and charged equally to each participant.

The (7) seven percent shall be applied to the following licenses:

- Brew pub
- Off-sale brewery
- Liquor catering permit
- On-sale—Over 200 seats
- On-sale—Over 100 seats
- On-sale—100 seats or less
- On-sale club—Under 200 members
- On-sale club—201—500 members
- On-sale club—501—1,000 members
- On-sale club—1,001—2,000 members
- On-sale club—2,001—4,000 members
- On-sale club—4,001—6,000 members
- On-sale club—6,000+ members
- On-sale extended service hours
- On-sale theatre
- Off-sale
- Sunday on-sale
- Liquor—Outdoor service area
- Wine on-sale
- On-sale malt (strong)
- On-sale malt (3.2)
- Off-sale malt

- (b) A discount will be provided for restaurant and catering licenses issued under Chapter 331A. Such fees shall be reduced seven (7) percent, contingent upon each of the following conditions:

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- (1) The licensee shall employ a person in charge, who, in the absence of the certified food manager, shall be on duty at all times and who can demonstrate that he/she have viewed a video concerning food allergies. The video presentation shall be provided by and will be viewed at the department of safety and inspections. If the person in charge leaves the licensee's employment, the establishment will have two months to either:
 - a. Have the new person in charge view the video on food allergy at a presentation by the department of safety and inspection; or
 - b. If there is no presentation within two months of that person being hired, ensure that the new person in charge is registered for the next available video presentation.
 - (2) Allergic customer alert process. The licensee shall produce a written procedure to alert all employees of an allergic customer. That policy shall, at a minimum, require that once a customer has notified any employee of an allergy to particular food item(s) or group(s), the establishment shall notify the above-referenced person in charge or certified food manager, and all employees who may handle any food item served to that customer of the food allergy.

(C.F. No. 94-1447, § 2, 12-14-94; C.F. No. 00-237, § 1, 4-5-00; C.F. No. 01-1260, § 1, 12-26-01; C.F. No. 02-107, 3-6-02; C.F. No. 04-1093, § 1, 12-15-04; C.F. No. 06-821, § 3, 9-27-06; C.F. No. 07-149, § 75, 3-28-07; C.F. No. 09-1290, § 1, 12-9-09)

Chapter 324. Tobacco

Sec. 324.01. License required.

- (a) No person shall sell or offer for sale at retail within the city any licensed product or in any manner represent or hold himself or herself out as one who sells or offers for sale at retail any licensed product or maintain a tobacco vending machine for the sale of licensed products without a license from the city.
- (b) A tobacco vending machine may be located in a public accommodation, provided that:
 - (1) All tobacco vending machines shall be operable only by the activation of an electronic switch operated by an employee of the establishment before each sale, or by insertion of a token provided to the purchaser by an employee of the licensee;
 - (2) Any machine shall be located in the immediate vicinity, plain view and control of a responsible employee so that all purchases will be readily observable by that employee. The tobacco vending machine shall not be located in a coatroom, restroom, unmonitored hallway, outer waiting area or similar unmonitored areas. The tobacco vending machine shall be inaccessible to the public when the establishment is closed;
 - (3) Any tobacco vending machine shall have posted on or near it a sign with the statement, in letters at least one-half (½) inch high, "The sale of tobacco products or electronic delivery devices to persons under twenty-one is prohibited."
- (c) Any license issued pursuant to this chapter shall be issued to the person, firm or corporation that operates the principal business at that address. Each vending machine shall be required to have a separate license.
- (d) No license may be issued pursuant to this chapter for a location or place of sale if a tobacco license previously issued for that location or place of sale has been revoked for any reason other than nonpayment of license fees within the past five (5) years.

(Code 1956, § 366.02; Ord. No. 17714, § 1, 2-20-90; C.F. No. 94-341, § 1, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; Ord 15-12, § 1, 4-22-15; Ord 15-57, § 1, 1-6-16; Ord 19-57, § 1, 10-16-19; Ord 21-29, § 2, 11-3-21)

Sec. 324.02. License for each location or vending machine.

A license shall permit the licensee to sell licensed products at retail at the one (1) location specified in said license, and a separate license shall be required for each location or tobacco vending machine.

(Code 1956, § 366.05; C.F. No. 94-341, § 2, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; Ord 15-57, § 1, 1-6-16; Ord 21-29, § 3, 11-3-21)

Sec. 324.03. Definitions.

The following words and phrases, as used in this chapter, will, for the purposes of this chapter, have the meanings respectively ascribed to them in this section, except in those cases where the context clearly indicates a different meaning:

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- (1) *Cigar* means any roll of tobacco that is wrapped in tobacco leaf, or in any other substance containing tobacco, with or without a tip or mouthpiece, that is not a cigarette as defined in Minn. Stats. § 297F.01, subd. 3, as may be amended from time to time.
 - (2) *Cigarette* means and includes any roll for smoking, made wholly or in part of tobacco, irrespective of size and shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except whole tobacco leaf, and includes any cigarette as defined in Minn. Stats. § 297F.01, subd. 3.
 - (3) *Drug paraphernalia* means drug paraphernalia as defined in Saint Paul Legislative Code Section 255.01.
 - (4) *Electronic delivery device* means any product containing or delivering nicotine, lobelia, or any other substance, whether natural or synthetic, intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately. Electronic delivery device does not include any product that has been approved or certified by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose.
 - (5) *Flavored product* means any tobacco product, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product that contains a taste or smell, other than the taste or smell of tobacco that is distinguishable by an ordinary consumer either prior to or during the consumption of the tobacco product, electronic delivery device, or nicotine or lobelia delivery product, including, but not limited to, any taste or smell relating to menthol, mint, wintergreen, chocolate, cocoa, vanilla, honey, fruit or any candy, dessert, alcoholic beverage, herb, or spice. A public statement or claim, whether express or implied, made or disseminated by the manufacturer of a tobacco product, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such product or device, that the product or device has or produces a taste or smell other than tobacco will constitute presumptive evidence that the product or device is a flavored product.
 - (6) *Licensed products* means collectively any tobacco, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product.
 - (7) *Nicotine or lobelia delivery product* means any product containing or delivering nicotine or lobelia, whether natural or synthetic, intended for human consumption, or any part of such a product, that is not a tobacco product or an electronic delivery device, as defined in this section. Nicotine or lobelia delivery product does not include any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose.
 - (8) *Non-discounted price* means the higher of the price listed for licensed products on a package or the price listed on any related shelving, posting, advertising or display at the place where the tobacco product is sold or offered for sale plus all applicable taxes if such taxes are not included in the sale price.
 - (9) *Price reduction instrument* means any coupon, voucher, rebate, card, paper, note, form, statement, ticket, image, or other issue, whether in paper, digital, or any other form, not included in the non-discounted price, used for commercial purposes to receive an article, product, service, or accommodation without charge or at a discounted price.
 - (10) *Sale* means and includes any transfer, conditional or otherwise, of title or possession.

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- (11) *Sale at retail* means and includes all sales except those where the merchandise is sold for the purpose of resale by a person principally engaged in selling merchandise for resale.
- (12) *Snuff* means any tobacco product that consists of cut, ground, powdered, or leaf tobacco and that is intended to be placed in the oral or nasal cavity.
- (13) *Snus* means any smokeless tobacco product marketed and sold as snus, and sold in ready-to-use pouches or loose as a moist powder.
- (14) *Tobacco or tobacco product* means any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product, including, but not limited to, cigarettes, cigars, little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snus, snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobacco; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco. Tobacco products excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.
- (15) *Tobacco license* means either a tobacco shop or a tobacco products shop license.
- (16) *Tobacco shop license* means a license issued to a person, firm, or corporation for an establishment that:
- a. May offer for sale licensed products which are accessible to the public only with the intervention of a store employee; and,
 - b. May allow persons who are under the age of twenty-one (21) to enter the establishment; and
- (17) *Tobacco products shop license* means a license issued to a person, firm, or corporation for an establishment that:
- a. Must derive at least ninety (90) percent of its revenue from the sale of licensed products;
 - b. Must prohibit persons who are under the age of twenty-one (21) from entering the establishment;
 - c. Must be accessible only through a door opening directly to the outside; and
 - d. Must be staffed by at least one individual solely dedicated to the tobacco products shop during all operating hours.
- (18) *Tobacco-related devices* means cigarette papers, pipes for smoking, or other devices intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking, or inhalation of vapors of tobacco or tobacco products. Tobacco-related devices include components of tobacco-related devices which may be marketed or sold separately.
- (19) *Tobacco vending machine* means a machine for vending licensed products by the insertion of money, tokens, or other form of payment.

(Code 1956, § 336.01; C.F. No. 94-341, § 3, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; C.F. No. 10-1014, § 1, 10-13-10; Ord 13-8, § 1, 4-24-13; Ord 14-34, § 1, 8-27-14; Ord 15-57, § 1, 1-6-16; Ord 17-28, § 1, 11-1-17; Ord 21-29, § 4, 11-3-21)

Sec. 324.04. Fee, duration, limitation on number of licenses.

- (a) *License fee, duration.* The annual license fee for each license issued under this chapter will be established by ordinance as specified in section 310.09(b) of the Legislative Code. Each license will expire one (1) year from the date of issuance during each calendar year. The annual license fee will be prorated for licenses in force less than a full year.
- (b) *Limitation on number of licenses and location.*
- (1) The total number of tobacco shop licenses issued under this chapter will not exceed one hundred fifty (150). The total number of tobacco products shop licenses issued under this chapter will not exceed twenty-five (25). Establishments or locations holding either tobacco shop or tobacco product shop licenses on July 31, 2021, or with an application of a license pending on July 31, 2021, that is ultimately granted will not be affected by this limitation but will be entitled to have such licenses renewed or new license granted, subject to the following conditions:
 - a. The establishment or location is in compliance with all other requirements of law and there exist no grounds for adverse actions against such licenses;
 - b. The previous license has not terminated or expired more than one (1) year before the new license had been first applied for;
 - c. A previous license has not been revoked by the council.
 - (2) No tobacco license may be issued to a person, firm, or corporation for any establishment located within one-half mile (2,640 feet) of another establishment possessing a tobacco license. Said one-half mile being calculated and computed as the distance measured from the property line of the premises or building proposed as the location for the tobacco license to the property line of any other tobacco license.

(Code 1956, § 336.03; Ord. No. 17386, § 1, 8-19-86; C.F. No. 92-1930, § 1, 1-14-93; C.F. No. 94-341, § 4, 4-13-94; C.F. No. 95-1271, § 1, 11-8-95; C.F. No. 97-314, § 1, 4-20-97; Ord 18-19, § 1, 6-27-18; Ord 21-29, § 5, 11-3-21)

Sec. 324.05. Application.

In addition to any other information required by the director, the applicant must state the true name of the applicant, the name under which he or she will conduct his or her business, whether such business is that of an individual, sole trader, firm, partnership, or corporation, and the address where such business is to be conducted. Any person applying for more than one (1) license must file with the department of safety and inspections a list of all locations for which license applications are being filed. Any change in the location of the place of sale will require a new license application.

(Code 1956, § 336.04; C.F. No. 94-341, § 5, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; C.F. No. 07-149, § 81, 3-28-07; Ord 21-29, § 6, 11-3-21)

Sec. 324.06. License to be displayed.

The license shall be displayed by the licensee in a prominent and conspicuous place at the licensed location. In the case of a tobacco vending machine, the operator shall also affix his or her name, address and telephone number in a conspicuous place on each machine.

(Code 1956, § 336.06; C.F. No. 94-341, § 6, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; Ord 15-57, § 1, 1-6-16)

Sec. 324.07. Sales prohibited.

- (a) No person may sell a cigarette outside its original packaging containing health warnings satisfying the requirements of federal law. No cigarettes may be sold individually or in packages of fewer than twenty (20) cigarettes.
- (b) No person may sell or dispense licensed products from a motor vehicle or other movable place of business.
- (c) No person may sell licensed products from vending machines unless the vending machines are in a facility that cannot be entered at any time by persons younger than twenty-one (21) years of age.
- (d) No person may offer for sale licensed products in any open displays which are accessible to the public without the intervention of a store employee. This restriction does not apply to establishments holding a tobacco products shop license.
- (e) No person may sell, offer for sale, or otherwise distribute cigars in original packages containing three (3) or fewer cigars for a sale price, after any coupons, multipack or buy-one/get-one promotions, or any other discounts are applied and prior to applicable sales taxes being imposed, of less than two dollars and sixty cents (\$2.60) per cigar contained within. In addition, no person may sell, offer for sale, or otherwise distribute cigars in original packages of four (4) or more cigars for a sale price, after any coupons, multipack or buy-one/get-one promotions, or any other discounts are applied and prior to applicable sales taxes being imposed, of less than ten dollars and forty cents (\$10.40) per package.
- (f) No person may sell or offer for retail sale cigarette packages or cartons for a sales price, prior to applicable sales taxes being imposed, of less than ten dollars (\$10.00) per pack.
- (g) No person may sell or offer for retail sale moist snuff retail packages or multipacks for a sales price, prior to applicable sales taxes being imposed, of less than ten dollars (\$10.00) per 1.2 ounce package. No person may sell or offer for retail sale any smokeless tobacco/moist snuff unless it is sold in a package of at least 1.2 ounces minimum package size. The price floor for packages larger than 1.2 ounces shall be computed by adding two dollars and fifty cents (\$2.50) for each 0.3 ounces or any fraction thereof in excess of 1.2 ounces, excluding all applicable taxes.
- (h) No person may sell or offer for sale or otherwise distribute snus for a sales price, prior to applicable sales taxes being imposed, of less than ten dollars (\$10.00) per 0.32 ounce package. No person may sell or offer for retail sale any snus unless it is sold in a package of at least 0.32 ounces minimum pack size. The price floor for packages larger than 0.32 ounces shall be computed by adding two dollars and fifty cents (\$2.50) for each 0.08 ounces or any fraction thereof in excess of 0.32 ounces, excluding all applicable taxes.
- (i) No holder of a license issued under this chapter, nor any employee or agent of same may sell tobacco products to a person under the age of twenty-one (21) years. Sale to persons under the age of twenty-one (21) years prohibited.
 - (1) It is an affirmative defense to a charge under this subdivision if the defendant proves by a preponderance of the evidence that the defendant reasonably and in good faith relied on proof of age as described in Minn. Stats. § 340A.503, subd. 6.
- (j) No person may sell, offer for sale, or otherwise distribute any flavored products, unless excepted under section 324.07(l) of this chapter.
- (k) *Coupons and price promotions.* No holder of a license issued under this chapter, nor any employee or agent of same, may:
 - (1) Accept or redeem, offer to accept or redeem, or cause or hire any person to accept or redeem or offer to accept or redeem any price reduction instrument or other offer that provides any licensed product without charge or for less than the listed or non-discounted price; or

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- (2) Sell or offer to sell licensed products, to consumers through any multi-pack discounts (e.g., "buy-two-get-one-free") or otherwise provide or distribute to consumers any licensed products, without charge or for less than the listed or non-discounted price in exchange for the purchase of any other licensed products.

Nothing in this chapter is intended to prohibit communication of pricing information or other truthful, non-misleading information to consumers.

(l) *Exceptions.*

- (1) Notwithstanding section (i), individuals exempted under Minn. Stats. § 609.685 are also exempt from this section.
 - (2) The penalties in this section do not apply to a person under the age of twenty-one (21) years who purchases or attempts to purchase licensed products while under the direct supervision of a responsible adult for training, education, research, or enforcement purposes.
 - (3) Retail stores holding a tobacco products shop license are permitted to sell and offer for sale flavored tobacco products.
- (m) Any violation of this chapter will subject the licensee to provisions of chapter 310 and section 324.10 of the Saint Paul Legislative Code.

(Code 1956, § 336.07; Ord. No. 17714, § 1, 2-20-90; C.F. No. 94-341, § 7, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; C.F. No. 06-872, § 1, 10-11-06; C.F. No. 10-1014, § 2, 10-13-10; Ord 13-8, § 2, 4-24-13; Ord 14-34, § 2, 8-27-14; Ord 15-57, § 1, 1-6-16; Ord 17-28, § 2, 11-1-17; Ord 19-57, § 2, 10-16-19; Ord 21-29, § 7, 11-3-21)

Sec. 324.08. Distribution of free products prohibited.

No person shall distribute any tobacco products free to any person on the sidewalks, pedestrian concourses, pedestrian malls or pedestrian skyway systems within the city.

(Code 1956, § 336.08; Ord. No. 17714, § 1 2-20-90; C.F. No. 92-1930, § 2, 1-14-93; C.F. No. 94-341, § 8, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; Ord 15-57, § 1, 1-6-16; Ord 21-29, § 8, 11-3-21)

Sec. 324.09. Reserved.

Editor's note(s)—Ord 21-29, § 9, adopted November 3, 2021, repealed § 324.09. Former § 236.09 pertained to the use of false identification by minors is prohibited and derived from Ord. No. 17733, § 1, adopted May 8, 1990; C.F. No. 94-341, § 9, adopted April 13, 1994; C.F. No. 97-314, § 1, adopted April 20, 1997; Ord 13-8, § 3, adopted April 24, 2013; Ord 15-57, § 1, adopted January 6, 2016; and Ord 19-57, § 3, adopted October 16, 2019.

Sec. 324.10. Presumptive penalties.

- (a) *Purpose.* The purpose of this section is to establish a standard by which the city council determines the amount of fines, length of license suspensions and the propriety of revocations for licensees. These penalties are presumed to be appropriate for every case; however, the council may deviate therefrom in an individual case where the council finds and determines that there exist substantial and compelling reasons which make it appropriate to do so, except, the council may not deviate below statewide minimum penalties for licensees. When deviating from these standards, the council shall provide written reasons that specify why the penalty selected was more appropriate. Where no penalty is listed below, the presumptive penalty under Saint Paul Legislative Code Section 310.

(b) *Presumptive penalties for licensees for violations.* Adverse penalties for licensees for violations or convictions shall be presumed as follows:

Type of Violation	Appearance			
	1st	2nd	3rd	4th
(1) Sale to a person under twenty-one (21) years of age	\$500.00 fine	\$1,000.00 fine	\$2,000.00 fine and 7-day suspension	Revocation
(2) Display, possession or multiple incidents of sales of; <ul style="list-style-type: none"> • single cigarettes; • menthol tobacco products; or • flavored tobacco products 	10-day suspension	Revocation		

(c) *Fines payable without hearing.* Notwithstanding the provisions of section 310.05(l), a licensee who would be making a first or second appearance before the council may elect to pay the fine to the department of safety and inspections without a council hearing, unless the notice of violation has indicated that a hearing is required because of circumstances which may warrant deviation from the presumptive fine amount. Payment of the recommended fine will be considered to be a waiver of the hearing to which the licensee is entitled, and will be considered an "appearance" for the purpose of determining presumptive penalties for subsequent violations.

(d) *Computation of time.* Except as otherwise provided by Minn. Stats. § 461.12, subd. 2, subsequent violations are subject to the following:

- (1) *Second, third and fourth appearances.* A second violation within twenty four (24) months shall be treated as a second appearance, a third within twenty four (24) months treated as a third appearance, and a fourth within twenty four (24) months treated as a fourth appearance for the purpose of determining the presumptive penalty.
- (2) *Any appearance not covered by subsections (1) above shall be treated as a first appearance.* Measurement of the twenty four (24) month period shall be as follows: The beginning date shall be the earliest violation's date of appearance before the council, and the ending date shall be the date of the new violation. In case of multiple new violations, the ending date to be used shall be the date of the violation last in time.

(Ord. No. 17733, § 3, 5-8-90; C.F. No. 94-341, § 11, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; C.F. No. 02-898, § 1, 11-6-02; C.F. No. 07-149, § 82, 3-28-07; Ord. No. 11-114, § 1, 12-28-11; Ord 15-57, § 1, 1-6-16; Ord 19-57, § 5, 10-16-19; Ord 21-29, § 10, 11-3-21)

Editor's note(s)—Ord 19-57, §§ 4, 5, repealed § 324.10 and renumbered § 324.11 as § 324.10. Former § 324.10 pertained to the use of tobacco prohibited and derived from Ord. No. 17733, § 2, adopted May 8, 1990; C.F. No. 94-341, § 10, adopted April 13, 1994; C.F. No. 97-314, § 1, adopted April 20, 1997; Ord 13-8, § 4, adopted April 24, 2013; and Ord 15-57, § 1, adopted January 6, 2016.

September 14, 2022

VIA EMAIL ONLY

Therese Skarda
St. Paul City Attorney's Office
400 City Hall & Courthouse
15 W Kellogg Blvd
Saint Paul, MN 55102
Therese.Skarda@ci.stpaul.mn.us;
shawn.mcdonald@ci.stpaul.mn.us

VIA EMAIL & US MAIL

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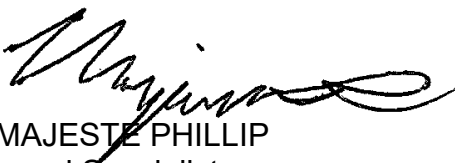
Re: *In the Matter of the Cigarette/Tobacco License Held by Moundsview Retail Inc. d/b/a Mounds Park Market for the Premises Located at 241 Earl Street in St. Paul*
OAH 71-6020-38502

Dear Parties:

Enclosed and served upon you please find the **SECOND PREHEARING ORDER** in the above-entitled matter.

If you have any questions, please contact me at (651) 361-7853, majeste.phillip@state.mn.us, or via facsimile at (651) 539-0310.

Sincerely,



MAJESTE PHILLIP
Legal Specialist

Enclosure

cc: Docket Coordinator

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
PO BOX 64620
600 NORTH ROBERT STREET
ST. PAUL, MINNESOTA 55164

CERTIFICATE OF SERVICE

In the Matter of the Cigarette/Tobacco License Held by Moundsvew Retail Inc. d/b/a Mounds Park Market for the Premises Located at 241 Earl Street in St. Paul	OAH Docket No.: 71-6020-38502
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On September 14, 2022, a true and correct copy of the **SECOND PREHEARING ORDER** was served by United States mail, unless otherwise indicated below, addressed to the following:

VIA EMAIL ONLY

Therese Skarda
St. Paul City Attorney's Office
400 City Hall & Courthouse
15 W Kellogg Blvd
Saint Paul, MN 55102
Therese.Skarda@ci.stpaul.mn.us;
shawn.mcdonald@ci.stpaul.mn.us

VIA EMAIL & US MAIL

Derek Thooff
Thooff Law LLC
3460 Washington Dr Ste 212
Eagan, MN 55122
derek@thoofflawllc.com

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE CITY OF ST. PAUL

In the Matter of the Cigarette/Tobacco License Held by Moundsvew Retail Inc. d/b/a Mounds Park Market for the Premises Located at 241 Earl Street in St. Paul **SECOND PREHEARING ORDER**

This matter came before Administrative Law Judge Jessica A. Palmer-Denig upon the City of St. Paul's (City) request for a continuance.

Therese Skarda, Assistant City Attorney, appears on behalf of the City. Derek Thooft, Thooft Law LLC, appears on behalf of Moundsvew Retail Inc. d/b/a Mounds Park Market (Licensee).

The City requests that the hearing set for September 20, 2022, be rescheduled. Licensee does not object. The parties have confirmed their availability for a hearing at a later date.

Based upon the submissions of counsel and the hearing record, and for good cause shown,

IT IS HEREBY ORDERED:

1. The hearing scheduled for September 20, 2022, is **CANCELLED**.
2. A hearing in this matter will be held at the Office of Administrative Hearings, 600 North Robert Street, St. Paul, Minnesota 55101, on **November 3, 2022**, beginning at **9:30 a.m.** The hearing shall be scheduled for one (1) day.
3. By **4:30 p.m.** on **October 27, 2022**, the parties shall exchange and file with this Office their proposed pre-labeled exhibits, an index of the proposed exhibits, and their witness lists.
4. The deadline to request subpoenas for the attendance of witnesses or the production of documents shall be **October 20, 2022**.

5. Unless amended herein, the terms of the First Prehearing Order remain in effect.

Dated: September 14, 2022



JESSICA A. PALMER-DENIG
Administrative Law Judge

**SAINT PAUL**
CITY ATTORNEYCivil Division, 15 Kellogg Blvd. West, 400 City Hall
Saint Paul, MN 55102
Tel: 651-266-8710 | Fax: 651-298-5619

September 1, 2022

The Honorable Jessica A. Palmer-Denig
Administrative Law Judge
Office of Administrative Hearings
600 N. Robert Street
Saint Paul, MN 55101RE: The Matter of the Cigarette/Tobacco License held by Moundsvie Retail Inc. d/b/a Mounds
Park Market for the premises located at 241 Earl Street in Saint Paul.
License ID # 20170000776
RE: OAH 71-6020-38502

Dear Judge Palmer-Denig:

I am writing to request a continuance in the above-entitled matter, which is scheduled for an Administrative Hearing for September 20, 2022, at 9:30 a.m.

I recently took over the cases that my colleague, Stephen Earnest was handling. This morning I learned that one of the City's key witnesses from the Department of Safety and Inspections will be unavailable at that time.

I am happy to discuss this matter with you and opposing counsel at your earliest convenience.

Thank you for your consideration,

Therese A. Skarda
#240989
Assistant City Attorney
City of Saint Paul
Therese.skarda@ci.stpaul.mn.us

July 20, 2022

VIA EMAIL ONLY

Therese Skarda
St. Paul City Attorney's Office
400 City Hall & Courthouse
15 W Kellogg Blvd
Saint Paul, MN 55102
Therese.Skarda@ci.stpaul.mn.us;
shawn.mcdonald@ci.stpaul.mn.us

VIA EMAIL & US MAIL

Derek Thooff
Thooff Law LLC
3460 Washington Dr Ste 212
Eagan, MN 55122
derek@thoofflawllc.com

Re: *In the Matter of the Cigarette/Tobacco License Held by Moundsview Retail Inc. d/b/a Mounds Park Market for the Premises Located at 241 Earl Street in St. Paul*
OAH 71-6020-38502

Dear Counsel:

Enclosed and served upon you please find the **FIRST PREHEARING ORDER** in the above-entitled matter.

If you have any questions, please contact me at (651) 361-7874, michelle.severson@state.mn.us, or via facsimile at (651) 539-0310.

Sincerely,



MICHELLE SEVERSON
Legal Assistant

Enclosure

cc: Docket Coordinator

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
PO BOX 64620
600 NORTH ROBERT STREET
ST. PAUL, MINNESOTA 55164

CERTIFICATE OF SERVICE

In the Matter of the Cigarette/Tobacco License Held by Moundsview Retail Inc. d/b/a Mounds Park Market for the Premises Located at 241 Earl Street in St. Paul	OAH Docket No.: 71-6020-38502
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Michelle Severson certifies that on July 20, 2022, she served the true and correct **FIRST PREHEARING ORDER** by courier service, by placing it in the United States mail with postage prepaid, or by electronic mail, as indicated below, addressed to the following individuals:

VIA EMAIL ONLY

Therese Skarda
St. Paul City Attorney's Office
400 City Hall & Courthouse
15 W Kellogg Blvd
Saint Paul, MN 55102
Therese.Skarda@ci.stpaul.mn.us;
shawn.mcdonald@ci.stpaul.mn.us

VIA EMAIL & US MAIL

Derek Thooft
Thooft Law LLC
3460 Washington Dr Ste 212
Eagan, MN 55122
derek@thooflawllc.com

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE CITY OF ST. PAUL

In the Matter of the Cigarette/Tobacco
License Held by Moundsvew Retail Inc.
d/b/a Mounds Park Market for the Premises
Located at 241 Earl Street in St. Paul

FIRST PREHEARING ORDER

This matter came before Administrative Law Judge Jessica A. Palmer-Denig for a prehearing conference on July 19, 2022.

Stephen Earnest and Therese Skarda, Assistant City Attorneys, appeared on behalf of the City of St. Paul (City). Derek Thooft, Thooft Law LLC, appeared on behalf of Moundsvew Retail Inc. d/b/a Mounds Park Market (Licensee).

Based upon the submissions of counsel and the hearing record,

IT IS HEREBY ORDERED:

1. The period for discovery shall close on **August 26, 2022**. All discovery shall be completed by that date. The parties are encouraged to resolve any discovery disputes between themselves but may request a telephone conference if their efforts are unsuccessful. The parties should not copy the Administrative Law Judge on discovery requests or responses unless such documents are the subject of a filed motion.

2. The deadline to request subpoenas for the attendance of witnesses or the production of documents shall be **September 6, 2022**. Requests for subpoenas for the attendance of witnesses or for the production of documents shall be made in writing to the Administrative Law Judge. A copy of the subpoena request shall be served on the other parties. A subpoena request form is available at <http://mn.gov/oah/forms-and-filing/forms/>.

3. By **4:30 p.m. on September 13, 2022**, the parties shall exchange and file with this Office their proposed pre-labeled exhibits, an index of the proposed exhibits, and their witness lists. The City shall label its exhibits sequentially using numbers 1 through 99. Licensee shall label its exhibits sequentially beginning with the number 100.

4. To the extent possible, the parties shall enter into prehearing stipulations regarding the facts involved in the hearing and the foundation for anticipated exhibits.

Any party objecting to the foundation for any written exhibit shall notify the offering party and the judge in writing at least two (2) working days prior to the hearing or the foundation objection is considered waived.

5. A hearing in this matter will be held at the Office of Administrative Hearings, 600 North Robert Street, St. Paul, Minnesota 55101, on **September 20, 2022**, beginning at **9:30 a.m.** The hearing shall be scheduled for one (1) day.

6. The parties have not requested accommodation for a disability nor the appointment of an interpreter. Please advise the Office of Administrative Hearings in writing as soon as possible if either an accommodation or an interpreter is needed.

7. Hearings are ordinarily digitally recorded. A copy of the digital recording of the hearing can be obtained by a party who makes a written request. Transcripts of the hearing are not provided unless the cost for such transcription is paid in advance by the party making the request. Any party may arrange to have a court reporter at the hearing. A party shall notify the Office of Administrative Hearings prior to the hearing if the party has arranged for a court reporter to be at the hearing. All logistical and payment arrangements related to court reporters are the responsibility of the requesting party, not the Office of Administrative Hearings. If a transcript is requested by any party, the requesting party is required to provide a copy of the transcript to the Administrative Law Judge.

8. Requests for continuances of a hearing shall be granted only upon a showing of good cause. A request for a continuance filed within five (5) business days of the hearing shall be denied unless the reason for the request could not have been earlier ascertained or unless good cause is shown.


9. The failure of a party to appear at a prehearing conference or hearing without the prior consent of the Administrative Law Judge shall be considered a default by that party. Upon default, the allegations contained in the Notice and Order for Prehearing Conference or Hearing may be accepted as true, and the appearing party's proposed action may be upheld.

10. The parties are encouraged to consider settlement and/or mediation. Requests for a settlement conference or mediation shall be made to the Chief Administrative Law Judge so that she can promptly assign a mediator to conduct the mediation or settlement conference. Note that both parties must join in a request for mediation.

11. If the matter is resolved prior to hearing, please provide written notice to the Office of Administrative Hearings immediately, and provide notice to the Administrative Law Judge by contacting Judge Palmer-Denig's legal assistant, Michelle Severson, at michelle.severson@state.mn.us or (651) 361-7874.

12. Any document filed with the Office of Administrative Hearings, or which a party wishes to make part of the record in this matter, may be filed with the Office of Administrative Hearings in any one of the following ways: (1) **by eFiling** through the Office of Administrative Hearings' eFiling system at <http://mn.gov/oah/forms-and-filing/efiling/>; (2) **by mail**; (3) **by fax**; or (4) **by personal delivery**. Attorneys representing government agencies are encouraged to eFile. Filings are effective on the date the Office of Administrative Hearings receives the filing.

Dated: July 20, 2022

A handwritten signature in black ink, reading "Jessica A. Palmer-Denig". The signature is written in a cursive style with a horizontal line underneath it.

JESSICA A. PALMER-DENIG
Administrative Law Judge

OAH Docket Number: 80-6020-37528

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Cigarette/Tobacco
License held by Moundsview Retail Inc.
d/b/a Mounds Park Market for the
premises located at 241 Earl Street in
Saint Paul.

NOTICE OF SUBSTITUTION OF COUNSEL

PLEASE TAKE NOTICE that:

1. The attorney named below appears as counsel for the Saint Paul Department of Safety and Inspections in the above-entitled matter in substitution of Stephen Earnest.

2. By providing its email address below, the attorney named below acknowledges that it has read and agrees to the terms of the Office of Administrative Hearings' e-Filing policy and chooses to opt into receiving electronic notice from the Office of Administrative Hearings in this matter.¹ **Note: Provision of an email address DOES NOT constitute consent to electronic service from any opposing party or agency in this proceeding.**

Party's/Agency's Name: Saint Paul Department of Safety and Inspections
Email: DSI-InformationAndComplaints@ci.stpaul.mn.us **Telephone:** (651) 266-8989
Mailing Address: 375 Jackson Street, Suite 200, Saint Paul, MN 55101

Party's/Agency's Attorney: Therese Skarda
Firm Name: Office of the Saint Paul City Attorney
Email: therese.skarda@ci.stpaul.mn.us **Telephone:** (651) 266-8755
Mailing Address: 15 West Kellogg Boulevard, Suite 400, Saint Paul, MN 55102

Dated: July 19, 2022

 S.M.

Signature of Attorney

¹ In order to opt in to electronic notice, this form must be emailed to OAH.efiling.support@state.mn.us. If the party does not wish to opt in to electronic notice, this form may be filed with the Office of Administrative Hearings via facsimile, U.S. Mail, or personal service. See 2015 Minn. Laws Ch. 63, Minn. R. 1400.5550, subps. 2-5 (2015).

Note: This form must be served upon the opposing party/agency. Counsel may not withdraw from representation without written notice.



SAINT PAUL
CITY ATTORNEY

RECEIVED

By: OAH on 07/14/2022 2:53pm

OFFICE OF THE CITY ATTORNEY
LYNDSEY M. OLSON, CITY ATTORNEY

Civil Division, 15 Kellogg Blvd. West, 400 City Hall
Saint Paul, MN 55102
Tel: 651-266-8710 | Fax: 651-298-5619

July 14, 2022

NOTICE OF PREHEARING TELEPHONE CONFERENCE

Moundsview Retail Inc.
d/b/a Mounds Park Market
241 Earl Street
St. Paul, MN 55106
Attn: Derek Thooft, Attorney at Law, 3460 Washington Dr., Suite 212, Eagan, MN 55122

RE: Cigarette/Tobacco License held by Moundsview Retail Inc. d/b/a Mounds Park Market for the premises located at 241 Earl Street in Saint Paul
License ID #: 20170000776
OAH Docket No.: 71-6020-38502

Dear Mr. Thooft:

Please take notice that a **PREHEARING TELEPHONE CONFERENCE** has been scheduled concerning the Cigarette/Tobacco License held by Moundsview Retail Inc. d/b/a Mounds Park Market for the premises located at 241 Earl Street in Saint Paul.

Date: Tuesday, July 19, 2022
Time: 10:30 a.m.

Call in information: 1-(866)-705-2554
Conference Code: 260 088#

The hearing will be presided over by an Administrative Law Judge from the State of Minnesota Office of Administrative Hearings:

Name: Judge Jessica Palmer-Denig
Office of Administrative Hearings
600 North Robert Street
St. Paul, MN 55101
Telephone: (651) 361-7900

CITY OF SAINT PAUL
MELVIN CARTER, MAYOR

STPAUL.GOV

The Saint Paul City Attorney's Office does not discriminate based on race, color, national origin, religion, sex/gender, disability, sexual orientation, gender identity, age, or veteran status in the delivery of services or employment practices.



Evidence will be presented to the administrative law judge that may lead to adverse action against the Cigarette/Tobacco License held by Moundsvew Retail Inc. d/b/a Mounds Park Market for the premises located at 241 Earl Street in Saint Paul.

The Department of Safety and Inspections (the "Department") is recommending adverse action against the Cigarette/Tobacco license held by Moundsvew Retail Inc., d/b/a Mounds Park Market (the "Licensee"), for the premises located at 241 Earl Street in Saint Paul (the "Licensed Premises") for a second flavored tobacco violation.

Saint Paul Legislative Code section 324.07(j) prohibits a licensee from selling, offering for sale, or otherwise distributing any flavored tobacco products.

Saint Paul Legislative Code section 324.10(b)(2) sets the presumptive penalties for violations of provisions of the Legislative Code relating to the display, possession, or multiple incidents of sales of menthol or flavored tobacco products. Under section 324.10(b)(2), the presumptive penalty for a second violation within a 24-month period is revocation of the license.

Records from the Department show that on August 9, 2021, during an inspection of the Licensed Premises, an inspector discovered flavored tobacco products.

The Department asserts that the following facts, along with photos of the violations attached herein, constitute proof of a second violation of section 324.07(j) of the Saint Paul Legislative Code by preponderance of the evidence.

Synopsis of Alleged Facts:

On August 9, 2021, a Department inspector conducted an inspection of the Licensed Premises and found numerous flavored tobacco products. Based on these findings, the Department recommended adverse action against your Cigarette/Tobacco license and the imposition of a \$500 fine. By paying the \$500 fine, you admitted to the violation.

On May 12, 2022, Department Inspector Joseph Voyda went to the Licensed Premises for a complaint inspection. Upon arrival, he spoke with the store clerk, Amu, and informed him that the Department received a complaint of the business selling flavored tobacco products. He asked the clerk for permission to conduct an inspection, which permission the clerk granted. During the inspection, Inspector Voyda observed and documented with photographs multiple flavored tobacco products behind the counter. He also observed and documented with photographs flavored tobacco products hidden in boxes of candy, in a tote/tub, and in drawers under the base of the service counter. After the inspection, Voyda asked the clerk if there were any



other flavored tobacco products and the clerk responded that there were not. The license holder, Akil Jahed, arrived while Voyda was still inside of the Licensed Premises. Jahed was advised to remove all flavored tobacco products into a back storage and call a distributor to pick them up.

If you think that this matter can be resolved or settled without a formal hearing, please contact the undersigned. If a stipulation or agreement can be reached as to the facts, that stipulation will be presented to the Administrative Law Judge for incorporation into his or her recommendation for Council action.

If you fail to appear at the hearing, your ability to challenge the allegations will be forfeited and the allegations against you which have been stated earlier in this notice may be taken as true. If non-public data is received into evidence at the hearing, it may become public unless objection is made and relief requested under Minnesota Statutes, Section 14.60, subdivision 2.

If you have any questions, you can call me at (651) 266-8710.

Sincerely,

Stephen Earnest
Assistant City Attorney
License No. 0402652

STATE OF MINNESOTA)

) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

Shawn McDonald, being first duly sworn, deposes and says that on the 14th day of July, he served the attached **NOTICE OF PREHEARING TELEPHONE CONFERENCE** and a correct copy thereof in an envelope addressed as follows:

Derek Thooft
Attorney at Law
3460 Washington Dr., Suite 212
Eagan, MN 55122

(which is the last known address of said person) depositing the same, with postage prepaid, in the United States mail at St. Paul, Minnesota.


Shawn McDonald

Subscribed and sworn to before me
This 14th day of July 2022


Notary Public



OAH Docket Number: _____

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Cigarette/Tobacco license held by
Moundsvew Retail Inc. d/b/a Mounds Park
Market for the premises located at 241 Earl
Street in Saint Paul

NOTICE OF APPEARANCE

PLEASE TAKE NOTICE that:

1. The party/agency named below (Party/Agency) will appear at the prehearing conference and all subsequent proceedings in the above-entitled matter.

2. By providing its email address below, the Party/Agency acknowledges that it has read and agrees to the terms of the Office of Administrative Hearings' e-Filing policy and chooses to opt into receiving electronic notice from the Office of Administrative Hearings in this matter. **Note: Provision of an email address DOES NOT constitute consent to electronic service from any opposing party or agency in this proceeding.**

3. The Party/Agency agrees to use best efforts to provide the Office of Administrative Hearings with the email address(es) for opposing parties and their legal counsel.

Party's/Agency's Name: Department of Safety and Inspections

Email: eric.hudak@ci.stpaul.mn.us Telephone: (651) 266-9132

Mailing Address: 375 Jackson Street, Ste. 220, Saint Paul, MN 55101-1806

Party's/Agency's Attorney: Stephen Earnest

Firm Name: City of Saint Paul – Office of City Attorney

Email: stephen.earnest@ci.stpaul.mn.us Telephone: (651) 266-8743

Mailing Address: 400 City Hall & Courthouse, 15 W. Kellogg Blvd., Saint Paul, MN 55102

Party's/Agency's Legal Assistant: Shawn McDonald

Firm Name: City of Saint Paul – Office of City Attorney

Email: Shawn.Mcdonald@ci.stpaul.mn.us Telephone: (651) 266-8729

Mailing Address: 400 City Hall & Courthouse, 15 W. Kellogg Blvd., Saint Paul, MN 55102

Respondent's/Opposing Party's Name: Derek Thooft

Email: derek@thooflawllc.com Telephone: (651) 485-1254

Mailing Address: 3460 Washington Dr., Suite# 212, Eagan, MN 55122

Dated: 7-12-22

Stephen Earnest / s.m.
Signature of Party/Agency or Attorney

Note: This form must be served upon the opposing party/agency. Counsel may not withdraw from representation without written notice.