



CITY OF SAINT PAUL

Mayor Melvin Carter

Civil Division  
400 City Hall  
15 West Kellogg Blvd.  
Saint Paul, Minnesota 55102

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

April 8, 2019

NOTICE OF COUNCIL HEARING

McKnight Tobacco-N-Wireless, Inc. – Licensee  
d/b/a McKnight Tobacco  
279 McKnight Road South  
St. Paul, MN 55119  
Attn: Towfik Hassen

RE: Cigarette/Tobacco-Product Shop license held by McKnight Tobacco-N-Wireless, Inc. d/b/a McKnight Tobacco  
for the premises located at 279 McKnight Road South in Saint Paul  
License ID #: 20140002749

Dear Mr. Hassen:

Please take notice that this matter has been set on the Public Hearing Agenda for a City Council meeting on **Wednesday, April 17, 2019 at 5:30 p.m.**, in the City Council Chambers, Third Floor, Saint Paul City Hall and Ramsey County Courthouse, 15 West Kellogg Boulevard, St. Paul, MN 55102.

Enclosed is a copy of the letter we received on March 21, 2019, indicating that you were not contesting the facts related to the incident, but was requesting the opportunity to address the Council regarding the penalty, the resolution and any supporting documents. This information will be presented to City Council for their consideration.

This is an uncontested license matter related to an inspection conducted by the Minnesota Department of Revenue on December 31, 2018. During that inspection, two packages of Mirage Blue Tobacco were found to be offered for sale or held as inventory without an invoice from a licensed seller and were seized as contraband under the authority granted by Minn. Stat. § 297F.21 (i) and (j).

Per Saint Paul Legislative Code §310.05 (m) (2), the licensing office will recommend a \$500.00 matrix penalty.

Sincerely,

Therese Skarda  
Assistant City Attorney  
License No. 0240989

Cc: Towfik Hassen, 8371 Savanna Oak Lane, Woodbury, MN 55125  
Shaquonna Jackson, Community Organizer, District 1 Community Council, Sunray Shopping Center  
2105 ½ Old Hudson Road, St. Paul, MN 55119  
Narayan Investments, 2940 Linden Drive, New Brighton, MN 55112-0064

Enclosure: April 17, 2019 Public Hearing Packet

*"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."*

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 8<sup>TH</sup> day of April, he served the attached **NOTICE OF COUNCIL HEARING** and a correct copy thereof in an envelope addressed as follows:

McKnight Tobacco-N-Wireless, Inc. – Licensee  
d/b/a McKnight Tobacco  
279 McKnight Road South  
St. Paul, MN 55119  
Attn: Towfik Hassen

Towfik Hassen  
8371 Savanna Oak Lane  
Woodbury, MN 55125

Shaquonna Jackson, Community Organizer  
District 1 Community Council  
Sunray Shopping Center  
2105 ½ Old Hudson Road  
St. Paul, MN 55119

Narayan Investments  
2940 Linden Drive  
New Brighton, MN 55112-0064

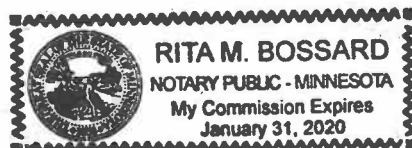
(which is the last known address of said person) depositing the same, with postage prepaid, in the United States mail at St. Paul, Minnesota.



Shawn McDonald

Subscribed and sworn to before me  
this 8<sup>TH</sup> day of April 2019

  
Notary Public



**UNCONTESTED LICENSE MATTER**

**Licensee Name:** McKnight Tobacco-N-Wireless  
d/b/a McKnight Tobacco

**Address:** 279 McKnight Road  
St. Paul, MN 55119

**Council Date:** Wednesday, April 17, 2019 at 5:30 p.m.

**Violation:** During an inspection conducted by the Minnesota Department of Revenue on December 31, 2018, two packages of Mirage Blue Tobacco were found to be offered for sale or held as inventory without an invoice from a licensed seller and seized as contraband under the authority granted by Minn. Stat. § 297F.21 (i) and (j).

**Recommendation of Assistant City Attorney on behalf of client,  
Department of Safety and Inspections:**

**\$500.00 matrix penalty**

**Attachments:**

- 1. Resolution**
- 2. Seized Tobacco Product letter from Minnesota Department of Revenue dated 3/05/2019**
- 3. Notice of Seized Contraband from Minnesota Department of Revenue inspection on 12/31/2018**
- 4. Notice of Violation with Affidavit of Service dated 3/12/2019**
- 5. Letter from licensee requesting a public hearing dated 3/18/2019**
- 6. Screenshots from DSI ECLIPS System dated 3/07/2019**
- 7. STAMP -Ownership/Zoning Information run date of 3/07/2019**
- 8. Minn. Stat. §297F.21 – Contraband**
- 9. Saint Paul Legislative Code §310.06**
- 10. Saint Paul Legislative Code §310.05 (m)**

WHEREAS, the Cigarette/Tobacco-Product Shop license held by McKnight Tobacco-N-Wireless d/b/a McKnight Tobacco (License ID# 20140002749) for the premises located at 279 McKnight Road South in Saint Paul was the subject of a Notice of Violation ("Notice") dated March 12, 2019; and

WHEREAS, the Notice stated on March 5, 2019 the Department of Safety and Inspections received a Notice of Seized Contraband from the Minnesota Department of Revenue concerning an inspection of the licensed premises on December 31, 2018; and

WHEREAS, the Notice of Seized Contraband stated that two (2) packages of Mirage Blue Tobacco were found to be offered for sale or held as inventory without an invoice from a licensed seller and seized as contraband under the authority granted in Minn. Stat. §§ 297F.21 (i) and (j); and

WHEREAS, Saint Paul Legislative Code § 310.0 (b)(6)(a) provides that adverse action may be taken against the licenses; and

WHEREAS, the licensing office recommended a \$500.00 matrix penalty; and

WHEREAS, the licensee responded to the Notice of Violation on March 18, 2019 to request a public hearing which is scheduled on April 17, 2019; now therefore be it

RESOLVED, McKnight Tobacco-N-Wireless d/b/a McKnight Tobacco (License ID# 20140002749) for the premises located at 279 McKnight Road South in Saint Paul is hereby ordered to pay a \$500.00 matrix penalty for contraband tobacco products seized by the Minnesota Department of Revenue during an inspection on December 31, 2018.

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



March 5, 2019

Tobacco Licensing Division  
375 Jackson Street #220  
St Paul, MN 55101

## Seized Cigarette/Tobacco Product

The Minnesota Department of Revenue recently seized cigarette and/or tobacco products as contraband under Minnesota Statute 297F.21 from a business located in your jurisdiction. Because all time periods for judicially challenging the seizure have expired, the property has been forfeited to the State.

Attached you will find a copy of our Notice of Seized Contraband. The notice lists the products we seized.

### Why are you contacting me?

We are providing you information about our seizure of tobacco contraband so you may take any action against the city/county license as appropriate.

Contact me if you have any questions.

Sincerely,

Steve Johnson  
Compliance Coordinator  
Phone: 651-556-4708  
Email: [steve.johnson@state.mn.us](mailto:steve.johnson@state.mn.us)

Supervisor Contact Information:  
Dan Hughes  
651-556-4750  
[dan.hughes@state.mn.us](mailto:dan.hughes@state.mn.us)



December 31, 2018

ID: XX-XXX6886  
Letter ID: L1174062016  
Notice Date: December 31, 2018

MCKNIGHT TOBACCO N WIRELESS INC  
279 1/2 MCKNIGHT RD S  
SAINT PAUL MN 55119-5305

## Notice of Seized Contraband

**Seized Date and Time:** 31-Dec-2018 1030am  
**Seized by:** Jody True & Tom Piskor  
**Seizure Location:** 279 1/2 McKnight Rd S  
**Seized From:** McKnight Tobacco N Wireless

The Minnesota Department of Revenue seized the following property as contraband under the authority granted to the commissioner of revenue (Minnesota Statutes Chapter 297F.21)

Quantity	Unit	Product Description
2	Package	Mirage Blue Tobacco

The property listed was seized as contraband under the authority granted in M.S. 297F. The specific section of the law under which this property is declared to be contraband is M.S. 297F.21, which state(s).

Subdivision 1. Contraband defined. The following are declared to be contraband and therefore subject to civil and criminal penalties under this chapter

Cigarette/Tobacco 297F.21

- (i) Tobacco products on which the tax has not been paid by a licensed distributor.
- (j) Any cigarette packages or tobacco products offered for sale or held as inventory for which there is not an invoice from a licensed seller as required under section 297F.13, subdivision 4.

### What must I do?

You must request a judicial review of this seized property within 60 days of the Notice Date. If you do not, the property that we seized will become property of the state of Minnesota.

### How do I demand a judicial review?

1. File a civil complaint with the court administrator in the county where the seizure occurred.



CITY OF SAINT PAUL  
Mayor Melvin Carter

Civil Division  
400 City Hall  
15 West Kellogg Blvd.  
Saint Paul, Minnesota 55102

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

March 12, 2019

## NOTICE OF VIOLATION

McKnight Tobacco-N-Wireless, Inc. – Licensee  
d/b/a McKnight Tobacco  
279 McKnight Road South  
St. Paul, MN 55119  
Attn: Towfik Hassen

RE: Cigarette/Tobacco-Product Shop license held by McKnight Tobacco-N-Wireless, Inc. d/b/a McKnight Tobacco for the premises located at 279 McKnight Road South in Saint Paul  
License ID #: 20140002749

Dear Licensee:

The Department of Safety and Inspections (“Department”) will recommend adverse action against the Cigarette/Tobacco-Product Shop license held by McKnight Tobacco-N-Wireless, Inc. (“Licensee”) for the premises known as McKnight Tobacco located at 279 McKnight Road South (“Licensed Premises”).

The Department asserts the following facts along with attachments herein constitute proof of a violation of Minn. Stat. §§ 297F.21 (i) and (j) and Saint Paul Legislative Code §310.06 by a preponderance of the evidence.

**On March 5, 2019, the Department of Safety and Inspections (DSI) received a Notice of Seized Contraband letter from the Minnesota Department of Revenue. The Notice related to an inspection and seizure of contraband tobacco products at the licensed premises on December 31, 2018.**

**During this inspection the following tobacco products were found to be offered for sale or held as inventory without an invoice from a licensed seller and were seized as contraband under the authority granted in Minn. Stat. §§297F.21 (i) and (j). All time periods for judicially challenging the seizure have since expired:**

**2 Packages Mirage Blue Tobacco**

**Under Minn. Stat. 297F.21(i) “Tobacco products on which the tax has not been paid by the licensed distributor” are contraband.**

**Under Minn. Stat. 297F.21 (j) “Any cigarette packages or tobacco products offered for sale or held as inventory for which there is not an invoice from a licensed seller as required under section 297F.13, subdivision 4” are contraband.**

**Saint Paul Legislative Code Section 310 provides that adverse action may be taken against your licenses when:**

**Section 310.06 (b) (6) (a): “the license or applicant (or any person whose conduct may by law be imputed to the licensee of 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...”**

Pursuant to Saint Paul Legislative Code Section 310.05 (m)(2) the Department is recommending a \$500.00 matrix penalty.

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 **Friday March 22, 2019**, I will presume that you have chosen not to contest the proposed adverse action and the matter will be placed on the **Wednesday, April 3, 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 **Friday March 22, 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 **Friday March 22, 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 **Friday March 22, 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.



McKnight Tobacco-N-Wireless Inc. – Licensee  
d/b/a McKnight Tobacco  
March 12, 2019  
Page 3

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 Friday March 22, 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 Wednesday, April 3, 2019 City Council Consent Agenda for approval of the recommended penalty.**

If you have questions about these options, please contact Julie Kraus, my Legal Assistant at (651) 266-8776.

Sincerely,



Lisa L. Veith  
Assistant City Attorney  
License No. 205060

Cc Towfik Hassen, 8371 Savanna Oak Lane, Woodbury, MN 55125  
Shaquonna Jackson, Community Organizer, District 1 Community Council, Sunray Shopping Center  
2105 ½ Old Hudson Road, St. Paul, MN 55119  
Narayan Investments, 2940 Linden Drive, New Brighton, MN 55112-0064

Attachments Minnesota Department of Revenue Seized Cigarette/Tobacco Product letter dated  
March 5, 2019  
Minnesota Department of Revenue Notice of Seized Contraband dated December 31, 2018  
Screenshots from DSI ECLIPS System dated March 7, 2019  
STAMP Ownership-Zoning Information  
Minnesota Statutes Section 297F.21 Contraband  
Saint Paul Legislative Code §310.05  
Saint Paul Legislative Code §310.06

STATE OF MINNESOTA)  
 ) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

Julie Kraus, being first duly sworn, deposes and says that on the 12<sup>th</sup> day of March, she served the attached **NOTICE OF VIOLATION** a correct copy thereof in an envelope addressed as follows:

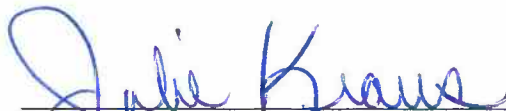
McKnight Tobacco-N-Wireless, Inc. – Licensee  
d/b/a McKnight Tobacco  
279 McKnight Road South  
St. Paul, MN 55119  
Attn: Towfik Hassen

Towfik Hassen  
8371 Savanna Oak Lane  
Woodbury, MN 55125

Shaquonna Jackson, Community Organizer  
District 1 Community Council  
Sunray Shopping Center  
2105 ½ Old Hudson Road  
St. Paul, MN 55119

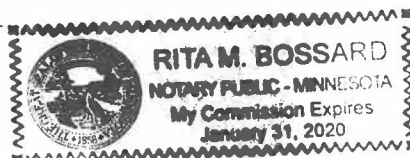
Narayan Investments  
2940 Linden Drive  
New Brighton, MN 55112-0064

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

  
Julie Kraus

Subscribed and sworn to before me  
this 12<sup>th</sup> day of March 2019

  
Notary Public



03/18/2019

Dear Saint Paul City Council,

I am writing this letter to appeal a notice of violation that was issued to my store on 03/12/2019. The Minnesota Department of revenue visited my store on 12/31/2018 that is located at 279 ½ Mcknight Rd S Saint Paul, MN 55119 for inspection; and sized 2 pieces of Mirage Blue Tobacco I told the agent, this product was bought from a retail store. They said you can't buy from a retail store and sell it in a retail store and decided to take the 2 pieces of Mirage tobacco that cost \$0.50 each.

Mcknight Tobacco-N-Wireless Inc has no violation in the past and I were not aware that Mirage blue Tobacco is not allowed for sale in MN. Therefore, I would like to request a public hearing to urge the city council member to help in waiving the matrix penalty.

Thank you for your time.

Regards,

Towfik Hassen

License Group Comments Text

03/07/2019

Licensee: MCKNIGHT TOBACCO -N- WIRELESS INC

DBA: MCKNIGHT TOBACCO

License #: 20140002749

3/7/19 To CAO for adverse action. KS

3/5/19

Recd. Notice from MN DEPT Rev of violation of 297F.21 Seized untaxed prod. w/o invoices. KS.

8/8/2018 Tobacco youth compliance check-Pass JNV

08/08/2018 Per AM site inspection does not sell used items, no 2nd Hand Dealer license needed. JWF

4/20/2018 Menthol education / inspection Pass JNV

08/10/2017 passed tobacco compliance check BLB

09/20/2016 Sent delinquent letter. Response deadline date is October 11, 2016. Max

8/12/2016 Passed Tobacco Compliance Check BLB

08/21/2015 Passed Tobacco compliance check BLB

12/23/14 Passed tobacco compliance check. AAJ

09/19/2014 Approved as tobacco products shop per LRZ. JWF

09/10/2014 Rcvd. signed lic. cond. affidavit. JWF

License Query

Address Licensee Contact License Cardholder

Licensee Name: MCKNIGHT TOBACCO - N- WIRELESS INC

DBA: MCKNIGHT TOBACCO

Sales Tax Id:


Find Now

OK

Cancel

New Search

Help



**SEARCH WINDOW**

New Group... New Temp Grp... Copy Group... Add License... Properties...

License #	Tag #	Licensee Name	DBA	License Type	Status	Reason
140002749	0	MCKNIGHT TOBACCO -N- WIRELESS INC	MCKNIGHT TOBACCO	Cigarette/Tobacco-Product Shop	Active	License Printed
	24133	MCKNIGHT TOBACCO -N- WIRELESS INC	MCKNIGHT TOBACCO	Alarm Permit (New)	Active	All Requirements
	0	MCKNIGHT TOBACCO -N- WIRELESS INC	MCKNIGHT TOBACCO	Second Hand Dealer (Comp/Elec)	Canceled	08/02/2018 Own
				Cigarette/Tobacco	Canceled	05/10/2016 Chan
				False Alarms	Complete	License Expiratio

Properties For License 279 MCKNIGHT ROAD S

Licensee: MCKNIGHT TOBACCO -N- WIRELESS INC  
 DBA: MCKNIGHT TOBACCO

Property
  Licensee
  Unofficial

Street #: 279  
 Street Name: MCKNIGHT  
 Street Type: ROAD Direction: S  
 Unit Ind: Unit #:   
 City: ST PAUL  
 State: MN Zip: 55119  
 Ward: 7  
 Dist Council: 01

Project Facilitator: ZANGS, LAWRENCE (LARRY)

Adverse Action Comments

08/02/2018 Owner canceled Second Hand Dealer license per renewal. AMW  
 05/10/2016 Change in license type from Cigarette/ Tobacco to Cigarette/Tobacco Product Class 1A2

License Group Comments:

3/7/19 To CAO for adverse action. KS  
 3/5/19  
 Recd. Notice from MN DEPT Rev of violation of 297F.21 Seized untaxed prod. w/o invoices. KS.

Licensee: MCKNIGHT TOBACCO -N- WIRELESS INC  
 DBA: MCKNIGHT TOBACCO  
 Sales Tax Id: \*\*\*\*\* Bus Phone: (612) 801-6707

Licensee Comments: 08/24/2017, 09/21/2016, 09/10/2014 Hours are 9AM to 9PM M-SAT and 10AM to 6PM Sunday. Business record will be at the store location. LD7

License Type	Class	Effective	Expiration	Conditions	License Fee
False Alarms	R	01/01/2015	12/31/2015	N	\$25.00
Alarm Permit (New)	R	09/10/2014	09/10/2019	N	\$38.00
Second Hand Dealer (Comp/Elec)	N	09/10/2014	09/10/2018	N	\$72.00

License # 140002749 Save Changes to History

\_ □ ×

Pay
 Print
 Warn
 Hist
 Summ
 

 Licensee   
 DBA

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

Licensee Name:    
 DBA:    
 Sales Tax Id:  Non-Profit:  Worker's Comp:   
 AA Contract Rec'd:  AA Training Rec'd:   
 AA Fee Collected:  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. Phone	Ho
Business	09/10/2014	00/00/0000				(612) 801-6707	
Mail To	09/10/2014	00/00/0000	HASSEN	TOWFIK	OWNER	(612) 801-6707	

Mail License To:

Mail To Contact

License Address

Mail Invoice To:

Mail To Contact

License Address

Background Check Required

License # 
 Save Changes to History

**Properties for Licensee Contact**

Name | **Address** | Phone | Email | Groups

Street #: 8371

Street Name: SAVANNA OAK

Street Pre Direct: <All>

Street Type: LANE

Street Post Direct: <All>

Unit #:

Unit Abbrev:

P.O. Box #:

City: WOODBURY

State: MN

Country: U.S.A.

Zip Code: 55125

Zip+4:

Inter Office Address:

Override Formatted Address for Mailing

US Post Formatted Address:

Last Upload: 01/01/1997

OK | Cancel | Help | Save Changes to History



Properties For License 279 MCKNIGHT ROAD S

Licensee: MCKNIGHT TOBACCO -N- WIRELESS INC  
 DBA: MCKNIGHT TOBACCO

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

License Type: 
  
 Effective:  Expiration: 
  
 Apply Discount:  Remove Discount:  Discount Rec'd: 
  
 Replace Fee:  # of Units:

License Class: 
  
 Status: 
  
 Status Changed: 
  
 Application Date:

Inspector Name	Type	Phone #	
SCHWEINLER, KRISTINA (KRIS)	License	(651) 268-9110	<input type="button" value="Add"/> <input type="button" value="Remove"/>

Name	Trade Type	Card #	Card Type	Expiration	
					<input type="button" value="Add Mast"/> <input type="button" value="Remove"/>

Tag #:

Fields:
   
 Counter Sales: 
  
 # of Machines:

License Type Comments(long):

<< 5 of 5 >>

### STAMP - Ownership / Zoning Information

[New Search](#)

[Help using this report](#)

**Run Date:** 03/07/19 10:08 AM

**House#:** 279

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

**Street Name:** MCKNIGHT

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

275 Mcknight Road S - Mcknight Superette / 277 Mcknight Road S - Mei Mei Restaurant / 279 Mcknight Road S - Coffee Shop / 281 Mcknight Road S - Jubba Dell / 283 Mcknight Road S - Woodbury Cleaners / 287 Mcknight Road S - Shamrock Plaza Liquors / 289 Mcknight Road S / 291 Mcknight Road S - A-Plus Tutoring / 293 Mcknight Road S / 295 Mcknight Road S / 297 Mcknight Road S - Woodbury Cleaners / 299 Mcknight Road S / 301 Mcknight Road S - 55119 - [Other Applications](#)

<b>PIN:</b> 112822110086	<b>Census Track:</b> 37403	<b>Census Block:</b> 3000	<b>Council Ward:</b> 7	<b>District Council:</b> 1
<b>Year Built:</b>	<b>Foundation Sq Feet:</b>	<b>Loan Company:</b> 00	<b>Land Value:</b> 0	<b>Building Value:</b> 0

**Unverified Usage:**

**ISP:**

**Units:**

**Zoning:** ' / B2

**Legal Desc:** Shamrock Plaza Subj To Rd; Lot 2 Blk 1

**Owner:**

Narayan Investments  
2940 Linden Drive  
New Brighton MN 55112-0064  
651-639-1416

**297F.21 CONTRABAND.**

Subdivision 1. **Contraband defined.** The following are declared to be contraband and therefore subject to civil and criminal penalties under this chapter:

(a) Cigarette packages which do not have stamps affixed to them as provided in this chapter, including but not limited to (i) packages with illegible stamps and packages with stamps that are not complete or whole even if the stamps are legible, and (ii) all devices for the vending of cigarettes in which packages as defined in item (i) are found, including all contents contained within the devices.

(b) A device for the vending of cigarettes and all packages of cigarettes, where the device does not afford at least partial visibility of contents. Where any package exposed to view does not carry the stamp required by this chapter, it shall be presumed that all packages contained in the device are unstamped and contraband.

(c) A device for the vending of cigarettes to which the commissioner or authorized agents have been denied access for the inspection of contents. In lieu of seizure, the commissioner or an agent may seal the device to prevent its use until inspection of contents is permitted.

(d) A device for the vending of cigarettes which does not carry the name and address of the owner, plainly marked and visible from the front of the machine.

(e) A device including, but not limited to, motor vehicles, trailers, snowmobiles, airplanes, and boats used with the knowledge of the owner or of a person operating with the consent of the owner for the storage or transportation of more than 5,000 cigarettes which are contraband under this subdivision. When cigarettes are being transported in the course of interstate commerce, or are in movement from either a public warehouse to a distributor upon orders from a manufacturer or distributor, or from one distributor to another, the cigarettes are not contraband, notwithstanding the provisions of clause (a).

(f) A device including, but not limited to, motor vehicles, trailers, snowmobiles, airplanes, and boats used with the knowledge of the owner, or of a person operating with the consent of the owner, for the storage or transportation of untaxed tobacco products intended for sale in Minnesota other than those in the possession of a licensed distributor on or before the due date for payment of the tax under section 297F.09, subdivision 2.

(g) Cigarette packages or tobacco products obtained from an unlicensed seller.

(h) Cigarette packages offered for sale or held as inventory in violation of section 297F.20, subdivision 7.

(i) Tobacco products on which the tax has not been paid by a licensed distributor.

(j) Any cigarette packages or tobacco products offered for sale or held as inventory for which there is not an invoice from a licensed seller as required under section 297F.13, subdivision 4.

(k) Cigarette packages which have been imported into the United States in violation of United States Code, title 26, section 5754. All cigarettes held in violation of that section shall be presumed to have entered the United States after December 31, 1999, in the absence of proof to the contrary.

(l) Cigarettes subject to forfeiture under section 299F.854, subdivision 5, and cigarette packaging and markings, including the cigarettes contained therein, which do not meet the requirements under section 299F.853, paragraph (a).

Subd. 2. **Seizure.** Cigarettes, tobacco products, or other property made contraband by subdivision 1 may be seized by the commissioner or authorized agents or by any sheriff or other police officer, with or without process, and are subject to forfeiture as provided in subdivision 3.

Subd. 3. **Inventory; judicial determination; appeal; disposition of seized property.** (a) Within ten days after the seizure of any alleged contraband, the person making the seizure shall serve by certified mail an inventory of the property seized on the person from whom the seizure was made, if known, and on any person known or believed to have any right, title, interest, or lien in the property, at the last known address, and file a copy with the commissioner. The notice must include an explanation of the right to demand a judicial forfeiture determination.

(b) Within 60 days after the date of service of the inventory, which is the date of mailing, the person from whom the property was seized or any person claiming an interest in the property may file a demand for a judicial determination of the question as to whether the property was lawfully subject to seizure and forfeiture. The demand must be in the form of a civil complaint and must be filed with the court administrator in the county in which the seizure occurred, together with proof of service of a copy of the complaint on the commissioner of revenue, and the standard filing fee for civil actions unless the petitioner has the right to sue in forma pauperis under section 563.01. If the value of the seized property is \$15,000 or less, the claimant may file an action in conciliation court for recovery of the property. If the value of the seized property is less than \$500, the claimant does not have to pay the conciliation court filing fee.

(c) The complaint must be captioned in the name of the claimant as plaintiff and the seized property as defendant, and must state with specificity the grounds on which the claimant alleges the property was improperly seized and the plaintiff's interest in the property seized. No responsive pleading is required of the commissioner, and no court fees may be charged for the commissioner's appearance in the matter. The proceedings are governed by the Rules of Civil Procedure. Notwithstanding any law to the contrary, an action for the return of property seized under this section may not be maintained by or on behalf of any person who has been served with an inventory unless the person has complied with this subdivision. The court shall decide whether the alleged contraband is contraband, as defined in subdivision 1. The court shall hear the action without a jury and shall try and determine the issues of fact and law involved.

(d) When a judgment of forfeiture is entered, unless the judgment is stayed pending an appeal, the commissioner:

(1) may authorize the forfeited property to be used for the purpose of enforcing a criminal provision of state or federal law;

(2) shall cause forfeited cigarette packages or tobacco products not used under clause (1) to be destroyed and products used under clause (1) to be destroyed upon the completion of use; and

(3) may cause the forfeited property, other than forfeited cigarette packages or tobacco products, to be sold at public auction as provided by law.

The person making a sale, after deducting the expense of keeping the property, the fee for seizure, and the costs of the sale, shall pay all liens according to their priority, which are established as being bona fide and as existing without the lienor having any notice or knowledge that the property was being used or was intended to be used for or in connection with the violation. The balance of the proceeds must be paid 75 percent to the Department of Revenue for deposit as a supplement to its operating fund or similar fund for official use, and 25 percent to the county attorney or other prosecuting agency that handled the court proceeding, if there is one, for deposit as a supplement to its operating fund or similar fund for prosecutorial

purposes. If there is no prosecuting authority involved in the forfeiture, the 25 percent of the proceeds otherwise designated for the prosecuting authority must be deposited into the general fund.

(e) If no demand for judicial determination is made, the property seized is considered forfeited to the state by operation of law and may be disposed of by the commissioner as provided in the case of a judgment of forfeiture.

Subd. 4. [Repealed, 1Sp2001 c 5 art 18 s 11]

**History:** 1997 c 106 art 1 s 21; 2000 c 490 art 10 s 20,21; 2000 c 496 s 1; 1Sp2001 c 5 art 18 s 6-8; 2008 c 154 art 7 s 3; 2008 c 366 art 14 s 7; 2012 c 283 s 3; 2018 c 182 art 1 s 88

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.
  - (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. 310.05. - Hearing procedures.

(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

(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" 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)