

OFFICE OF THE CITY ATTORNEY

Lyndsey M. Olson, City Attorney



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 24, 2019

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

Charlie's
444 Cedar Street, Unit 207
Saint Paul, MN 55101
Attn: Mel Lindholm

RE: Cigarette/Tobacco license held by Mel Lindholm d/b/a Charlie's for the premises located at 444 Cedar Street, Unit 207 in Saint Paul
License ID #: 20180002499

Dear Mel Lindholm:

The Department of Safety and Inspections ("Department") will recommend adverse action against the Cigarette/Tobacco license held by Mel Lindholm ("Licensee") for the premises known as Charlie's located at 444 Cedar Street, Unit 207 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 §§ 295.03 and 295.02 define an imitation tobacco product as any edible non-tobacco product designed to resemble a tobacco product and prohibit the sale or offering for sale of any imitation tobacco product.

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

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 §§ 295, 324.07(e) and 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.

On April 22, 2019, Inspector Chang conducted a cigarette/tobacco and price compliance inspection at 444 Cedar Street, Unit 207, Saint Paul, MN 55101. Inspector Chang observed and documented violations of Saint Paul Legislative Code §§ 295, 324.07(e) and 324.07(f). Specifically, she observed a flavored product: General White (citrus and pepper) and Jack Links original and teriyaki beef jerkey in a tin can being offered for sale and cigars priced at \$2.00.

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 **7/17/19**, I will presume that you have chosen not to contest the proposed adverse action and the matter will be placed on the **8/7/2019** 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 **7/17/19**. 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 **7/17/19**. 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 **7/17/19**. 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 7/17/19, 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 8/7/2019 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.

d/b/a Charlie's

June 24, 2019

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Sincerely,

A handwritten signature in blue ink that reads "Therese Skarda / s.m.". The signature is written in a cursive style.

Therese Skarda

Assistant City Attorney

License No.: 0240989

cc: Mel Lindholm; 13064 Crooked Lake Blvd. N.W.; Coon Rapids, MN 55448

Cigs-Ubs; 444 Cedar Street; Saint Paul, MN 55101

Jon Fure, Executive Director, Capitol River Council; 180 5th Street E.; Saint Paul, MN 55101

Attachments: Inspector's Report and Request for Adverse Action Packet.



CITY OF SAINT PAUL

Business Licensing
375 Jackson Street, Suite 220
Saint Paul, Minnesota 55101-1808

Telephone: 651-266-8089
Facsimile: 651-266-9124
Web: www.stpaul.gov/dsi

Inspector's Report

Inspectors Name: Dala Chang

Date: 4/10/19

Business/Property Name: Charlie's

Property Address: 444 Cedar Ave Unit 207

Reason for Visit: Tobacco Compliance Check

Observations: Flavor: General White, Price: Cigars for \$2.00, Product Imitation: Jack Link's Beef Jerky in tin can

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

No

Action Taken: Citation

Warning

Other: _____

Details of Conversations (Statements to and by Person Responsible for Property): Upon Arrival for a flavor and price compliance inspection I, Dala Chang and Joseph Voyda introduced ourselves as DSI Licensing and spoke with Becky Lindholm to ask for permission to do a check on their products. After the inspection, we informed her of the violations: General White (citrus and pepper flavor), cigars prices at \$2.00 and Jack Links Beef Jerky (tobacco imitation product) | and they have to be taken off the shelves to be in compliance.



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

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 lobelia 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



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

Tobacco Compliance Check

20180002499
CHARLIE'S
444 CEDAR ST UNIT 207

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

 \$ 9.00 2.00 \$ _____ \$ _____ \$ _____ \$ _____

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): Becky Lindholm

Notes/Issues: Jack Cintas original & Jerigabi, general white (citrus and pepper), selling cigar at \$2.00

Reason no inspection was conducted:

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

Inspector: Joseph Voyda / Dala Chang Date: 4 / 10 / 19 Time: 11:10 a.m. / p.m.

MM DD YY

Licensee CHARLIE'S ON CEDAR INC
 DBA CHARLIE'S

License Licensee Lic. Types Insurance Bond Requirements

Licensee Name: CHARLIE'S ON CEDAR INC
 DBA: CHARLIE'S
 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
LINDHOLM	MEL	OWNER	(651) 224-3086	(763) 232-8224	13064 CROOKED LAKE BLV
CHARLIE'S ON CEE			(651) 224-3086		444 CEDAR ST UNIT 207

Mail License To:

Mail To Contact
 License Address

Mail Invoice To:

Mail To Contact
 License Address

Background Check Required

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, or that play musical notes or have flashing lights or other entertaining features.

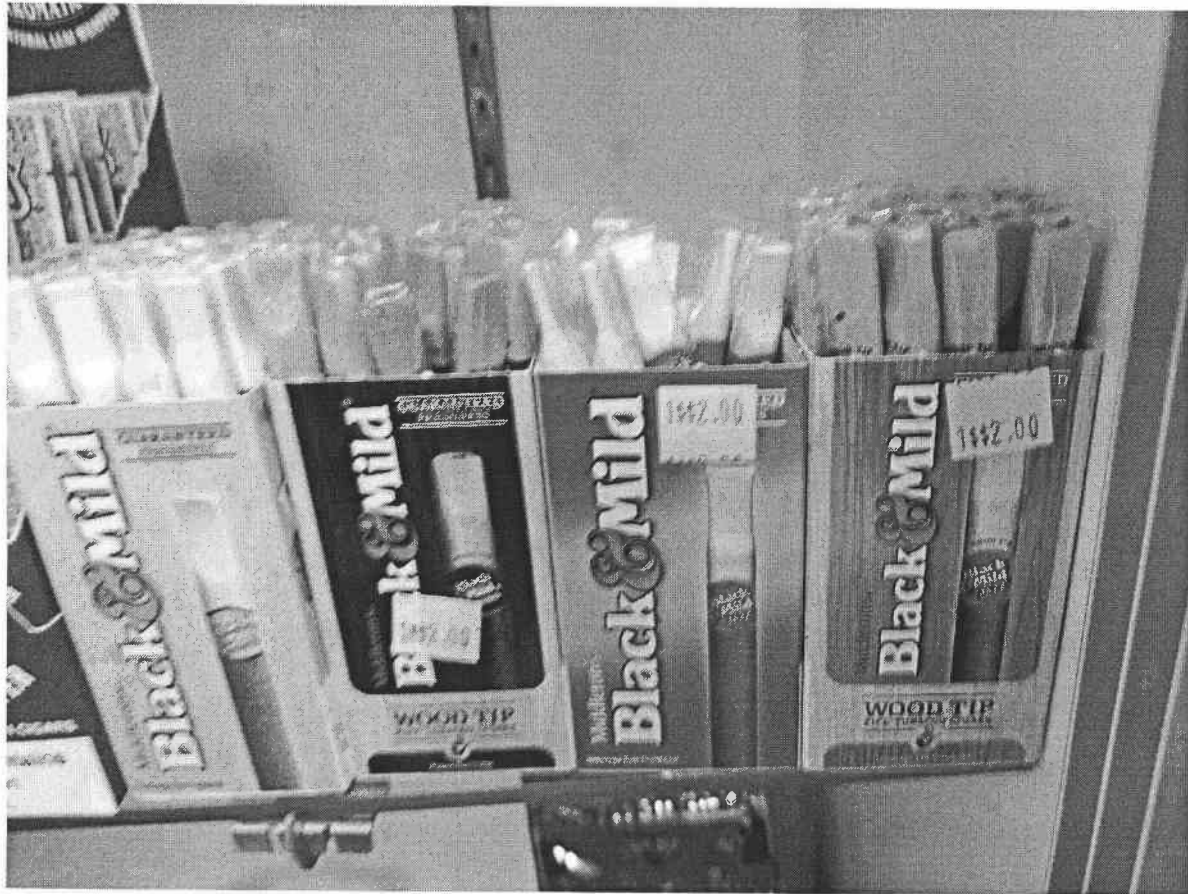
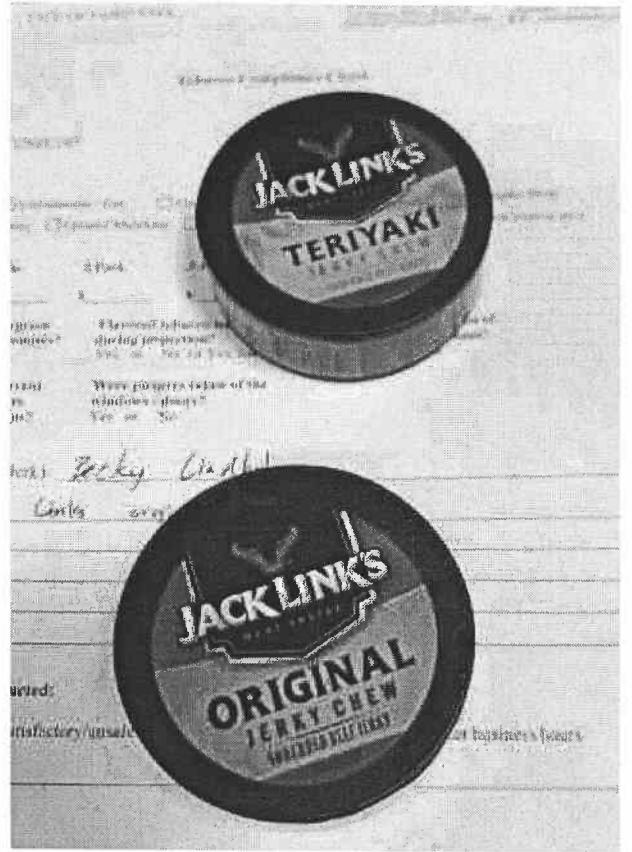
(C.F. No. 09-313, § 2, 4-8-09)

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)



STAMP - Ownership / Zoning Information

[New Search](#)

[Help using this report](#)

Run Date: 06/24/19 10:39 AM

House#: 444

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

Street Name: cedar

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

58 7th St E - Town Square / 62 7th St E / 444 Cedar St - 55101-2179 - [Other Applications](#)

PIN: 062822120130	Census Track: 34201	Census Block: 1029	Council Ward: 2	District Council: 17
Year Built:	Foundation Sq Feet:	Loan Company:	Land Value: 295100	Building Value: 3114900

Unverified Usage: 22- GENL ELEVATOR OFFICE- B- Commercial **ISP:** **Units:** 0

Zoning: ' / B4

Heritage Preservation: HP Inventory #: RA-SPC-0551 / **HP Property Name:** Town Square / **HP Architect/Builder:** Skidmore, Owings and Merrill / PCL Construction Ltd. / **HP Date Built:** 1980 / **HP Address:** 444 Cedar St. N

Legal Desc: REGISTERED LAND SURVEY 518 TRACTS B,E,I & J IN RLS 554 & IN SD RLS 518 TRACTS F & MM & THOSE PARTS OF TRACTKKK LYING BET PLANE SURFACE ELEVATIONS OF 173.64 FT AND 185.40 FT & LYING BET PLANE SURFACE ELEVATIONS OF 232.38 FT & 267.64 FT & LYING ABOVE A PLANE SURFACE ELEVATION OF 350.66 FT CITY OF ST PAUL DATUM & THOSE PART OF TRACT KKK LYING BET PLANE SURFACE ELEVATIONS OF 104.91 FT & 114.97 FT CITY OF ST PAUL DATUM & LYING SWLY OF A L DRAWN PARALLEL WITH & 61.13 FT NELY OF AS MEASURED AT RIGHT ANGLES TO THE SWLY L OF SD TRACT KKK

Owner:
Cig-Ubs Llc/H Bradford Ingelsby
444 Cedar St Unit 900
St Paul MN 55101-2126

444 Cedar St - Town Square - 55101-2179 - [Other Applications](#)

PIN: 062822120116	Census Track: 34201	Census Block: 1029	Council Ward: 2	District Council: 17
Year Built:	Foundation Sq Feet:	Loan Company:	Land Value: 209400	Building Value: 2210600

Existing Primary Use: C-Office **Legality of Use:** **Occupancy Group Type:** B **Units:** 0

Zoning: B4

Heritage Preservation: HP Inventory #: RA-SPC-0551 / **HP Property Name:** Town Square / **HP Architect/Builder:** Skidmore, Owings and Merrill / PCL Construction Ltd. / **HP Date Built:** 1980 / **HP Address:** 444 Cedar St. N

Legal Desc: REGISTERED LAND SURVEY 518 THOSE PARTS OF TRACT KKK LYING BET PLANE SURFACE ELEVATIONS OF 138.42 FT & 161.90 FT & LYING BET PLANE SURFACE ELEVATIONS OF 267.64 FT & 291.08 FT CITY OF ST PAUL DATUM & THOSE PARTS OF TRACT KKK, LYING BETWEEN PLANE SURFACE ELEVATIONS OF 126.72 FT & 138.42 FT & LYING BET PLANE SURFACE ELEVATIONS OF 220.67 FT & 232.38 FT CITY OF ST PAUL DATUM & LYING SWLY OF A L DRAWN PARALLEL WITH & 61.13 FT NELY OF AS MEASURED AT RIGHT ANGLES TO THE SWLY LINE OF SD TRACT KKK

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 24, 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:

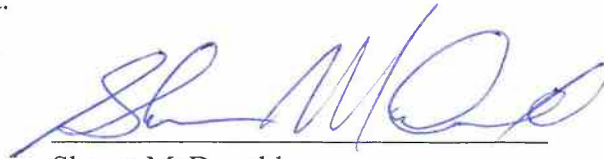
Charlie's
444 Cedar Street, Unit 207
Saint Paul, MN 55101

Cig-Ubs LLC/H Bradford Ingelsby
444 Cedar Street Unit 900
Saint Paul, MN 55101-2126

Mel Lindholm
13064 Crooked Lake Blvd. N.W.
Coon Rapids, MN 55448

Jon Fure, Executive Director
Capitol River Council
180 5th Street East
Saint Paul, MN 55101

(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 June 2019



Notary Public

