



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

February 6, 2019

NOTICE OF COUNCIL HEARING

James E. Carroll - Licensee
240 Milford North
St. Paul, MN 55117

RE: Peddler license held by James E. Carroll for the City of Saint Paul
License ID #: 20150002699

Dear Licensee:

Please take notice that this matter has been set on the Public Hearing Agenda for a City Council meeting on **Wednesday, February 20, 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 fax you sent our office on February 5, 2019, indicating that you were not contesting the facts related to the incident, but were 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 on August 23, 2018, where inspectors from the Department of Safety and Inspections observed you selling water for one-dollar (\$1.00) and Gatorade for two-dollars (\$2.00) within twenty-five (25) feet of a corner or intersection in violation of Saint Paul Legislative Code §345.08. In addition, you failed to display his peddlers license in violation of Saint Paul Legislative Code §345.06.

Pursuant to 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: February 20, 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)

Julie Kraus, being first duly sworn, deposes and says that on the 6th day of February, she served the attached **NOTICE OF COUNCIL HEARING** a correct copy thereof in an envelope addressed as follows:

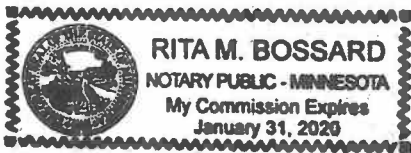
James E. Carroll - Licensee
240 Milford North
St. Paul, MN 55117

(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
Julie Kraus

Subscribed and sworn to before me
this 6th day of February 2019

Rita M. Bossard
Notary Public



UNCONTESTED LICENSE MATTER

Licensee Name: James E. Carroll

Address: 240 Milford North
St. Paul, MN 55117

Council Date: Wednesday, February 20, 2019 at 5:30 p.m.

Violation: On August 23, 2018, DSI Inspectors observed the licensee selling water for one-dollar (\$1.00) and Gatorade for two-dollars (\$2.00) within twenty-five (25) feet of a corner or intersection in violation of Saint Paul Legislative Code § 345.08. In addition, the licensee failed to display his peddlers license in violation in violation of Saint Paul Legislative Code § 345.06.

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

\$500.00 matrix penalty

Attachments:

1. Resolution
2. Inspection Report with photographs dated 8/23/2018 (7 pages)
3. DSI Handout given to all licensed peddlers – Chapter 345 (1 page)
4. Ordinance 345 Peddlers – Violations of James Carroll (1 page)
5. Notice of Violation with Affidavit of Service dated 1/15/2019 (5 pages)
6. Letter to licensee requesting new faxed public hearing request dated 1/28/2019 (2 pages)
7. Fax letter from licensee requesting a public hearing received 2/05/2019 (1 page)
8. License Group Comments Text and licensee information from ECLIPS System dated 1/11/2019 (5 pages)
9. Saint Paul Legislative Code § 310.05 (m)

WHEREAS, the Peddler license held by James E. Carroll ("Licensee")(License ID# 20150002699) for the City of Saint Paul was the subject of a Notice of Violation ("Notice") dated January 15, 2019; and

WHEREAS, the Notice stated in August of 2018, the Department of Safety and Inspections conducted license compliance checks for peddlers operating during the Minnesota State Fair; and

WHEREAS, on August 23, 2018, two DSI inspectors observed and photographed the Licensee selling water for one-dollar (\$1.00) and Gatorade for two-dollars (\$2.00) within 25 feet of a corner or intersection while remaining stationary in violation of Saint Paul Legislative Code § 345.08; and

WHEREAS, the inspectors further observed that the licensee was not displaying his Peddler's license in violation of Saint Paul Legislative Code § 345.06; and

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

WHEREAS, the licensee responded to the Notice of Violation on January 25, 2019 to request a public hearing and was instructed to submit a written request; and

WHEREAS, the licensee faxed a request for a public hearing that afternoon which was a blank page; and

WHEREAS, a letter was sent to the licensee on January 28, 2019, instructing him to resend his request for a public hearing by fax, email or enclosed envelope no later than February 4, 2019 because the first request was faxed as a blank page; and

WHEREAS, the licensee faxed in a request for a public hearing which is scheduled for February 20, 2019; now, therefore, be it

RESOLVED, James E. Carroll (License ID# 20150002699) is hereby ordered to pay a matrix penalty of \$500.00 for violations of Saint Paul Legislative Code §345.08 and §345.06 on August 23, 2018.

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



CITY OF SAINT PAUL

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

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

Inspector's Report

Inspectors Name: Joseph Voyda

Date: 23 August 2018

Licensee: James Carrol

Address: 240 Milford N.

Reason for Visit: Peddlers compliance checks

Observations: Operating on Parks Property, and within 25 feet of corner's, soliciting and selling the products which are water and Gatorade, we witnessed him sell per water bottle for one dollar and two dollars per bottle for Gatorade, again James Carrol was impeding in the public right of way on the side walk at the tip of the South Island 6 feet east of Snelling Ave. between, the south service drive and Midway Drive he is in violation of ordinance 345.08 paragraph A, B, C, D, and F. Tom and I confronted James Carrol and instructed him that he was soliciting on Parks property and he was impeding the public right of way the he was congesting the flow of foot traffic

Photos Taken: Yes, Location of Photo's West end of Midway Drive and Snelling Ave. & Northeast corner of Como Ave. and Snelling off ramp

No

Action Taken: Citation

Warning

Other: Warning notice 23rd August, verbal warnings 23rd of August 2018

Details of Conversations (Statements to and by Person Responsible for Property): On 23rd of August 2018 I Joseph Voyda and Tom Ferrara DSI inspectors conducted peddler's license compliance checks of the licensed peddlers within the city of Saint Paul, prior of DSI inspections I retrieved all peddler's information (Name, Address and License Number), that are licensed within the City of St. Paul from our data base named Eclips. DSI was notified by the Parks department that during the state fair there has been reported of numerous peddlers on the parks department property between Arona Street and Snelling, from both north and south sidewalks on Midway Pkwy and the Midway Pkwy Service Drives. We encountered James Carol (later identified) on the South Island 6 feet east of Snelling Ave. on Public right of way impeding foot traffic between, the south service drive and Midway Drive, we observed James Carrol for approximately three minutes of soliciting and selling the products which are water and Gatorade, we witnessed him sell per water bottle for one dollar and two dollars per bottle for Gatorade, again James Carrol was impeding in the public right of way on the side walk at the tip of the South Island 6 feet east of Snelling Ave. between, the south service drive and Midway Drive he is in violation of ordinance 345.08 paragraph A, B, C, D, and F. Tom and I

confronted James Carrol and instructed him that he was soliciting on Parks property and he was impeding the public right of way the he was congesting the flow of foot traffic, also I witnessed James Carrol selling water for a dollar and selling Gatorade for two dollars soliciting 25 feet from a corner and selling on a sidewalk and that he is in violation with accordance of ordinance 345.08 sub paragraph A,B,C,D, and F, also I observed that his license badge was not on display properly he had his license in his pocket and he was in Violation of Ordinance 346.06 Exhibiting badge or license. We informed him that he needed to keep moving while soliciting that he could not impede on the flow of foot traffic in the public right of way 345.08 sub paragraph B and could not solicit on Parks property in violation 345.08 sub paragraph F or solicit within twenty-five feet from a corner or intersection in violation 345.08 sub paragraph D. While Tom and I were in conversation explaining his violation to James Carrol, James Carrol continued selling the products in front of us as we were explaining of all his Violations 345.08 sub paragraph A, B, C, D, and F and in violation of 345.06 Exhibiting badge or license. After we gave him a written warning notice and instructed him to vacate Parks departments property and away from the corners and the public right of way. James Carroll stated, "You all need to move on wit dat, you all messing up my money." This interaction took between James Carrol and DSI inspectors took roughly 15 mins- (recap of the violations we observed and witnessed in the fifteen minutes of inspection- James Carrol was soliciting and selling water for U.S.D. one Dollar and Gatorade for U.S.D. two Dollars, obstructing public right away, soliciting and selling products on Parks property, soliciting and selling products within twenty-five feet from a corner or intersection). violation 345.08 sub paragraph A, B, C, D, and F When we were leaving the area away from James Carrol he immediately stated selling the products again. Approximately 50 minutes later Tom and I were heading back down to Como and Snelling exit ramp to Go back to our headquarters we witnessed and observed for approximately four mins that James Carrol was still soliciting and selling water for U.S.D. one Dollar and Gatorade for U.S.D. two dollars on the same island and corner selling the same products of water and Gatorade for the same price. Tom and I confronted him again and let James Carrol know verbally of his violations and that he would be getting a letter from the CAO of his violations of ordinance 345, also his license badge was not on display properly he had his license in his pocket, we informed him that he needed to keep moving not to be stationary while soliciting that he could not impede on the flow of foot traffic in the public right of way and could not solicit on Parks property or solicit within twenty-five feet from a corner or intersection. While Tom and I were in a conversation again with James Carrol he continued with soliciting and the sale of the products water and Gatorade in front of us as we were explaining to him of the violations once again we instructed him to vacate Parks departments property and away from the corners and the public right of way and reminded him that he was still in violation of ordinance 345.08 sub paragraph A, B, C, D, and F and 345.06.

Operating on Parks Property, and within 25 feet of corner's, soliciting and selling the products which are water and Gatorade, we witnessed him sell per water bottle for one dollar and two dollars per bottle for Gatorade, again James Carrol was impeding in the public right of way on the side walk at the tip of the South Island 6 feet east of Snelling Ave. between, the south service drive and Midway Drive he is in violation of ordinance 345.08 paragraph A, B, C, D, and F. Tom and I confronted James Carrol and instructed him that he was soliciting on Parks property and he was impeding the public right of way the he was congesting the flow of foot traffic.

23 August 2018 at 3:36 PM

James Carrol is wearing the white T-Shirt, yellow ball cap, brown Cargo shorts and wearing blue gloves and he is circled in yellow.

Note: The yellow cart with blue cooler, both the red and Blue coolers on the ground, water and Gatorade, along with the red chair belong to James Carrol.

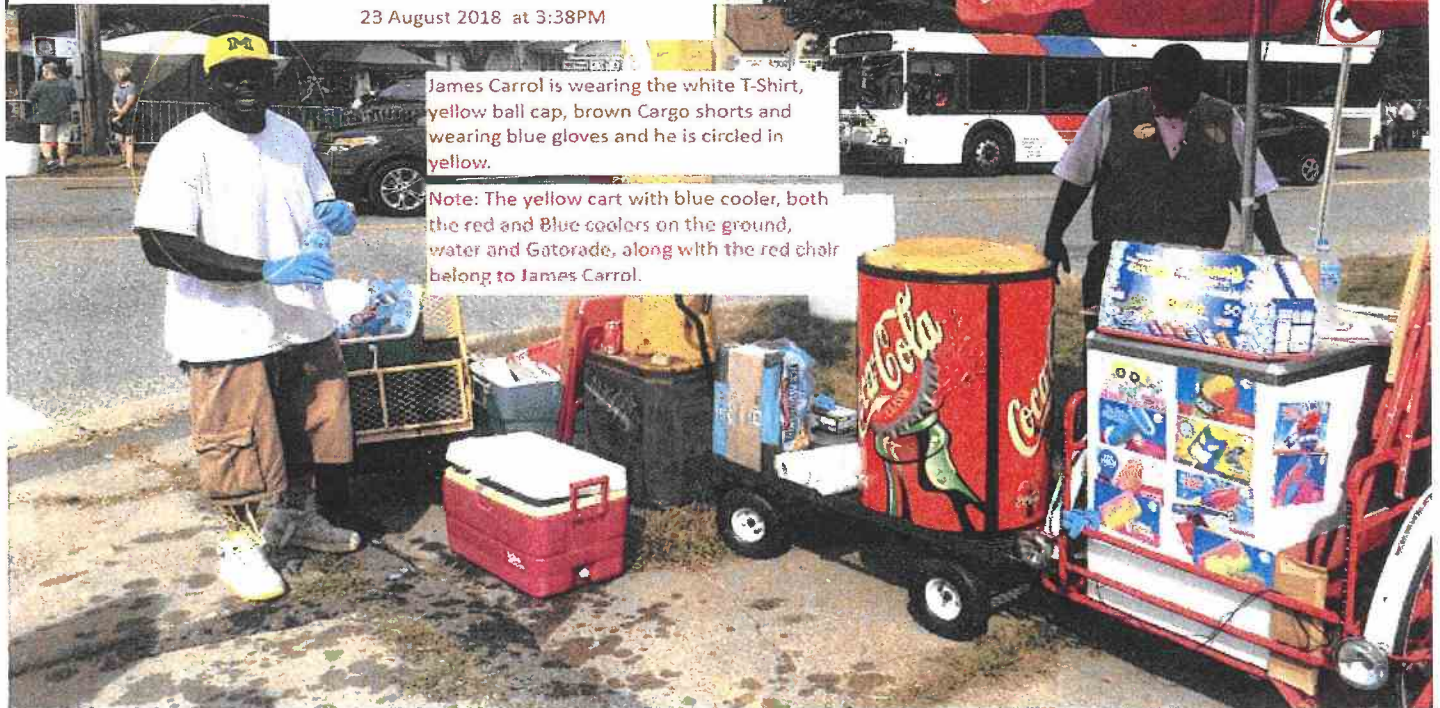
Operating on Parks Property, and within 25 feet of corner's, soliciting and selling the products which are water and Gatorade, we witnessed him sell per water bottle for one dollar and two dollars per bottle for Gatorade, again James Carrol was impeding in the public right of way on the side walk at the tip of the South Island 6 feet east of Snelling Ave. between, the south service drive and Midway Drive he is in violation of ordinance 345.08 paragraph A, B, C, D, and F. Tom and I confronted James Carrol and instructed him that he was soliciting on Parks property and he was impeding the public right of way the he was congesting the flow of foot traffic.

Written and verbal warnings of 345.08, and 345.06

23 August 2018 at 3:38PM

James Carrol is wearing the white T-Shirt, yellow ball cap, brown Cargo shorts and wearing blue gloves and he is circled in yellow.

Note: The yellow cart with blue cooler, both the red and Blue coolers on the ground, water and Gatorade, along with the red chair belong to James Carrol.

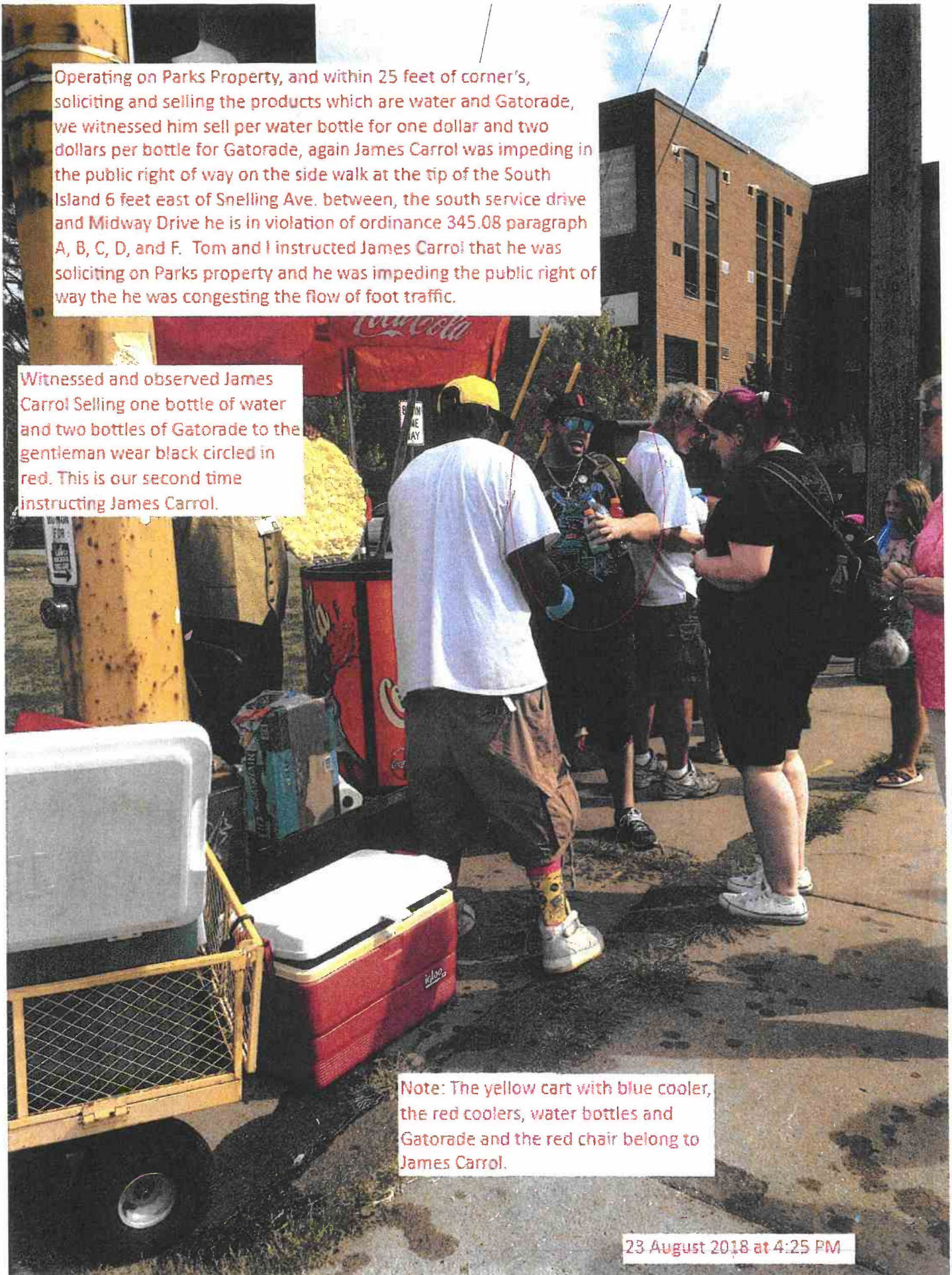


Operating on Parks Property, and within 25 feet of corner's, soliciting and selling the products which are water and Gatorade, we witnessed him sell per water bottle for one dollar and two dollars per bottle for Gatorade, again James Carrol was impeding in the public right of way on the side walk at the tip of the South Island 6 feet east of Snelling Ave. between, the south service drive and Midway Drive he is in violation of ordinance 345.08 paragraph A, B, C, D, and F. Tom and I instructed James Carrol that he was soliciting on Parks property and he was impeding the public right of way the he was congesting the flow of foot traffic.

Witnessed and observed James Carrol Selling one bottle of water and two bottles of Gatorade to the gentleman wear black circled in red. This is our second time instructing James Carrol.

Note: The yellow cart with blue cooler, the red coolers, water bottles and Gatorade and the red chair belong to James Carrol.

23 August 2018 at 4:25 PM



Operating on Parks Property, and within 25 feet of corner's, soliciting and selling the products which are water and Gatorade, we witnessed him sell per water bottle for one dollar and two dollars per bottle for Gatorade, again James Carrol was impeding in the public right of way on the side walk at the tip of the South Island 6 feet east of Snelling Ave. between, the south service drive and Midway Drive he is in violation of ordinance 345.08 paragraph A, B, C, D, and F. Tom and I instructed James Carrol that he was soliciting on Parks property and he was impeding the public right of way the he was congesting the flow of foot traffic.

James Carrol is wearing the white T-Shirt, yellow ball cap, brown Cargo shorts, with the hand full of money and he is circled in yellow.



Note: The yellow cart with blue cooler, both the red and Blue coolers on the ground belong to James Carrol.

23 August 2018 4:27 PM

3:36 James Carroll
resumed selling
immediately

PIC
Customer
w/ 5000\$

4:25 PM
Sales observed
- questioned legality
of PIC

- instructed
345 & Rules
4:27 291-1111

CV
Coke
stand
Carlos
Wallis

FAIR VENDING PERMITS
APPLICATION

File #:
Date Rec:

Suite/Apt.

Address
City

ON THE PROPERTY

Name of Vendor

Busin

Busin
Jacks
direct

of not
busin
for a r
secu
hereb
This a

on

At the

Licens

Name
Driver
Patti

Violati

CIT
Chm

MENT OF

below, please
prior to a perm
on private proper



CITY OF SAINT PAUL
Christopher R. Coleman, Mayor

DEPARTMENT OF SAFETY AND INSPECTIONS
Ricardo A. Cavazos, Director

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

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

WARNING NOTICE - OPERATING WITHOUT A LICENSE

Violation Location: Southern Most Island @ Snelling & Midway Pkwy
Near intersection 1580 W. Midway approx 6 feet
 Date: 8/23/18
 Name: James Carroll Title: Permit
 Driver License Number: 20151002699 Phone: 651-261-3479
 License(s) Required: Must keep moving, 25 feet min to corner on Parks

At the above location and date a Department of Safety and Inspections inspector observed you Stationary on sidewalk soliciting water sales within 25 feet of intersection of corners on Parks property. This activity requires a license under Saint Paul Legislative Code Section 345. You are moving. hereby ordered to immediately cease the above-stated business activity until such time you secure the required license(s). Engaging in licensed business activity without a license is cause for a misdemeanor criminal citation punishable by not more than 90 days incarceration or a fine of not more than \$1,000, or both. If you are again found to be engaging in the above-stated business activity without the required license(s) you will be cited accordingly.

Business licenses are obtained through the Department of Safety and Inspection located at 375 Jackson St., Suite 220, Saint Paul, MN 55101 during normal business hours. Questions may be directed to (651) 266-8989.

Business Representative Signature

Inspector Signature / Phone Number 651-266-9087



HANDOUT

CITY OF SAINT PAUL LEGISLATIVE CODE

Chapter 345. - Peddlers, Solicitors and Transient Merchants (excerpt)

Sec. 345.01. - Definitions.

Peddler means any person who shall sell or offer for sale goods or wares, or other articles of value including event tickets the term "peddler" shall not apply to any person who may sell or peddle the products of the farm or garden occupied and cultivated by themselves or who sells at a stand at one (1) of the public markets.

Sec. 345.02. - License required.

It is unlawful for any peddler, transient merchant or solicitor, other than a solicitor doing business by appointment, to engage in any such business within the City of Saint Paul without first obtaining a license therefor in compliance with the provisions of the chapter. In addition to the license required under this section, any person who shall sell edible products must also obtain the applicable food license under the provisions of Chapter 331, and any person applying to do business as a transient merchant within the city shall file proof of possession of the license required by Minnesota Statutes, Section 329.11. Such filing shall include an affidavit in which the applicant states compliance with Minnesota Statutes, Sections 329.099 to 329.17. No license shall be issued by the city without such proof being presented at the time application is made to the inspector for a transient merchant license.

Sec. 345.06. - Exhibition of badge; license.

Any person who shall exercise the vocation of a peddler or solicitor shall display a badge, containing a current photograph of the licensee, a number to correspond to the number of the license, and license expiration date issued by the Office of License Inspector, which badge shall be worn in a conspicuous place on the person's outer garment or clothing. Transient merchants shall post conspicuously in his place of business the license issued hereunder which license shall be shown at the request of any citizen or police.

Sec. 345.08. - Restrictions.

- (a) Peddlers peddling from vehicles or pushcarts shall not stand upon any sidewalk, street or alley for the purpose of disposing of their goods without first obtaining a use of street permit from the department of public works, but this provision shall not prevent such peddlers from stopping for a sufficient length of time to complete a sale to such purchasers as may be present at the place where such stop is made.
- (b) No licensee shall have any exclusive right to any location in the public sidewalks, streets or other public property without first obtaining a use of street permit from the department of public works, nor shall any be permitted to operate in a congested area where such operation might impede or inconvenience the public use of such streets or public ways. For the purpose of this chapter, the judgment of a police officer or license inspector, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced.
- (d) Peddling is prohibited within twenty-five (25) feet of the sidewalk forming the corner at the intersection of two (2) streets, or on any sidewalk less than six (6) feet wide.
- (f) Peddling is prohibited within the State Capitol complex buildings and grounds and the Saint Paul River Centre complex buildings, grounds and surrounding sidewalks. Peddling is also prohibited at any park or parkway, building or place under the jurisdiction of the director of parks and recreation unless by the permission of said director or by some person duly authorized by the director and subject to such rules and regulations as the director shall prescribe. Peddling is not prohibited if the activity takes place on land owned or leased by said person.



Department of Safety and Inspections (DSI)

Business Licensing

375 Jackson Street, Suite 220

Saint Paul, MN 55101

General Information & Complaints 651-266-8989

Ordinance 345 Peddlers

Violations of James Carrol

- **Sec. 345.06. - Exhibition of badge; license.**

Any person who shall exercise the vocation of a peddler or solicitor shall display a badge, containing a current photograph of the licensee, a number to correspond to the number of the license, and license expiration date issued by the Office of License Inspector, which badge shall be worn in a conspicuous place on the person's outer garment or clothing. Transient merchants shall post conspicuously in his place of business the license issued hereunder which license shall be shown at the request of any citizen or police.

- **Sec. 345.08. - Restrictions.**

(a)

Peddlers peddling from vehicles or pushcarts shall not stand upon any sidewalk, street or alley for the purpose of disposing of their goods without first obtaining a use of street permit from the department of public works, but this provision shall not prevent such peddlers from stopping for a sufficient length of time to complete a sale to such purchasers as may be present at the place where such stop is made.

(b)

No licensee shall have any exclusive right to any location in the public sidewalks, streets or other public property without first obtaining a use of street permit from the department of public works, nor shall any be permitted to operate in a congested area where such operation might impede or inconvenience the public use of such streets or public ways. For the purpose of this chapter, the judgment of a police officer or license inspector, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced.

(d)

Peddling is prohibited within twenty-five (25) feet of the sidewalk forming the corner at the intersection of two (2) streets, or on any sidewalk less than six (6) feet wide.

(e)

Peddling is prohibited within two thousand (2,000) feet of any area for which a permit has been issued under [chapter 366](#), except upon written permission from the organizers of the event.

(f)

Peddling is prohibited within the State Capitol complex buildings and grounds and the Saint Paul River Centre complex buildings, grounds and surrounding sidewalks. Peddling is also prohibited at any park or parkway, building or place under the jurisdiction of the director of parks and recreation unless by the permission of said director or by some person duly authorized by the director and subject to such rules and regulations as the director shall prescribe. Peddling is not prohibited if the activity takes place on land owned or leased by said person.

(Ord. No. 17708, § 1, 1-23-90; C.F. No. 07-992, § 2, 12-12-07; Ord 13-25, § 1, 7-17-13)



CITY OF SAINT PAUL
Mayor Melvin Carter

Civil Division
400 City Hall Telephone: 651 266-8710
15 West Kellogg Blvd. Facsimile: 651 298-5619
Saint Paul, Minnesota 55102

January 15, 2019

NOTICE OF VIOLATION

James E. Carroll - Licensee
240 Milford North
St. Paul, MN 55117

RE: Peddler license held by James E. Carroll for the City of Saint Paul
License ID #: 20150002699

Dear Licensee:

The Department of Safety and Inspections (“Department”) has recommended adverse action against the Peddler license you hold within the City of Saint Paul.

The Department asserts that the following facts along with attachments herein constitute proof of a violation of Saint Paul Legislative Code § 345.06 and § 345.08 by a preponderance of the evidence:

In August of 2018, the Department of Safety and Inspections conducted license compliance checks for peddlers operating on nearby property during the Minnesota State Fair.

When you received your license, you were given a handout that explained that under Saint Paul Legislative Code, Section 345.06 you must display a badge that contained your current photo, your license number and license expiration date and that under Section 345.08 you cannot remain stationary unless you are making a sale and that peddling is prohibited within twenty-five feet of the sidewalk forming the corner at the intersection of two streets.

On August 23, 2018 at approximately 3:36 p.m. Inspectors Voyda and Ferrara were conducting license compliance checks. They observed and photographed you selling water for one-dollar (\$1.00) and Gatorade for two dollars (\$2.00) within 25 feet of a corner or intersection while you remained stationary. They further observed that you were not displaying your license. Inspectors Voyda and Ferrara warned you that your conduct was in violation of Saint Paul Legislative Code.

Approximately fifty (50) minutes later, at approximately 4:25 p.m., as the inspectors were heading back down Como and Snelling exit ramp they saw that you were continuing to sell products on the same island and corner. They observed and photographed you. The inspectors again attempted to speak with you and reminded you verbally of the violations. While the inspectors were still speaking, you continued to sell products and ignored their warnings.

Saint Paul Legislative Code § 345.06 states that:

Any person who shall exercise the vocation of a peddler or solicitor shall display a badge, containing a current photograph of the licensee, a number to correspond to the number of the license, and license expiration date issued by the Office of License Inspector, which badge shall be worn in a conspicuous place on the person's outer garment or clothing. Transient merchants shall post conspicuously in his place of business the license issued hereunder which license shall be shown at the request of any citizen or police.

Saint Paul Legislative Code § 345.08 states that:

(a) Peddlers peddling from vehicles or pushcarts shall not stand upon any sidewalk, street or alley for the purpose of disposing of their goods without first obtaining a use of street permit from the department of public works, but this provision shall not prevent such peddlers from stopping for a sufficient length of time to complete a sale to such purchasers as may be present at the place where such stop is made.

(b) No licensee shall have any exclusive right to any location in the public sidewalks, streets or other public property without first obtaining a use of street permit from the department of public works, nor shall any be permitted to operate in a congested area where such operation might impede or inconvenience the public use of such streets or public ways. For the purpose of this chapter, the judgment of a police officer or license inspector, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced.

(c) Peddling is prohibited within one hundred (100) feet of an entrance to an entertainment venue within three (3) hours of an event scheduled at that entertainment venue.

(d) Peddling is prohibited within twenty-five (25) feet of the sidewalk forming the corner at the intersection of two (2) streets, or on any sidewalk less than six (6) feet wide.

(f) Peddling is prohibited within the State Capitol complex buildings and grounds and the Saint Paul River Centre complex buildings, grounds and surrounding sidewalks. Peddling is also prohibited at any park or parkway, building or place under the jurisdiction of the director of parks and recreation unless by the permission of said director or by some person duly authorized by the director and subject to such rules and regulations as the director shall prescribe. Peddling is not prohibited if the activity takes place on land owned or leased by said person.

Under Saint Paul Legislative Code § 345.06 and 345.08 a violation occurred and is therefore a basis for adverse action.

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 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 no later than **Friday, January 25, 2019**, I will presume that you have chosen not to contest the proposed adverse action, and the matter will be placed on the **February 13, 2019** City Council Agenda for approval of the proposed remedy.
2. You can pay the \$500.00 matrix penalty. If this is your choice, you should make payment directly to the Department of Safety and Inspections, at 375 Jackson Street, Ste. 220, St. Paul, Minnesota 55101-1806 no later than **Friday, January 25, 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 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, January 25, 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, January 25, 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).

James E. Carroll
January 15, 2019
Page 4

If you have not contacted me by Friday, January 25, 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 February 13, 2019 City Council Consent Agenda for approval of the recommended penalty.

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

Sincerely,



Therese Skarda
Assistant City Attorney
License No. #0240989

Attachments: Inspector's Report with photographs and handouts dated August 23, 2018
Saint Paul Legislative Code §345.06 and § 345.08
Saint Paul Legislative Code § 310.05 (m)
Screen shots from DSI ECLIPS System

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 15th day of January, she served the attached **NOTICE OF VIOLATION** a correct copy thereof in an envelope addressed as follows:

James E. Carroll - Licensee
240 Milford North
St. Paul, MN 55117

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

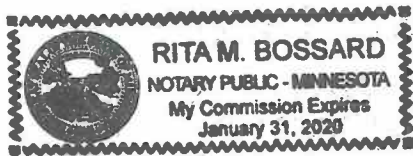


Julie Kraus

Subscribed and sworn to before me
this 15th day of January 2019



Notary Public





CITY OF SAINT PAUL
Mayor Melvin Carter

Civil Division
400 City Hall Telephone: 651 266-8710
15 West Kellogg Blvd. Facsimile: 651 298-5619
Saint Paul, Minnesota 55102

January 28, 2019

James E. Carroll
240 Milford North
St. Paul, MN 55117

RE: Peddler license held by James E. Carroll for the City of Saint Paul
License ID #: 20150002699

Dear Licensee:

Based our phone conversation last Friday, you indicated to me that you wished to admit to the facts of the Notice of Violation sent to you on January 25, 2019 but contest the \$500.00 penalty. I explained that you would then be requesting a public hearing before City Council and you agreed. You said you send me a written request by fax that afternoon.

Unfortunately, the fax you sent came to our office blank which may indicate that you faxed the back page of the letter instead of the front page. I attempted to contact you by phone but the numbers you gave were not correct.

Please resend your request for a public hearing to my attention at (651) 298-5619 or if you prefer you can email it to me at julie.kraus@ci.stpaul.mn.us. You can also send me your written request using the enclosed self-addressed envelope.

You will need to submit this request no later than **Monday, February 4, 2019**. If I have not received your request by then, I will need to move forward and submit a resolution to Council imposing the \$500.00 matrix penalty.

Sincerely,

Julie Kraus
Legal Assistant
(651) 266-8776

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 28th day of January, she served the attached **LETTER TO LICENSEE CONCERNING FAXED REQUEST FOR A PUBLIC HEARING** a correct copy thereof in an envelope addressed as follows:

James E. Carroll - Licensee
240 Milford North
St. Paul, MN 55117

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

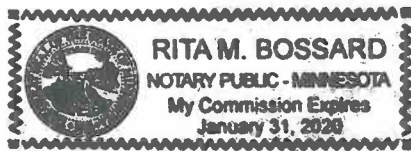


Julie Kraus

Subscribed and sworn to before me
this 28th day of January 2019



Notary Public



02/05/2019

08:02

~~Handwritten scribbles and lines~~

Handwritten scribbles

Handwritten scribbles

Handwritten scribbles

Handwritten scribbles

Licensee: JAMES E CARROLL

DBA: JAMES E CARROLL

License #: 20150002699

1/9/2019- Sent to CAO for adverse action. On August 23, 2018, the licensee was water for one dollar (\$1.00) and gatorade for two dollars (\$2.00) on the public right-of-way impeding foot traffic in violation of SPLC Section 345.08. JAK

9/1/18 Violation - ordinance 345 license in view / keep moving while soliciting / soliciting on Parks property and solicit within twenty-five feet from a corner or intersection ARM

8/25/18 Violation - Soliciting on the northeast corner of Como Ave and the Snelling exit Ramp ARM

8/23/18 SPPD / non-emergency line to be removed JNV

8/23/18 Violation - second waring of Violation - ordinance 345 license in view / keep moving while soliciting / soliciting on Parks property and solicit within twenty-five feet from a corner or intersection JNV

8/23/18 Violation - ordinance 345 license in view / keep moving while soliciting / soliciting on Parks property and solicit within twenty-five feet from a corner or intersection JNV

9/7/16 OB per KS

License Query

Address | Licensee | Contact | License | Cardholder

Licensee Name: JAMES E CARROLL

DBA: JAMES E CARROLL

Sales Tax Id:


Find Now

OK

Cancel

New Search

Help



SEARCH WINDOW

License #	Tag #	Licensee Name	DBA	License Type	Status	Reason	Effective	Expiration
150002699	0	JAMES E CARROLL	JAMES E CARROLL	Peddler	Canceled	9/7/16 OB per KS	08/31/2015	08/30/2016
					Active	All Requirements Met	08/22/2018	08/22/2019

Properties For License 240 MILFORD N



Licensee: JAMES E CARROLL
 DBA: JAMES E CARROLL

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

Property
 Licensee
 Unofficial

Street #: 240
 Street Name: MILFORD
 Street Type: _____ Direction: N
 Unit Ind: _____ Unit #: _____
 City: ST PAUL
 State: MN Zip: 55117

Project Facilitator: ZANGS, LAWRENCE (LARRY)

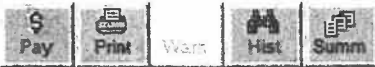
Adverse Action Comments
 9/7/16 OB per KS

License Group Comments:
 1/9/2019- Sent to CAO for adverse action. JAK
 9/1/18 Violation - ordinance 345 license in view / keep moving while soliciting / soliciting on Parks property and solicit within twenty-five feet from a corner or intersection ARM

Licensee: JAMES E CARROLL Licensee: _____
 DBA: JAMES E CARROLL Comments: _____
 Sales Tax Id: ***** Bus Phone: () - _____

License Type	Class	Effective	Expiration	Conditions	License Fee
Peddler	R	08/31/2015	08/30/2016	N	\$74.00
Peddler	R	08/22/2018	08/22/2019	N	\$76.00
Total:					\$150.00

Properties For License 240 MILFORD N



Licensee JAMES E CARROLL
 DBA JAMES E CARROLL

License Licensee Lic. Types Insurance Bond Requirements

Licensee Name: JAMES E CARROLL Browse...
 DBA: JAMES E CARROLL
 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. Phone	Ho
Business/M08/31/2015	00/00/0000		CARROLL	JAMES		() -	(651

Mail License To:
 Mail To Contact
 License Address

Mail Invoice To:
 Mail To Contact
 License Address

Background Check Required Contact Properties...

Properties For License 240 MILFORD N



Licensee: JAMES E CARROLL
 DBA: JAMES E CARROLL

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

License Type: Peddler
 Effective: 08/22/2018 Expiration: 08/22/2019
 Apply Discount: Remove Discount: Discount Rec'd:
 Replace Fee: # of Units: 1

License Class: R
 Status: Active
 Status Changed: 08/22/2018
 Application Date: 08/22/2018

Inspector Name	Type	Phone #	Add
			Remove

Name	Trade Type	Card #	Card Type	Expiration	Add	Remove
					Mast	

Tag #: 0 CN/VIN

Fields License Type Comments(long):
 Goods to be sold: WATER

<< 2 of 2 >>

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)