

February 4, 2026

VIA EFILING ONLY

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

Re: *In the Matter of Tobacco Products Shop license held by White Bear Tobacco Market Place Inc d/b/a White Bear Tobacco for the premises located at 1662 White Bear Avenue North in Saint Paul; License ID #140001994*
CAH 28-6020-40901

Dear City Clerk Moore:

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

If you have any questions, please contact me at (651) 361-7970, cara.hunter@state.mn.us, or via facsimile at (651) 539-0310.

Sincerely,


CARA HUNTER
Legal Assistant

Enclosure

cc: Docket Coordinator
Monica Shaffer
Therese Skarda
Anan Barbarawi

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

CERTIFICATE OF SERVICE

In the Matter of Tobacco Products Shop license held by White Bear Tobacco Market Place Inc d/b/a White Bear Tobacco for the premises located at 1662 White Bear Avenue North in Saint Paul; License ID #140001994	CAH Docket No.: 28-6020-40901
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On February 4, 2026, a true and correct copy of the **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION** was served by United States mail, unless otherwise indicated below, addressed to the following:

VIA EFILING ONLY

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

VIA EMAIL ONLY

Monica Shaffer
Therese Skarda
Assistant City Attorney
400 City Hall
15 W Kellogg Blvd
Saint Paul, MN 55102
Monica.shaffer@ci.stpaul.mn.us;
Therese.Skarda@ci.stpaul.mn.us;
Riddhi.mistry@ci.stpaul.mn.us

Anan Barbarawi
White Bear Tobacco Market Place, Inc
d/b/a White Bear Tobacco
1662 White Bear Ave N
Saint Paul, MN 55106

STATE OF MINNESOTA
COURT OF ADMINISTRATIVE HEARINGS
FOR THE CITY OF SAINT PAUL

In the Matter of Tobacco Products Shop
license held by White Bear Tobacco
Market Place Inc d/b/a White Bear
Tobacco for the premises located at 1662
White Bear Avenue North in Saint Paul;
License ID #140001994

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

The above-entitled matter came before Administrative Law Judge Joseph C. Meyer for a hearing on December 2, 2025. The record closed at the conclusion of the hearing.

Monica Shaffer, Assistant City Attorney, and Therese Skarda, Deputy City Attorney, appeared on behalf of the City of Saint Paul (City). Anan Barbarawi, Owner, appeared on behalf of White Bear Tobacco Market Place Inc (Licensee), without legal counsel.

At the hearing, Exhibits 1 through 14 were received.

STATEMENT OF THE ISSUES

1. Did Licensee sell tobacco products to a person under the age of 21 in violation of St. Paul Legislative Code § 324.07(i)?
2. Did the City lawfully impose a \$1,000 fine against Licensee as a sanction for the alleged violation?

SUMMARY OF RECOMMENDATION

Licensee sold tobacco products to a person under the age of 21 in violation of St. Paul Legislative Code § 324.07(i). Because \$1,000 is the presumptive penalty for this violation, and departure from the presumptive penalty is not warranted, the St. Paul City Council should **AFFIRM** the violation and the related fine.

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

FINDINGS OF FACT

1. Licensee is licensed by the City to operate a tobacco products shop at 1662 White Bear Ave North, Saint Paul, Minnesota 55106 doing business as White Bear Tobacco.¹
2. The City's Department of Safety & Inspections performs annual compliance checks whereby a buyer under the age of 21² attempts to purchase tobacco from a licensed tobacco product shop.³
3. Licensee failed a compliance check on August 23, 2023, when an underage buyer successfully purchased a tobacco product from Licensee.⁴
4. As a result of this failure, Licensee was assessed a \$500 fine.⁵
5. On April 22, 2025, the City conducted another compliance check (April Compliance Check) with an underage buyer at Licensee's tobacco products shop.⁶
6. Licensee's clerk did not request proof of age from the underage buyer at the April Compliance Check.⁷
7. At the April Compliance Check, an underage buyer purchased a package of Camel Crush Menthol cigarettes using a twenty-dollar bill provided by the City's inspector.⁸
8. After purchasing the cigarettes, the underage buyer returned to the inspector with the cigarettes and \$6.50 in change.⁹
9. Camel Crush Menthol cigarettes are a tobacco product.¹⁰
10. On April 25, 2025, Licensee was notified by letter of its failure in the April Compliance Check.¹¹

¹ Ex. 1 (License Certificate); Test. of Anan Barbarawi.

² In this Report, the term "underage buyer" refers any person under the age of 21 who the City employs to attempt to purchase tobacco as part of a compliance check.

³ Test. of Eric Hudak.

⁴ Test. of E. Hudak, Allan Vang, Joseph Voyda; Exs. 3 (License History), 13 (Resolution 23-1597) (Oct. 18, 2023), 14 (Request for Adverse Action) (Sep. 18, 2023).

⁵ Ex. 13.

⁶ Test. of A. Vang; Exs. 7 (Tobacco Underage Buyer Compliance Check) (Apr. 22, 2025), 10 (Inspector's Report) (Apr. 22, 2025).

⁷ Test. of A. Vang, Exs. 7, 10.

⁸ Test. of A. Vang; Exs. 7, 8 (picture of cigarettes and money), 10.

⁹ Test. of A. Vang; Exs. 7, 8, 10.

¹⁰ Test. of A. Vang.

¹¹ Test. of J. Voyda; Ex. 4 (Letter) (Apr. 25, 2025).

11. Any Conclusion of Law more properly considered a Finding of Fact is incorporated herein.

12. Any portion of the accompanying Memorandum more properly considered a Finding of Fact is incorporated herein.

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

CONCLUSIONS OF LAW

1. The Administrative Law Judge and the City Council have authority to hear this matter pursuant to St. Paul Legislative Code § 310.03(c) and Minn. Stat. § 14.55 (2024).

2. The hearing in this matter was conducted in accordance with St. Paul Legislative Code § 310.03 and the contested case procedures of Minn. Stat. §§ 14.57-.62 (2024).

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

4. The City must show by a preponderance of the evidence that Licensee committed the alleged violation.¹²

5. Under St. Paul Legislative Code § 324.07(i), no holder of a tobacco products shop license may sell tobacco products to a person under the age of 21 years.

6. It is an affirmative defense to a charge under St. Paul Legislative Code § 324.07(i) if a licensee proves by a preponderance of the evidence that they reasonably and in good faith relied on proof of age as described in Minn. Stat. § 340A.503, subd. 6.

7. The City has proven that Licensee violated St. Paul Legislative Code §324.07(i) when it sold a tobacco product to a person under the age of 21 years, and Licensee did not rely on proof of age.

8. Under St. Paul Legislative Code § 310.02(m)(3), the presumptive penalty for a second violation of a sale of tobacco products to a person under the age of 21 within the previous 24 months is \$1,000.

9. Imposition of the presumptive penalty is appropriate for a violation unless substantial and compelling reasons exist to depart from the presumptive penalty.¹³

¹² See Minn. R. 1400.7300, subp. 5 (2025).

¹³ St. Paul Legislative Code § 310.02(m)(3).

10. Because Licensee previously violated the same provision by selling a tobacco product to an underage buyer within the preceding 24 months, and there are no substantial and compelling reasons for deviating from the presumptive penalty, the City properly assessed a \$1,000 fine to Licensee.

11. Any Finding of Fact that is more properly considered a Conclusion of Law is incorporated herein.

12. Any portion of the accompanying Memorandum that is more properly considered to be a Conclusion of Law is adopted herein.

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

RECOMMENDATION

The Council should **AFFIRM** the violation of St. Paul Legislative Code § 324.07(i) and the related \$1,000 fine against Licensee.

Dated: February 4, 2026



JOSEPH C. MEYER
Administrative Law Judge

Reported: Digitally Recorded
No transcript prepared

NOTICE

This Report is a recommendation, not a final decision. Pursuant to St. Paul Legislative Code § 310.05, the St. Paul City Council (Council) shall consider the evidence contained in the hearing record and the Administrative Law Judge's findings of fact, conclusions of law, and recommendations (Report). The Council shall not consider any factual testimony not previously submitted to and considered by the Administrative Law Judge. After receipt of the Administrative Law Judge's Report, the Council shall provide the Licensee an opportunity to present oral or written arguments alleging error on the part of the Administrative Law Judge in the application of the law or interpretation of facts, and to present argument related to the recommended adverse action, if any. Upon conclusion of that Council hearing, and after considering the record, the Administrative Law Judge's Report, and such additional arguments presented at the Council hearing, the Council shall determine what, if any, adverse action shall be taken. The Council's action shall be made by resolution. The Council may accept, reject, or modify the Administrative Law Judge's

findings, conclusions, or recommendations. Parties should contact the St. Paul City Clerk, 310 City Hall, 15 W. Kellogg Blvd., Saint Paul, MN 55102, to ascertain the procedure for filing exceptions or presenting arguments.

MEMORANDUM

The facts of this proceeding are straightforward. Licensed tobacco product shops in Saint Paul are prohibited from selling tobacco products to persons under the age of 21. During a compliance check on April 25, 2025, an underage buyer employed by the City successfully purchased a package of cigarettes from Licensee's tobacco products shop. Staff at Licensee's shop did not ask the underage buyer to show identification.

Licensee argued that the City has not proven the violation. Specifically, Licensee emphasizes that the City's inspector who testified did not physically observe the underage buyer make the controlled purchase during the compliance check and that the purchase was not documented with a receipt.¹⁴ While both of these facts are true, the City's inspector did observe the underage buyer walk out of the store and contemporaneously documented the sale, including with a photograph of the purchased cigarettes and the change from the transaction.¹⁵

Licensee's owner testified that the clerk who sold the cigarettes to the underage buyer told him that the clerk asked for identification and then the underage buyer stole the cigarettes.¹⁶ That testimony is self-serving and not corroborated by sworn testimony from the clerk. While the underage buyer also did not testify, the City's inspector contemporaneously documented the underage buyer's representation that the clerk did not ask for identification.¹⁷ Additionally, photographic evidence of the change from the transaction corroborates the allegation that a sale was actually made.¹⁸ Further, the owner testified that he terminated the clerk's employment for failing the compliance check.¹⁹ This undercuts the suggestion that the underage buyer stole the cigarettes. It is not credible that the owner sincerely believes the underage buyer stole the cigarettes when he also punished the clerk for failing the compliance check.

Based on the evidence in the record, the City has proven by a preponderance of the evidence that Licensee sold cigarettes to a person under 21 years of age.

Licensee previously was fined for selling tobacco products to an underage buyer less than 24 months before the violation at issue in this proceeding. The presumptive penalty for a second violation in that timeframe is \$1,000. Neither party argued any basis

¹⁴ Test. of A. Vang.

¹⁵ Test. of A. Vang; Exs. 7, 8, 10.

¹⁶ Test. of A. Barbarawi.

¹⁷ Test. of A. Vang; Exs. 7, 10.

¹⁸ Test. of A. Vang; Ex. 8.

¹⁹ Test. of A. Barbarawi.

to depart from the presumptive penalty, and the record contains no evidence warranting such a departure.

For the foregoing reasons, the City has proven both the substantive violation and the propriety of the \$1,000 fine assessed to Licensee. The Council should **AFFIRM** the violation and the associated fine.

J. C. M.



STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

In the matter of the Tobacco Products
Shop license held by White Bear Tobacco
Market Place d/b/a White Bear Tobacco
for the premises located at 1662 White
Bear Avenue North, Saint Paul, MN
55106. (License ID #140001994)

NOTICE OF APPEARANCE

[Insert matter title]

PLEASE TAKE NOTICE that:

1. The party/agency named below (Party/Agency) will appear at the prehearing conference and all subsequent proceedings in the above-entitled matter.

2. By providing its email address below, the Party/Agency chooses to opt into receiving electronic notice from the Office of Administrative Hearings in this matter.

Note: Provision of an email address does not constitute consent to electronic service from any opposing party or agency in this proceeding.

To opt in to electronic notice, this form must be emailed to OAH.efiling.support@state.mn.us. If the party does not wish to opt in to electronic notice, this form may be filed with the Office of Administrative Hearings via facsimile, U.S. Mail, or personal service.¹ The form must be served upon the opposing party.

3. The Party/Agency agrees to use best efforts to provide the Office of Administrative Hearings with the email address(es) for opposing parties and their legal counsel.

Party's/Agency's Name: Saint Paul City Attorney's Office

Pronouns (e.g., he/him; she/her; they/them): _____

Title (e.g., Mr.; Mrs.; Ms.; Mx.): _____

Email: _____ Phone: 651-266-8710

Mailing Address: 400 City Hall, 15 Kellogg Blvd. Saint Paul, MN 55102

Party's/Agency's Attorney: Monica Shaffer (Attorney) and Riddhi Mistry (Paralegal)

¹ See Minn. R. 1400.5550, subps. 2-5 (2023).

Pronouns (e.g., he/him; she/her; they/them): _____

Title (e.g., Mr.; Mrs.; Ms.; Mx.): _____

Firm Name: Saint Paul City Attorney's Office, Civil Division

Email: Riddhi.mistry@ci.stpaul.mn.us and Monica.shaffer@ci.stpaul.mn.us

Phone: Riddhi's #651-266-8835 and Monica's #651-266-8548

Mailing Address: 400 City Hall, 15 Kellogg Blvd. Saint Paul, MN 55102

Respondent's/Opposing Party's Name: _____

Email: _____ Phone: _____

Mailing Address: _____

Submitted by:



Dated: November 25, 2025

Signature of Party/Agency or Attorney

OAH Docket Number: 28-6020-40901

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

In the matter of the Tobacco Products
Shop license held by White Bear Tobacco
Market Place d/b/a White Bear Tobacco
for the premises located at 1662 White
Bear Avenue North, Saint Paul, MN
55106. (License ID #140001994)

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Party's/Agency's Name: Saint Paul City Attorney's Office

Pronouns (e.g., he/him; she/her; they/them): _____

Title (e.g., Mr.; Mrs.; Ms.; Mx.): _____

Email: _____ Phone: 651-266-8710

Mailing Address: 400 City Hall, 15 Kellogg Blvd. Saint Paul, MN 55102

Party's/Agency's Attorney: Monica Shaffer (Attorney) and Riddhi Mistry (Paralegal)

¹ See Minn. R. 1400.5550, subps. 2-5 (2023).

Pronouns (e.g., he/him; she/her; they/them): _____

Title (e.g., Mr.; Mrs.; Ms.; Mx.): _____

Firm Name: Saint Paul City Attorney's Office, Civil Division

Email: Riddhi.mistry@ci.stpaul.mn.us and Monica.shaffer@ci.stpaul.mn.us

Phone: Riddhi's #651-266-8835 and Monica's #651-266-8548

Mailing Address: 400 City Hall, 15 Kellogg Blvd. Saint Paul, MN 55102

Respondent's/Opposing Party's Name: _____

Email: _____ Phone: _____

Mailing Address: _____

Submitted by:



Dated: November 25, 2025

Signature of Party/Agency or Attorney



November 25, 2025

White Bear Tobacco Market Place Inc
d/b/a White Bear Tobacco
1662 White Bear Avenue North
Saint Paul, MN 55106
Attn: Anan Barbarawi

RE: Tobacco Products Shop license held by White Bear Tobacco Market Place Inc d/b/a White Bear Tobacco for the premises located at 1662 White Bear Avenue North
License ID#: 140001994
CAH No. 28-6020-40901

Mr. Barbarawi:

Please find below the witnesses that the City will call to testify at the administrative hearing scheduled on December 2, 2025, at 9:30 a.m.

1. Eric Hudak, DSI Licensing Manager, 375 Jackson Street, Ste. 220, St. Paul, MN 55101
2. Allan Vang, DSI Inspector II, 375 Jackson Street, Ste. 220, St. Paul, MN 55101
3. Joseph Voyda, DSI Inspector III, 375 Jackson Street, Ste. 220, St. Paul, MN 55101

Sincerely,

Monica Shaffer, Assistant City Attorney
License No: 0504708
Office of the City Attorney
400 City Hall & Courthouse
15 West Kellogg Boulevard
Saint Paul, Minnesota 55102
(612) 266-8710



SAINT PAUL
CITY ATTORNEY

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

Civil Division, 15 Kellogg Blvd. West, 400 City Hall
Saint Paul, MN 55102
Tel: 651-266-8548 | Fax: 651-298-5619

Cc: Anan Barbarawi, 1320 Conservatory Court, Saint Paul, MN 55117
Joseph Meyer, Administrative Law Judge, Office of Administrative Hearings
PO Box 64620, St. Paul, MN 55164-0620

CITY OF SAINT PAUL
MELVIN CARTER, MAYOR

STPAUL.GOV

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

STATE OF MINNESOTA)
) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

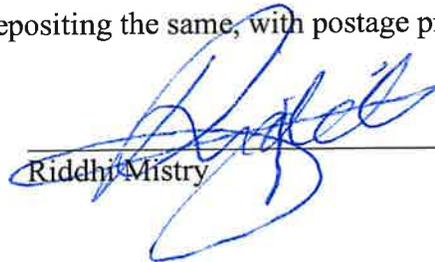
Riddhi Mistry, being first duly sworn, deposes and says that on the twenty-fifth day of November she served the attached **WITNESS LIST** and a correct copy thereof in an envelope addressed as follows:

White Bear Tobacco Market Place Inc
d/b/a White Bear Tobacco
1662 White Bear Avenue North
Saint Paul, MN 55106
Attn: Anan Barbarawi

Anan Barbarawi
1320 Conservatory Court
Saint Paul, MN 55117

Judge, Joseph Meyer
Office of Administrative Hearings
600 Robert St N.
P.O. Box 64620
Saint Paul, MN 55164-0620

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

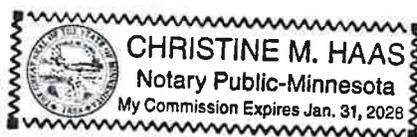


Riddhi Mistry

Subscribed and sworn to before me
This 25th day of November 2025



Notary Public





October 29, 2025

White Bear Tobacco Market Place Inc
d/b/a White Bear Tobacco
1662 White Bear Avenue North
Saint Paul, MN 55106
Attn: Anan Barbarawi

RE: Tobacco Products Shop license held by White Bear Tobacco Market Place Inc d/b/a White Bear Tobacco for the premises located at 1662 White Bear Avenue North in Saint Paul
License ID#: 140001994
Docket No. 28-6020-40901

Mr. Barbarawi:

Please find attached and served upon you the following **Exhibit List** for the administrative hearing scheduled on December 2, 2025, at 9:30 a.m.

Exhibit No.	Description
Ex. No. 1	City of Saint Paul License Certificate Tobacco Products Shop License for White Bear Tobacco.
Ex. No. 2	Request for Adverse Action
Ex. No. 3	License History
Ex. No. 4	April 25, 2025, Letter Notifying of Failure
Ex. No. 5	April 25, 2025, Second Letter Notifying of Youth Tobacco Failure
Ex. No. 6	April 25, 2025, Letter to Hillcrest Center Notifying of Youth Tobacco Failure
Ex. No. 7	Tobacco Underage Buyer Compliance Check
Ex. No. 8	Photo of Product Sold to Underage Checker and Change
Ex. No. 9-1 to 9-2	Relevant Ordinances and Statute
Ex. No. 10	Report of DSI Inspector Allan Vang
Ex. No. 11	Letter from Licensee to Civil Division
Ex. No. 12-1 to 12-40	Full Notice of Violation Served on Licensee May 14, 2025
Ex. No. 13-1 to 13-2	Resolution 23-1597 Imposing Penalty For First Underage Buyer Failure
Ex. No 14-1 to 14-7	Full Request for Adverse Action for First Youth Tobacco Failure
Ex. No. 15-1 to 15-13	Saint Paul Legislative Code §310.01
Ex. No. 16-1 to 16-8	Saint Paul Legislative Code §310.03 (m) 3 (1) (a)



SAINT PAUL
CITY ATTORNEY

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

Civil Division, 15 Kellogg Blvd. West, 400 City Hall
Saint Paul, MN 55102
Tel: 651-266-8548 | Fax: 651-298-5619

Ex. No. 17	Saint Paul Legislative Code §310.14
Ex. No. 18-1 to 18-2	Saint Paul Legislative Code §324.07(i)
Ex. No. 19-1 to 19-2	Minnesota Statute §461.12 Subd. 2

Sincerely,

/s/

Monica Shaffer, Assistant City Attorney
License No: 0504708
Office of the City Attorney
400 City Hall & Courthouse
15 West Kellogg Boulevard
Saint Paul, Minnesota 55102
(612) 266-8710

Cc: Anan Barbarawi, 1320 Conservatory Court, Saint Paul, MN 55117
Joseph Meyer, Administrative Law Judge, Office of Administrative Hearings
PO Box 64620, St. Paul, MN 55164-0620



**City of Saint Paul
License Certificate**

Department of Safety and Inspections
375 Jackson Street, Suite 220
Saint Paul, MN 55101-1806
Phone: (651) 266-8989 | Fax: (651) 266-9124
Website: www.stpaul.gov/dsi
An Equal Opportunity Employer

**SAINT PAUL
MINNESOTA**

License I.D. #: 20140001994

Licensee Name	Doing Business As (dba)	Licensee Address
WHITE BEAR TOBACCO MARKET PLACE INC	WHITE BEAR TOBACCO	1662 WHITE BEAR AVE N ST PAUL, MN 55106-1610

This establishment has been inspected and is licensed for the following activities by the City of Saint Paul

Tobacco Products Shop Expires: 07/08/2026

License Conditions

1. Temporary window signs placed between the height of four (4) to seven (7) above grade shall not cover more than thirty (30) percent of this window space area, and cannot block views into the clerk or cashier station.
2. Licensee herein acknowledges they were provided a copy of the Minnesota Clean Indoor Air Act (MCIAA) and agrees to to operate the business in compliance with applicable provisions of the Act, including The Freedom to Breathe provisions amending the MCIAA.

Post this Certificate where it is Visible to the Public
LICENSES ARE NOT TRANSFERRABLE



CITY OF SAINT PAUL
DEPARTMENT OF SAFETY
AND INSPECTIONS
375 JACKSON STREET, SUITE 220
SAINT PAUL, MN 55101-1806

**SAINT PAUL
MINNESOTA**

Return Receipt Requested

**WHITE BEAR TOBACCO MARKET PLACE INC
WHITE BEAR TOBACCO
1662 WHITE BEAR AVE N
ST PAUL MN 55106**





Request for City Attorney's Office Action
From the Department of Safety and Inspections

Notice Information

Inspectors Name: Allan Vang
Date: 5/12/2025 **To:** Sly Onyia **Sent By:** Joseph Voyda **Approved By:** Eric Hudak
Licensee Name: White Bear Tobacco Market Place Inc
DBA Name: White Bear Tobacco **DBA Address:** 1662 White Bear Avenue North - Saint Paul, MN 55106
Note: Include City, State & Zip

Eclips License Information

License Number: 140001994 **License Type(s)** Note: List all Licenses: Tobacco Products Shop
License Contact Name: Anan Barbarawi
License Contact Address: 1320 Conservatory Court - Saint Paul, MN 55117
Note: Include City, State & Zip

STAMP Information (if different from license information from Eclips)

Property Owner Name: Hillcrest Center Llc
Property Owners Address: 375 Jackson Street Ste 700w - Saint Paul, MN 55101-1810
Note: Include City, State & Zip
Council Ward: 6 **District Council:** 2

License Action Requested

Type of Violation – i.e. Tobacco, Liquor, Auto etc.: Tobacco
 First Violation Second Violation (within 12 months)
 Third Violation (within 18 Months) Fourth Violation (within 24 months)

Requested Adverse Action: Fine \$ 1,000 Suspension _____ Revocation Imposed License Conditions
 Upward departure New Location Change of Ownership Adding to Existing License Approval Denial

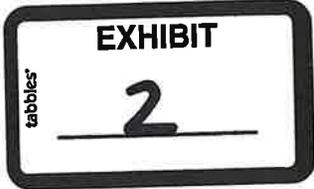
Cause for Action

Brief Description of Violation(s): Failed State mandated tobacco compliance check for an underage person
2nd Violation within three (3) years of another underage buyer failure

Ordinance Violation(s): Sold tobacco to an underage persons **Ordinance Number(s):** 324.07(i),310.03(m)3(1)(a)&310.14
State Statutes Violation(s): 461.12 Subd. 2 **License Condition Violation Number(s):** _____

Supporting Documents Included

License Conditions Copy of Application Floor Plans/Site Plans Ordinance/State Statutes Definitions
 Public Notice Other: Fail letters & Compliance forms, license group comments and photos



License Group Comments Text

05/09/2025

Licensee: WHITE BEAR TOBACCO MARKET PLACE INC

DBA: WHITE BEAR TOBACCO

License #: 20140001994

4/25/2025 youth complaince check: fail letter sent. LSP
4/22/2025 tobacco compliance check - fail. LSP/ayv
11/27/2024 2024 youth tobacco complaince pass letter sent. LSP
9/17/2024 Tobacco compliance check- Pass. AYV
1/8/2024 Hand delivered letter and employee Mohamed Omer accepted. AYV
12/05/2023 \$500 FINE PAID. SLH
10/18/2023 CF 23-1597 imposes \$500 penalty to be paid no later than 12.22.2023. SLH
9/19/2023 Sent to the CAO for tobacco underage failure for a 1st violations within 3 years for a \$500 to the LH & \$50 fine to the clerk JNV
9/11/2023 AA sent to JNV for review. AYV
8/23/2023 Tobacco compliance check-Failed. AYV
11/08/22 Youth compliance check passed. AYV
07/27/2021 Youth compliance check pass KY
4/06/2020 Sent letter dated 3-3-2020 in email from licensing manager and a follow up phone call for closure of product shop for executive order 20-20 Covid-19 JNV
6/19/19 Youth tobacco compliance check, pass. ARM
4/22/19 Tobacco compliance check, passed. ARM
8/31/18 Re-inspection of price violation's / no violations found / pass JNV
8/15/18 Tobacco Youth compliance check -Pass JNV
08/09/2018 No response to dlnt. ltr., to KS for CA adverse action. JWF
07/16/2018 Sent delinquent letter. Response deadline date is August 06, 2018. Max
6/27/18 To CAO for adverse JNV.
4/23/18 Menthol education / inspection Fail, Price issues. JNV
08/07/2017 passed tobacco compliance check BLB
8/12/2016 Passed Tobacco Compliance Check BLB
08/13/2015 Passed Tobacco compliance check TPF





April 25, 2025

WHITE BEAR TOBACCO
1662 WHITE BEAR AVE N
ST PAUL, MN 55106-1610

Underage Buyer Tobacco Compliance Check
RE: 1662 WHITE BEAR AVE N – DBA: WHITE BEAR TOBACCO License ID 20140001994

WHITE BEAR TOBACCO,

This letter is to inform you that the Department of Safety and Inspections (DSI) recently conducted a State mandated annual inspection in the attempt to purchase of tobacco products to persons under the age of 21 hired by DSI in accordance with State Statutes 461.12.

As a result, your tobacco licensed location has **Failed** the underage buyer attempted purchase of tobacco.

These mandated inspections consist of an underage buyer between the ages of 17 and 20 entering licensed establishments in attempting to purchase tobacco products or tobacco related devices as defined in State Statutes Section 609.685 and in the City of Saint Paul Legislative Code Section 324.

Details of the attempted purchase:

On 4/22/2025 at 1:44 P.M., a pack of Camel Crush Menthol Cigarettes was successfully purchased from the clerk on duty. The clerk on duty was a White male who was described as wearing a black hat, shirt, pants, and sweatshirt. The clerk also had blond hair.

In the weeks to come, you should expect a Notice of Violation mailed to you by the City of Saint Paul Attorney's Office with options. Typically, violations for the sale of tobacco products to an underage buyer is a \$500 for the first offence, \$1,000 for the Second, \$2,000 with a seven (7) day suspension and up to revocation of tobacco license within the three (3) years of the first offense.

Questions or regulatory information regarding annual underage tobacco compliance checks, you may contact me directly at phone number 651-266-9014.

Joseph Voyda
DSI Licensing Inspector

C: HILLCREST CENTER LLC - 375 JACKSON ST STE 700W SAINT PAUL MN 55101-1810
White Bear Tobacco Market Place INC Attn: Anan Barbarawi - 1662 WHITE BEAR AVE N ST PAUL, MN 55106-1610





April 25, 2025

White Bear Tobacco Market Place INC
Attn: Anan Barbarawi
1662 WHITE BEAR AVE N
ST PAUL, MN 55106-1610

Underage Buyer Tobacco Compliance Check
RE: 1662 WHITE BEAR AVE N - DBA: WHITE BEAR TOBACCO License ID 20140001994

Anan Barbarawi,

This letter is to inform you that the Department of Safety and Inspections (DSI) recently conducted a State mandated annual inspection in the attempt to purchase of tobacco products to persons under the age of 21 hired by DSI in accordance with State Statutes 461.12.

As a result, your tobacco licensed location has **Failed** the underage buyer attempted purchase of tobacco.

These mandated inspections consist of an underage buyer between the ages of 17 and 20 entering licensed establishments in attempting to purchase tobacco products or tobacco related devices as defined in State Statutes Section 609.685 and in the City of Saint Paul Legislative Code Section 324.

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Questions or regulatory information regarding annual underage tobacco compliance checks, you may contact me directly at phone number 651-266-9014.

Joseph Voyda
DSI Licensing Inspector

C: **WHITE BEAR TOBACCO - 1662 WHITE BEAR AVE N ST PAUL, MN 55106-1610**

HILLCREST CENTER LLC - 375 JACKSON ST STE 700W SAINT PAUL MN 55101-1810





April 25, 2025

HILLCREST CENTER LLC
375 JACKSON ST STE 700W
SAINT PAUL MN 55101-1810

Underage Buyer Tobacco Compliance Check
RE: 1662 WHITE BEAR AVE N – DBA: WHITE BEAR TOBACCO License ID 20140001994

HILLCREST CENTER LLC,

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As a result, your tobacco licensed location has **Failed** the underage buyer attempted purchase of tobacco.

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Questions or regulatory information regarding annual underage tobacco compliance checks, you may contact me directly at phone number 651-266-9014.

Joseph Voyda
DSI Licensing Inspector

C: **WHITE BEAR TOBACCO - 1662 WHITE BEAR AVE N ST PAUL, MN 55106-1610**

White Bear Tobacco Market Place INC Attn: Anan Barbarawi - 1662 WHITE BEAR AVE N ST PAUL, MN 55106-1610





Tobacco Underage Buyers Compliance Check Inspection Form

Pass Fail

Route Order: 12

20140001994
WHITE BEAR TOBACCO
1662 WHITE BEAR AVE N
ST PAUL, MN 55106-1610

License Type: Tobacco Products Shop

Business Type:

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

Inspector: **Allan Vang**
Name

Date: 4/22/2025
MM DD YY

Time: 1:44 am pm

Was purchase attempted?

Yes No

If NO, check reason:

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

Underage Buyer: _____ 18 Male
Name Age Gender

Did the Inspector or Officer view transaction?
 Yes No

Was sale made?

Yes No

Was age asked?

Yes No

Was ID requested?

Yes No

Was ID shown?

Yes No

Type of product:

Amount spent: \$13.50

- Cigarettes: Camel Crush Mentol
- Smokeless: _____
- Cigars: _____
- Shisha: _____
- E-juice: _____
- THC/Delta: _____
- Other (cigarette papers, lighter, etc.): _____

Clerk Information: Gender: Male Approximate Age: 18 or Under 18 Actual age if known _____

Name of Clerk if known: N/A Description/Notes: White - Black hat, shirt, pant, and sweatshirt - blond hair





Tobacco Underage Buyers Compliance Check Inspection Form

Pass Fail

Route Order: 12

20140001994
WHITE BEAR TOBACCO
1662 WHITE BEAR AVE N
ST PAUL, MN 55106-1610

Licens

Business

- Conv
- Super

Inspector:

Was purchase

Yes No

Underage Buyer:

Was sale made?

Yes No

Type of product:

- Cigarettes: Camel
- Shisha:
- Other (cigarette pap

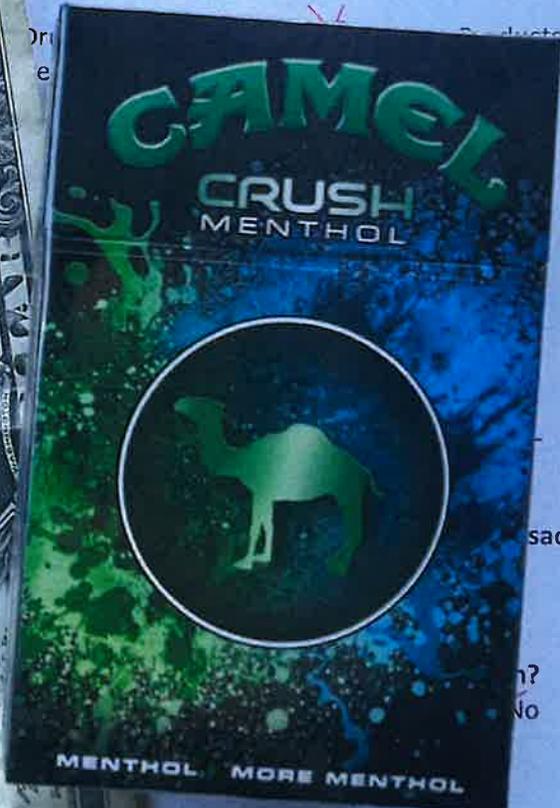
- Cigars: _____
- THC/Delta: _____

Clerk Information: Gender

18 or Under 18 Actual age if known

Name of Clerk if known: N/A
pink, and sweatshirt - blond hair

Description/Notes: White - Black



tabbies®

EXHIBIT

8

Ordinance & State Statutes Violations

Sec. 324.07. Sales prohibited.

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

Sec. 310.03. 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, the general presumptive penalty matrix applies to all license types, except that in the case of a violation involving a liquor license the penalty matrix for intoxicating liquor; nonintoxicating malt liquor applies and for a violations involving tobacco, the penalty matrix for tobacco applies. 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 must provide written reasons that specify why the penalty selected was more appropriate.

3. Tobacco presumptive penalties matrix.

Tobacco presumptive penalties. Penalties for convictions or violations 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 must provide written reasons that specify why the penalty selected was more appropriate (unless specified, numbers below indicate consecutive days' suspension):

Type of Violation	Appearance			
	1st	2nd	3rd	4th
(1) Sale to a person under twenty-one (21) years of age	\$500.00 fine	\$1000.00 fine	\$2,000.00 fine and 7-day suspension	Revocation

(a) *Computation of time for violations under the tobacco presumptive penalties matrix.* If a violation is not covered under this penalty matrix, the general presumptive penalty matrix should be used. Except as otherwise provided by Minn. Stats. § 461.12, subd. 2, subsequent tobacco violations are subject to the following:



Sec. 310.14. Licensee's responsibility.

Any act or conduct by any clerk, employee, manager or agent of a licensee, or by any person providing entertainment or working for or on behalf of a licensee, whether compensated or not, which act or conduct takes place either on the licensed premises or in any parking lot or other area adjacent to (or under the lease or control of) the licensed premises, and which act or conduct violates any state or federal statutes or regulations, or any city ordinance, must be considered to be and treated as the act or conduct of the licensee for the purpose of adverse action against all or any of the licenses held by such licensee. To the extent this section is in conflict with sections 409.14 and 410.09 of the Legislative Code, this section must be controlling and prevail; but must not otherwise amend, alter or affect such sections.

State Statutes Violations

461.12 MUNICIPAL LICENSE OF TOBACCO, TOBACCO-RELATED DEVICES, AND SIMILAR PRODUCTS.

Subd. 2. Administrative penalties for sales and furnishing; licensees. If a licensee or employee of a licensee sells, gives, or otherwise furnishes tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to a person under the age of 21 years, or violates any other provision of this chapter, the licensee shall be charged an administrative penalty of \$300 for the first violation. An administrative penalty of \$600 must be imposed for a second violation at the same location within 36 month after the initial violation. For a third or any subsequent violation at the same location within 36 months after the initial violation, an administrative penalty of \$1,000 must be imposed, and the licensee's authority to sell tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products at that location must be suspended for not less than seven days and may be revoked. No suspension, revocation, or other penalty may take effect until the licensee has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred must be in writing.



Inspector's Report

Inspectors Name: Allan Vang Date & Time: 4/22/2025 - 1:44pm

Doing Business As/DBA Name: White Bear Tobacco

Property Address: 1662 White Bear Avenue North - Saint Paul, MN 55106

Reason for Visit: State mandatory tobacco compliance inspection

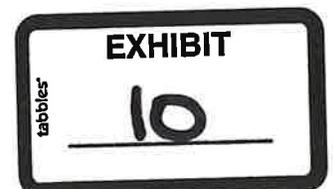
Photos Taken: Yes No – Area(s) of where the Photo(s) where taken: Tobacco product and amount spent

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

On 4/22/2025 at 1:44pm while conducting an underage buyer State mandatory tobacco compliance inspection, located at 1662 White Bear Avenue - Saint Paul, MN 55106. This location failed the State mandatory tobacco compliance check, in an attempted purchase of a pack of Camel Crush Menthol that was successfully made from an underage buyer that was hired by DSI.

I instructed the trained underage buyer to enter the licensed business in an attempt to purchase of a pack of Camel Crush Menthol. The underage buyer was given a twenty-dollar (\$20) bill for the attempted tobacco purchase. I observed the underage buyer enter the store front entrance.

I observed the underage buyer leave the licensed establishment with a pack of Camel Crush Menthol. The underage buyer reported back to me that the licensed business failed the State mandatory tobacco compliance inspection. I asked the underage buyer if the clerk asked for their age, underage buyer responded with no, I asked if the clerk requested their identification, underage buyer responded with no, I asked if they presented their identification when asked to do so by the clerk, underage buyer response was no, the clerk sold to me anyways, I asked the underage buyer the description of the clerk including if the clerk was a male or female, race, facial hair, hair color, approximant height, weight and if the clerk had a name tag on. After documenting the above-mentioned questions and answers on the inspection form. I took photos of the tobacco product and the amount spent, this transaction was in the amount of thirteen dollars and fifty cents (\$13.50).



Scanned to Sherese Skarda

White Bear Tobacco Market Place Inc d/b/a/ White Bear Tobacco
1662 White Bear Ave North
Saint Paul Mn 55106
Anansb48@gmail.com
651-960-9694

RECEIVED

MAY 27 2025

CITY ATTORNEY

Date: 05/23/2025

City of Saint Paul – City Attorney’s Office
Attention: Civil Division
15 Kellogg Blvd. West, 400 City Hall
Saint Paul, MN 55102

Subject: Request for Administrative Hearing – Dispute of Facts Regarding Proposed Adverse Action

To Whom It May Concern:

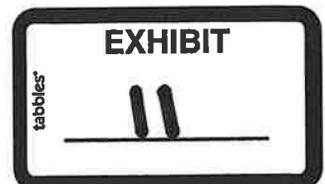
I am writing to formally dispute the facts outlined in your letter dated April 25, 2025, concerning the alleged violation at White Bear Tobacco, located at 1662 White Bear Ave North. I request a hearing before an Administrative Law Judge (ALJ) regarding the proposed adverse action and the associated \$1000 matrix penalty.

Please consider this letter our formal request for a hearing, as required under Option 4 in your correspondence. We understand that a hearing will be scheduled where both parties can present their cases, and we are prepared to participate fully in that process.

Should you need any further information or documentation at this time, please do not hesitate to contact me at the number or email listed above.

Thank you for your attention to this matter.

Sincerely,
Anan Barbarawi
Owner
White Bear Tobacco



STATE OF MINNESOTA)
) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

Riddhi Mistry, being first duly sworn, deposes and says that on the fourteenth day of May she served the attached **NOTICE OF VIOLATION AND REQUEST FOR IMPOSITION OF \$1,000 MATRIX PENALTY FOR A SECOND UNDERAGE BUYER FAILURE** and a correct copy thereof in an envelope addressed as follows:

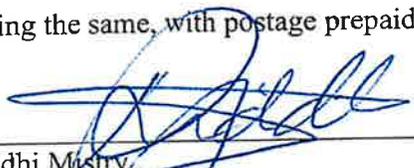
White Bear Tobacco Market Place Inc
d/b/a White Bear Tobacco
1662 White Bear Avenue North
Saint Paul, MN 55106
Attn: Anan Barbarawi

Anan Barbarawi
1320 Conservatory Court
Saint Paul, MN 55117

Hillcrest Center Llc
375 Jackson Street Ste 700w
Saint Paul, MN 55101-1810

Lisa Theis, Executive Director
Greater East Side Community Council
1365 Prosperity Avenue
Saint Paul, MN 55106

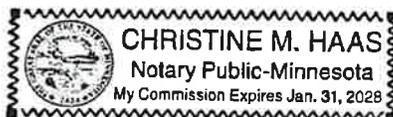
(which is the last known address of said person) depositing the same, with postage prepaid, in the United States mail at St. Paul, Minnesota.


Riddhi Mistry

Subscribed and sworn to before me
This 14th day of May 2025



Notary Public





May 14, 2025

**NOTICE OF VIOLATION AND REQUEST FOR IMPOSITION OF
\$1000 MATRIX PENALTY FOR A SECOND UNDERAGE BUYER FAILURE**

White Bear Tobacco Market Place Inc
d/b/a White Bear Tobacco
1662 White Bear Avenue North
Saint Paul, MN 55106
Attn: Anan Barbarawi

RE: Tobacco Products Shop held by White Bear Tobacco Market Place Inc d/b/a White Bear Tobacco for the premises located at 1662 White Bear Avenue North., in Saint Paul.
License ID #: 140001994

Dear Licensee:

The Department of Safety and Inspections ("Department") has recommended adverse action against the Tobacco Products Shop license held by White Bear Tobacco Market Place Inc ("Licensee"). White Bear Tobacco located at 1662 White Bear Avenue North. ("Licensed Premises").

Legal Basis for Action:

Saint Paul Legislative Code §310.01, defines Adverse Action as:

"the revocation or suspension of a license, the imposition of conditions upon a license, the denial of an application for the grant, issuance or renewal of a license, the imposition of a fine, the assessment of the costs of a contested hearing, and any other disciplinary or unfavorable action taken with respect to a license, licensee, or applicant for a license. Adverse action includes any of the foregoing directed at one (1) or more licenses held by a licensee at any location in the city. Adverse action also includes disapproval of licenses issued by the state under statutory provisions which permit the governing body to disapprove the issuance of the license."

Saint Paul Legislative Code §324.07(i) prohibits the sale of tobacco products to a person under 21.:

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



Saint Paul Legislative Code §310.03 (m) 3 contains the Tobacco Presumptive Penalty Matrix and computation guidelines for tobacco related violations:

(m) Presumptive penalties for certain violations.

3. Tobacco Presumptive Penalties Matrix – *Tobacco Presumptive Penalties*. Penalties for convictions or violations 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 exists substantial and compelling reasons making it more appropriate to do so.

Type of Violation	1 st	2 nd	3 rd	4 th
(1) Sale to a person under twenty-one (21) years of age.	\$500.00 fine	\$1,000.00 fine	\$2,000.00 fine and 7-day suspension	Revocation

(a) Computation of time for violations under the tobacco presumptive penalties matrix. If a violation is not covered under this penalty matrix, the general presumptive penalty matrix should be used. Except as otherwise provide by Minn. Stats. §461.12, subd. 2, subsequent tobacco violations are subject to the following:

(1) *Second, third and fourth appearances for violations under the tobacco presumptive penalties matrix. A second violation within twenty four (24) months must be treated as a second appearance, a third within twenty four (24) months treated as a third appearance, and a fourth within twenty four (24) months treated as a fourth appearance for the purpose of determining the presumptive penalty.*

(2) *Any appearance not covered by subsections (1) above must be treated as a first appearance for violations under the tobacco presumptive penalties matrix. Measurement of the twenty four (24) month period must 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.*

Saint Paul Legislative Code §310.14 makes a licensee responsible for a violation by a clerk, employee, manager or agent of a licensee:

"Any act or conduct by any clerk, employee, manager or agent of a licensee, or by any person providing entertainment or working for or on behalf of a licensee, whether compensates or not, which act or conduct takes



place either on the licensed premises or in any parking lot or other area adjacent to (or under the lease or control of) the licensed premises, and which act or conduct violates any state or federal statutes or regulations, or any city ordinance, must be considered to be and treated as the act of conduct of the licensee for the purpose of adverse action against all or any of the licenses held by such licensee. To the extent this section is in conflict with sections 409.14 and 410.09 of the Legislative Code, this section must be controlling and prevail; but must not otherwise amend, alter or affect such sections."

Minnesota Statute §461.12 Subd. 2 also sets minimum statutory penalties for the sale of tobacco to an underage person:

"If a licensee or employee of a licensee sells, gives, or otherwise furnishes tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to a person under the age of 21 years, or violates any other provision of this chapter, the licensee shall be charged an administrative penalty of \$300 for the first violation. An administrative penalty of \$600 must be imposed for a second violation at the same location within 36 months after the initial violation. For a third or any subsequent violation at the same location within 36 months after the initial violation, an administrative penalty of \$1,000 must be imposed, and the licensee's authority to sell tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products at that location must be suspended for not less than seven days and may be revoked. No suspension, revocation, or other penalty may take effect until the licensee has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred must be in writing."

Adverse Action Recommendation:

The Department of Safety and Inspections will recommend a \$1000.00 matrix penalty for violating Saint Paul Legislative Code § 310.01, §310.03 (m) 3 (1) (a), §310.14, §324.07(i), and Minnesota Statute §461.12 Subd. 2. This is due to a second underage buyer failure within three years.

Factual basis for \$1000.00 matrix penalty:

On April 22, 2025, at 1: 44 p.m. Department of Safety and Inspections ("DSI") Inspector, Allan Vang conducted a Tobacco Underage Buyers Compliance Check at White Bear Tobacco Market Place Inc d/b/a White Bear Tobacco located at 1662 White Bear Avenue North. An eighteen-year-old male entered your store to purchase cigarettes. He was not asked to show his identification, nor was he asked about his age. Nevertheless, the clerk sold him a pack of Camel Crush Menthol.



On April 25, 2025, a letter was sent to White Bear Tobacco, White Bear Tobacco Market Place Inc, and to Hillcrest Center LLC, from DSI Inspector, Joseph Voyda. The letter was to inform you that the Department of Safety and Inspections, had recently conducted a State mandated annual inspection at your licensed location and that you had failed that inspection. On April 22, 2025, at 1:44 p.m. a pack of Camel Crush Menthol was successfully purchased from the clerk on duty by the underage buyer hired by DSI to conduct the required compliance checks. You were also informed to expect a Notice of Violation from the City Attorney's Office providing options on how to proceed with your adverse action.

On August 23, 2023 you failed an underage compliance check and on December 5, 2023 you paid the fine associated with that first violation making this violation your second offense within 24 months.

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 by **May 27, 2025**, I will presume that you have chosen not to contest the proposed adverse action and the matter will be placed on the City Council Consent agenda for imposition of the \$1000 matrix penalty.
2. You can pay the \$1000 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 **May 27, 2025**, please contact the Department immediately.
3. If you wish to admit the facts but you contest the \$1000 matrix penalty, you may have a 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 Council hearing no later than **May 27, 2025**, the matter will then be scheduled before the City Council to determine whether to impose the \$1000 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 **May 27, 2025**. 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 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.



SAINT PAUL
CITY ATTORNEY

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

Civil Division, 15 Kellogg Blvd. West, 400 City Hall
Saint Paul, MN 55102
Tel: 651-266-8755 | Fax: 651-298-5619

Please note: If you choose an administrative hearing, the Department of Safety and Inspections reserves the right to request that City Council impose the costs of the administrative hearing per Saint Paul Legislative Code § 310.03 (k).

If you have not contacted me by May 27, 2025, I will assume that you do not contest the imposition of the \$1000 matrix penalty. In that case, the matter will be placed on the City Council Consent Agenda for approval of the recommended penalty.

If you have questions about these options, please contact my Paralegal Riddhi Mistry at riddhi.mistry@ci.stpaul.mn.us , (651) 266-8835.

Sincerely,

/s/
Therese Skarda
Assistant City Attorney
License No.: 0240989

Cc: Anan Barbarawi, 1320 Conservatory Court, Saint Paul, MN 55117
Hillcrest Center Llc, 375 Jackson Street Ste 700w, Saint Paul, MN 55101-1810
Lisa Theis, Executive Director, Greater East Side Community Council, 1365 Prosperity Avenue, Saint Paul, MN 55106

Attachments: Tobacco Underage Buyer Compliance Check Inspection Form – 04/22/2025
Letter from Inspector, Joseph Voyda to White Bear Tobacco – 04/25/2025
Letter from Inspector, Joseph Voyda to White Bear Tobacco Market Place Inc – 04/25/2025
Letter from Inspector, Joseph Voyda to Hillcrest Center LLC – 04/25/2025
License Group Comments Text – 05/09/2025
Photo Evidence
Saint Paul Legislative Code §310.01
Saint Paul Legislative Code §310.03 (m) 3 (1) (a),
Saint Paul Legislative Code §310.14
Saint Paul Legislative Code §324.07(i)
Minnesota Statute §461.12 Subd.

CITY OF SAINT PAUL
MELVIN CARTER, MAYOR

STPAUL.GOV

License Group Comments Text

05/09/2025

Licensee: WHITE BEAR TOBACCO MARKET PLACE INC

DBA: WHITE BEAR TOBACCO

License #: 20140001994

4/25/2025 youth complaince check: fail letter sent. LSP
4/22/2025 tobacco compliance check - fail. LSP/ayv
11/27/2024 2024 youth tobacco complaince pass letter sent. LSP
9/17/2024 Tobacco compliance check- Pass. AYV
1/8/2024 Hand delivered letter and employee Mohamed Omer accepted. AYV
12/05/2023 \$500 FINE PAID. SLH
10/18/2023 CF 23-1597 imposes \$500 penalty to be paid no later than 12.22.2023. SLH
9/19/2023 Sent to the CAO for tobacco underage failure for a 1st violations within 3 years for a \$500 to the LH & \$50 fine to the clerk JNV
9/11/2023 AA sent to JNV for review. AYV
8/23/2023 Tobacco compliance check-Failed. AYV
11/08/22 Youth compliance check passed. AYV
07/27/2021 Youth compliance check pass KY
4/06/2020 Sent letter dated 3-3-2020 in email from licensing manager and a follow up phone call for closure of product shop for executive order 20-20
Covid-19 JNV
6/19/19 Youth tobacco compliance check, pass. ARM
4/22/19 Tobacco compliance check, passed. ARM
8/31/18 Re-inspection of price violation's / no violations found / pass JNV
8/15/18 Tobacco Youth compliance check -Pass JNV
08/09/2018 No response to dlnqt. ltr., to KS for CA adverse action. JWF
07/16/2018 Sent delinquent letter. Response deadline date is August 06, 2018. Max
6/27/18 To CAO for adverse JNV.
4/23/18 Menthol education ' / inspection Fail, Price issues. JNV
08/07/2017 passed tobacco compliance check BLB
8/12/2016 Passed Tobacco Compliance Check BLB
08/13/2015 Passed Tobacco compliance check TPF



April 25, 2025

WHITE BEAR TOBACCO
1662 WHITE BEAR AVE N
ST PAUL, MN 55106-1610

Underage Buyer Tobacco Compliance Check
RE: 1662 WHITE BEAR AVE N – DBA: WHITE BEAR TOBACCO License ID 20140001994

WHITE BEAR TOBACCO,

This letter is to inform you that the Department of Safety and Inspections (DSI) recently conducted a State mandated annual inspection in the attempt to purchase of tobacco products to persons under the age of 21 hired by DSI in accordance with State Statutes 461.12.

As a result, your tobacco licensed location has **Failed** the underage buyer attempted purchase of tobacco.

These mandated inspections consist of an underage buyer between the ages of 17 and 20 entering licensed establishments in attempting to purchase tobacco products or tobacco related devices as defined in State Statutes Section 609.685 and in the City of Saint Paul Legislative Code Section 324.

Details of the attempted purchase:

On 4/22/2025 at 1:44 P.M., a pack of Camel Crush Menthol Cigarettes was successfully purchased from the clerk on duty. The clerk on duty was a White male who was described as wearing a black hat, shirt, pants, and sweatshirt. The clerk also had blond hair.

In the weeks to come, you should expect a Notice of Violation mailed to you by the City of Saint Paul Attorney's Office with options. Typically, violations for the sale of tobacco products to an underage buyer is a \$500 for the first offence, \$1,000 for the Second, \$2,000 with a seven (7) day suspension and up to revocation of tobacco license within the three (3) years of the first offense.

Questions or regulatory information regarding annual underage tobacco compliance checks, you may contact me directly at phone number 651-266-9014.

Joseph Voyda
DSI Licensing Inspector

C: HILLCREST CENTER LLC - 375 JACKSON ST STE 700W SAINT PAUL MN 55101-1810
White Bear Tobacco Market Place INC Attn: Anan Barbarawi - 1662 WHITE BEAR AVE N ST PAUL, MN 55106-1610



April 25, 2025

White Bear Tobacco Market Place INC
Attn: Anan Barbarawi
1662 WHITE BEAR AVE N
ST PAUL, MN 55106-1610

Underage Buyer Tobacco Compliance Check
RE: 1662 WHITE BEAR AVE N - DBA: WHITE BEAR TOBACCO License ID 20140001994

Anan Barbarawi,

This letter is to inform you that the Department of Safety and Inspections (DSI) recently conducted a State mandated annual inspection in the attempt to purchase of tobacco products to persons under the age of 21 hired by DSI in accordance with State Statutes 461.12.

As a result, your tobacco licensed location has **Failed** the underage buyer attempted purchase of tobacco.

These mandated inspections consist of an underage buyer between the ages of 17 and 20 entering licensed establishments in attempting to purchase tobacco products or tobacco related devices as defined in State Statutes Section 609.685 and in the City of Saint Paul Legislative Code Section 324.

Details of the attempted purchase:

On 4/22/2025 at 1:44 P.M., a pack of Camel Crush Menthol Cigarettes was successfully purchased from the clerk on duty. The clerk on duty was a White male who was described as wearing a black hat, shirt, pants, and sweatshirt. The clerk also had blond hair.

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Questions or regulatory information regarding annual underage tobacco compliance checks, you may contact me directly at phone number 651-266-9014.

Joseph Voyda
DSI Licensing Inspector

C: **WHITE BEAR TOBACCO - 1662 WHITE BEAR AVE N ST PAUL, MN 55106-1610**

HILLCREST CENTER LLC - 375 JACKSON ST STE 700W SAINT PAUL MN 55101-1810



April 25, 2025

HILLCREST CENTER LLC
375 JACKSON ST STE 700W
SAINT PAUL MN 55101-1810

Underage Buyer Tobacco Compliance Check
RE: 1662 WHITE BEAR AVE N – DBA: WHITE BEAR TOBACCO License ID 20140001994

HILLCREST CENTER LLC,

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Questions or regulatory information regarding annual underage tobacco compliance checks, you may contact me directly at phone number 651-266-9014.

Joseph Voyda
DSI Licensing Inspector

C: **WHITE BEAR TOBACCO - 1662 WHITE BEAR AVE N ST PAUL, MN 55106-1610**

White Bear Tobacco Market Place INC Attn: Anan Barbarawi - 1662 WHITE BEAR AVE N ST PAUL, MN 55106-1610



Tobacco Underage Buyers Compliance Check Inspection Form

Pass Fail

Route Order: 12

20140001994
WHITE BEAR TOBACCO
1662 WHITE BEAR AVE N
ST PAUL, MN 55106-1610

License Type: Tobacco Products Shop

Business Type:

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

Inspector: **Allan Vang**
Name

Date: 4/22/2025
MM DD YY

Time: 1 : 49 am pm

Was purchase attempted?

Yes No

If NO, check reason:

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

Underage Buyer: _____ 18
Name Age

Male
Gender

Did the Inspector or Officer view transaction?
 Yes No

Was sale made?
 Yes No

Was age asked?
 Yes No

Was ID requested?
 Yes No

Was ID shown?
 Yes No

Type of product:

Amount spent: \$13.50

- Cigarettes: Camel Crush Mentol Smokeless: _____ Cigars: _____
 Shisha: _____ E-juice: _____ THC/Delta: _____
 Other (cigarette papers, lighter, etc.): _____

Clerk Information: Gender: Male Approximate Age: 18 or Under 18 Actual age if known _____

Name of Clerk if known: N/A Description/Notes: White - Black hat, shirt, pant, and sweatshirt - blond hair



SAINT PAUL
SAFETY & INSPECTIONS

375 Jackson Street, Suite 220
Saint Paul, MN 55101-1806
Tel: 651-266-8999 | Fax: 651-266-9124

Tobacco Underage Buyers Compliance Check Inspection Form

Pass Fail

Route Order: 12

20140001994
WHITE BEAR TOBACCO
1662 WHITE BEAR AVE N
ST PAUL, MN 55106-1610

Licens

Busines

- Conv
- Super

Inspector:

Was purchase

- Yes No

Underage Buyer:

Was sale made?

- Yes No

Type of product:

- Cigarettes: Camel
- Shisha: _____
- Other (cigarette pap

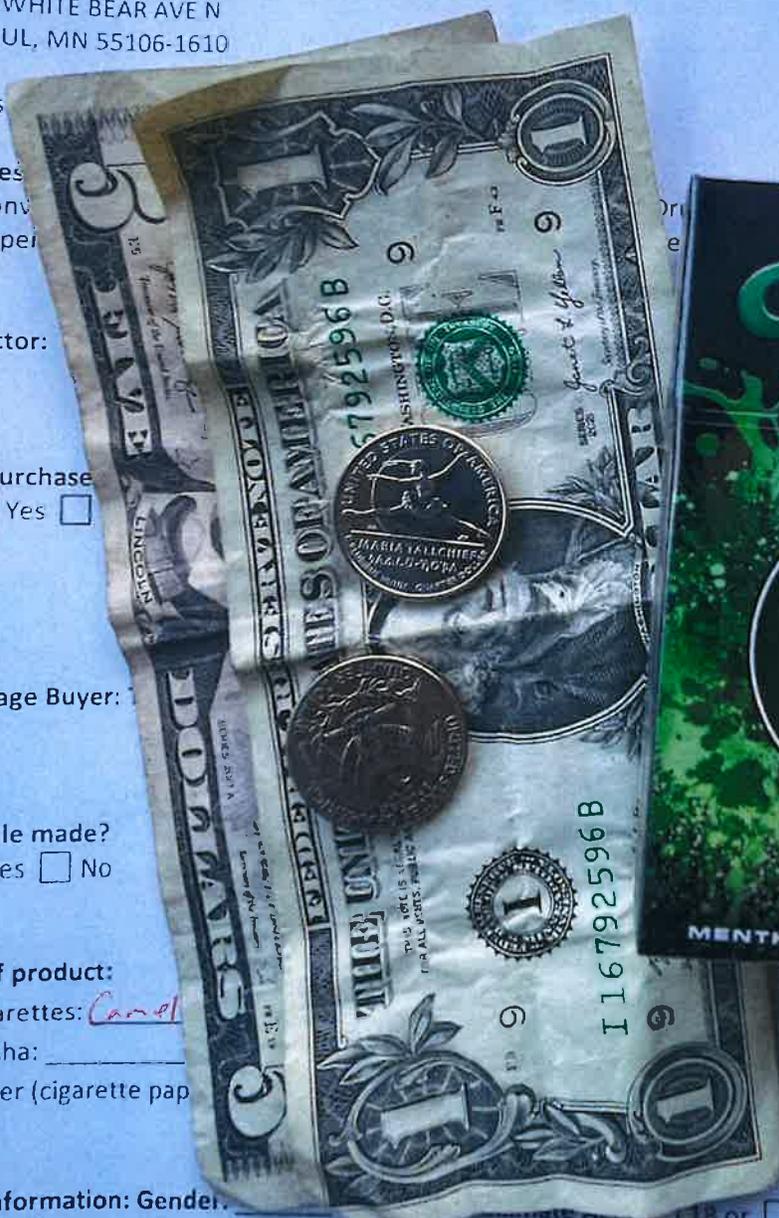
- Cigars: _____
- THC/Delta: _____

Clerk Information: Gender

18 or Under 18 Actual age If known _____

Name of Clerk if known: N/A

Description/Notes: White - Black hat, shirt, pant, and sweatshirt - blond hair



Ordinance & State Statutes Violations

Sec. 324.07. Sales prohibited.

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

Sec. 310.03. 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, the general presumptive penalty matrix applies to all license types, except that in the case of a violation involving a liquor license the penalty matrix for intoxicating liquor; nonintoxicating malt liquor applies and for a violations involving tobacco, the penalty matrix for tobacco applies. 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 must provide written reasons that specify why the penalty selected was more appropriate.

3. Tobacco presumptive penalties matrix.

Tobacco presumptive penalties. Penalties for convictions or violations 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 must provide written reasons that specify why the penalty selected was more appropriate (unless specified, numbers below indicate consecutive days' suspension):

Type of Violation	Appearance			
	1st	2nd	3rd	4th
(1) Sale to a person under twenty-one (21) years of age	\$500.00 fine	\$1000.00 fine	\$2,000.00 fine and 7-day suspension	Revocation

(a) *Computation of time for violations under the tobacco presumptive penalties matrix.* If a violation is not covered under this penalty matrix, the general presumptive penalty matrix should be used. Except as otherwise provided by Minn. Stats. § 461.12, subd. 2, subsequent tobacco violations are subject to the following:

Sec. 310.14. Licensee's responsibility.

Any act or conduct by any clerk, employee, manager or agent of a licensee, or by any person providing entertainment or working for or on behalf of a licensee, whether compensated or not, which act or conduct takes place either on the licensed premises or in any parking lot or other area adjacent to (or under the lease or control of) the licensed premises, and which act or conduct violates any state or federal statutes or regulations, or any city ordinance, must be considered to be and treated as the act or conduct of the licensee for the purpose of adverse action against all or any of the licenses held by such licensee. To the extent this section is in conflict with sections 409.14 and 410.09 of the Legislative Code, this section must be controlling and prevail; but must not otherwise amend, alter or affect such sections.

State Statutes Violations

461.12 MUNICIPAL LICENSE OF TOBACCO, TOBACCO-RELATED DEVICES, AND SIMILAR PRODUCTS.

Subd. 2. Administrative penalties for sales and furnishing; licensees. If a licensee or employee of a licensee sells, gives, or otherwise furnishes tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to a person under the age of 21 years, or violates any other provision of this chapter, the licensee shall be charged an administrative penalty of \$300 for the first violation. An administrative penalty of \$600 must be imposed for a second violation at the same location within 36 month after the initial violation. For a third or any subsequent violation at the same location within 36 months after the initial violation, an administrative penalty of \$1,000 must be imposed, and the licensee's authority to sell tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products at that location must be suspended for not less than seven days and may be revoked. No suspension, revocation, or other penalty may take effect until the licensee has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred must be in writing.

Sec. 310.01. - Definitions.

For the purposes of this chapter, any chapter of the Legislative Code pertaining to licenses as hereinafter mentioned, and subsequently enacted ordinances establishing or relating to the requirements for Class R for routinely issued licenses, Class T for temporary licenses and Class N for licenses in which neighbors are required to be notified, under authority of the City of Saint Paul, the terms defined in this section have the following meanings:

Adverse action means the revocation or suspension of a license, the imposition of conditions upon a license, the denial of an application for the grant, issuance or renewal of a license, the imposition of a fine, the assessment of the costs of a contested hearing, and any other disciplinary or unfavorable action taken with respect to a license, licensee, or applicant for a license. Adverse action includes any of the foregoing directed at one (1) or more licenses held by a licensee at any location in the city. Adverse action also includes disapproval of licenses issued by the state under statutory provisions which permit the governing body to disapprove the issuance of the license.

Bond means a bond meeting the requirements of section 310.05 and indemnifying the city against all claims, judgments or suits caused by, resulting from or in connection with any licensed business, activity, premises, thing, facility, occurrence or otherwise under these chapters.

Building official means the official in the department of safety and inspections charged with the responsibility of enforcement of the building code.

Chapters and these chapters mean this uniform license ordinance, any chapter of the Legislative Code pertaining to licenses as hereinafter mentioned, and subsequently enacted ordinances establishing or relating to the requirements for class R, class T, and class N licenses under authority of the city.

Class R licenses means those licenses and certain permits which can be issued by the director without council approval if no conditions are imposed upon the license and which do not require a hearing if there is an objection. Class R Licenses follow the Procedures for Application for the Grant or Issuance of a License, New Application Investigation and Review, Application Denial, Notice, Levels of Approval, Objections, and Renewal Procedures laid out in Section 310.02(1). The following licenses are so classified, and the numbers shown opposite them correspond to the chapters in the Legislative Code pertaining to each license:

Business Licenses	Fee	Class	Ordinance/ Legislative Code
CLASS R			

12-15

Agricultural Vehicle Permit	\$23.00	R	<u>165</u>
Amusement Rides—Annual	\$85.00	R	<u>317</u>
Animal Boarding (Commercial)	\$83.00	R	<u>348</u>
Animal Boarding (Home Occupation)	\$83.00	R	<u>348</u>
Animal Day Care (Commercial)	\$83.00	R	<u>348</u>
Animal Day Care (Home Occupation)	\$83.00	R	<u>348</u>
Animal Foods Manufacturing and Distribution	\$85.00	R	<u>316</u>
Bituminous Contractor	\$210.00	R	<u>320</u>
Bowling Centers	\$210.00	R	<u>426</u>
Building Contractors	\$210.00	R	<u>326</u>
Building Trade Business License	\$188.00	R	<u>369</u>
Building Trades Certificate of Competency	\$24.00	R	<u>370</u>
Bulk Oil Storage	\$210.00	R	<u>342</u>
Christmas Tree Sales	\$85.00	R	<u>323</u>
Commercial Vehicle	\$78.00	R	<u>158</u>
Commercial Vehicle—Exempt	\$0.00	R	<u>158</u>
Courtesy Bench	\$26.00	R	<u>127</u>
Courtesy Benches Transfer	\$17.00	R	<u>127</u>
Finishing Shop	\$85.00	R	<u>371</u>

Game Room	\$210.00	R	<u>406</u>
House Sewer Contractor	\$210.00	R	<u>338</u>
Laundry/Dry-cleaning Plant	\$210.00	R	<u>327</u>
Laundry/Dry-cleaning Pick Up Station	\$85.00	R	<u>327</u>
Lawn Fertilizer and Pesticide Applicator	\$85.00	R	<u>377</u>
Liquid Fuel Dealer	\$210.00	R	<u>332</u>
Liquid Fuel Dealer Vehicle	\$85.00	R	<u>332</u>
Liquor Catering (State Cater/City Liq)	\$192.00	R	<u>409</u>
Mechanical Amusement Device	\$21.00	R	<u>318</u>
Massage Center—A (1 Practitioner)	\$100.00	R	<u>414</u>
Massage Center—A (Commercial)	\$262.00	R	<u>412</u>
Massage Center—B (Home Location)	\$106.00	R	<u>412</u>
Massage Practitioner	\$106.00	R	<u>414</u>
Massage Practitioner-Additional Location	\$31.00	R	<u>412</u>
Mercantile Broker	\$85.00	R	<u>340</u>
Mobile Retail Vehicle	\$85.00	R	<u>346</u>
Pedal Car	\$118.00	R	<u>374</u>
Pedal Car Business	\$352.00	R	<u>374</u>
Pedal Car Driver	\$51.00	R	<u>374</u>

Peddler	\$85.00	R	<u>345</u>
Peddler—Fee Waived	\$0.00	R	<u>345</u>
Pedicab Driver	\$51.00	R	<u>374</u>
Pedicab Vehicle	\$113.00	R	<u>374</u>
Pest Control	\$210.00	R	<u>334</u>
Pet Grooming Facility	\$85.00	R	<u>382</u>
Pet Shop	\$210.00	R	<u>347</u>
Pool & Billiard Hall	\$210.00	R	<u>322</u>
Recycling Collection Center	\$210.00	R	408
Recycling Processing Center	\$958.00	R	408
Rental of Hospital Equipment	\$85.00	R	<u>350</u>
Rental of Hospital Equip-Vehicle	\$85.00	R	<u>350</u>
Rental of Kitchenware	\$85.00	R	<u>351</u>
Roller Rink	\$85.00	R	<u>353</u>
Sanitary Disposal Vehicle	\$405.00	R	<u>354</u>
Second-Hand Dealer	\$85.00	R	<u>355</u>
Second-Hand Dealer (Comp/Elec)	\$85.00	R	<u>355</u>
Second-Hand Dealer (Antiques/Comp/Elec)	\$85.00	R	<u>356</u>
Second-Hand Dealer (Antiques)	\$85.00	R	<u>355</u>

Second Hand Dealer—Motor Vehicle Parts	\$507.00	R	<u>355</u>
Second-Hand Dealer—Multiple Dealers	\$405.00	R	<u>355</u>
Short-Term Rental (Non-Owner Occupied)	\$45.00	R	<u>379</u>
Short-Term Rental (Owner Occupied)	\$45.00	R	<u>379</u>
Short-Term Rental Platform	\$11,181.00	R	<u>379</u>
Sidewalk Cafe	\$40.00	R	106
Sidewalk Contractor	\$210.00	R	<u>356</u>
Solicitor	\$85.00	R	<u>345</u>
Solid Fuel Dealer	\$210.00	R	<u>333</u>
Solid Fuel Dealer Vehicle	\$85.00	R	<u>333</u>
Solid Waste Hauler & Vehicle	\$405.00	R	<u>357</u>
Solid Waste Hauler (Ea Add'l Veh)	\$85.00	R	<u>357</u>
Solid Waste Transfer Station	\$1,913.00	R	<u>357</u>
Sound Trucks & Broadcast Vehicle	\$85.00	R	<u>359</u>
Swimming Pool—Public	\$405.00	R	<u>360</u>
Tanning Facility	\$106.00	R	<u>380</u>
Taxicab Driver	\$51.00	R	<u>376</u>
Taxicab Vehicle	\$469.00	R	<u>376</u>
Taxicab Vehicle (Reciprocity Event)	\$37.00	R	<u>376</u>

Taxicab Service Company	\$456.00	R	<u>376</u>
Theaters and Movie Theaters	\$210.00	R	<u>416</u>
Tire Recapping Plant	\$85.00	R	<u>372</u>
Tobacco Products Shop	\$535.00	R	<u>324</u>
Tobacco Shop	\$535.00	R	<u>324</u>
Tow Truck/Wrecker (Operator)	\$405.00	R	<u>361</u>
Tow Truck/Wrecker (Vehicle)	\$85.00	R	<u>361</u>
Trade Worker Registration—Tier 1	\$37.00	R?	<u>370</u>
Trade Worker Registration—Tier 2	\$70.00	R	<u>370</u>
Trade Worker Registration—Tier 3	\$59.00	R	<u>370</u>
Trailer Rental	\$210.00	R	<u>352</u>
Tree Trimmer & 1 Vehicle	\$210.00	R	<u>362</u>
Tree Trimmer—Each Add'l Vehicle	\$85.00	R	<u>362</u>
Vehicle Immobilization Service	\$405.00	R	<u>383</u>
Veterinary Hospital	\$210.00	R	<u>364</u>
Window Cleaning	\$210.00	R	<u>365</u>
Wrecking of Buildings	\$65.00	R	<u>368</u>

Class T licenses means those licenses which can be approved or denied by the director, if no conditions are imposed upon the license and which do not require a hearing if there is an objection. Class T Licenses follow the Procedures for Application for the Grant or Issuance of the License, New Application Investigation

and Review, Application Denial, Notice, Levels of Approval, Objections, and Renewal Procedures laid out in Section 310.02(3). The following licenses are so classified, and the numbers shown opposite them correspond to the chapters in the Legislative Code pertaining to each license:

Business Licenses	Fee	Class	Ordinance/ Legislative Code
CLASS T			
Amusement Rides—Temporary	\$32.00	T	<u>317</u>
Bingo/Rfls/P-Tabs/Tpbrds/Pdlwhls	\$59.00	T	402
Close Out Sale	\$85.00	T	<u>325</u>
Entertainment—Temporary	\$35.00	T	<u>411</u>
Liquor Catering (State Cater Only)	\$59.00	T	<u>409</u>
Liquor—Extension of Service Area	\$68.00	T	410
Liquor—Under Age Access (Temporary)	\$35.00	T	<u>409</u>
Liquor On Sale—Temporary	\$59.00	T	<u>409</u>
Malt On Sale (3.2)—Temporary	\$59.00	T	410
Massage Practitioner—Temporary	\$50.00	T	<u>412</u>
Second Hand Dealer—Exhibition	\$210.00	T	<u>355</u>
Tag Days	\$26.00	T	<u>391</u>
Temp On Sale Malt Brewery/Distillery	\$59.00	T	410
Transient Merchant	\$85.00	T	<u>345</u>

12-21

Wine On Sale-Temporary	\$59.00	T	<u>409</u>
Winery Annual Festival—Temporary	\$59.00	T	<u>409</u>

Class N licenses means those licenses which must be approved or denied by the council. Class N Licenses follow the Procedures for Application for the Grant or Issuance of the License, New Application Investigation and Review, Application Denial, Notice, Levels of Approval, Objections, and Renewal Procedures laid out in Section 310.02(2). The following licenses are so classified, and the numbers shown opposite them correspond to the chapters in the Legislative Code pertaining to each license:

Business Licenses	Fee	Class	Ordinance/ Legislative Code
CLASS N			
Auto Body Repair Shop	\$507.00	N	<u>423</u>
Auto Body Repair/Painting Shop	\$507.00	N	<u>423</u>
Auto Repair Garage	\$507.00	N	<u>423</u>
Bingo Hall	\$229.00	N	403
Cabaret—Class A	\$210.00	N	<u>322</u>
Cabaret—Class B	\$210.00	N	<u>426</u>
Conversation/Rap Parlor(A)	\$405.00	N	<u>413</u>
Conversation/Rap Parlor (B)	\$405.00	N	<u>413</u>
Culinary On Sale—Wine/Malt	\$255.00	N	<u>409</u>
Dance or Rental Halls	\$497.00	N	405

Dance Halls—Exempt	\$0.00	N	405
Entertainment—Extension	\$0.00	N	<u>411</u>
Entertainment (A)	\$278.00	N	<u>411</u>
Entertainment (B)	\$672.00	N	<u>411</u>
Entertainment (C)	\$3,191.00	N	<u>411</u>
Firearms	\$405.00	N	<u>225</u>
Gambling Hall	\$445.00	N	<u>278</u>
Gambling Location	\$84.00	N	<u>225</u>
Gas Station	\$154.00	N	<u>424</u>
Health/Sport Club	\$405.00	N	<u>427</u>
Health/Sport Club—Adult	\$405.00	N	<u>427</u>
Health/Sport Club-Exercise Only Facility	\$405.00	N	<u>427</u>
Infectious Waste Processing Facility	\$1,913.00	N	<u>427</u>
Liquor-Extension of Service Hours	\$405.00	N	<u>409</u>
Liquor—Microdistillery Cocktail Room	\$712.00	N	<u>409</u>
Liquor—Off Sale Micro Distillery	\$205.00	N	<u>409</u>
Liquor Off Sale	\$1,500.00	N	<u>409</u>
Liquor On Sale—100 seats or less	\$5,361.00	N	<u>409</u>
Liquor On Sale—101-180 Seats	\$5,937.00	N	<u>409</u>

Liquor On Sale—181-290 Seats	\$6,360.00	N	<u>409</u>
Liquor On Sale—291 or more Seats	\$6,448.00	N	<u>409</u>
Liquor On Sale—2 AM Closing	\$59.00	N	<u>409</u>
Liquor On Sale—Exempt	\$0.00	N	<u>409</u>
Liquor On Sale—Over 100 seats (B)	\$5,022.00	N	<u>409</u>
Liquor On Sale—Over 200 seats (A)	\$5,454.00	N	<u>409</u>
Liquor On Sale—Sunday	\$200.00	N	<u>409</u>
Liquor On Sale—Sunday—Exempt	\$0.00	N	<u>409</u>
Liquor On Sale—Theater	\$1,914.00	N	<u>409</u>
Liquor On Sale—Additional Family Members	\$62.00	N	<u>409</u>
Liquor On Sale (Government Agencies)	\$0.00	N	<u>409</u>
Liquor On Sale (Small Brewery—128 oz)	\$30.00	N	<u>409</u>
Liquor On Sale-Club under 200 Mbrs—A	\$300.00	N	<u>409</u>
Liquor On Sale-Club 201-500 Mbrs—B	\$500.00	N	<u>409</u>
Liquor On Sale-Club 501-1000 Mbrs—C	\$650.00	N	<u>409</u>
Liquor On Sale-Club 1001-2000 Mbrs—D	\$800.00	N	<u>409</u>
Liquor On Sale-Club 2001-4000 Mbrs—E	\$1,000.00	N	<u>409</u>
Liquor On Sale-Club 4001-6000 Mbrs—F	\$2,000.00	N	<u>409</u>
Liquor On Sale-Club over 6000 Mbrs—G	\$3,000.00	N	<u>409</u>

Liquor-Outdoor Service Area (Patio)	\$85.00	N	<u>409</u>
Liquor-Outdoor Service Area (Sidewalk)	\$40.00	N	<u>409</u>
Malt Off Sale (Brewery)	\$205.00	N	410
Malt Off Sale (Growler)	\$205.00	N	410
Malt Off Sale	\$225.00	N	410
Malt On Sale (3.2)	\$712.00	N	410
Malt On Sale (3.2)—Fee Waived	\$0.00	N	410
Malt On Sale (3.2)—2 AM Closing	\$0.00	N	410
Malt On Sale (Brewery Taproom)	\$712.00	N	410
Malt On Sale (Strong)	\$712.00	N	410
Massage Center—C (Adult)	\$405.00	N	<u>412</u>
Mini Motion Picture Theater-Adult (C)	\$405.00	N	<u>415</u>
Minnesota Currency Exchange	\$405.00	N	<u>381</u>
Motor Vehicle Dealer—New Vehicles	\$405.00	N	401
Motor Vehicle Salvage Dealer	\$405.00	N	<u>422</u>
Motorcycle Dealer	\$210.00	N	401
Parking Lot	\$405.00	N	<u>417</u>
Parking Lot/Parking Ramp	\$405.00	N	<u>417</u>
Parking Ramp (Government)	\$0.00	N	<u>417</u>

Parking Ramp	\$405.00	N	<u>417</u>
Parking Ramp/Garage (Private)	\$396.00	N	<u>417</u>
Pawn Shop	\$3,191.00	N	<u>344</u>
Second Hand Dealer—Motor Vehicle	\$507.00	N	<u>344</u>
Steam Room/Bath House (A)	\$405.00	N	<u>428</u>
Steam Room/Bath House (B)—Adult	\$405.00	N	<u>428</u>
Theaters and Movie Theaters-Drive In	\$210.00	N	<u>416</u>
Transportation Network Company	\$41,115.00	N	<u>373</u>
Wine On Sale	\$2,000.00	N	<u>409</u>
Wine On Sale (Government Agencies)	\$0.00	N	<u>409</u>

Department means the department of safety and inspections.

Director means the director of the department of safety and inspections and/or the director's designee or designees.

Fee means and includes both the license fee and application fee unless otherwise provided.

License means and includes all licenses and permits provided for or covered by these chapters.

License also includes licenses issued by the state under statutory provisions which permit the governing body to disapprove the issuance of such licenses, for the purposes of making procedures in chapter 310 of the Legislative Code applicable to the approval or disapproval of such licenses.

Class N License District Council Notification Form means the form, provided by the Department to the license applicant as part of the Class N License application packet, which must be mailed or personally delivered to the district council by the license/applicant prior to the submission of the application for a license.

Person means and includes any person, firm, corporation, partnership, company, organization, agency, club or any group or association thereof. It shall also include any executor, administrator, trustee, receiver or other representative appointed by law.

Zoning administrator means the official in the department of safety and inspections charged with responsibility for enforcement of the zoning code.

(Ord 22-46, § 2, 11-9-22; Ord 23-32, § 2, 9-6-23)

Sec. 310.03. - Hearing procedures.

- (a) *Adverse action; notice and hearing requirements.* In any case where the council may or intends to consider any adverse action, including the revocation or suspension of a license, the imposition of conditions upon a license, or the denial of an application for the grant, issuance or renewal of a license, or the disapproval of a license issued by the State of Minnesota, the applicant or licensee must be given notice and an opportunity to be heard as provided herein. The council may consider such adverse actions when recommended by the director, by the director of any executive department established pursuant to Chapter 9 of the Charter, by the city attorney or on its own initiative.
- (b) *Notice.* In each such case where adverse action is or will be considered by the council, the applicant or licensee must be notified in writing that adverse action may be taken against the license or application, and that they are entitled to a hearing before action is taken by the council. The notice must be served or mailed a reasonable time before the hearing date, and must state the place, date and time of the hearing. The notice must state the issues involved or grounds upon which the adverse action may be sought or based. The council may request that such written notice be prepared and served or mailed by the director or by the city attorney.
- (c) *Hearing.* Where there is no dispute as to the facts underlying the violation or as to the facts establishing mitigating or aggravating circumstances, the hearing must be held before the council. Otherwise the hearing must be conducted before a hearing examiner appointed by the council or retained by contract with the city for that purpose. The applicant or the licensee must be provided an opportunity to present evidence and argument as well as meet adverse testimony or evidence by reasonable cross-examination and rebuttal evidence. The hearing examiner may in its discretion permit other interested persons the opportunity to present testimony or evidence or otherwise participate in such hearing.
- (c-1) *Procedure; hearing examiner.* The hearing examiner will hear all evidence as may be presented on behalf of the city and the applicant or licensee, and must present to the council written findings of fact and conclusions of law, together with a recommendation for adverse action.

The council will consider the evidence contained in the record, the hearing examiner's recommended findings of fact and conclusions, and may not consider any factual testimony not previously submitted to and considered by the hearing examiner. After receipt of the hearing examiner's findings, conclusions, and recommendations, the council must provide the applicant or licensee an opportunity to present oral or written arguments alleging error on the part of the examiner in the application of the law or interpretation of the facts, and to present argument related to the recommended adverse action. Upon conclusion of that hearing, and after considering the record, the examiner's findings and recommendations,

together with such additional arguments presented at the hearing, the council must determine what, if any, adverse action should be taken, which action must be by resolution. The council may accept, reject or modify the findings, conclusions and recommendations of the hearing examiner.

- (c-2) *Ex-parte contacts.* If a license matter has been scheduled for an adverse hearing, council members shall not discuss the license matter with each other or with any of the parties or interested persons involved in the matter unless such discussion occurs on the record during the hearings of the matter or during the council's final deliberations of the matter. No interested person shall, with knowledge that a license matter has been scheduled for adverse hearing, convey or attempt to convey, orally or in writing, any information, argument or opinion about the matter, or any issue in the matter, to a council member or his or her staff until the council has taken final action on the matter; provided, however, that nothing herein will prevent an inquiry or communications regarding status, scheduling or procedures concerning a license matter. An interested person, for the purpose of this paragraph, means and includes a person who is an officer or employee of the licensee which is the subject of the scheduled adverse hearing, or a person who has a financial interest in such licensee.
- (d) *Licensee or applicant may be represented.* The licensee or applicant may represent himself or choose to be represented by another.
- (e) *Record; evidence.* The hearing examiner shall receive and keep a record of such proceedings, including testimony and exhibits, and shall receive and give weight to evidence, including hearsay evidence, which possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs.
- (f) *Council action, resolution to contain findings.* Where the council takes adverse action with respect to a license, licensee or applicant for a license, the resolution by which such action is taken must contain its findings and determination, including the imposition of conditions, if any. The council may adopt all or part of the findings, conclusions and recommendations of the hearing examiner, and incorporate the same in its resolution taking the adverse action.
- (g) *Additional procedures where required.* Where the provisions of any statute or ordinance require additional notice or hearing procedures, such provisions must be complied with and supersede inconsistent provisions of these chapters. This includes, without limitation by reason of this specific reference, Minn. Stats., Chapter 364 and Minn. Stats., § 340A.415.
- (h) *Discretion to hear notwithstanding withdrawal or surrender of application or license.* The council may, at its discretion, conduct a hearing or direct that a hearing be held regarding revocation or denial of a license, notwithstanding that the applicant or licensee has attempted or purported to

withdraw or surrender said license or application, if the attempted withdrawal or surrender took place after the applicant or licensee had been notified of the hearing and potential adverse action.

- (i) *Continuances.* Where a hearing for the purpose of considering revocation or suspension of a license or other disciplinary action involving a license has been scheduled before the council, a continuation of the hearing may be granted by the council president or by the council at the request of the licensee, license applicant, an interested person or an attorney representing the foregoing, upon a showing of good cause by the party making the request.
- (j) If the council imposes an adverse action as defined in section 310.01 above, a generic notice of such action must be prepared by the director and posted by the licensee so as to be visible to the public during the effective period of the adverse action. The licensee shall be responsible for taking reasonable steps to make sure the notice remains posted on the front door of the licensed premises, and failure to take such reasonable precautions may be grounds for further adverse action.
- (k) *Imposition of costs.* The council may impose upon any licensee or license applicant some or all of the costs of a contested hearing before an independent hearing examiner. The costs of a contested hearing include, but are not limited to, the cost of the administrative law judge or independent hearing examiner, stenographic and recording costs, copying costs, city staff and attorney time for which adequate records have been kept, rental of rooms and equipment necessary for the hearing, and the cost of expert witnesses. The council may impose all or part of such costs in any given case if (i) the position, claim or defense of the licensee or applicant was frivolous, arbitrary or capricious, made in bad faith, or made for the purpose of delay or harassment; (ii) the nature of the violation was serious, or involved violence or the threat of violence by the licensee or employees thereof, or involved the sale of drugs by the licensee or employees thereof, and/or the circumstances under which the violation occurred were aggravated and serious; (iii) the violation created a serious danger to the public health, safety or welfare; (iv) the violation involved unreasonable risk of harm to vulnerable persons, or to persons for whose safety the licensee or applicant is or was responsible; (v) the applicant or licensee was sufficiently in control of the situation and therefore could have reasonably avoided the violation, such as, but not limited to, the nonpayment of a required fee or the failure to renew required insurance policies; (vi) the violation is covered by the intoxicating liquor; nonintoxicating malt liquor; presumptive penalty matrix in subsection (m) below; or (vii) the violation involved the sale of cigarettes to a minor.
- (l) *Imposition of fines.* The council may impose a fine upon any licensee or license applicant as an adverse license action. A fine may be in such amount as the council deems reasonable and appropriate, having in mind the regulatory and enforcement purposes embodied in the particular licensing ordinance. A fine may be in addition to or in lieu of other adverse action in the sole

discretion of the council. To the extent any other provision of the Legislative Code provides for the imposition of a fine, both provisions must be read together to the extent possible; provided, however, that in the case of any conflict or inconsistency, the other provision must be controlling.

(m) *Presumptive penalties for certain violations.* The purpose of this section is to establish a standard by which the city council determines the amount of fines, the length of license suspensions and the propriety of revocations, the general presumptive penalty matrix applies to all license types, except that in the case of a violation involving a liquor license the penalty matrix for intoxicating liquor; nonintoxicating malt liquor applies and for a violations involving tobacco, the penalty matrix for tobacco applies. 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 must provide written reasons that specify why the penalty selected was more appropriate.

1. **General presumptive penalties matrix**—The general penalty matrix is to be used if there is not a specific penalty matrix for the license type or a category within the specific penalty matrix does not address the violation.

2. **Intoxicating liquor; malt liquor; presumptive penalty matrix.**

Presumptive penalties for intoxicating liquor and nonintoxicating malt liquor violations. If a violation is not covered under this penalty matrix, the general presumptive penalty matrix should be used. Penalties for convictions or violations 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 must provide written reasons that specify why the penalty selected was more appropriate (unless specified, numbers below indicate consecutive days' suspension):

- (a) For on-sale intoxicating liquor establishments with a seating capacity of one hundred fifty (150) or more, the monetary penalty for any violation (including violations found in chapter 310) must be doubled.
- (b) For off-sale intoxicating liquor establishments with five thousand one (5,001) or more square feet of retail space, the monetary penalty for any violation (including violations found in chapter 310) must be doubled.
- (c) *Other penalties.* Nothing in this section restricts or limits the authority of the council to suspend licenses for up to sixty (60) days, revoke the license, or impose a civil fine not to exceed two thousand dollars (\$2,000.00), to impose conditions or take any other adverse action in accordance with law, provided, that the license holder has been afforded an opportunity for a hearing in the manner provided for in section 310.02 of this Code.

(d) *Effect of responsible business practices in determining penalty.* In determining the appropriate penalty, the council may, in its discretion, consider evidence submitted to it in the case of uncontested adverse actions or submitted to a hearing examiner in a contested hearing upon which findings of fact have been made that a licensee has followed or is likely to follow in the future responsible business practices in regard to sales to intoxicated persons and sales to minors.

(1) For the purposes of service to intoxicated persons, evidence of responsible business practices may include, but is not limited to, those policies, procedures and actions that are implemented at time of service and that:

- a) Encourage persons not to become intoxicated if they consume alcoholic beverages on the defendant's premises;
- b) Promote availability of nonalcoholic beverages and food;
- c) Promote safe transportation alternatives other than driving while intoxicated;
- d) Prohibit employees and agents of defendant from consuming alcoholic beverages while acting in their capacity as employees or agents;
- e) Establish promotions and marketing efforts that publicize responsible business practices to the defendant's customers and community;
- f) Implement comprehensive training procedures;
- g) Maintain an adequate, trained number of employees and agents for the type and size of defendant's business;
- h) Establish a standardized method for hiring qualified employees;
- i) Reprimand employees who violate employer policies and procedures; and
- j) Show that the licensee has enrolled in recognized courses providing training to self and one (1) or more employees of the licensed establishment in regard to standards for responsible liquor service.

2) For the purposes of service to minors, evidence of responsible business practices may include, but is not limited to, those listed in subsection (1) and the following:

- a) Management policies that are implemented at the time of service and that ensure that proof of identification (as established by state law) is examined for all persons seeking service of alcoholic beverages who may reasonably be suspected to be minors;
- b) Comprehensive training of employees who are responsible for such examination regarding the detection of false or altered identification; and
- c)

Enrollment by the licensee in recognized courses providing training to self and one (1) or more employees of the licensed establishment in regard to standards for responsible liquor service.

3. Tobacco presumptive penalties matrix.

Tobacco presumptive penalties. Penalties for convictions or violations 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 must provide written reasons that specify why the penalty selected was more appropriate (unless specified, numbers below indicate consecutive days' suspension):

- (a) *Purpose.* The purpose of this section is to establish a standard by which the city council determines the amount of fines, length of license suspensions and the propriety of revocations for licensees. These penalties are presumed to be appropriate for every case; however, the council may deviate therefrom in an individual case where the council finds and determines that there exist substantial and compelling reasons which make it appropriate to do so, except, the council may not deviate below statewide minimum penalties for licensees. When deviating from these standards, the council shall provide written reasons that specify why the penalty selected was more appropriate. Where no penalty is listed below, the presumptive penalty under the general presumptive penalty matrix will apply.
- (b) *Presumptive penalties for licensees for violations.* Adverse penalties for licensees for violations or convictions shall be presumed as follows:
- (c) *Computation of time for violations under the tobacco presumptive penalties matrix.* If a violation is not covered under this penalty matrix, the general presumptive penalty matrix should be used. Except as otherwise provided by Minn. Stats. § 461.12, subd. 2, subsequent tobacco violations are subject to the following:
 - (1) *Second, third and fourth appearances for violations under the tobacco presumptive penalties matrix.* . A second violation within twenty four (24) months must be treated as a second appearance, a third within twenty four (24) months treated as a third appearance, and a fourth within twenty four (24) months treated as a fourth appearance for the purpose of determining the presumptive penalty.
 - (2) *Any appearance not covered by subsections (1) above must be treated as a first appearance for violations under the tobacco presumptive penalties matrix.*
Measurement of the twenty four (24) month period must 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.

12-33

- (i) *Fines payable without hearing.*
- A. Notwithstanding the provisions of section 310.03(c), a licensee who would be making a first or second appearance on a violation that calls for a monetary fine 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.
- (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 the Penalty Matrixes above. The occurrence of multiple violations is 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) up to twenty (20) days before the hearing, and may in that case be treated as though part of the "1st Appearance" unless grounds for upward deviation from the presumptive penalties outlined in the presumptive penalty matrix outlined in 310.03(m) are included in the amended notice of the violation. In all other cases, violations occurring after the date of the formal notice of hearing must be the subject of a separate proceeding and dealt with as a "2nd Appearance" before the council. The same procedures must 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.
- (v) *Computation of time.*

- (1) *Second appearance.* A second violation within twelve (12) months must be treated as a second appearance for the purpose of determining the presumptive penalty.
- (2) *Third appearance.* A third violation within eighteen (18) months must 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 must 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 must be treated as a first appearance. Measurement of the twelve-, eighteen-, or twenty-four-month period is as follows: The beginning date shall be the earliest violation's date of appearance before the council or payment of the fine related to the violation, 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 must 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 must be counted as a third appearance regardless of how much time has passed since the first or second appearance.
- (6) Violations of the general presumptive penalty matrix, the intoxicating liquor, malt liquor presumptive penalty matrix and the tobacco presumptive penalty matrix are meant to be cumulative. For the purpose of a second, third or fourth appearance under this section, "violation" shall must mean either one of those violations listed in paragraph (m)1, 2, or 3.

(Ord 22-46, § 3, 11-9-22)

Sec. 310.14. - Licensee's responsibility.

Any act or conduct by any clerk, employee, manager or agent of a licensee, or by any person providing entertainment or working for or on behalf of a licensee, whether compensated or not, which act or conduct takes place either on the licensed premises or in any parking lot or other area adjacent to (or under the lease or control of) the licensed premises, and which act or conduct violates any state or federal statutes or regulations, or any city ordinance, must be considered to be and treated as the act or conduct of the licensee for the purpose of adverse action against all or any of the licenses held by such licensee. To the extent this section is in conflict with sections 409.14 and 410.09 of the Legislative Code, this section must be controlling and prevail; but must not otherwise amend, alter or affect such sections.

(Ord 22-46, § 16, 11-9-22)

Sec. 324.07. - Sales prohibited.

- (a) No person may sell a cigarette outside its original packaging containing health warnings satisfying the requirements of federal law. No cigarettes may be sold individually or in packages of fewer than twenty (20) cigarettes.
- (b) No person may sell or dispense licensed products from a motor vehicle or other movable place of business.
- (c) No person may sell licensed products from vending machines unless the vending machines are in a facility that cannot be entered at any time by persons younger than twenty-one (21) years of age.
- (d) No person may offer for sale licensed products in any open displays which are accessible to the public without the intervention of a store employee. This restriction does not apply to establishments holding a tobacco products shop license.
- (e) No person may sell, offer for sale, or otherwise distribute cigars in original packages containing three (3) or fewer cigars for a sale price, after any coupons, multipack or buy-one/get-one promotions, or any other discounts are applied and prior to applicable sales taxes being imposed, of less than two dollars and sixty cents (\$2.60) per cigar contained within. In addition, no person may sell, offer for sale, or otherwise distribute cigars in original packages of four (4) or more cigars for a sale price, after any coupons, multipack or buy-one/get-one promotions, or any other discounts are applied and prior to applicable sales taxes being imposed, of less than ten dollars and forty cents (\$10.40) per package.
- (f) No person may sell or offer for retail sale cigarette packages or cartons for a sales price, prior to applicable sales taxes being imposed, of less than ten dollars (\$10.00) per pack.
- (g) No person may sell or offer for retail sale moist snuff retail packages or multipacks for a sales price, prior to applicable sales taxes being imposed, of less than ten dollars (\$10.00) per 1.2 ounce package. No person may sell or offer for retail sale any smokeless tobacco/moist snuff unless it is sold in a package of at least 1.2 ounces minimum package size. The price floor for packages larger than 1.2 ounces shall be computed by adding two dollars and fifty cents (\$2.50) for each 0.3 ounces or any fraction thereof in excess of 1.2 ounces, excluding all applicable taxes.
- (h) No person may sell or offer for sale or otherwise distribute snus for a sales price, prior to applicable sales taxes being imposed, of less than ten dollars (\$10.00) per 0.32 ounce package. No person may sell or offer for retail sale any snus unless it is sold in a package of at least 0.32 ounces minimum pack size. The price floor for packages larger than 0.32 ounces shall be computed by adding two dollars and fifty cents (\$2.50) for each 0.08 ounces or any fraction thereof in excess of 0.32 ounces, excluding all applicable taxes.
- (i)

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

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

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

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

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

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

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

(l) *Exceptions.*

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

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

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

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

(Code 1956, § 336.07; Ord. No. 17714, § 1, 2-20-90; C.F. No. 94-341, § 7, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; C.F. No. 06-872, § 1, 10-11-06; C.F. No. 10-1014, § 2, 10-13-10; Ord 13-8, § 2, 4-24-13; Ord 14-34, § 2, 8-27-14; Ord 15-57, § 1, 1-6-16; Ord 17-28, § 2, 11-1-17; Ord 19-57, § 2, 10-16-19; Ord 21-29, § 7, 11-3-21)

461.12 MUNICIPAL LICENSE OF TOBACCO, TOBACCO-RELATED DEVICES, AND SIMILAR PRODUCTS.

Subdivision 1. **Authorization.** A town board or the governing body of a home rule charter or statutory city may license and regulate the retail sale of tobacco, tobacco-related devices, and electronic delivery devices as defined in section 609.685, subdivision 1, and nicotine and lobelia delivery products as described in section 609.6855, and establish a license fee for sales to recover the estimated cost of enforcing this chapter. The county board shall license and regulate the sale of tobacco, tobacco-related devices, electronic delivery devices, and nicotine and lobelia products in unorganized territory of the county except on the State Fairgrounds and in a town or a home rule charter or statutory city if the town or city does not license and regulate retail sales of tobacco, tobacco-related devices, electronic delivery devices, and nicotine and lobelia delivery products. The State Agricultural Society shall license and regulate the sale of tobacco, tobacco-related devices, electronic delivery devices, and nicotine and lobelia delivery products on the State Fairgrounds. Retail establishments licensed by a town or city to sell tobacco, tobacco-related devices, electronic delivery devices, and nicotine and lobelia delivery products are not required to obtain a second license for the same location under the licensing ordinance of the county.

Subd. 2. **Administrative penalties for sales and furnishing; licensees.** If a licensee or employee of a licensee sells, gives, or otherwise furnishes tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to a person under the age of 21 years, or violates any other provision of this chapter, the licensee shall be charged an administrative penalty of \$300 for the first violation. An administrative penalty of \$600 must be imposed for a second violation at the same location within 36 months after the initial violation. For a third or any subsequent violation at the same location within 36 months after the initial violation, an administrative penalty of \$1,000 must be imposed, and the licensee's authority to sell tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products at that location must be suspended for not less than seven days and may be revoked. No suspension, revocation, or other penalty may take effect until the licensee has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred must be in writing.

Subd. 2a. **Penalties for sales of certain products; licensees.** (a) A licensee's authority to sell tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products at that location must be suspended for not less than seven days and may be revoked if the licensee:

(1) holds a license or registration issued pursuant to chapter 342 or section 151.72, subdivision 5b, and the license or registration is revoked;

(2) is convicted of an offense under section 151.72, subdivision 7; or

(3) has been convicted under any other statute for the illegal sale of marijuana, cannabis flower, cannabis products, lower-potency hemp edibles, hemp-derived consumer products, or edible cannabinoid products and the sale took place on the premises of a business that sells tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products.

(b) No suspension, revocation, or other penalty may take effect until the licensee has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred must be in writing.

Subd. 3. **Administrative penalty for sales and furnishing; individuals.** An individual who sells, gives, or otherwise furnishes tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia

delivery products to a person under the age of 21 years may be charged an administrative penalty of \$50. No penalty may be imposed until the individual has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred must be in writing.

Subd. 4. **Alternative penalties for use of false identification; persons under age 21.** The licensing authority shall consult with interested persons, as applicable, including but not limited to educators, parents, guardians, persons under the age of 21 years, and representatives of the court system to develop alternative penalties for persons under the age of 21 years who purchase, or attempt to purchase, tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products using a driver's license, permit, Minnesota identification card, or any other type of false identification to misrepresent the person's age, in violation of section 609.685 or 609.6855. The licensing authority and the interested persons shall consider a variety of alternative civil penalties, including, but not limited to, tobacco-free education; tobacco cessation programs; notice to schools and parents or guardians; community service; and court diversion programs. Alternative civil penalties developed under this subdivision shall not include fines or monetary penalties.

Subd. 5. **Compliance checks.** A licensing authority shall conduct unannounced compliance checks at least once each calendar year at each location where tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products are sold to test compliance with sections 609.685 and 609.6855. Compliance checks conducted under this subdivision must involve persons at least 17 years of age, but under the age of 21, who, with the prior written consent of a parent or guardian if the person is under the age of 18, attempt to purchase tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products under the direct supervision of a law enforcement officer or an employee of the licensing authority. The age requirements for persons participating in compliance checks under this subdivision shall not affect the age requirements in federal law for persons participating in federally required compliance checks of these locations.

Subd. 6. **Defense.** It is an affirmative defense to the charge of selling tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to a person under the age of 21 years in violation of subdivision 2 or 3 that the licensee or individual making the sale relied in good faith upon proof of age as described in section 340A.503, subdivision 6.

Subd. 7. **Judicial review.** Any person aggrieved by a decision under subdivision 2 or 3 may have the decision reviewed in the district court in the same manner and procedure as provided in section 462.361.

Subd. 8. **Notice to commissioner.** The licensing authority under this section shall, within 30 days of the issuance of a license, inform the commissioner of revenue of the licensee's name, address, trade name, and the effective and expiration dates of the license. The commissioner of revenue must also be informed of a license renewal, transfer, cancellation, suspension, or revocation during the license period.

History: 1941 c 242 s 3; 1941 c 405 s 3; 1951 c 382 s 1; Ex1959 c 73 s 2; 1973 c 123 art 5 s 7; 1982 c 572 s 2; 1997 c 227 s 4; 1Sp2001 c 5 art 7 s 63; 2010 c 255 s 7; 2010 c 305 s 4-9; 2014 c 291 art 6 s 28; 2020 c 88 s 4-8; 2023 c 63 art 6 s 53



City of Saint Paul

Signature Copy

Resolution: RES 23-1597

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

File Number: RES 23-1597

Approving adverse action against the Tobacco Products Shop license held by White Bear Tobacco Market Place Inc. d/b/a White Bear Tobacco (License ID #20140001994) for the premises located at 1662 White Bear Avenue.

WHEREAS, the Tobacco Products Shop license held by White bear Tobacco Market Place Inc. d/b/a White Bear Tobacco (License ID #20140001994) for the premises located at 1662 White Bear Avenue in Saint Paul was the subject of a Notice of Violation Recommendation For Imposition Of \$500 Matrix Penalty for Tobacco Youth Compliance Check Failure ("Notice") dated September 22, 2023; and

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

WHEREAS, the Notice stated that on August 23, 2023, the Department of Safety and Inspections conducted a tobacco compliance check at the licensed premises; and

WHEREAS, an underage person entered the licensed premises and purchased a Loon Maxx Bowzer Berry Vape Pen without being asked her age or for identification which would have indicated she was underage; and

WHEREAS, Saint Paul Legislative Code §310.06(b)(6) allows for adverse action when a licensee 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 reasonable related to the licensed activity; and

WHEREAS, Saint Paul Legislative Code §324.07 (i) prohibits the sale of tobacco products to a person under the age of twenty-one (21); and

WHEREAS, Saint Paul Legislative §324.10(b)(1) provides for a presumptive penalty of \$500.00 for a first-time violation of the sale of tobacco products to an underage person; and

WHEREAS, the Department of Safety and Inspections recommended the imposition of a \$500.00 matrix penalty; and

WHEREAS, the Notice gave the licensee until October 2, 2023, to 1) pay the \$500.00 matrix penalty; 2) request a Council Hearing or 3) request an Administrative Hearing; and

WHEREAS, the licensee failed to respond to the Notice by October 2, 2023 to 1) pay the \$500.00 matrix penalty; 2) request a Council Hearing or 3) request an Administrative Hearing; and

WHEREAS, the Notice stated that if the licensee failed to respond to the Notice by October 2, 2023, that the matter would be placed on the City Council Consent Agenda to impose the recommended penalty; now, therefore, be it

RESOLVED, the Tobacco Products Shop license held by White bear Tobacco Market Place Inc. d/b/a White Bear Tobacco (License ID #20140001994) for the premises located at 1662 White Bear Avenue in Saint Paul is hereby ordered to pay a \$500.00 matrix penalty for the sale of tobacco products to an underage person during a tobacco compliance check conducted on August 23, 2023.

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

At a meeting of the City Council on 10/18/2023, this Resolution was Mayor's Office.

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

Nay: 0

Vote Attested by Shari Moore
Council Secretary Shari Moore

Date 10/18/2023

Approved by the Mayor Melvin Carter III
Melvin Carter III

Date _____

Clerk Shari Moore
Shari Moore

Date _____

Test Signature Shari Moore
Shari Moore

Date _____



Inspector's Report

Inspectors Name: Allan Vang

Date & Time: 8/23/2023 at 9:56 am Staff Member's Name: Omeralfaroug Ahmed Alamin Mohammed

Business/DBA Name: White Bear Tobacco

Property Address: 1662 White Bear Avenue North- St. Paul, MN 55106

Reason for Visit: 2023 Tobacco compliance check

Observations: _____

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

Action Taken: Education / warning

Request for Adverse Action

Other: _____

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

Upon arrival I spoke to the clerk Omeralfaroug Ahmed Alamin Mohammed, I introduced myself as a Licensing Inspector for the City of Saint Paul Department of Safety & Inspections. I informed him that he had failed a tobacco compliance check, an attempted purchase of a Loon Maxx-Bowzer Berry (vape) was successfully made from an underage buyer at 9:56 am.

License Group Comments Text

09/11/2023

Licensee: WHITE BEAR TOBACCO MARKET PLACE INC

DBA: WHITE BEAR TOBACCO

License #: 20140001994

8/23/2023 Tobacco compliance check-Failed. AYV
11/08/22 Youth compliance check passed. AYV
07/27/2021 Youth compliance check pass KY
4/06/2020 Sent letter dated 3-3-2020 in email from licensing manager and a follow up phone call for closure of product shop for executive order 20-20
Covid-19 JNV
6/19/19 Youth tobacco compliance check, pass. ARM
4/22/19 Tobacco compliance check, passed. ARM
8/31/18 Re-inspection of price violation's / no violations found / pass JNV
8/15/18 Tobacco Youth compliance check -Pass JNV
08/09/2018 No response to dlnt. ltr., to KS for CA adverse action. JWF
07/16/2018 Sent delinquent letter. Response deadline date is August 06, 2018. Max
6/27/18 To CAO for adverse JNV.
4/23/18 Menthol education / inspection Fail, Price issues. JNV
08/07/2017 passed tobacco compliance check BLB
8/12/2016 Passed Tobacco Compliance Check BLB
08/13/2015 Passed Tobacco compliance check TPF

License Group Conditions Text

09/11/2023

Licensee: WHITE BEAR TOBACCO MARKET PLACE INC

DBA: WHITE BEAR TOBACCO

License #: 20140001994

1. Temporary window signs placed between the height of four (4) to seven (7) above grade shall not cover more than thirty (30) percent of this window space area, and cannot block views into the clerk or cashier station.
2. Licensee herein acknowledges they were provided a copy of the Minnesota Clean Indoor Air Act (MCIAA) and agrees to to operate the business in compliance with applicable provisions of the Act, including The Freedom to Breathe provisions amending the MCIAA.



Tobacco Underage Buyers/Minor Compliance Check Purchase Form

20140001994
WHITE BEAR TOBACCO
1662 WHITE BEAR AVE N

2

Fail

Business Type:

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

Inspector: Allan Vang
Name

Date: 8 / 23 / 2023
MM DD YY

Time: 9:56 a.m. / p.m.

Was purchase attempted?

- Yes
- No

If NO, check reason:

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

Underage Buyer: _____
Name

Age Sex

Did adult or Inspector/Officer view transaction?
 Yes No

Was sale made?

- Yes
- No

Was age asked?

- Yes
- No

Was ID requested?

- Yes
- No

Was ID shown?

- Yes
- No

Type of purchase:

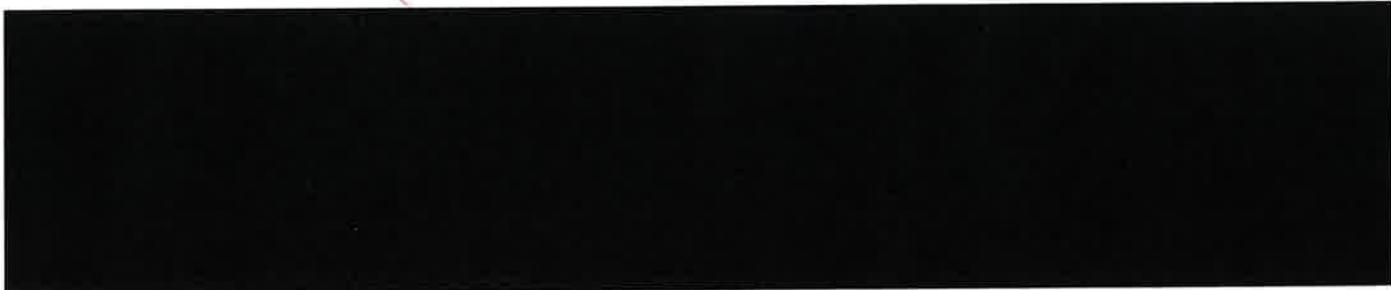
- Self Service
- Clerk assisted
- Vending machine - Unlocked
- Vending machine - Locked
- Location of machine _____

Type of product:

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

Amount spent: \$ _____

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





SAINT PAUL
SAFETY & INSPECTIONS

375 Jackson Street, White Center
Saint Paul, MN 55101-1808
Tel: 651-266-8989 | Fax: 651-266-9124

Tobacco Underage Buyers/Minor Compliance Check Purchase Form

20140001994
WHITE BEAR TOBACCO
1662 WHITE BEAR AVE N

Fail

2

Business Type:

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

Inspector: Allan Yang
Name

Date: 8 / 23 / 2023
MM DD YY

Was purchase attempted?
 Yes No

If NO, check reason:

- Does not sell tobacco
- After business hours
- No sale
- Unsatisfactory
- Out of business
- Other

Underage Buyer: [Redacted]

Age: [Redacted]

Did adult observe?

Was sale made?
 Yes No

Was ID requested?

Yes No

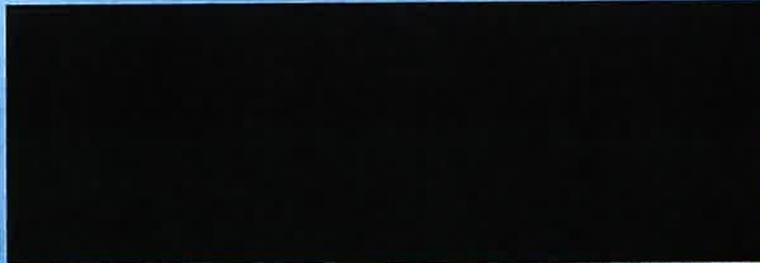
Type of purchase:

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

Type of product:

- Cigarettes
- Smokeless
- Cigars
- Shisha
- E-juice
- Other (cigarette papers, lighters)

Clerk Information: Female Male Approximate Age: 18 or Under



WARNING:
This product contains nicotine. Nicotine is an addictive chemical.



Clerk Identification Form

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

Name: Omeralfarog Ahmed Alamin Mohammed

Primary address: 202 17Th Avenue West # 102

Secondary address: -

City: Menomonie

State: WI

Zip code: 54751

DOB: 7 / 10 / 93

Identification Number: M530-6419-3250-04

Place Snip of I.D. below



Sec. 310.01. - Definitions.

For the purposes of this chapter, any chapter of the Legislative Code pertaining to licenses as hereinafter mentioned, and subsequently enacted ordinances establishing or relating to the requirements for Class R for routinely issued licenses, Class T for temporary licenses and Class N for licenses in which neighbors are required to be notified, under authority of the City of Saint Paul, the terms defined in this section have the following meanings:

Adverse action means the revocation or suspension of a license, the imposition of conditions upon a license, the denial of an application for the grant, issuance or renewal of a license, the imposition of a fine, the assessment of the costs of a contested hearing, and any other disciplinary or unfavorable action taken with respect to a license, licensee, or applicant for a license. Adverse action includes any of the foregoing directed at one (1) or more licenses held by a licensee at any location in the city. Adverse action also includes disapproval of licenses issued by the state under statutory provisions which permit the governing body to disapprove the issuance of the license.

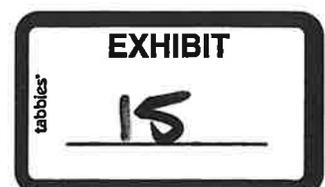
Bond means a bond meeting the requirements of section 310.05 and indemnifying the city against all claims, judgments or suits caused by, resulting from or in connection with any licensed business, activity, premises, thing, facility, occurrence or otherwise under these chapters.

Building official means the official in the department of safety and inspections charged with the responsibility of enforcement of the building code.

Chapters and these chapters mean this uniform license ordinance, any chapter of the Legislative Code pertaining to licenses as hereinafter mentioned, and subsequently enacted ordinances establishing or relating to the requirements for class R, class T, and class N licenses under authority of the city.

Class R licenses means those licenses and certain permits which can be issued by the director without council approval if no conditions are imposed upon the license and which do not require a hearing if there is an objection. Class R Licenses follow the Procedures for Application for the Grant or Issuance of a License, New Application Investigation and Review, Application Denial, Notice, Levels of Approval, Objections, and Renewal Procedures laid out in Section 310.02(1). The following licenses are so classified, and the numbers shown opposite them correspond to the chapters in the Legislative Code pertaining to each license:

Business Licenses	Fee	Class	Ordinance/ Legislative Code
CLASS R			



Agricultural Vehicle Permit	\$23.00	R	<u>165</u>
Amusement Rides—Annual	\$85.00	R	<u>317</u>
Animal Boarding (Commercial)	\$83.00	R	<u>348</u>
Animal Boarding (Home Occupation)	\$83.00	R	<u>348</u>
Animal Day Care (Commercial)	\$83.00	R	<u>348</u>
Animal Day Care (Home Occupation)	\$83.00	R	<u>348</u>
Animal Foods Manufacturing and Distribution	\$85.00	R	<u>316</u>
Bituminous Contractor	\$210.00	R	<u>320</u>
Bowling Centers	\$210.00	R	<u>426</u>
Building Contractors	\$210.00	R	<u>326</u>
Building Trade Business License	\$188.00	R	<u>369</u>
Building Trades Certificate of Competency	\$24.00	R	<u>370</u>
Bulk Oil Storage	\$210.00	R	<u>342</u>
Christmas Tree Sales	\$85.00	R	<u>323</u>
Commercial Vehicle	\$78.00	R	<u>158</u>
Commercial Vehicle—Exempt	\$0.00	R	<u>158</u>
Courtesy Bench	\$26.00	R	<u>127</u>
Courtesy Benches Transfer	\$17.00	R	<u>127</u>
Finishing Shop	\$85.00	R	<u>371</u>

Game Room	\$210.00	R	<u>406</u>
House Sewer Contractor	\$210.00	R	<u>338</u>
Laundry/Dry-cleaning Plant	\$210.00	R	<u>327</u>
Laundry/Dry-cleaning Pick Up Station	\$85.00	R	<u>327</u>
Lawn Fertilizer and Pesticide Applicator	\$85.00	R	<u>377</u>
Liquid Fuel Dealer	\$210.00	R	<u>332</u>
Liquid Fuel Dealer Vehicle	\$85.00	R	<u>332</u>
Liquor Catering (State Cater/City Liq)	\$192.00	R	<u>409</u>
Mechanical Amusement Device	\$21.00	R	<u>318</u>
Massage Center—A (1 Practitioner)	\$100.00	R	<u>414</u>
Massage Center—A (Commercial)	\$262.00	R	<u>412</u>
Massage Center—B (Home Location)	\$106.00	R	<u>412</u>
Massage Practitioner	\$106.00	R	<u>414</u>
Massage Practitioner-Additional Location	\$31.00	R	<u>412</u>
Mercantile Broker	\$85.00	R	<u>340</u>
Mobile Retail Vehicle	\$85.00	R	<u>346</u>
Pedal Car	\$118.00	R	<u>374</u>
Pedal Car Business	\$352.00	R	<u>374</u>
Pedal Car Driver	\$51.00	R	<u>374</u>

Peddler	\$85.00	R	<u>345</u>
Peddler—Fee Waived	\$0.00	R	<u>345</u>
Pedicab Driver	\$51.00	R	<u>374</u>
Pedicab Vehicle	\$113.00	R	<u>374</u>
Pest Control	\$210.00	R	<u>334</u>
Pet Grooming Facility	\$85.00	R	<u>382</u>
Pet Shop	\$210.00	R	<u>347</u>
Pool & Billiard Hall	\$210.00	R	<u>322</u>
Recycling Collection Center	\$210.00	R	408
Recycling Processing Center	\$958.00	R	408
Rental of Hospital Equipment	\$85.00	R	<u>350</u>
Rental of Hospital Equip-Vehicle	\$85.00	R	<u>350</u>
Rental of Kitchenware	\$85.00	R	<u>351</u>
Roller Rink	\$85.00	R	<u>353</u>
Sanitary Disposal Vehicle	\$405.00	R	<u>354</u>
Second-Hand Dealer	\$85.00	R	<u>355</u>
Second-Hand Dealer (Comp/Elec)	\$85.00	R	<u>355</u>
Second-Hand Dealer (Antiques/Comp/Elec)	\$85.00	R	<u>356</u>
Second-Hand Dealer (Antiques)	\$85.00	R	<u>355</u>

Second Hand Dealer—Motor Vehicle Parts	\$507.00	R	<u>355</u>
Second-Hand Dealer—Multiple Dealers	\$405.00	R	<u>355</u>
Short-Term Rental (Non-Owner Occupied)	\$45.00	R	<u>379</u>
Short-Term Rental (Owner Occupied)	\$45.00	R	<u>379</u>
Short-Term Rental Platform	\$11,181.00	R	<u>379</u>
Sidewalk Cafe	\$40.00	R	106
Sidewalk Contractor	\$210.00	R	<u>356</u>
Solicitor	\$85.00	R	<u>345</u>
Solid Fuel Dealer	\$210.00	R	<u>333</u>
Solid Fuel Dealer Vehicle	\$85.00	R	<u>333</u>
Solid Waste Hauler & Vehicle	\$405.00	R	<u>357</u>
Solid Waste Hauler (Ea Add'l Veh)	\$85.00	R	<u>357</u>
Solid Waste Transfer Station	\$1,913.00	R	<u>357</u>
Sound Trucks & Broadcast Vehicle	\$85.00	R	<u>359</u>
Swimming Pool—Public	\$405.00	R	<u>360</u>
Tanning Facility	\$106.00	R	<u>380</u>
Taxicab Driver	\$51.00	R	<u>376</u>
Taxicab Vehicle	\$469.00	R	<u>376</u>
Taxicab Vehicle (Reciprocity Event)	\$37.00	R	<u>376</u>

Taxicab Service Company	\$456.00	R	<u>376</u>
Theaters and Movie Theaters	\$210.00	R	<u>416</u>
Tire Recapping Plant	\$85.00	R	<u>372</u>
Tobacco Products Shop	\$535.00	R	<u>324</u>
Tobacco Shop	\$535.00	R	<u>324</u>
Tow Truck/Wrecker (Operator)	\$405.00	R	<u>361</u>
Tow Truck/Wrecker (Vehicle)	\$85.00	R	<u>361</u>
Trade Worker Registration—Tier 1	\$37.00	R?	<u>370</u>
Trade Worker Registration—Tier 2	\$70.00	R	<u>370</u>
Trade Worker Registration—Tier 3	\$59.00	R	<u>370</u>
Trailer Rental	\$210.00	R	<u>352</u>
Tree Trimmer & 1 Vehicle	\$210.00	R	<u>362</u>
Tree Trimmer—Each Add'l Vehicle	\$85.00	R	<u>362</u>
Vehicle Immobilization Service	\$405.00	R	<u>383</u>
Veterinary Hospital	\$210.00	R	<u>364</u>
Window Cleaning	\$210.00	R	<u>365</u>
Wrecking of Buildings	\$65.00	R	<u>368</u>

Class T licenses means those licenses which can be approved or denied by the director, if no conditions are imposed upon the license and which do not require a hearing if there is an objection. Class T Licenses follow the Procedures for Application for the Grant or Issuance of the License, New Application Investigation

and Review, Application Denial, Notice, Levels of Approval, Objections, and Renewal Procedures laid out in Section 310.02(3). The following licenses are so classified, and the numbers shown opposite them correspond to the chapters in the Legislative Code pertaining to each license:

Business Licenses	Fee	Class	Ordinance/ Legislative Code
CLASS T			
Amusement Rides—Temporary	\$32.00	T	<u>317</u>
Bingo/Rfls/P-Tabs/Tpbrds/Pdlwhls	\$59.00	T	402
Close Out Sale	\$85.00	T	<u>325</u>
Entertainment—Temporary	\$35.00	T	<u>411</u>
Liquor Catering (State Cater Only)	\$59.00	T	<u>409</u>
Liquor—Extension of Service Area	\$68.00	T	410
Liquor—Under Age Access (Temporary)	\$35.00	T	<u>409</u>
Liquor On Sale—Temporary	\$59.00	T	<u>409</u>
Malt On Sale (3.2)—Temporary	\$59.00	T	410
Massage Practitioner—Temporary	\$50.00	T	<u>412</u>
Second Hand Dealer—Exhibition	\$210.00	T	<u>355</u>
Tag Days	\$26.00	T	<u>391</u>
Temp On Sale Malt Brewery/Distillery	\$59.00	T	410
Transient Merchant	\$85.00	T	<u>345</u>

Wine On Sale-Temporary	\$59.00	T	<u>409</u>
Winery Annual Festival—Temporary	\$59.00	T	<u>409</u>

Class N licenses means those licenses which must be approved or denied by the council. Class N Licenses follow the Procedures for Application for the Grant or Issuance of the License, New Application Investigation and Review, Application Denial, Notice, Levels of Approval, Objections, and Renewal Procedures laid out in Section 310.02(2). The following licenses are so classified, and the numbers shown opposite them correspond to the chapters in the Legislative Code pertaining to each license:

Business Licenses	Fee	Class	Ordinance/ Legislative Code
CLASS N			
Auto Body Repair Shop	\$507.00	N	<u>423</u>
Auto Body Repair/Painting Shop	\$507.00	N	<u>423</u>
Auto Repair Garage	\$507.00	N	<u>423</u>
Bingo Hall	\$229.00	N	403
Cabaret—Class A	\$210.00	N	<u>322</u>
Cabaret—Class B	\$210.00	N	<u>426</u>
Conversation/Rap Parlor(A)	\$405.00	N	<u>413</u>
Conversation/Rap Parlor (B)	\$405.00	N	<u>413</u>
Culinary On Sale—Wine/Malt	\$255.00	N	<u>409</u>
Dance or Rental Halls	\$497.00	N	405

Dance Halls—Exempt	\$0.00	N	405
Entertainment—Extension	\$0.00	N	<u>411</u>
Entertainment (A)	\$278.00	N	<u>411</u>
Entertainment (B)	\$672.00	N	<u>411</u>
Entertainment (C)	\$3,191.00	N	<u>411</u>
Firearms	\$405.00	N	<u>225</u>
Gambling Hall	\$445.00	N	<u>278</u>
Gambling Location	\$84.00	N	<u>225</u>
Gas Station	\$154.00	N	<u>424</u>
Health/Sport Club	\$405.00	N	<u>427</u>
Health/Sport Club—Adult	\$405.00	N	<u>427</u>
Health/Sport Club-Exercise Only Facility	\$405.00	N	<u>427</u>
Infectious Waste Processing Facility	\$1,913.00	N	<u>427</u>
Liquor-Extension of Service Hours	\$405.00	N	<u>409</u>
Liquor—Microdistillery Cocktail Room	\$712.00	N	<u>409</u>
Liquor—Off Sale Micro Distillery	\$205.00	N	<u>409</u>
Liquor Off Sale	\$1,500.00	N	<u>409</u>
Liquor On Sale—100 seats or less	\$5,361.00	N	<u>409</u>
Liquor On Sale—101-180 Seats	\$5,937.00	N	<u>409</u>

Liquor On Sale—181-290 Seats	\$6,360.00	N	<u>409</u>
Liquor On Sale—291 or more Seats	\$6,448.00	N	<u>409</u>
Liquor On Sale—2 AM Closing	\$59.00	N	<u>409</u>
Liquor On Sale—Exempt	\$0.00	N	<u>409</u>
Liquor On Sale—Over 100 seats (B)	\$5,022.00	N	<u>409</u>
Liquor On Sale—Over 200 seats (A)	\$5,454.00	N	<u>409</u>
Liquor On Sale—Sunday	\$200.00	N	<u>409</u>
Liquor On Sale—Sunday—Exempt	\$0.00	N	<u>409</u>
Liquor On Sale—Theater	\$1,914.00	N	<u>409</u>
Liquor On Sale—Additional Family Members	\$62.00	N	<u>409</u>
Liquor On Sale (Government Agencies)	\$0.00	N	<u>409</u>
Liquor On Sale (Small Brewery—128 oz)	\$30.00	N	<u>409</u>
Liquor On Sale-Club under 200 Mbrs—A	\$300.00	N	<u>409</u>
Liquor On Sale-Club 201-500 Mbrs—B	\$500.00	N	<u>409</u>
Liquor On Sale-Club 501-1000 Mbrs—C	\$650.00	N	<u>409</u>
Liquor On Sale-Club 1001-2000 Mbrs—D	\$800.00	N	<u>409</u>
Liquor On Sale-Club 2001-4000 Mbrs—E	\$1,000.00	N	<u>409</u>
Liquor On Sale-Club 4001-6000 Mbrs—F	\$2,000.00	N	<u>409</u>
Liquor On Sale-Club over 6000 Mbrs—G	\$3,000.00	N	<u>409</u>

Liquor-Outdoor Service Area (Patio)	\$85.00	N	<u>409</u>
Liquor-Outdoor Service Area (Sidewalk)	\$40.00	N	<u>409</u>
Malt Off Sale (Brewery)	\$205.00	N	410
Malt Off Sale (Growler)	\$205.00	N	410
Malt Off Sale	\$225.00	N	410
Malt On Sale (3.2)	\$712.00	N	410
Malt On Sale (3.2)—Fee Waived	\$0.00	N	410
Malt On Sale (3.2)—2 AM Closing	\$0.00	N	410
Malt On Sale (Brewery Taproom)	\$712.00	N	410
Malt On Sale (Strong)	\$712.00	N	410
Massage Center—C (Adult)	\$405.00	N	<u>412</u>
Mini Motion Picture Theater-Adult (C)	\$405.00	N	<u>415</u>
Minnesota Currency Exchange	\$405.00	N	<u>381</u>
Motor Vehicle Dealer—New Vehicles	\$405.00	N	401
Motor Vehicle Salvage Dealer	\$405.00	N	<u>422</u>
Motorcycle Dealer	\$210.00	N	401
Parking Lot	\$405.00	N	<u>417</u>
Parking Lot/Parking Ramp	\$405.00	N	<u>417</u>
Parking Ramp (Government)	\$0.00	N	<u>417</u>

Parking Ramp	\$405.00	N	<u>417</u>
Parking Ramp/Garage (Private)	\$396.00	N	<u>417</u>
Pawn Shop	\$3,191.00	N	<u>344</u>
Second Hand Dealer—Motor Vehicle	\$507.00	N	<u>344</u>
Steam Room/Bath House (A)	\$405.00	N	<u>428</u>
Steam Room/Bath House (B)—Adult	\$405.00	N	<u>428</u>
Theaters and Movie Theaters-Drive In	\$210.00	N	<u>416</u>
Transportation Network Company	\$41,115.00	N	<u>373</u>
Wine On Sale	\$2,000.00	N	<u>409</u>
Wine On Sale (Government Agencies)	\$0.00	N	<u>409</u>

Department means the department of safety and inspections.

Director means the director of the department of safety and inspections and/or the director's designee or designees.

Fee means and includes both the license fee and application fee unless otherwise provided.

License means and includes all licenses and permits provided for or covered by these chapters.

License also includes licenses issued by the state under statutory provisions which permit the governing body to disapprove the issuance of such licenses, for the purposes of making procedures in chapter 310 of the Legislative Code applicable to the approval or disapproval of such licenses.

Class N License District Council Notification Form means the form, provided by the Department to the license applicant as part of the Class N License application packet, which must be mailed or personally delivered to the district council by the license/applicant prior to the submission of the application for a license.

Person means and includes any person, firm, corporation, partnership, company, organization, agency, club or any group or association thereof. It shall also include any executor, administrator, trustee, receiver or other representative appointed by law.

Zoning administrator means the official in the department of safety and inspections charged with responsibility for enforcement of the zoning code.

(Ord 22-46, § 2, 11-9-22; Ord 23-32, § 2, 9-6-23)

Sec. 310.03. - Hearing procedures.

- (a) *Adverse action; notice and hearing requirements.* In any case where the council may or intends to consider any adverse action, including the revocation or suspension of a license, the imposition of conditions upon a license, or the denial of an application for the grant, issuance or renewal of a license, or the disapproval of a license issued by the State of Minnesota, the applicant or licensee must be given notice and an opportunity to be heard as provided herein. The council may consider such adverse actions when recommended by the director, by the director of any executive department established pursuant to Chapter 9 of the Charter, by the city attorney or on its own initiative.
- (b) *Notice.* In each such case where adverse action is or will be considered by the council, the applicant or licensee must be notified in writing that adverse action may be taken against the license or application, and that they are entitled to a hearing before action is taken by the council. The notice must be served or mailed a reasonable time before the hearing date, and must state the place, date and time of the hearing. The notice must state the issues involved or grounds upon which the adverse action may be sought or based. The council may request that such written notice be prepared and served or mailed by the director or by the city attorney.
- (c) *Hearing.* Where there is no dispute as to the facts underlying the violation or as to the facts establishing mitigating or aggravating circumstances, the hearing must be held before the council. Otherwise the hearing must be conducted before a hearing examiner appointed by the council or retained by contract with the city for that purpose. The applicant or the licensee must be provided an opportunity to present evidence and argument as well as meet adverse testimony or evidence by reasonable cross-examination and rebuttal evidence. The hearing examiner may in its discretion permit other interested persons the opportunity to present testimony or evidence or otherwise participate in such hearing.

(c-1) *Procedure; hearing examiner.* The hearing examiner will hear all evidence as may be presented on behalf of the city and the applicant or licensee, and must present to the council written findings of fact and conclusions of law, together with a recommendation for adverse action.

The council will consider the evidence contained in the record, the hearing examiner's recommended findings of fact and conclusions, and may not consider any factual testimony not previously submitted to and considered by the hearing examiner. After receipt of the hearing examiner's findings, conclusions, and recommendations, the council must provide the applicant or licensee an opportunity to present oral or written arguments alleging error on the part of the examiner in the application of the law or interpretation of the facts, and to present argument related to the recommended adverse action. Upon conclusion of that hearing, and after considering the record, the examiner's findings and recommendations,



together with such additional arguments presented at the hearing, the council must determine what, if any, adverse action should be taken, which action must be by resolution. The council may accept, reject or modify the findings, conclusions and recommendations of the hearing examiner.

- (c-2) *Ex-parte contacts.* If a license matter has been scheduled for an adverse hearing, council members shall not discuss the license matter with each other or with any of the parties or interested persons involved in the matter unless such discussion occurs on the record during the hearings of the matter or during the council's final deliberations of the matter. No interested person shall, with knowledge that a license matter has been scheduled for adverse hearing, convey or attempt to convey, orally or in writing, any information, argument or opinion about the matter, or any issue in the matter, to a council member or his or her staff until the council has taken final action on the matter; provided, however, that nothing herein will prevent an inquiry or communications regarding status, scheduling or procedures concerning a license matter. An interested person, for the purpose of this paragraph, means and includes a person who is an officer or employee of the licensee which is the subject of the scheduled adverse hearing, or a person who has a financial interest in such licensee.
- (d) *Licensee or applicant may be represented.* The licensee or applicant may represent himself or choose to be represented by another.
- (e) *Record; evidence.* The hearing examiner shall receive and keep a record of such proceedings, including testimony and exhibits, and shall receive and give weight to evidence, including hearsay evidence, which possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs.
- (f) *Council action, resolution to contain findings.* Where the council takes adverse action with respect to a license, licensee or applicant for a license, the resolution by which such action is taken must contain its findings and determination, including the imposition of conditions, if any. The council may adopt all or part of the findings, conclusions and recommendations of the hearing examiner, and incorporate the same in its resolution taking the adverse action.
- (g) *Additional procedures where required.* Where the provisions of any statute or ordinance require additional notice or hearing procedures, such provisions must be complied with and supersede inconsistent provisions of these chapters. This includes, without limitation by reason of this specific reference, Minn. Stats., Chapter 364 and Minn. Stats., § 340A.415.
- (h) *Discretion to hear notwithstanding withdrawal or surrender of application or license.* The council may, at its discretion, conduct a hearing or direct that a hearing be held regarding revocation or denial of a license, notwithstanding that the applicant or licensee has attempted or purported to

withdraw or surrender said license or application, if the attempted withdrawal or surrender took place after the applicant or licensee had been notified of the hearing and potential adverse action.

- (i) *Continuances.* Where a hearing for the purpose of considering revocation or suspension of a license or other disciplinary action involving a license has been scheduled before the council, a continuation of the hearing may be granted by the council president or by the council at the request of the licensee, license applicant, an interested person or an attorney representing the foregoing, upon a showing of good cause by the party making the request.
- (j) If the council imposes an adverse action as defined in section 310.01 above, a generic notice of such action must be prepared by the director and posted by the licensee so as to be visible to the public during the effective period of the adverse action. The licensee shall be responsible for taking reasonable steps to make sure the notice remains posted on the front door of the licensed premises, and failure to take such reasonable precautions may be grounds for further adverse action.
- (k) *Imposition of costs.* The council may impose upon any licensee or license applicant some or all of the costs of a contested hearing before an independent hearing examiner. The costs of a contested hearing include, but are not limited to, the cost of the administrative law judge or independent hearing examiner, stenographic and recording costs, copying costs, city staff and attorney time for which adequate records have been kept, rental of rooms and equipment necessary for the hearing, and the cost of expert witnesses. The council may impose all or part of such costs in any given case if (i) the position, claim or defense of the licensee or applicant was frivolous, arbitrary or capricious, made in bad faith, or made for the purpose of delay or harassment; (ii) the nature of the violation was serious, or involved violence or the threat of violence by the licensee or employees thereof, or involved the sale of drugs by the licensee or employees thereof, and/or the circumstances under which the violation occurred were aggravated and serious; (iii) the violation created a serious danger to the public health, safety or welfare; (iv) the violation involved unreasonable risk of harm to vulnerable persons, or to persons for whose safety the licensee or applicant is or was responsible; (v) the applicant or licensee was sufficiently in control of the situation and therefore could have reasonably avoided the violation, such as, but not limited to, the nonpayment of a required fee or the failure to renew required insurance policies; (vi) the violation is covered by the intoxicating liquor; nonintoxicating malt liquor; presumptive penalty matrix in subsection (m) below; or (vii) the violation involved the sale of cigarettes to a minor.
- (l) *Imposition of fines.* The council may impose a fine upon any licensee or license applicant as an adverse license action. A fine may be in such amount as the council deems reasonable and appropriate, having in mind the regulatory and enforcement purposes embodied in the particular licensing ordinance. A fine may be in addition to or in lieu of other adverse action in the sole

discretion of the council. To the extent any other provision of the Legislative Code provides for the imposition of a fine, both provisions must be read together to the extent possible; provided, however, that in the case of any conflict or inconsistency, the other provision must be controlling.

(m) *Presumptive penalties for certain violations.* The purpose of this section is to establish a standard by which the city council determines the amount of fines, the length of license suspensions and the propriety of revocations, the general presumptive penalty matrix applies to all license types, except that in the case of a violation involving a liquor license the penalty matrix for intoxicating liquor; nonintoxicating malt liquor applies and for a violations involving tobacco, the penalty matrix for tobacco applies. 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 must provide written reasons that specify why the penalty selected was more appropriate.

- 1. **General presumptive penalties matrix**—The general penalty matrix is to be used if there is not a specific penalty matrix for the license type or a category within the specific penalty matrix does not address the violation.
- 2. **Intoxicating liquor; malt liquor; presumptive penalty matrix.**

Presumptive penalties for intoxicating liquor and nonintoxicating malt liquor violations. If a violation is not covered under this penalty matrix, the general presumptive penalty matrix should be used. Penalties for convictions or violations 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 must provide written reasons that specify why the penalty selected was more appropriate (unless specified, numbers below indicate consecutive days' suspension):

- (a) For on-sale intoxicating liquor establishments with a seating capacity of one hundred fifty (150) or more, the monetary penalty for any violation (including violations found in chapter 310) must be doubled.
- (b) For off-sale intoxicating liquor establishments with five thousand one (5,001) or more square feet of retail space, the monetary penalty for any violation (including violations found in chapter 310) must be doubled.
- (c) *Other penalties.* Nothing in this section restricts or limits the authority of the council to suspend licenses for up to sixty (60) days, revoke the license, or impose a civil fine not to exceed two thousand dollars (\$2,000.00), to impose conditions or take any other adverse action in accordance with law, provided, that the license holder has been afforded an opportunity for a hearing in the manner provided for in section 310.02 of this Code.

- (d) *Effect of responsible business practices in determining penalty.* In determining the appropriate penalty, the council may, in its discretion, consider evidence submitted to it in the case of uncontested adverse actions or submitted to a hearing examiner in a contested hearing upon which findings of fact have been made that a licensee has followed or is likely to follow in the future responsible business practices in regard to sales to intoxicated persons and sales to minors.
- (1) For the purposes of service to intoxicated persons, evidence of responsible business practices may include, but is not limited to, those policies, procedures and actions that are implemented at time of service and that:
- a) Encourage persons not to become intoxicated if they consume alcoholic beverages on the defendant's premises;
 - b) Promote availability of nonalcoholic beverages and food;
 - c) Promote safe transportation alternatives other than driving while intoxicated;
 - d) Prohibit employees and agents of defendant from consuming alcoholic beverages while acting in their capacity as employees or agents;
 - e) Establish promotions and marketing efforts that publicize responsible business practices to the defendant's customers and community;
 - f) Implement comprehensive training procedures;
 - g) Maintain an adequate, trained number of employees and agents for the type and size of defendant's business;
 - h) Establish a standardized method for hiring qualified employees;
 - i) Reprimand employees who violate employer policies and procedures; and
 - j) Show that the licensee has enrolled in recognized courses providing training to self and one (1) or more employees of the licensed establishment in regard to standards for responsible liquor service.
- 2) For the purposes of service to minors, evidence of responsible business practices may include, but is not limited to, those listed in subsection (1) and the following:
- a) Management policies that are implemented at the time of service and that ensure that proof of identification (as established by state law) is examined for all persons seeking service of alcoholic beverages who may reasonably be suspected to be minors;
 - b) Comprehensive training of employees who are responsible for such examination regarding the detection of false or altered identification; and
 - c)

Enrollment by the licensee in recognized courses providing training to self and one (1) or more employees of the licensed establishment in regard to standards for responsible liquor service.

3. Tobacco presumptive penalties matrix.

Tobacco presumptive penalties. Penalties for convictions or violations 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 must provide written reasons that specify why the penalty selected was more appropriate (unless specified, numbers below indicate consecutive days' suspension):

- (a) *Purpose.* The purpose of this section is to establish a standard by which the city council determines the amount of fines, length of license suspensions and the propriety of revocations for licensees. These penalties are presumed to be appropriate for every case; however, the council may deviate therefrom in an individual case where the council finds and determines that there exist substantial and compelling reasons which make it appropriate to do so, except, the council may not deviate below statewide minimum penalties for licensees. When deviating from these standards, the council shall provide written reasons that specify why the penalty selected was more appropriate. Where no penalty is listed below, the presumptive penalty under the general presumptive penalty matrix will apply.
- (b) *Presumptive penalties for licensees for violations.* Adverse penalties for licensees for violations or convictions shall be presumed as follows:
- (c) *Computation of time for violations under the tobacco presumptive penalties matrix.* If a violation is not covered under this penalty matrix, the general presumptive penalty matrix should be used. Except as otherwise provided by Minn. Stats. § 461.12, subd. 2, subsequent tobacco violations are subject to the following:
- (1) *Second, third and fourth appearances for violations under the tobacco presumptive penalties matrix.* . A second violation within twenty four (24) months must be treated as a second appearance, a third within twenty four (24) months treated as a third appearance, and a fourth within twenty four (24) months treated as a fourth appearance for the purpose of determining the presumptive penalty.
 - (2) *Any appearance not covered by subsections (1) above must be treated as a first appearance for violations under the tobacco presumptive penalties matrix.*
Measurement of the twenty four (24) month period must 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.

- (i) *Fines payable without hearing.*
- A. Notwithstanding the provisions of section 310.03(c), a licensee who would be making a first or second appearance on a violation that calls for a monetary fine 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.
- (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 the Penalty Matrixes above. The occurrence of multiple violations is 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) up to twenty (20) days before the hearing, and may in that case be treated as though part of the "1st Appearance" unless grounds for upward deviation from the presumptive penalties outlined in the presumptive penalty matrix outlined in 310.03(m) are included in the amended notice of the violation. In all other cases, violations occurring after the date of the formal notice of hearing must be the subject of a separate proceeding and dealt with as a "2nd Appearance" before the council. The same procedures must 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.
- (v) *Computation of time.*

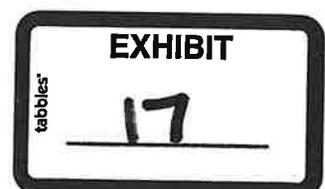
- (1) *Second appearance.* A second violation within twelve (12) months must be treated as a second appearance for the purpose of determining the presumptive penalty.
- (2) *Third appearance.* A third violation within eighteen (18) months must be treated as a third appearance for the purpose of determining the presumptive penalty.
- (3) *Fourth appearance.* A fourth violation within twenty-four (24) months must 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 must be treated as a first appearance. Measurement of the twelve-, eighteen-, or twenty-four-month period is as follows: The beginning date shall be the earliest violation's date of appearance before the council or payment of the fine related to the violation, 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 must 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 must be counted as a third appearance regardless of how much time has passed since the first or second appearance.
- (6) Violations of the general presumptive penalty matrix, the intoxicating liquor, malt liquor presumptive penalty matrix and the tobacco presumptive penalty matrix are meant to be cumulative. For the purpose of a second, third or fourth appearance under this section, "violation" shall must mean either one of those violations listed in paragraph (m)1, 2, or 3.

(Ord 22-46, § 3, 11-9-22)

Sec. 310.14. - Licensee's responsibility.

Any act or conduct by any clerk, employee, manager or agent of a licensee, or by any person providing entertainment or working for or on behalf of a licensee, whether compensated or not, which act or conduct takes place either on the licensed premises or in any parking lot or other area adjacent to (or under the lease or control of) the licensed premises, and which act or conduct violates any state or federal statutes or regulations, or any city ordinance, must be considered to be and treated as the act or conduct of the licensee for the purpose of adverse action against all or any of the licenses held by such licensee. To the extent this section is in conflict with sections 409.14 and 410.09 of the Legislative Code, this section must be controlling and prevail; but must not otherwise amend, alter or affect such sections.

(Ord 22-46, § 16, 11-9-22)



Sec. 324.07. - Sales prohibited.

- (a) No person may sell a cigarette outside its original packaging containing health warnings satisfying the requirements of federal law. No cigarettes may be sold individually or in packages of fewer than twenty (20) cigarettes.
- (b) No person may sell or dispense licensed products from a motor vehicle or other movable place of business.
- (c) No person may sell licensed products from vending machines unless the vending machines are in a facility that cannot be entered at any time by persons younger than twenty-one (21) years of age.
- (d) No person may offer for sale licensed products in any open displays which are accessible to the public without the intervention of a store employee. This restriction does not apply to establishments holding a tobacco products shop license.
- (e) No person may sell, offer for sale, or otherwise distribute cigars in original packages containing three (3) or fewer cigars for a sale price, after any coupons, multipack or buy-one/get-one promotions, or any other discounts are applied and prior to applicable sales taxes being imposed, of less than two dollars and sixty cents (\$2.60) per cigar contained within. In addition, no person may sell, offer for sale, or otherwise distribute cigars in original packages of four (4) or more cigars for a sale price, after any coupons, multipack or buy-one/get-one promotions, or any other discounts are applied and prior to applicable sales taxes being imposed, of less than ten dollars and forty cents (\$10.40) per package.
- (f) No person may sell or offer for retail sale cigarette packages or cartons for a sales price, prior to applicable sales taxes being imposed, of less than ten dollars (\$10.00) per pack.
- (g) No person may sell or offer for retail sale moist snuff retail packages or multipacks for a sales price, prior to applicable sales taxes being imposed, of less than ten dollars (\$10.00) per 1.2 ounce package. No person may sell or offer for retail sale any smokeless tobacco/moist snuff unless it is sold in a package of at least 1.2 ounces minimum package size. The price floor for packages larger than 1.2 ounces shall be computed by adding two dollars and fifty cents (\$2.50) for each 0.3 ounces or any fraction thereof in excess of 1.2 ounces, excluding all applicable taxes.
- (h) No person may sell or offer for sale or otherwise distribute snus for a sales price, prior to applicable sales taxes being imposed, of less than ten dollars (\$10.00) per 0.32 ounce package. No person may sell or offer for retail sale any snus unless it is sold in a package of at least 0.32 ounces minimum pack size. The price floor for packages larger than 0.32 ounces shall be computed by adding two dollars and fifty cents (\$2.50) for each 0.08 ounces or any fraction thereof in excess of 0.32 ounces, excluding all applicable taxes.

(i)



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

- (1) It is an affirmative defense to a charge under this subdivision if the defendant proves by a preponderance of the evidence that the defendant reasonably and in good faith relied on proof of age as described in Minn. Stats. § 340A.503, subd. 6.
- (j) No person may sell, offer for sale, or otherwise distribute any flavored products, unless excepted under section 324.07(l) of this chapter.
- (k) *Coupons and price promotions.* No holder of a license issued under this chapter, nor any employee or agent of same, may:
 - (1) Accept or redeem, offer to accept or redeem, or cause or hire any person to accept or redeem or offer to accept or redeem any price reduction instrument or other offer that provides any licensed product without charge or for less than the listed or non-discounted price; or
 - (2) Sell or offer to sell licensed products, to consumers through any multi-pack discounts (e.g., "buy-two-get-one-free") or otherwise provide or distribute to consumers any licensed products, without charge or for less than the listed or non-discounted price in exchange for the purchase of any other licensed products.

Nothing in this chapter is intended to prohibit communication of pricing information or other truthful, non-misleading information to consumers.
- (l) *Exceptions.*
 - (1) Notwithstanding section (i), individuals exempted under Minn. Stats. § 609.685 are also exempt from this section.
 - (2) The penalties in this section do not apply to a person under the age of twenty-one (21) years who purchases or attempts to purchase licensed products while under the direct supervision of a responsible adult for training, education, research, or enforcement purposes.
 - (3) Retail stores holding a tobacco products shop license are permitted to sell and offer for sale flavored tobacco products.
- (m) Any violation of this chapter will subject the licensee to provisions of chapter 310 and section 324.10 of the Saint Paul Legislative Code.

(Code 1956, § 336.07; Ord. No. 17714, § 1, 2-20-90; C.F. No. 94-341, § 7, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; C.F. No. 06-872, § 1, 10-11-06; C.F. No. 10-1014, § 2, 10-13-10; Ord 13-8, § 2, 4-24-13; Ord 14-34, § 2, 8-27-14; Ord 15-57, § 1, 1-6-16; Ord 17-28, § 2, 11-1-17; Ord 19-57, § 2, 10-16-19; Ord 21-29, § 7, 11-3-21)

461.12 MUNICIPAL LICENSE OF TOBACCO, TOBACCO-RELATED DEVICES, AND SIMILAR PRODUCTS.

Subdivision 1. **Authorization.** A town board or the governing body of a home rule charter or statutory city may license and regulate the retail sale of tobacco, tobacco-related devices, and electronic delivery devices as defined in section 609.685, subdivision 1, and nicotine and lobelia delivery products as described in section 609.6855, and establish a license fee for sales to recover the estimated cost of enforcing this chapter. The county board shall license and regulate the sale of tobacco, tobacco-related devices, electronic delivery devices, and nicotine and lobelia products in unorganized territory of the county except on the State Fairgrounds and in a town or a home rule charter or statutory city if the town or city does not license and regulate retail sales of tobacco, tobacco-related devices, electronic delivery devices, and nicotine and lobelia delivery products. The State Agricultural Society shall license and regulate the sale of tobacco, tobacco-related devices, electronic delivery devices, and nicotine and lobelia delivery products on the State Fairgrounds. Retail establishments licensed by a town or city to sell tobacco, tobacco-related devices, electronic delivery devices, and nicotine and lobelia delivery products are not required to obtain a second license for the same location under the licensing ordinance of the county.

Subd. 2. **Administrative penalties for sales and furnishing; licensees.** If a licensee or employee of a licensee sells, gives, or otherwise furnishes tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to a person under the age of 21 years, or violates any other provision of this chapter, the licensee shall be charged an administrative penalty of \$300 for the first violation. An administrative penalty of \$600 must be imposed for a second violation at the same location within 36 months after the initial violation. For a third or any subsequent violation at the same location within 36 months after the initial violation, an administrative penalty of \$1,000 must be imposed, and the licensee's authority to sell tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products at that location must be suspended for not less than seven days and may be revoked. No suspension, revocation, or other penalty may take effect until the licensee has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred must be in writing.

Subd. 2a. **Penalties for sales of certain products; licensees.** (a) A licensee's authority to sell tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products at that location must be suspended for not less than seven days and may be revoked if the licensee:

(1) holds a license or registration issued pursuant to chapter 342 or section 151.72, subdivision 5b, and the license or registration is revoked;

(2) is convicted of an offense under section 151.72, subdivision 7; or

(3) has been convicted under any other statute for the illegal sale of marijuana, cannabis flower, cannabis products, lower-potency hemp edibles, hemp-derived consumer products, or edible cannabinoid products and the sale took place on the premises of a business that sells tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products.

(b) No suspension, revocation, or other penalty may take effect until the licensee has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred must be in writing.

Subd. 3. **Administrative penalty for sales and furnishing; individuals.** An individual who sells, gives, or otherwise furnishes tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia



delivery products to a person under the age of 21 years may be charged an administrative penalty of \$50. No penalty may be imposed until the individual has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred must be in writing.

Subd. 4. Alternative penalties for use of false identification; persons under age 21. The licensing authority shall consult with interested persons, as applicable, including but not limited to educators, parents, guardians, persons under the age of 21 years, and representatives of the court system to develop alternative penalties for persons under the age of 21 years who purchase, or attempt to purchase, tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products using a driver's license, permit, Minnesota identification card, or any other type of false identification to misrepresent the person's age, in violation of section 609.685 or 609.6855. The licensing authority and the interested persons shall consider a variety of alternative civil penalties, including, but not limited to, tobacco-free education; tobacco cessation programs; notice to schools and parents or guardians; community service; and court diversion programs. Alternative civil penalties developed under this subdivision shall not include fines or monetary penalties.

Subd. 5. Compliance checks. A licensing authority shall conduct unannounced compliance checks at least once each calendar year at each location where tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products are sold to test compliance with sections 609.685 and 609.6855. Compliance checks conducted under this subdivision must involve persons at least 17 years of age, but under the age of 21, who, with the prior written consent of a parent or guardian if the person is under the age of 18, attempt to purchase tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products under the direct supervision of a law enforcement officer or an employee of the licensing authority. The age requirements for persons participating in compliance checks under this subdivision shall not affect the age requirements in federal law for persons participating in federally required compliance checks of these locations.

Subd. 6. Defense. It is an affirmative defense to the charge of selling tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to a person under the age of 21 years in violation of subdivision 2 or 3 that the licensee or individual making the sale relied in good faith upon proof of age as described in section 340A.503, subdivision 6.

Subd. 7. Judicial review. Any person aggrieved by a decision under subdivision 2 or 3 may have the decision reviewed in the district court in the same manner and procedure as provided in section 462.361.

Subd. 8. Notice to commissioner. The licensing authority under this section shall, within 30 days of the issuance of a license, inform the commissioner of revenue of the licensee's name, address, trade name, and the effective and expiration dates of the license. The commissioner of revenue must also be informed of a license renewal, transfer, cancellation, suspension, or revocation during the license period.

History: 1941 c 242 s 3; 1941 c 405 s 3; 1951 c 382 s 1; Ex1959 c 73 s 2; 1973 c 123 art 5 s 7; 1982 c 572 s 2; 1997 c 227 s 4; 1Sp2001 c 5 art 7 s 63; 2010 c 255 s 7; 2010 c 305 s 4-9; 2014 c 291 art 6 s 28; 2020 c 88 s 4-8; 2023 c 63 art 6 s 53

STATE OF MINNESOTA)
) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

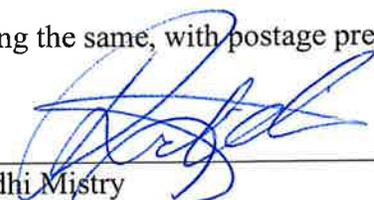
Riddhi Mistry, being first duly sworn, deposes and says that on the twenty-ninth of October she served the attached **EXHIBIT LIST** and a correct copy thereof in an envelope addressed as follows:

White Bear Tobacco Market Place Inc
d/b/a White Bear Tobacco
1662 White Bear Avenue North
Saint Paul, MN 55106
Attn: Anan Barbarawi

Anan Barbarawi
1320 Conservatory Court
Saint Paul, MN 55117

Judge, Joseph Meyer
Office of Administrative Hearings
600 Robert St N.
P.O. Box 64620
Saint Paul, MN 55164-0620

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



Riddhi Mistry

Subscribed and sworn to before me
This 29th day of October 2025



Notary Public



STATE OF MINNESOTA)
) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

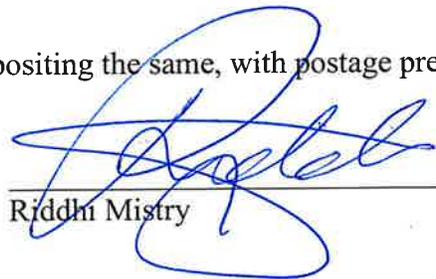
COUNTY OF RAMSEY)

Riddhi Mistry, being first duly sworn, deposes and says that on the twenty-third day of July she served the attached **DEPARTMENT OF SAFETY AND INSPECTIONS REQUEST FOR INTERROGATORIES AND PRODUCTION OF DOCUMENTS** and a correct copy thereof in an envelope addressed as follows:

White Bear Tobacco Market Place Inc
d/b/a White Bear Tobacco
1662 White Bear Avenue North
Saint Paul, MN 55106
Attn: Anan Barbarawi

Anan Barbarawi
1320 Conservatory Court
Saint 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.



Riddhi Mistry

Subscribed and sworn to before me
This 23rd day of July 2025



Notary Public





SAINT PAUL
CITY ATTORNEY

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

Civil Division, 15 Kellogg Blvd. West, 400 City Hall
Saint Paul, MN 55102
Tel: 651-266-8755 | Fax: 651-298-5619

OAH Docket No. 28-6020-40901

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE CITY OF SAINT PAUL

In the Matter of the Tobacco Product
Shop License Held by White Bear
Tobacco Market Place Inc. DBA White
Bear Tobacco

**DEPARTMENT OF SAFETY
AND INSPECTIONS REQUEST
FOR INTERROGATORIES AND
PRODUCTION OF DOCUMENTS**

TO: Anan Barbarawi, White Bear Tobacco Market Place Inc. d/b/a White Bear Tobacco, 1662 White Bear Ave N, Saint Paul, MN 55106.

Dear Mr. Barbarawi:

Pursuant to Minn. R. 1400.6700 and the Rules of Civil Procedure, please provide answers to the following discovery requests:

DISCOVERY REQUESTS

1. Disclose the names and addresses of all witnesses that you intend to call at the administrative hearing, along with a summary of each witness' testimony. Any witness who is unknown at this time must be disclosed as soon as they become known.
2. Disclose any relevant written or recorded statements made by Licensee or by witnesses on behalf of Respondent.

CITY OF SAINT PAUL
MELVIN CARTER, MAYOR

STPAUL.GOV



SAINT PAUL
CITY ATTORNEY

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

Civil Division, 15 Kellogg Blvd. West, 400 City Hall
Saint Paul, MN 55102
Tel: 651-266-8755 | Fax: 651-298-5619

3. Disclose and list all exhibits to be introduced at the hearing.
4. Disclose and describe in detail all defenses you anticipate raising to the allegations in the June 10, 2024, Notice of Pre-hearing Telephone Conference (“Notice”).

Please feel free to contact me with any questions or concerns.

Dated: July 23, 2025

Lyndsey M. Olson
City Attorney

THERESE A. SKARDA, #240989
Assistant City Attorney
400 City Hall and Court House
15 West Kellogg Boulevard
St. Paul, Minnesota 55102
(651) 266-8755

*Attorneys for Department of Safety and
Inspections*

July 17, 2025

Anan Barbarawi
White Bear Tobacco Market Place Inc
d/b/a White Bear Tobacco
1662 White Bear Ave N
Saint Paul, MN 55106

VIA EMAIL ONLY

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

Re: *In the Matter of Tobacco Products Shop license held by White Bear Tobacco Market Place Inc d/b/a White Bear Tobacco for the premises located at 1662 White Bear Avenue North in Saint Paul; License ID #140001994*
OAH 28-6020-40901

Dear Parties:

Enclosed and served upon you is the Administrative Law Judge's **FIRST PREHEARING ORDER**.

Anan Barbarawi, I have enclosed for your review various materials related to the hearing process at the Office of Administrative Hearings. You can locate electronic copies of this information at the links on the attached sheet entitled "Resources for Unrepresented Parties."

Please note that you are not required to have a lawyer represent you in this case. However, you may wish to talk with an attorney about your case, the laws and court rules that apply, and the possibility of obtaining representation. If you would like to discuss this matter with an attorney, you may contact one of the organizations listed on the attached document entitled "Lawyer Referral and Legal Assistance Services." When contacting these agencies, please make it clear that you have an "administrative law matter" so that they can put you in contact with someone with the required knowledge and experience.

If you have any questions, please contact me at (651) 361-7855, susan.day@state.mn.us, or via facsimile at (651) 539-0310.

Sincerely,


SUSAN DAY
Legal Assistant

Enclosure
cc: Docket Coordinator

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

CERTIFICATE OF SERVICE

In the Matter of Tobacco Products Shop license held by White Bear Tobacco Market Place Inc d/b/a White Bear Tobacco for the premises located at 1662 White Bear Avenue North in Saint Paul; License ID #140001994	OAH Docket No.: 28-6020-40901
---	----------------------------------

On July 17, 2025, a true and correct copy of the **FIRST PREHEARING ORDER** was served by United States mail, unless otherwise indicated below, addressed to the following:

Anan Barbarawi
White Bear Tobacco Market Place Inc
d/b/a White Bear Tobacco
1662 White Bear Ave N
Saint Paul, MN 55106

VIA EMAIL ONLY

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

Resources for Unrepresented Parties

Posted at the OAH website are the materials:

- OAH's Video Guide to Hearings
<http://mn.gov/oah/self-help/administrative-law-overview/video-guide.jsp>
- A Guide to Participating in Contested Case Proceedings
<https://mn.gov/oah/self-help/administrative-law-overview/contested-case-hearing-guide.jsp>
- OAH Rules of Procedure
<https://www.revisor.mn.gov/rules/?id=1400>

These materials have been prepared by OAH for use by those who choose to appear without an attorney in contested case proceedings.

Parties may also wish to review the forms and other information available on the OAH website at: <http://mn.gov/oah/self-help/forms-subpoenas/>

Lawyer Referral and Legal Assistance Services

Name	Notes	Counties	Contact Info
LawHelpMN.org	Provides county-by-county list of free and reduced price legal services and referral sources.	Statewide	lawhelpmn.org/find-legal-help/directory/area
Mid-Minnesota Legal Aid	Minneapolis office will refer to correct legal aid office. Income requirements vary.	Will refer to other legal aid offices statewide	(612) 334-5970 mylegalaid.org
Ramsey County Bar Association <i>Modest Fee Service</i>	Income 125%-250%; \$20 referral charge, 30 minute free consult, then fees capped at \$55/hr	Metro area - few attorneys statewide	651-224-1775 info@ramseybar.com
Hennepin County Bar Association - Lawyer Referral Service	No limit on charges. \$30 referral fee.	Metro Area	(612) 752-6600 hcba.org
Minnesota State Bar Association Lawyer Referral Service	No limit on charges; no phone referral - only online.	Statewide	mnfindalawyer.org
Volunteer Lawyers Network	Eligibility for free legal services based on household income and other factors. Call VLN to determine if you qualify.	Metro area, possibly broader depending on needs	612-752-6677 M, W, Th 9 am – 1 pm vlmn.org
Volunteer Attorney Program	Contact Legal aid first, attend in-person session and might take case	Aitkin, Carlton, Cass, Cook, Crow Wing, Itasca, Kanabec, Lake, Pine and St. Louis	(218) 723-4005 volunteerattorney.org
Southern Minnesota Regional Legal Services	Under 125% of federal poverty guidelines	Ramsey, Washington, Carver, Dakota, Scott	1-877-696-6529 smrls.org
Legal Assistance Olmsted County	125% of Federal poverty guidelines	Olmsted	(507) 287-2036 laocmn.org

Name	Notes	Counties	Contact Info
Central Minnesota Legal Services		Anoka, Hennepin	(612) 332-8151 https://www.centralmnlegal.org/
LegalCORPS	Represent small businesses; 200% of federal poverty guidelines; \$50 administrative fee		(612) 206-0780 legalcorps.org
Legal Assistance to Minnesota Prisoners	Civil matters (not appeals of criminal cases) including imprisonment-related matters (grievances, parole, detainers); only in DOC facilities not county jails		(651) 695-7672 or mitchellhamline.edu/clinics/lamp-legal-assistance-to-minnesota-prisoners/
Minnesota Disability Law Center	Special education; vocational rehabilitation		(800) 292-4150 lawhelpmn.org mylegalaid.org
St. Cloud Legal Services		Benton, Chisago, Isanti, Mille Lacs, Morrison, Sherburne, Stearns, Todd, Wright	(320) 253-0138 centralmnlegal.org
Legal Aid Service of Northeastern Minnesota	125% of Federal poverty guidelines	Duluth, Grand Rapids, Virginia	(218) 829-1701 lasnem.org
Legal Services of Northwest Minnesota	125% of Federal poverty guidelines. Income maintenance and licensing cases	Becker, Clay, Kittson, Marshall	1-800-450-8585 lsnmlaw.org
Anishinabe Legal Services	125% of Federal poverty guidelines	Becker, Clay, Kittson, Marshall, Norman, Pennington, Polk, Red Lake, Roseau, Wilkin, Douglas, Grant, Otter Tail, Pope, Stevens, Traverse, Wadena, Beltrami, Clearwater, Hubbard, Lake of the Woods, Mahnomen	(218) 335-2223 1-800-422-1335 alslegal.org

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE CITY OF SAINT PAUL

In the Matter of Tobacco Products Shop license held by White Bear Tobacco Market Place Inc d/b/a White Bear Tobacco for the premises located at 1662 White Bear Avenue North in Saint Paul; License ID #140001994

FIRST PREHEARING ORDER

This matter came before Administrative Law Judge Joseph C. Meyer for a prehearing conference on July 14, 2025.

Therese Skarda, Deputy City Attorney, appeared on behalf of the City of Saint Paul (City). Anan Barbarawi, Owner, appeared on behalf of White Bear Tobacco Market Place Inc (Licensee).

Based upon the submissions of counsel and the hearing record,

IT IS HEREBY ORDERED:

1. **Evidentiary/Contested Hearing.** A hearing in this matter will be held at the Office of Administrative Hearings, 600 North Robert Street, St. Paul, Minnesota 55101, on **December 2, 2025**, beginning at **9:30 a.m.**

2. **Discovery.** The period for discovery shall close on **August 14, 2025**. All discovery shall be completed by that date. The parties are encouraged to resolve any discovery disputes between themselves but may request a telephone conference if their efforts are unsuccessful. To obtain copies of the agency's file, a party should make a written demand pursuant to Minn. R. 1400.6700 (2023).¹ The parties should not copy the Administrative Law Judge on discovery requests or responses unless such documents are the subject of a filed motion.

3. **Alternative Dispute Resolution.** The deadline to request mediation or a settlement conference shall be **September 11, 2025**. The parties are encouraged to consider settlement or mediation. Requests for mediation should be submitted by way of this form: <https://mn.gov/oah/lawyers-and-litigants/administrative-law/mediation.jsp>. Note

¹ This proceeding is not subject to the contested case rules found in Minn R. 1400.5010 - .8400 (2023). However, at the prehearing conference, the parties agreed to use the contested case rules for this proceeding to the extent they are not inconsistent with other procedural law governing this matter.

that both parties must join in a request for mediation. Requests for a settlement conference should be made to the Administrative Law Judge. See Minn. R. 1400.5950 and 1400.6550 (2023).

4. **Dispositive Motions.** Dispositive motions shall be filed and served by **4:30 p.m. on September 4, 2025**. Upon receipt, the responding party shall have ten (10) working days in which to serve and file a written response. Dispositive motions may be made by written submissions without oral argument. However, upon request of a party, or at the request of the Administrative Law Judge, oral argument may be held. Motion hearings can be conducted by telephone conference or in person. To request a motion hearing, the moving party must contact the Administrative Law Judge's legal assistant and schedule the hearing. When scheduling a motion hearing, please identify if the hearing will be in person or by telephone. Hearings shall be scheduled several weeks prior to filing the motion to ensure availability of the Administrative Law Judge. Unless a hearing is requested, the motion will be decided based upon the parties' written submissions.

The procedure for motion practice is set forth in Minn. R. 1400.6600 (2023). Additionally, all memoranda submitted with motions for summary disposition shall comply with the format set forth in Minn. Gen. R. Prac. 115.03(d), and include, most importantly, a numbered recital by the moving party of all material facts as to which there is no genuine dispute, along with a specific citation to that part of the record supporting each fact. The party opposing the motion shall, in like manner, make a recital of any material facts claimed to be in dispute.

5. **Subpoenas.** The deadline to request subpoenas for the attendance of witnesses or the production of documents shall be **November 12, 2025**. Requests for subpoenas for the attendance of witnesses or for the production of documents shall be made in writing to the Administrative Law Judge pursuant to Minn. R. 1400.7000 (2023). A copy of the subpoena request shall be served on the other parties. A subpoena request form is available at <http://mn.gov/oah/forms-and-filing/forms/>.

6. **Recordings and Transcripts.** Hearings are ordinarily digitally recorded. A copy of the digital recording of the hearing can be obtained by a party who makes a written request. Written transcripts of the hearing will not be available from the Office of Administrative Hearings. Any party may arrange to have a court reporter at the hearing. A party shall notify the Office of Administrative Hearings prior to the hearing if the party has arranged for a court reporter to be at the hearing. All logistical and payment arrangements related to court reporters are the responsibility of the requesting party, not the Office of Administrative Hearings. If a transcript is requested by any party, the requesting party is required to provide a copy of the transcript to the Administrative Law Judge. If the Chief Administrative Law Judge requests the presence of a court reporter and the preparation of a transcript, the costs of such will be borne by the agency pursuant to Minn. R. 1400.7400, subp. 2 (2023).

7. **Exhibits and Lists.** By **4:30 p.m. on November 25, 2025**, the parties shall exchange and file with this Office their proposed pre-labeled exhibits, an index of the proposed exhibits, and their witness lists. See Minn. R. 1400.6950 (2023). The City shall label its exhibits sequentially using numbers 1 through 99. Licensee shall label its exhibits sequentially beginning with the number 100.

8. **Courtroom Technology.** For hearings held at the Office of Administrative Hearings, a laptop can be utilized to display electronic exhibits on a monitor in the courtroom. To use this technology, parties must bring their own laptops with a storage device containing their electronic exhibits.

9. **Exhibit Best Practices.** The parties shall abide by the Administrative Law Division's Exhibit Best Practices found here: https://mn.gov/oah/assets/administrative-law-efiling-exhibit-best-practices_tcm19-457017.pdf. All irrelevant and unnecessary documents shall be removed from the exhibit packets prior to filing.

10. **Prehearing Stipulations and Objections.** To the extent possible, the parties shall enter into prehearing stipulations regarding the facts involved in the hearing and the foundation for anticipated exhibits. Any party objecting to the foundation for any written exhibit shall notify the offering party and the judge in writing at least two (2) working days prior to the hearing or the foundation objection is considered waived.

11. **Accommodations Under the Americans with Disabilities Act.** The parties have not requested an accommodation for a disability. The parties shall notify the Office of Administrative Hearings in writing as soon as possible if an accommodation is needed. This can be accomplished by completing and submitting this form: <https://mn.gov/oah/lawyers-and-litigants/title-ii.jsp>. To request the form in paper format, please call 651-361-7900.

12. **Interpreters.** The parties have not requested the appointment of an interpreter. To request an interpreter, please email oah.courtpersonnel@state.mn.us or call 651-361-7900.

13. **Continuances.** Pursuant to Minn. R. 1400.7500 (2023), requests for continuances of a hearing shall be granted only upon a showing of good cause. A request for a continuance filed within five (5) business days of the hearing shall be denied unless the reason for the request could not have been earlier ascertained or unless good cause is shown.

14. **Default.** Under Minn. R. 1400.6000 (2023), the failure of a party to appear at a prehearing conference or hearing without the prior consent of the Administrative Law Judge may be considered a default by that party. Upon default, the allegations contained in the Notice and Order for Prehearing Conference or Hearing or Notice of Appeal may be accepted as true, and the agency's proposed action may be upheld.

15. **Settlement.** Should the matter resolve prior to the prehearing conference or hearing, the parties shall provide immediate written notice to the Office of

Administrative Hearings. In addition to filing, the parties should also provide resolution information by contacting Judge Meyer's legal assistant, Samantha Cosgriff, at Samantha.Cosgriff@state.mn.us or (651) 361-7845.

16. **Filing.** Any document filed with the Office of Administrative Hearings, or that which a party wishes to make part of the record in this matter, may be filed with the Office of Administrative Hearings in any one of the following ways: (1) **by eFiling** through the Office of Administrative Hearings' eFiling system at <http://mn.gov/oah/forms-and-filing/efiling/>; (2) **by mail**; (3) **by fax**; or (4) **by personal delivery**. See Minn. Stat. § 14.58 (2022); Minn. R. 1400.5550, subp. 5 (2023). As stated above, all parties are encouraged to eFile. Filings are effective on the date the Office of Administrative Hearings receives the filing. See Minn. R. 1400.5550, subp. 5, .5500 J, Q (2023).

17. **Professionalism.** The Office of Administrative Hearings has adopted the Aspirations on Professionalism developed by the Minnesota State Bar Association and adopted by the Minnesota Supreme Court. It is the policy of the Office of Administrative Hearings that proceedings shall be conducted expeditiously, and that counsel and parties shall cooperate to avoid delay. Non-meritorious objections and irrelevant or repetitious matters shall be avoided. All participants shall maintain the dignity of the judicial proceedings and shall maintain a respectful attitude toward each other, the Administrative Law Judge, and all other participants.

Dated: July 17, 2025


JOSEPH C. MEYER
Administrative Law Judge



SAINT PAUL
CITY ATTORNEY

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

Civil Division, 15 Kellogg Blvd. West, 400 City Hall
Saint Paul, MN 55102
Tel: 651-266-8755 | Fax: 651-298-5619

June 10, 2025

NOTICE OF PRE-HEARING TELEPHONE CONFERENCE

White Bear Tobacco Market Place Inc
d/b/a White Bear Tobacco
1662 White Bear Avenue North
Saint Paul, MN 55106
Attn: Anan Barbarawi

RE: Tobacco Products Shop license held by White Bear Tobacco Market Place Inc d/b/a White Bear Tobacco at the premises located at 1662 White Bear Avenue North, in Saint Paul (License ID #: 140001994)

Dear Mr. Barbarawi:

Please take notice a **PRE-HEARING TELEPHONE CONFERENCE** has been scheduled concerning the Tobacco Products Shop license held by White Bear Tobacco Market Place Inc d/b/a White Bear Tobacco at the premises located at 1662 White Bear Avenue North, in Saint Paul.

Date: Monday, July 14, 2025
Time: 10:00 a.m.

Call in information: 1 - (651) -395-7448
Phone Conference ID: 662 914 420#

The hearing will be presided over by an Administrative Law Judge from the State of Minnesota Office of Administrative Hearings:

Name: Judge, Joseph Meyer
Office of Administrative Hearings
600 North Robert Street
St. Paul, MN 55101

Telephone: (651) 361-7900



Evidence will be presented to the administrative law judge that may lead to adverse action against the Tobacco Products Shop license held by White Bear Tobacco Market Place Inc d/b/a White Bear Tobacco at the premises located at 1662 White Bear Avenue North, in Saint Paul.

This Notice of Violation is based on multiple violations related to the failure of this Licensee to comply with Saint Paul Legislative Code Sections § 310.01, §310.03 (m) 3 (1) (a), §310.14, §324.07(i), and Minnesota Statute §461.12 Subd. 2. by the licensee at the licensed premises.

The Notice of Violation is also based on the violation of a second underage buyer failure within three years which recommended a \$1,000.00 matrix penalty by the Department of Safety and Inspections.

The evidence of photographs that were pulled are also included. Based on the violations and the failure of the licensee to abide by the Saint Paul Legislative Code Sections § 310.01, §310.03 (m) 3 (1) (a), §310.14, §324.07(i), and Minnesota Statute §461.12 Subd. 2. The Department is recommending a \$1,000.00 matrix penalty for the Tobacco Products Shop license held by the Licensee.

Legal Basis for Action: The following Saint Paul Legislative Codes sets forth a variety of reasons under which adverse actions can be based:

Saint Paul Legislative Code §310.01, defines Adverse Action as:

“the revocation or suspension of a license, the imposition of conditions upon a license, the denial of an application for the grant, issuance or renewal of a license, the imposition of a fine, the assessment of the costs of a contested hearing, and any other disciplinary or unfavorable action taken with respect to a license, licensee, or applicant for a license. Adverse action includes any of the foregoing directed at one (1) or more licenses held by a licensee at any location in the city. Adverse action also includes disapproval of licenses issued by the state under statutory provisions which permit the governing body to disapprove the issuance of the license.”

Saint Paul Legislative Code §324.07(i) prohibits the sale of tobacco products to a person under 21.:

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



Saint Paul Legislative Code §310.03 (m) 3 contains the Tobacco Presumptive Penalty Matrix and computation guidelines for tobacco related violations:

(m) Presumptive penalties for certain violations.

3.Tobacco Presumptive Penalties Matrix – Tobacco Presumptive Penalties. Penalties for convictions or violations 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 exists substantial and compelling reasons making it more appropriate to do so.

Type of Violation	1 st	2 nd	3 rd	4 th
(1) Sale to a person under twenty-one (21) years of age.	\$500.00 fine	\$1,000.00 fine	\$2,000.00 fine and 7-day suspension	Revocation

(a) Computation of time for violations under the tobacco presumptive penalties matrix. If a violation is not covered under this penalty matrix, the general presumptive penalty matrix should be used. Except as otherwise provide by Minn. Stats. §461.12, subd. 2, subsequent tobacco violations are subject to the following:

(1) Second, third and fourth appearances for violations under the tobacco presumptive penalties matrix.. A second violation within twenty four (24) months must be treated as a second appearance, a third within twenty four (24) months treated as a third appearance, and a fourth within twenty four (24) months treated as a fourth appearance for the purpose of determining the presumptive penalty.

(2) Any appearance not covered by subsections (1) above must be treated as a first appearance for violations under the tobacco presumptive penalties matrix. Measurement of the twenty four (24) month period must 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.



Saint Paul Legislative Code §310.14 makes a licensee responsible for a violation by a clerk, employee, manager or agent of a licensee:

“Any act or conduct by any clerk, employee, manager or agent of a licensee, or by any person providing entertainment or working for or on behalf of a licensee, whether compensates or not, which act or conduct takes place either on the licensed premises or in any parking lot or other area adjacent to (or under the lease or control of) the licensed premises, and which act or conduct violates any state or federal statutes or regulations, or any city ordinance, must be considered to be and treated as the act of conduct of the licensee for the purpose of adverse action against all or any of the licenses held by such licensee. To the extent this section is in conflict with sections 409.14 and 410.09 of the Legislative Code, this section must be controlling and prevail; but must not otherwise amend, alter or affect such sections.”

Minnesota Statute §461.12 Subd. 2 also sets minimum statutory penalties for the sale of tobacco to an underage person:

“If a licensee or employee of a licensee sells, gives, or otherwise furnishes tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to a person under the age of 21 years, or violates any other provision of this chapter, the licensee shall be charged an administrative penalty of \$300 for the first violation. An administrative penalty of \$600 must be imposed for a second violation at the same location within 36 months after the initial violation. For a third or any subsequent violation at the same location within 36 months after the initial violation, an administrative penalty of \$1,000 must be imposed, and the licensee’s authority to sell tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products at that location must be suspended for not less than seven days and may be revoked. No suspension, revocation, or other penalty may take effect until the licensee has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred must be in writing.”

Requested Penalty – \$1000.00 matrix penalty:

Saint Paul Legislative Code Section 310.03 (m)(1) prescribes a \$500 fine for a first violation within a 12-month period. The prescribed penalty for a second violation is a \$1,000 fine. The



prescribed penalty for a third violation is a \$2,000 penalty and a 10-day suspension of all licenses. The prescribed penalty for a fourth violation is Revocation of all licenses.

Synopsis of Alleged Facts: As the Licensee you are responsible for compliance with the rules and regulations associated with the license you hold.

On April 22, 2025, at 1: 44 p.m. Department of Safety and Inspections (“DSI”) Inspector, Allan Vang conducted a Tobacco Underage Buyers Compliance Check at White Bear Tobacco Market Place Inc d/b/a White Bear Tobacco located at 1662 White Bear Avenue North. An eighteen-year-old male entered your store to purchase cigarettes. He was not asked to show his identification, nor was he asked about his age. Nevertheless, the clerk sold him a pack of Camel Crush Menthol.

On April 25, 2025, a letter was sent to White Bear Tobacco, White Bear Tobacco Market Place Inc, and to Hillcrest Center LLC, from DSI Inspector, Joseph Voyda. The letter was to inform you that the Department of Safety and Inspections , had recently conducted a State mandated annual inspection at your licensed location and that you had failed that inspection. On April 22, 2025, at 1:44 p.m. a pack of Camel Crush Menthol was successfully purchased from the clerk on duty by the underage buyer hired by DSI to conduct the required compliance checks. You were also informed to expect a Notice of Violation from the City Attorney’s Office providing options on how to proceed with your adverse action.

On August 23, 2023, you failed an underage compliance check and on December 5, 2023, you paid the fine associated with that first violation making this violation your second offense within 24 months.

If you think this matter can be resolved or settled without a formal hearing, please contact the undersigned. If a stipulation or agreement can be reached as to the facts, that stipulations will be presented to the Administrative Law Judge for incorporation into his or her recommendation for Council action.

If you fail to appear at the hearing, your ability to challenge the allegations will be forfeited and the allegations against your client which have been stated earlier in this notice may be taken as true. If non-public data is received into evidence at the hearing, it may become public unless objection is made and relief requested under Minnesota Statutes, Section 14.60, subdivision 2.



SAINT PAUL
CITY ATTORNEY

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

Civil Division, 15 Kellogg Blvd. West, 400 City Hall
Saint Paul, MN 55102
Tel: 651-266-8755 | Fax: 651-298-5619

Sincerely,

/s/

Therese Skarda
Assistant City Attorney
License No.: 0240989

Cc: Anan Barbarawi, 1320 Conservatory Court, Saint Paul, MN 55117
Judge, Joseph Meyer, Office of Administrative Hearings, 600 Robert St N. P.O. Box 64620, Saint Paul, MN 55164-0620

CITY OF SAINT PAUL
MELVIN CARTER, MAYOR

STPAUL.GOV

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

STATE OF MINNESOTA)
) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

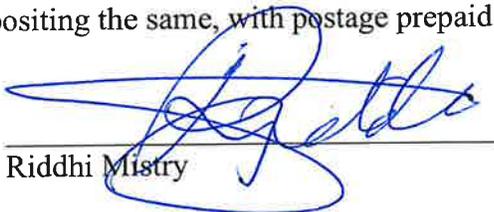
Riddhi Mistry, being first duly sworn, deposes and says that on the tenth day of June she served the attached **NOTICE OF PRE-HEARING TELEPHONE CONFERENCE** and a correct copy thereof in an envelope addressed as follows:

White Bear Tobacco Market Place Inc
d/b/a White Bear Tobacco
1662 White Bear Avenue North
Saint Paul, MN 55106
Attn: Anan Barbarawi

Anan Barbarawi
1320 Conservatory Court
Saint Paul, MN 55117

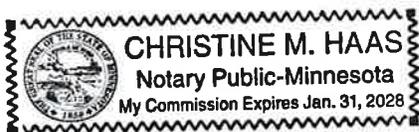
Judge, Joseph Meyer
Office of Administrative Hearings
600 Robert St N.
P.O. Box 64620
Saint Paul, MN 55164-0620

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


Riddhi Mistry

Subscribed and sworn to before me
This 10th day of June 2025


Notary Public





SAINT PAUL
CITY ATTORNEY

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

Civil Division, 15 Kellogg Blvd. West, 400 City Hall
Saint Paul, MN 55102
Tel: 651-266-8755 | Fax: 651-298-5619

May 14, 2025

**NOTICE OF VIOLATION AND REQUEST FOR IMPOSITION OF
\$1000 MATRIX PENALTY FOR A SECOND UNDERAGE BUYER FAILURE**

White Bear Tobacco Market Place Inc
d/b/a White Bear Tobacco
1662 White Bear Avenue North
Saint Paul, MN 55106

Attn: Anan Barbarawi

RE: Tobacco Products Shop held by White Bear Tobacco Market Place Inc d/b/a White Bear Tobacco for the premises located at 1662 White Bear Avenue North., in Saint Paul.
License ID #: 140001994

Dear Licensee:

The Department of Safety and Inspections ("Department") has recommended adverse action against the Tobacco Products Shop license held by White Bear Tobacco Market Place Inc ("Licensee"). White Bear Tobacco located at 1662 White Bear Avenue North. ("Licensed Premises").

Legal Basis for Action:

Saint Paul Legislative Code §310.01, defines Adverse Action as:

"the revocation or suspension of a license, the imposition of conditions upon a license, the denial of an application for the grant, issuance or renewal of a license, the imposition of a fine, the assessment of the costs of a contested hearing, and any other disciplinary or unfavorable action taken with respect to a license, licensee, or applicant for a license. Adverse action includes any of the foregoing directed at one (1) or more licenses held by a licensee at any location in the city. Adverse action also includes disapproval of licenses issued by the state under statutory provisions which permit the governing body to disapprove the issuance of the license."

Saint Paul Legislative Code §324.07(i) prohibits the sale of tobacco products to a person under 21:

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

CITY OF SAINT PAUL
MELVIN CARTER, MAYOR

STPAUL.GOV



Saint Paul Legislative Code §310.03 (m) 3 contains the Tobacco Presumptive Penalty Matrix and computation guidelines for tobacco related violations:

(m) Presumptive penalties for certain violations.

3. Tobacco Presumptive Penalties Matrix – *Tobacco Presumptive Penalties*. Penalties for convictions or violations 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 exists substantial and compelling reasons making it more appropriate to do so.

Type of Violation	1 st	2 nd	3 rd	4 th
(1) Sale to a person under twenty-one (21) years of age.	\$500.00 fine	\$1,000.00 fine	\$2,000.00 fine and 7-day suspension	Revocation

(a) Computation of time for violations under the tobacco presumptive penalties matrix. If a violation is not covered under this penalty matrix, the general presumptive penalty matrix should be used. Except as otherwise provide by Minn. Stats. §461.12, subd. 2, subsequent tobacco violations are subject to the following:

(1) *Second, third and fourth appearances for violations under the tobacco presumptive penalties matrix.. A second violation within twenty four (24) months must be treated as a second appearance, a third within twenty four (24) months treated as a third appearance, and a fourth within twenty four (24) months treated as a fourth appearance for the purpose of determining the presumptive penalty.*

(2) *Any appearance not covered by subsections (1) above must be treated as a first appearance for violations under the tobacco presumptive penalties matrix. Measurement of the twenty four (24) month period must 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.*

Saint Paul Legislative Code §310.14 makes a licensee responsible for a violation by a clerk, employee, manager or agent of a licensee:

"Any act or conduct by any clerk, employee, manager or agent of a licensee, or by any person providing entertainment or working for or on behalf of a licensee, whether compensates or not, which act or conduct takes



place either on the licensed premises or in any parking lot or other area adjacent to (or under the lease or control of) the licensed premises, and which act or conduct violates any state or federal statutes or regulations, or any city ordinance, must be considered to be and treated as the act of conduct of the licensee for the purpose of adverse action against all or any of the licenses held by such licensee. To the extent this section is in conflict with sections 409.14 and 410.09 of the Legislative Code, this section must be controlling and prevail; but must not otherwise amend, alter or affect such sections.”

Minnesota Statute §461.12 Subd. 2 also sets minimum statutory penalties for the sale of tobacco to an underage person:

“If a licensee or employee of a licensee sells, gives, or otherwise furnishes tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to a person under the age of 21 years, or violates any other provision of this chapter, the licensee shall be charged an administrative penalty of \$300 for the first violation. An administrative penalty of \$600 must be imposed for a second violation at the same location within 36 months after the initial violation. For a third or any subsequent violation at the same location within 36 months after the initial violation, an administrative penalty of \$1,000 must be imposed, and the licensee’s authority to sell tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products at that location must be suspended for not less than seven days and may be revoked. No suspension, revocation, or other penalty may take effect until the licensee has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred must be in writing.”

Adverse Action Recommendation:

The Department of Safety and Inspections will recommend a \$1000.00 matrix penalty for violating Saint Paul Legislative Code § 310.01, §310.03 (m) 3 (1) (a), §310.14, §324.07(i), and Minnesota Statute §461.12 Subd. 2. This is due to a second underage buyer failure within three years.

Factual basis for \$1000.00 matrix penalty:

On April 22, 2025, at 1: 44 p.m. Department of Safety and Inspections (“DSI”) Inspector, Allan Vang conducted a Tobacco Underage Buyers Compliance Check at White Bear Tobacco Market Place Inc d/b/a White Bear Tobacco located at 1662 White Bear Avenue North. An eighteen-year-old male entered your store to purchase cigarettes. He was not asked to show his identification, nor was he asked about his age. Nevertheless, the clerk sold him a pack of Camel Crush Menthol.



On April 25, 2025, a letter was sent to White Bear Tobacco, White Bear Tobacco Market Place Inc, and to Hillcrest Center LLC, from DSI Inspector, Joseph Voyda. The letter was to inform you that the Department of Safety and Inspections, had recently conducted a State mandated annual inspection at your licensed location and that you had failed that inspection. On April 22, 2025, at 1:44 p.m. a pack of Camel Crush Menthol was successfully purchased from the clerk on duty by the underage buyer hired by DSI to conduct the required compliance checks. You were also informed to expect a Notice of Violation from the City Attorney's Office providing options on how to proceed with your adverse action.

On August 23, 2023 you failed an underage compliance check and on December 5, 2023 you paid the fine associated with that first violation making this violation your second offense within 24 months.

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 by **May 27, 2025**, I will presume that you have chosen not to contest the proposed adverse action and the matter will be placed on the City Council Consent agenda for imposition of the \$1000 matrix penalty.
2. You can pay the \$1000 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 **May 27, 2025**, please contact the Department immediately.
3. If you wish to admit the facts but you contest the \$1000 matrix penalty, you may have a 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 Council hearing no later than **May 27, 2025**, the matter will then be scheduled before the City Council to determine whether to impose the \$1000 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 **May 27, 2025**. 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 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 § 310.03 (k).

If you have not contacted me by May 27, 2025, I will assume that you do not contest the imposition of the \$1000 matrix penalty. In that case, the matter will be placed on the City Council Consent Agenda for approval of the recommended penalty.

If you have questions about these options, please contact my Paralegal Riddhi Mistry at riddhi.mistry@ci.stpaul.mn.us , (651) 266-8835.

Sincerely,

/s/

Therese Skarda
Assistant City Attorney
License No.: 0240989

Cc: Anan Barbarawi, 1320 Conservatory Court, Saint Paul, MN 55117
Hillcrest Center Llc, 375 Jackson Street Ste 700w, Saint Paul, MN 55101-1810
Lisa Theis, Executive Director, Greater East Side Community Council, 1365 Prosperity Avenue, Saint Paul, MN 55106

Attachments: Tobacco Underage Buyer Compliance Check Inspection Form – 04/22/2025
Letter from Inspector, Joseph Voyda to White Bear Tobacco – 04/25/2025
Letter from Inspector, Joseph Voyda to White Bear Tobacco Market Place Inc – 04/25/2025
Letter from Inspector, Joseph Voyda to Hillcrest Center LLC – 04/25/2025
License Group Comments Text – 05/09/2025
Photo Evidence
Saint Paul Legislative Code §310.01
Saint Paul Legislative Code §310.03 (m) 3 (1) (a),
Saint Paul Legislative Code §310.14
Saint Paul Legislative Code §324.07(i)
Minnesota Statute §461.12 Subd.



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CITY OF SAINT PAUL
MELVIN CARTER, MAYOR

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*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.*

Licensee: WHITE BEAR TOBACCO MARKET PLACE INC

DBA: WHITE BEAR TOBACCO

License #: 20140001994

4/25/2025 youth compliance check: fail letter sent. LSP

4/22/2025 tobacco compliance check - fail. LSP/ayv

11/27/2024 2024 youth tobacco compliance pass letter sent. LSP

9/17/2024 Tobacco compliance check- Pass. AYV

1/8/2024 Hand delivered letter and employee Mohamed Omer accepted. AYV

12/05/2023 \$500 FINE PAID. SLH

10/18/2023 CF 23-1597 imposes \$500 penalty to be paid no later than 12.22.2023. SLH

9/19/2023 Sent to the CAO for tobacco underage failure for a 1st violations within 3 years for a \$500 to the LH & \$50 fine to the clerk JNV

9/11/2023 AA sent to JNV for review. AYV

8/23/2023 Tobacco compliance check-Failed. AYV

11/08/22 Youth compliance check passed. AYV

07/27/2021 Youth compliance check pass KY

4/06/2020 Sent letter dated 3-3-2020 in email from licensing manager and a follow up phone call for closure of product shop for executive order 20-20 Covid-19 JNV

6/19/19 Youth tobacco compliance check, pass. ARM

4/22/19 Tobacco compliance check, passed. ARM

8/31/18 Re-inspection of price violation's / no violations found / pass JNV

8/15/18 Tobacco Youth compliance check -Pass JNV

08/09/2018 No response to dlngt. ltr., to KS for CA adverse action. JWF

07/16/2018 Sent delinquent letter. Response deadline date is August 06, 2018. Max

6/27/18 To CAO for adverse JNV.

4/23/18 Menthol education / inspection Fail, Price issues. JNV

08/07/2017 passed tobacco compliance check BLB

8/12/2016 Passed Tobacco Compliance Check BLB

08/13/2015 Passed Tobacco compliance check TPF



April 25, 2025

WHITE BEAR TOBACCO
1662 WHITE BEAR AVE N
ST PAUL, MN 55106-1610

Underage Buyer Tobacco Compliance Check
RE: 1662 WHITE BEAR AVE N - DBA: WHITE BEAR TOBACCO License ID 20140001994

WHITE BEAR TOBACCO,

This letter is to inform you that the Department of Safety and Inspections (DSI) recently conducted a State mandated annual inspection in the attempt to purchase of tobacco products to persons under the age of 21 hired by DSI in accordance with State Statutes 461.12.

As a result, your tobacco licensed location has **Failed** the underage buyer attempted purchase of tobacco.

These mandated inspections consist of an underage buyer between the ages of 17 and 20 entering licensed establishments in attempting to purchase tobacco products or tobacco related devices as defined in State Statutes Section 609.685 and in the City of Saint Paul Legislative Code Section 324.

Details of the attempted purchase:

On 4/22/2025 at 1:44 P.M., a pack of Camel Crush Menthol Cigarettes was successfully purchased from the clerk on duty. The clerk on duty was a White male who was described as wearing a black hat, shirt, pants, and sweatshirt. The clerk also had blond hair.

In the weeks to come, you should expect a Notice of Violation mailed to you by the City of Saint Paul Attorney's Office with options. Typically, violations for the sale of tobacco products to an underage buyer is a \$500 for the first offence, \$1,000 for the Second, \$2,000 with a seven (7) day suspension and up to revocation of tobacco license within the three (3) years of the first offense.

Questions or regulatory information regarding annual underage tobacco compliance checks, you may contact me directly at phone number 651-266-9014.

Joseph Voyda
DSI Licensing Inspector

C: HILLCREST CENTER LLC - 375 JACKSON ST STE 700W SAINT PAUL MN 55101-1810
White Bear Tobacco Market Place INC Attn: Anan Barbarawi - 1662 WHITE BEAR AVE N ST PAUL, MN 55106-1610



April 25, 2025

White Bear Tobacco Market Place INC
Attn: Anan Barbarawi
1662 WHITE BEAR AVE N
ST PAUL, MN 55106-1610

Underage Buyer Tobacco Compliance Check
RE: 1662 WHITE BEAR AVE N – DBA: WHITE BEAR TOBACCO License ID 20140001994

Anan Barbarawi,

This letter is to inform you that the Department of Safety and Inspections (DSI) recently conducted a State mandated annual inspection in the attempt to purchase of tobacco products to persons under the age of 21 hired by DSI in accordance with State Statutes 461.12.

As a result, your tobacco licensed location has **Failed** the underage buyer attempted purchase of tobacco.

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Questions or regulatory information regarding annual underage tobacco compliance checks, you may contact me directly at phone number 651-266-9014.

Joseph Voyda
DSI Licensing Inspector

C: **WHITE BEAR TOBACCO - 1662 WHITE BEAR AVE N ST PAUL, MN 55106-1610**

HILLCREST CENTER LLC - 375 JACKSON ST STE 700W SAINT PAUL MN 55101-1810



April 25, 2025

HILLCREST CENTER LLC
375 JACKSON ST STE 700W
SAINT PAUL MN 55101-1810

Underage Buyer Tobacco Compliance Check
RE: 1662 WHITE BEAR AVE N – DBA: WHITE BEAR TOBACCO License ID 20140001994

HILLCREST CENTER LLC,

This letter is to inform you that the Department of Safety and Inspections (DSI) recently conducted a State mandated annual inspection in the attempt to purchase of tobacco products to persons under the age of 21 hired by DSI in accordance with State Statutes 461.12.

As a result, your tobacco licensed location has **Failed** the underage buyer attempted purchase of tobacco.

These mandated inspections consist of an underage buyer between the ages of 17 and 20 entering licensed establishments in attempting to purchase tobacco products or tobacco related devices as defined in State Statutes Section 609.685 and in the City of Saint Paul Legislative Code Section 324.

Details of the attempted purchase:

On 4/22/2025 at 1:44 P.M., a pack of Camel Crush Menthol Cigarettes was successfully purchased from the clerk on duty. The clerk on duty was a White male who was described as wearing a black hat, shirt, pants, and sweatshirt. The clerk also had blond hair.

In the weeks to come, you should expect a Notice of Violation mailed to you by the City of Saint Paul Attorney's Office with options. Typically, violations for the sale of tobacco products to an underage buyer is a \$500 for the first offence, \$1,000 for the Second, \$2,000 with a seven (7) day suspension and up to revocation of tobacco license within the three (3) years of the first offense.

Questions or regulatory information regarding annual underage tobacco compliance checks, you may contact me directly at phone number 651-266-9014.

Joseph Voyda
DSI Licensing Inspector

C: **WHITE BEAR TOBACCO - 1662 WHITE BEAR AVE N ST PAUL, MN 55106-1610**

White Bear Tobacco Market Place INC Attn: Anan Barbarawi - 1662 WHITE BEAR AVE N ST PAUL, MN 55106-1610



Tobacco Underage Buyers Compliance Check Inspection Form

Pass Fail

Route Order: 12

20140001994
WHITE BEAR TOBACCO
1662 WHITE BEAR AVE N
ST PAUL, MN 55106-1610

License Type: Tobacco Products Shop

Business Type:

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

Inspector: **Allan Vang**
Name

Date: 4/22/2025
MM DD YY

Time: 1 : 44 am pm

Was purchase attempted?

Yes No

If NO, check reason:

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

Underage Buyer: [REDACTED] 18 Male
Name Age Gender

Did the Inspector or Officer view transaction?
 Yes No

Was sale made?
 Yes No

Was age asked?
 Yes No

Was ID requested?
 Yes No

Was ID shown?
 Yes No

Type of product:

Amount spent: \$13.50

- Cigarettes: Camel Crush Mentrol
- Smokeless: _____
- Cigars: _____
- Shisha: _____
- E-juice: _____
- THC/Delta: _____
- Other (cigarette papers, lighter, etc.): _____

Clerk Information: Gender: Male Approximate Age: 18 or Under 18 Actual age if known _____

Name of Clerk if known: N/A Description/Notes: White - Black hat, shirt, pant, and sweatshirt - blond hair



Tobacco Underage Buyers Compliance Check Inspection Form

Pass Fail

Route Order: 12

20140001994
WHITE BEAR TOBACCO
1662 WHITE BEAR AVE N
ST PAUL, MN 55106-1610

Licenses

Business

- Convenience
- Supermarket

Inspector:

Was purchase

Yes No

Underage Buyer:

Was sale made?

Yes No

Type of product:

- Cigarettes: Camel
- Shisha:
- Other (cigarette paper)

Cigars: _____

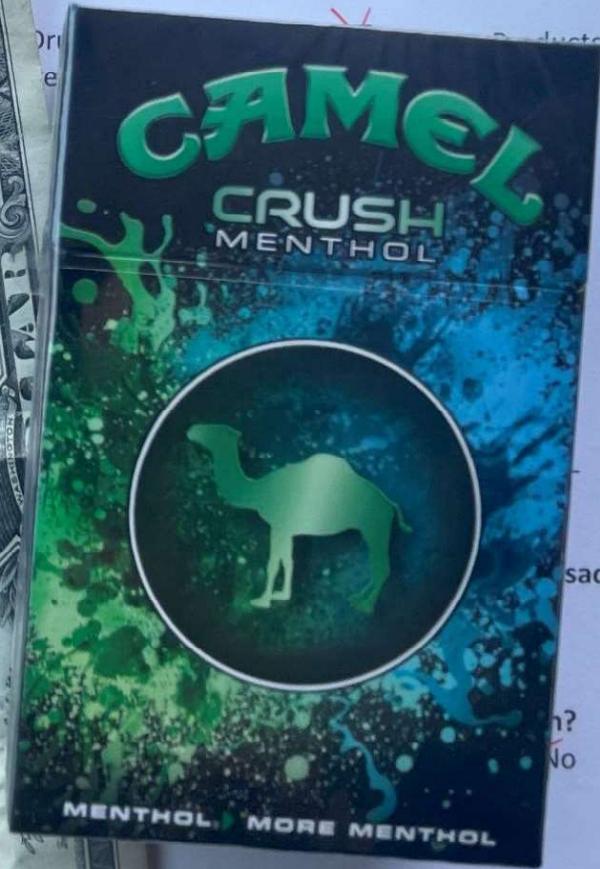
THC/Delta: _____

Clerk Information: Gender _____

Age 18 or Under 18 Actual age if known _____

Name of Clerk if known: N/A
pant, and sweatshirt - blond hair

Description/Notes: White - Black hat, shirt,



Ordinance & State Statutes Violations

Sec. 324.07. Sales prohibited.

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

Sec. 310.03. 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, the general presumptive penalty matrix applies to all license types, except that in the case of a violation involving a liquor license the penalty matrix for intoxicating liquor; nonintoxicating malt liquor applies and for a violations involving tobacco, the penalty matrix for tobacco applies. 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 must provide written reasons that specify why the penalty selected was more appropriate.

3. Tobacco presumptive penalties matrix.

Tobacco presumptive penalties. Penalties for convictions or violations 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 must provide written reasons that specify why the penalty selected was more appropriate (unless specified, numbers below indicate consecutive days' suspension):

Type of Violation	Appearance			
	1st	2nd	3rd	4th
(1) Sale to a person under twenty-one (21) years of age	\$500.00 fine	\$1000.00 fine	\$2,000.00 fine and 7-day suspension	Revocation

(a) *Computation of time for violations under the tobacco presumptive penalties matrix.* If a violation is not covered under this penalty matrix, the general presumptive penalty matrix should be used. Except as otherwise provided by Minn. Stats. § 461.12, subd. 2, subsequent tobacco violations are subject to the following:

Sec. 310.14. Licensee's responsibility.

Any act or conduct by any clerk, employee, manager or agent of a licensee, or by any person providing entertainment or working for or on behalf of a licensee, whether compensated or not, which act or conduct takes place either on the licensed premises or in any parking lot or other area adjacent to (or under the lease or control of) the licensed premises, and which act or conduct violates any state or federal statutes or regulations, or any city ordinance, must be considered to be and treated as the act or conduct of the licensee for the purpose of adverse action against all or any of the licenses held by such licensee. To the extent this section is in conflict with sections 409.14 and 410.09 of the Legislative Code, this section must be controlling and prevail; but must not otherwise amend, alter or affect such sections.

State Statutes Violations

461.12 MUNICIPAL LICENSE OF TOBACCO, TOBACCO-RELATED DEVICES, AND SIMILAR PRODUCTS.

Subd. 2. Administrative penalties for sales and furnishing; licensees. If a licensee or employee of a licensee sells, gives, or otherwise furnishes tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to a person under the age of 21 years, or violates any other provision of this chapter, the licensee shall be charged an administrative penalty of \$300 for the first violation. An administrative penalty of \$600 must be imposed for a second violation at the **same location within 36 month** after the initial violation. For a third or any subsequent violation at the **same location within 36 months** after the initial violation, an administrative penalty of \$1,000 must be imposed, and the licensee's authority to sell tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products at that location must be suspended for not less than seven days and may be revoked. No suspension, revocation, or other penalty may take effect until the licensee has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred must be in writing.

Sec. 310.01. - Definitions.

For the purposes of this chapter, any chapter of the Legislative Code pertaining to licenses as hereinafter mentioned, and subsequently enacted ordinances establishing or relating to the requirements for Class R for routinely issued licenses, Class T for temporary licenses and Class N for licenses in which neighbors are required to be notified, under authority of the City of Saint Paul, the terms defined in this section have the following meanings:

Adverse action means the revocation or suspension of a license, the imposition of conditions upon a license, the denial of an application for the grant, issuance or renewal of a license, the imposition of a fine, the assessment of the costs of a contested hearing, and any other disciplinary or unfavorable action taken with respect to a license, licensee, or applicant for a license. Adverse action includes any of the foregoing directed at one (1) or more licenses held by a licensee at any location in the city. Adverse action also includes disapproval of licenses issued by the state under statutory provisions which permit the governing body to disapprove the issuance of the license.

Bond means a bond meeting the requirements of section 310.05 and indemnifying the city against all claims, judgments or suits caused by, resulting from or in connection with any licensed business, activity, premises, thing, facility, occurrence or otherwise under these chapters.

Building official means the official in the department of safety and inspections charged with the responsibility of enforcement of the building code.

Chapters and these chapters mean this uniform license ordinance, any chapter of the Legislative Code pertaining to licenses as hereinafter mentioned, and subsequently enacted ordinances establishing or relating to the requirements for class R, class T, and class N licenses under authority of the city.

Class R licenses means those licenses and certain permits which can be issued by the director without council approval if no conditions are imposed upon the license and which do not require a hearing if there is an objection. Class R Licenses follow the Procedures for Application for the Grant or Issuance of a License, New Application Investigation and Review, Application Denial, Notice, Levels of Approval, Objections, and Renewal Procedures laid out in Section 310.02(1). The following licenses are so classified, and the numbers shown opposite them correspond to the chapters in the Legislative Code pertaining to each license:

Business Licenses	Fee	Class	Ordinance/ Legislative Code
CLASS R			

Agricultural Vehicle Permit	\$23.00	R	<u>165</u>
Amusement Rides—Annual	\$85.00	R	<u>317</u>
Animal Boarding (Commercial)	\$83.00	R	<u>348</u>
Animal Boarding (Home Occupation)	\$83.00	R	<u>348</u>
Animal Day Care (Commercial)	\$83.00	R	<u>348</u>
Animal Day Care (Home Occupation)	\$83.00	R	<u>348</u>
Animal Foods Manufacturing and Distribution	\$85.00	R	<u>316</u>
Bituminous Contractor	\$210.00	R	<u>320</u>
Bowling Centers	\$210.00	R	<u>426</u>
Building Contractors	\$210.00	R	<u>326</u>
Building Trade Business License	\$188.00	R	<u>369</u>
Building Trades Certificate of Competency	\$24.00	R	<u>370</u>
Bulk Oil Storage	\$210.00	R	<u>342</u>
Christmas Tree Sales	\$85.00	R	<u>323</u>
Commercial Vehicle	\$78.00	R	<u>158</u>
Commercial Vehicle—Exempt	\$0.00	R	<u>158</u>
Courtesy Bench	\$26.00	R	<u>127</u>
Courtesy Benches Transfer	\$17.00	R	<u>127</u>
Finishing Shop	\$85.00	R	<u>371</u>

Game Room	\$210.00	R	<u>406</u>
House Sewer Contractor	\$210.00	R	<u>338</u>
Laundry/Dry-cleaning Plant	\$210.00	R	<u>327</u>
Laundry/Dry-cleaning Pick Up Station	\$85.00	R	<u>327</u>
Lawn Fertilizer and Pesticide Applicator	\$85.00	R	<u>377</u>
Liquid Fuel Dealer	\$210.00	R	<u>332</u>
Liquid Fuel Dealer Vehicle	\$85.00	R	<u>332</u>
Liquor Catering (State Cater/City Liq)	\$192.00	R	<u>409</u>
Mechanical Amusement Device	\$21.00	R	<u>318</u>
Massage Center—A (1 Practitioner)	\$100.00	R	<u>414</u>
Massage Center—A (Commercial)	\$262.00	R	<u>412</u>
Massage Center—B (Home Location)	\$106.00	R	<u>412</u>
Massage Practitioner	\$106.00	R	<u>414</u>
Massage Practitioner-Additional Location	\$31.00	R	<u>412</u>
Mercantile Broker	\$85.00	R	<u>340</u>
Mobile Retail Vehicle	\$85.00	R	<u>346</u>
Pedal Car	\$118.00	R	<u>374</u>
Pedal Car Business	\$352.00	R	<u>374</u>
Pedal Car Driver	\$51.00	R	<u>374</u>

Peddler	\$85.00	R	<u>345</u>
Peddler—Fee Waived	\$0.00	R	<u>345</u>
Pedicab Driver	\$51.00	R	<u>374</u>
Pedicab Vehicle	\$113.00	R	<u>374</u>
Pest Control	\$210.00	R	<u>334</u>
Pet Grooming Facility	\$85.00	R	<u>382</u>
Pet Shop	\$210.00	R	<u>347</u>
Pool & Billiard Hall	\$210.00	R	<u>322</u>
Recycling Collection Center	\$210.00	R	408
Recycling Processing Center	\$958.00	R	408
Rental of Hospital Equipment	\$85.00	R	<u>350</u>
Rental of Hospital Equip-Vehicle	\$85.00	R	<u>350</u>
Rental of Kitchenware	\$85.00	R	<u>351</u>
Roller Rink	\$85.00	R	<u>353</u>
Sanitary Disposal Vehicle	\$405.00	R	<u>354</u>
Second-Hand Dealer	\$85.00	R	<u>355</u>
Second-Hand Dealer (Comp/Elec)	\$85.00	R	<u>355</u>
Second-Hand Dealer (Antiques/Comp/Elec)	\$85.00	R	<u>356</u>
Second-Hand Dealer (Antiques)	\$85.00	R	<u>355</u>

Second Hand Dealer—Motor Vehicle Parts	\$507.00	R	<u>355</u>
Second-Hand Dealer—Multiple Dealers	\$405.00	R	<u>355</u>
Short-Term Rental (Non-Owner Occupied)	\$45.00	R	<u>379</u>
Short-Term Rental (Owner Occupied)	\$45.00	R	<u>379</u>
Short-Term Rental Platform	\$11,181.00	R	<u>379</u>
Sidewalk Cafe	\$40.00	R	106
Sidewalk Contractor	\$210.00	R	<u>356</u>
Solicitor	\$85.00	R	<u>345</u>
Solid Fuel Dealer	\$210.00	R	<u>333</u>
Solid Fuel Dealer Vehicle	\$85.00	R	<u>333</u>
Solid Waste Hauler & Vehicle	\$405.00	R	<u>357</u>
Solid Waste Hauler (Ea Add'l Veh)	\$85.00	R	<u>357</u>
Solid Waste Transfer Station	\$1,913.00	R	<u>357</u>
Sound Trucks & Broadcast Vehicle	\$85.00	R	<u>359</u>
Swimming Pool—Public	\$405.00	R	<u>360</u>
Tanning Facility	\$106.00	R	<u>380</u>
Taxicab Driver	\$51.00	R	<u>376</u>
Taxicab Vehicle	\$469.00	R	<u>376</u>
Taxicab Vehicle (Reciprocity Event)	\$37.00	R	<u>376</u>

Taxicab Service Company	\$456.00	R	<u>376</u>
Theaters and Movie Theaters	\$210.00	R	<u>416</u>
Tire Recapping Plant	\$85.00	R	<u>372</u>
Tobacco Products Shop	\$535.00	R	<u>324</u>
Tobacco Shop	\$535.00	R	<u>324</u>
Tow Truck/Wrecker (Operator)	\$405.00	R	<u>361</u>
Tow Truck/Wrecker (Vehicle)	\$85.00	R	<u>361</u>
Trade Worker Registration—Tier 1	\$37.00	R?	<u>370</u>
Trade Worker Registration—Tier 2	\$70.00	R	<u>370</u>
Trade Worker Registration—Tier 3	\$59.00	R	<u>370</u>
Trailer Rental	\$210.00	R	<u>352</u>
Tree Trimmer & 1 Vehicle	\$210.00	R	<u>362</u>
Tree Trimmer—Each Add'l Vehicle	\$85.00	R	<u>362</u>
Vehicle Immobilization Service	\$405.00	R	<u>383</u>
Veterinary Hospital	\$210.00	R	<u>364</u>
Window Cleaning	\$210.00	R	<u>365</u>
Wrecking of Buildings	\$65.00	R	<u>368</u>

Class T licenses means those licenses which can be approved or denied by the director, if no conditions are imposed upon the license and which do not require a hearing if there is an objection. Class T Licenses follow the Procedures for Application for the Grant or Issuance of the License, New Application Investigation

and Review, Application Denial, Notice, Levels of Approval, Objections, and Renewal Procedures laid out in [Section 310.02\(3\)](#). The following licenses are so classified, and the numbers shown opposite them correspond to the chapters in the Legislative Code pertaining to each license:

Business Licenses	Fee	Class	Ordinance/ Legislative Code
CLASS T			
Amusement Rides—Temporary	\$32.00	T	<u>317</u>
Bingo/Rfls/P-Tabs/Tpbrds/Pdlwhls	\$59.00	T	402
Close Out Sale	\$85.00	T	<u>325</u>
Entertainment—Temporary	\$35.00	T	<u>411</u>
Liquor Catering (State Cater Only)	\$59.00	T	<u>409</u>
Liquor—Extension of Service Area	\$68.00	T	410
Liquor—Under Age Access (Temporary)	\$35.00	T	<u>409</u>
Liquor On Sale—Temporary	\$59.00	T	<u>409</u>
Malt On Sale (3.2)—Temporary	\$59.00	T	410
Massage Practitioner—Temporary	\$50.00	T	<u>412</u>
Second Hand Dealer—Exhibition	\$210.00	T	<u>355</u>
Tag Days	\$26.00	T	<u>391</u>
Temp On Sale Malt Brewery/Distillery	\$59.00	T	410
Transient Merchant	\$85.00	T	<u>345</u>

Wine On Sale-Temporary	\$59.00	T	<u>409</u>
Winery Annual Festival—Temporary	\$59.00	T	<u>409</u>

Class N licenses means those licenses which must be approved or denied by the council. Class N Licenses follow the Procedures for Application for the Grant or Issuance of the License, New Application Investigation and Review, Application Denial, Notice, Levels of Approval, Objections, and Renewal Procedures laid out in [Section 310.02\(2\)](#). The following licenses are so classified, and the numbers shown opposite them correspond to the chapters in the Legislative Code pertaining to each license:

Business Licenses	Fee	Class	Ordinance/ Legislative Code
CLASS N			
Auto Body Repair Shop	\$507.00	N	<u>423</u>
Auto Body Repair/Painting Shop	\$507.00	N	<u>423</u>
Auto Repair Garage	\$507.00	N	<u>423</u>
Bingo Hall	\$229.00	N	403
Cabaret—Class A	\$210.00	N	<u>322</u>
Cabaret—Class B	\$210.00	N	<u>426</u>
Conversation/Rap Parlor(A)	\$405.00	N	<u>413</u>
Conversation/Rap Parlor (B)	\$405.00	N	<u>413</u>
Culinary On Sale—Wine/Malt	\$255.00	N	<u>409</u>
Dance or Rental Halls	\$497.00	N	405

Dance Halls—Exempt	\$0.00	N	405
Entertainment—Extension	\$0.00	N	<u>411</u>
Entertainment (A)	\$278.00	N	<u>411</u>
Entertainment (B)	\$672.00	N	<u>411</u>
Entertainment (C)	\$3,191.00	N	<u>411</u>
Firearms	\$405.00	N	<u>225</u>
Gambling Hall	\$445.00	N	<u>278</u>
Gambling Location	\$84.00	N	<u>225</u>
Gas Station	\$154.00	N	<u>424</u>
Health/Sport Club	\$405.00	N	<u>427</u>
Health/Sport Club—Adult	\$405.00	N	<u>427</u>
Health/Sport Club-Exercise Only Facility	\$405.00	N	<u>427</u>
Infectious Waste Processing Facility	\$1,913.00	N	<u>427</u>
Liquor-Extension of Service Hours	\$405.00	N	<u>409</u>
Liquor—Microdistillery Cocktail Room	\$712.00	N	<u>409</u>
Liquor—Off Sale Micro Distillery	\$205.00	N	<u>409</u>
Liquor Off Sale	\$1,500.00	N	<u>409</u>
Liquor On Sale—100 seats or less	\$5,361.00	N	<u>409</u>
Liquor On Sale—101-180 Seats	\$5,937.00	N	<u>409</u>

Liquor On Sale—181-290 Seats	\$6,360.00	N	<u>409</u>
Liquor On Sale—291 or more Seats	\$6,448.00	N	<u>409</u>
Liquor On Sale—2 AM Closing	\$59.00	N	<u>409</u>
Liquor On Sale—Exempt	\$0.00	N	<u>409</u>
Liquor On Sale—Over 100 seats (B)	\$5,022.00	N	<u>409</u>
Liquor On Sale—Over 200 seats (A)	\$5,454.00	N	<u>409</u>
Liquor On Sale—Sunday	\$200.00	N	<u>409</u>
Liquor On Sale—Sunday—Exempt	\$0.00	N	<u>409</u>
Liquor On Sale—Theater	\$1,914.00	N	<u>409</u>
Liquor On Sale—Additional Family Members	\$62.00	N	<u>409</u>
Liquor On Sale (Government Agencies)	\$0.00	N	<u>409</u>
Liquor On Sale (Small Brewery—128 oz)	\$30.00	N	<u>409</u>
Liquor On Sale-Club under 200 Mbrs—A	\$300.00	N	<u>409</u>
Liquor On Sale-Club 201-500 Mbrs—B	\$500.00	N	<u>409</u>
Liquor On Sale-Club 501-1000 Mbrs—C	\$650.00	N	<u>409</u>
Liquor On Sale-Club 1001-2000 Mbrs—D	\$800.00	N	<u>409</u>
Liquor On Sale-Club 2001-4000 Mbrs—E	\$1,000.00	N	<u>409</u>
Liquor On Sale-Club 4001-6000 Mbrs—F	\$2,000.00	N	<u>409</u>
Liquor On Sale-Club over 6000 Mbrs—G	\$3,000.00	N	<u>409</u>

Liquor-Outdoor Service Area (Patio)	\$85.00	N	<u>409</u>
Liquor-Outdoor Service Area (Sidewalk)	\$40.00	N	<u>409</u>
Malt Off Sale (Brewery)	\$205.00	N	410
Malt Off Sale (Growler)	\$205.00	N	410
Malt Off Sale	\$225.00	N	410
Malt On Sale (3.2)	\$712.00	N	410
Malt On Sale (3.2)—Fee Waived	\$0.00	N	410
Malt On Sale (3.2)—2 AM Closing	\$0.00	N	410
Malt On Sale (Brewery Taproom)	\$712.00	N	410
Malt On Sale (Strong)	\$712.00	N	410
Massage Center—C (Adult)	\$405.00	N	<u>412</u>
Mini Motion Picture Theater-Adult (C)	\$405.00	N	<u>415</u>
Minnesota Currency Exchange	\$405.00	N	<u>381</u>
Motor Vehicle Dealer—New Vehicles	\$405.00	N	401
Motor Vehicle Salvage Dealer	\$405.00	N	<u>422</u>
Motorcycle Dealer	\$210.00	N	401
Parking Lot	\$405.00	N	<u>417</u>
Parking Lot/Parking Ramp	\$405.00	N	<u>417</u>
Parking Ramp (Government)	\$0.00	N	<u>417</u>

Parking Ramp	\$405.00	N	<u>417</u>
Parking Ramp/Garage (Private)	\$396.00	N	<u>417</u>
Pawn Shop	\$3,191.00	N	<u>344</u>
Second Hand Dealer—Motor Vehicle	\$507.00	N	<u>344</u>
Steam Room/Bath House (A)	\$405.00	N	<u>428</u>
Steam Room/Bath House (B)—Adult	\$405.00	N	<u>428</u>
Theaters and Movie Theaters-Drive In	\$210.00	N	<u>416</u>
Transportation Network Company	\$41,115.00	N	<u>373</u>
Wine On Sale	\$2,000.00	N	<u>409</u>
Wine On Sale (Government Agencies)	\$0.00	N	<u>409</u>

Department means the department of safety and inspections.

Director means the director of the department of safety and inspections and/or the director's designee or designees.

Fee means and includes both the license fee and application fee unless otherwise provided.

License means and includes all licenses and permits provided for or covered by these chapters.

License also includes licenses issued by the state under statutory provisions which permit the governing body to disapprove the issuance of such licenses, for the purposes of making procedures in chapter 310 of the Legislative Code applicable to the approval or disapproval of such licenses.

Class N License District Council Notification Form means the form, provided by the Department to the license applicant as part of the Class N License application packet, which must be mailed or personally delivered to the district council by the license/applicant prior to the submission of the application for a license.

Person means and includes any person, firm, corporation, partnership, company, organization, agency, club or any group or association thereof. It shall also include any executor, administrator, trustee, receiver or other representative appointed by law.

Zoning administrator means the official in the department of safety and inspections charged with responsibility for enforcement of the zoning code.

(Ord 22-46, § 2, 11-9-22; Ord 23-32, § 2, 9-6-23)

Sec. 310.03. - Hearing procedures.

- (a) *Adverse action; notice and hearing requirements.* In any case where the council may or intends to consider any adverse action, including the revocation or suspension of a license, the imposition of conditions upon a license, or the denial of an application for the grant, issuance or renewal of a license, or the disapproval of a license issued by the State of Minnesota, the applicant or licensee must be given notice and an opportunity to be heard as provided herein. The council may consider such adverse actions when recommended by the director, by the director of any executive department established pursuant to Chapter 9 of the Charter, by the city attorney or on its own initiative.
- (b) *Notice.* In each such case where adverse action is or will be considered by the council, the applicant or licensee must be notified in writing that adverse action may be taken against the license or application, and that they are entitled to a hearing before action is taken by the council. The notice must be served or mailed a reasonable time before the hearing date, and must state the place, date and time of the hearing. The notice must state the issues involved or grounds upon which the adverse action may be sought or based. The council may request that such written notice be prepared and served or mailed by the director or by the city attorney.
- (c) *Hearing.* Where there is no dispute as to the facts underlying the violation or as to the facts establishing mitigating or aggravating circumstances, the hearing must be held before the council. Otherwise the hearing must be conducted before a hearing examiner appointed by the council or retained by contract with the city for that purpose. The applicant or the licensee must be provided an opportunity to present evidence and argument as well as meet adverse testimony or evidence by reasonable cross-examination and rebuttal evidence. The hearing examiner may in its discretion permit other interested persons the opportunity to present testimony or evidence or otherwise participate in such hearing.
- (c-1) *Procedure; hearing examiner.* The hearing examiner will hear all evidence as may be presented on behalf of the city and the applicant or licensee, and must present to the council written findings of fact and conclusions of law, together with a recommendation for adverse action.

The council will consider the evidence contained in the record, the hearing examiner's recommended findings of fact and conclusions, and may not consider any factual testimony not previously submitted to and considered by the hearing examiner. After receipt of the hearing examiner's findings, conclusions, and recommendations, the council must provide the applicant or licensee an opportunity to present oral or written arguments alleging error on the part of the examiner in the application of the law or interpretation of the facts, and to present argument related to the recommended adverse action. Upon conclusion of that hearing, and after considering the record, the examiner's findings and recommendations,

together with such additional arguments presented at the hearing, the council must determine what, if any, adverse action should be taken, which action must be by resolution. The council may accept, reject or modify the findings, conclusions and recommendations of the hearing examiner.

- (c-2) *Ex-parte contacts.* If a license matter has been scheduled for an adverse hearing, council members shall not discuss the license matter with each other or with any of the parties or interested persons involved in the matter unless such discussion occurs on the record during the hearings of the matter or during the council's final deliberations of the matter. No interested person shall, with knowledge that a license matter has been scheduled for adverse hearing, convey or attempt to convey, orally or in writing, any information, argument or opinion about the matter, or any issue in the matter, to a council member or his or her staff until the council has taken final action on the matter; provided, however, that nothing herein will prevent an inquiry or communications regarding status, scheduling or procedures concerning a license matter. An interested person, for the purpose of this paragraph, means and includes a person who is an officer or employee of the licensee which is the subject of the scheduled adverse hearing, or a person who has a financial interest in such licensee.
- (d) *Licensee or applicant may be represented.* The licensee or applicant may represent himself or choose to be represented by another.
- (e) *Record; evidence.* The hearing examiner shall receive and keep a record of such proceedings, including testimony and exhibits, and shall receive and give weight to evidence, including hearsay evidence, which possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs.
- (f) *Council action, resolution to contain findings.* Where the council takes adverse action with respect to a license, licensee or applicant for a license, the resolution by which such action is taken must contain its findings and determination, including the imposition of conditions, if any. The council may adopt all or part of the findings, conclusions and recommendations of the hearing examiner, and incorporate the same in its resolution taking the adverse action.
- (g) *Additional procedures where required.* Where the provisions of any statute or ordinance require additional notice or hearing procedures, such provisions must be complied with and supersede inconsistent provisions of these chapters. This includes, without limitation by reason of this specific reference, Minn. Stats., Chapter 364 and Minn. Stats., § 340A.415.
- (h) *Discretion to hear notwithstanding withdrawal or surrender of application or license.* The council may, at its discretion, conduct a hearing or direct that a hearing be held regarding revocation or denial of a license, notwithstanding that the applicant or licensee has attempted or purported to

withdraw or surrender said license or application, if the attempted withdrawal or surrender took place after the applicant or licensee had been notified of the hearing and potential adverse action.

- (i) *Continuances.* Where a hearing for the purpose of considering revocation or suspension of a license or other disciplinary action involving a license has been scheduled before the council, a continuation of the hearing may be granted by the council president or by the council at the request of the licensee, license applicant, an interested person or an attorney representing the foregoing, upon a showing of good cause by the party making the request.
- (j) If the council imposes an adverse action as defined in section 310.01 above, a generic notice of such action must be prepared by the director and posted by the licensee so as to be visible to the public during the effective period of the adverse action. The licensee shall be responsible for taking reasonable steps to make sure the notice remains posted on the front door of the licensed premises, and failure to take such reasonable precautions may be grounds for further adverse action.
- (k) *Imposition of costs.* The council may impose upon any licensee or license applicant some or all of the costs of a contested hearing before an independent hearing examiner. The costs of a contested hearing include, but are not limited to, the cost of the administrative law judge or independent hearing examiner, stenographic and recording costs, copying costs, city staff and attorney time for which adequate records have been kept, rental of rooms and equipment necessary for the hearing, and the cost of expert witnesses. The council may impose all or part of such costs in any given case if (i) the position, claim or defense of the licensee or applicant was frivolous, arbitrary or capricious, made in bad faith, or made for the purpose of delay or harassment; (ii) the nature of the violation was serious, or involved violence or the threat of violence by the licensee or employees thereof, or involved the sale of drugs by the licensee or employees thereof, and/or the circumstances under which the violation occurred were aggravated and serious; (iii) the violation created a serious danger to the public health, safety or welfare; (iv) the violation involved unreasonable risk of harm to vulnerable persons, or to persons for whose safety the licensee or applicant is or was responsible; (v) the applicant or licensee was sufficiently in control of the situation and therefore could have reasonably avoided the violation, such as, but not limited to, the nonpayment of a required fee or the failure to renew required insurance policies; (vi) the violation is covered by the intoxicating liquor; nonintoxicating malt liquor; presumptive penalty matrix in subsection (m) below; or (vii) the violation involved the sale of cigarettes to a minor.
- (l) *Imposition of fines.* The council may impose a fine upon any licensee or license applicant as an adverse license action. A fine may be in such amount as the council deems reasonable and appropriate, having in mind the regulatory and enforcement purposes embodied in the particular licensing ordinance. A fine may be in addition to or in lieu of other adverse action in the sole

discretion of the council. To the extent any other provision of the Legislative Code provides for the imposition of a fine, both provisions must be read together to the extent possible; provided, however, that in the case of any conflict or inconsistency, the other provision must be controlling.

(m) *Presumptive penalties for certain violations.* The purpose of this section is to establish a standard by which the city council determines the amount of fines, the length of license suspensions and the propriety of revocations, the general presumptive penalty matrix applies to all license types, except that in the case of a violation involving a liquor license the penalty matrix for intoxicating liquor; nonintoxicating malt liquor applies and for a violations involving tobacco, the penalty matrix for tobacco applies. 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 must provide written reasons that specify why the penalty selected was more appropriate.

1. **General presumptive penalties matrix**—The general penalty matrix is to be used if there is not a specific penalty matrix for the license type or a category within the specific penalty matrix does not address the violation.
2. **Intoxicating liquor; malt liquor; presumptive penalty matrix.**

Presumptive penalties for intoxicating liquor and nonintoxicating malt liquor violations. If a violation is not covered under this penalty matrix, the general presumptive penalty matrix should be used. Penalties for convictions or violations 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 must provide written reasons that specify why the penalty selected was more appropriate (unless specified, numbers below indicate consecutive days' suspension):

- (a) For on-sale intoxicating liquor establishments with a seating capacity of one hundred fifty (150) or more, the monetary penalty for any violation (including violations found in chapter 310) must be doubled.
- (b) For off-sale intoxicating liquor establishments with five thousand one (5,001) or more square feet of retail space, the monetary penalty for any violation (including violations found in chapter 310) must be doubled.
- (c) *Other penalties.* Nothing in this section restricts or limits the authority of the council to suspend licenses for up to sixty (60) days, revoke the license, or impose a civil fine not to exceed two thousand dollars (\$2,000.00), to impose conditions or take any other adverse action in accordance with law, provided, that the license holder has been afforded an opportunity for a hearing in the manner provided for in section 310.02 of this Code.

- (d) *Effect of responsible business practices in determining penalty.* In determining the appropriate penalty, the council may, in its discretion, consider evidence submitted to it in the case of uncontested adverse actions or submitted to a hearing examiner in a contested hearing upon which findings of fact have been made that a licensee has followed or is likely to follow in the future responsible business practices in regard to sales to intoxicated persons and sales to minors.
- (1) For the purposes of service to intoxicated persons, evidence of responsible business practices may include, but is not limited to, those policies, procedures and actions that are implemented at time of service and that:
- a) Encourage persons not to become intoxicated if they consume alcoholic beverages on the defendant's premises;
 - b) Promote availability of nonalcoholic beverages and food;
 - c) Promote safe transportation alternatives other than driving while intoxicated;
 - d) Prohibit employees and agents of defendant from consuming alcoholic beverages while acting in their capacity as employees or agents;
 - e) Establish promotions and marketing efforts that publicize responsible business practices to the defendant's customers and community;
 - f) Implement comprehensive training procedures;
 - g) Maintain an adequate, trained number of employees and agents for the type and size of defendant's business;
 - h) Establish a standardized method for hiring qualified employees;
 - i) Reprimand employees who violate employer policies and procedures; and
 - j) Show that the licensee has enrolled in recognized courses providing training to self and one (1) or more employees of the licensed establishment in regard to standards for responsible liquor service.
- 2) For the purposes of service to minors, evidence of responsible business practices may include, but is not limited to, those listed in subsection (1) and the following:
- a) Management policies that are implemented at the time of service and that ensure that proof of identification (as established by state law) is examined for all persons seeking service of alcoholic beverages who may reasonably be suspected to be minors;
 - b) Comprehensive training of employees who are responsible for such examination regarding the detection of false or altered identification; and
 - c)

Enrollment by the licensee in recognized courses providing training to self and one (1) or more employees of the licensed establishment in regard to standards for responsible liquor service.

3. Tobacco presumptive penalties matrix.

Tobacco presumptive penalties. Penalties for convictions or violations 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 must provide written reasons that specify why the penalty selected was more appropriate (unless specified, numbers below indicate consecutive days' suspension):

- (a) *Purpose.* The purpose of this section is to establish a standard by which the city council determines the amount of fines, length of license suspensions and the propriety of revocations for licensees. These penalties are presumed to be appropriate for every case; however, the council may deviate therefrom in an individual case where the council finds and determines that there exist substantial and compelling reasons which make it appropriate to do so, except, the council may not deviate below statewide minimum penalties for licensees. When deviating from these standards, the council shall provide written reasons that specify why the penalty selected was more appropriate. Where no penalty is listed below, the presumptive penalty under the general presumptive penalty matrix will apply.
- (b) *Presumptive penalties for licensees for violations.* Adverse penalties for licensees for violations or convictions shall be presumed as follows:
- (c) *Computation of time for violations under the tobacco presumptive penalties matrix.* If a violation is not covered under this penalty matrix, the general presumptive penalty matrix should be used. Except as otherwise provided by Minn. Stats. § 461.12, subd. 2, subsequent tobacco violations are subject to the following:
 - (1) *Second, third and fourth appearances for violations under the tobacco presumptive penalties matrix.* . A second violation within twenty four (24) months must be treated as a second appearance, a third within twenty four (24) months treated as a third appearance, and a fourth within twenty four (24) months treated as a fourth appearance for the purpose of determining the presumptive penalty.
 - (2) *Any appearance not covered by subsections (1) above must be treated as a first appearance for violations under the tobacco presumptive penalties matrix.* Measurement of the twenty four (24) month period must 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.

- (i) *Fines payable without hearing.*
- A. Notwithstanding the provisions of section 310.03(c), a licensee who would be making a first or second appearance on a violation that calls for a monetary fine 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.
- (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 the Penalty Matrixes above. The occurrence of multiple violations is 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) up to twenty (20) days before the hearing, and may in that case be treated as though part of the "1st Appearance" unless grounds for upward deviation from the presumptive penalties outlined in the presumptive penalty matrix outlined in 310.03(m) are included in the amended notice of the violation. In all other cases, violations occurring after the date of the formal notice of hearing must be the subject of a separate proceeding and dealt with as a "2nd Appearance" before the council. The same procedures must 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.
- (v) *Computation of time.*

- (1) *Second appearance.* A second violation within twelve (12) months must be treated as a second appearance for the purpose of determining the presumptive penalty.
- (2) *Third appearance.* A third violation within eighteen (18) months must 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 must 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 must be treated as a first appearance. Measurement of the twelve-, eighteen-, or twenty-four-month period is as follows: The beginning date shall be the earliest violation's date of appearance before the council or payment of the fine related to the violation, 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 must 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 must be counted as a third appearance regardless of how much time has passed since the first or second appearance.
- (6) Violations of the general presumptive penalty matrix, the intoxicating liquor, malt liquor presumptive penalty matrix and the tobacco presumptive penalty matrix are meant to be cumulative. For the purpose of a second, third or fourth appearance under this section, "violation" shall must mean either one of those violations listed in paragraph (m)1, 2, or 3.

(Ord 22-46, § 3, 11-9-22)

Sec. 310.14. - Licensee's responsibility.

Any act or conduct by any clerk, employee, manager or agent of a licensee, or by any person providing entertainment or working for or on behalf of a licensee, whether compensated or not, which act or conduct takes place either on the licensed premises or in any parking lot or other area adjacent to (or under the lease or control of) the licensed premises, and which act or conduct violates any state or federal statutes or regulations, or any city ordinance, must be considered to be and treated as the act or conduct of the licensee for the purpose of adverse action against all or any of the licenses held by such licensee. To the extent this section is in conflict with sections 409.14 and 410.09 of the Legislative Code, this section must be controlling and prevail; but must not otherwise amend, alter or affect such sections.

(Ord 22-46, § 16, 11-9-22)

Sec. 324.07. - Sales prohibited.

- (a) No person may sell a cigarette outside its original packaging containing health warnings satisfying the requirements of federal law. No cigarettes may be sold individually or in packages of fewer than twenty (20) cigarettes.
- (b) No person may sell or dispense licensed products from a motor vehicle or other movable place of business.
- (c) No person may sell licensed products from vending machines unless the vending machines are in a facility that cannot be entered at any time by persons younger than twenty-one (21) years of age.
- (d) No person may offer for sale licensed products in any open displays which are accessible to the public without the intervention of a store employee. This restriction does not apply to establishments holding a tobacco products shop license.
- (e) No person may sell, offer for sale, or otherwise distribute cigars in original packages containing three (3) or fewer cigars for a sale price, after any coupons, multipack or buy-one/get-one promotions, or any other discounts are applied and prior to applicable sales taxes being imposed, of less than two dollars and sixty cents (\$2.60) per cigar contained within. In addition, no person may sell, offer for sale, or otherwise distribute cigars in original packages of four (4) or more cigars for a sale price, after any coupons, multipack or buy-one/get-one promotions, or any other discounts are applied and prior to applicable sales taxes being imposed, of less than ten dollars and forty cents (\$10.40) per package.
- (f) No person may sell or offer for retail sale cigarette packages or cartons for a sales price, prior to applicable sales taxes being imposed, of less than ten dollars (\$10.00) per pack.
- (g) No person may sell or offer for retail sale moist snuff retail packages or multipacks for a sales price, prior to applicable sales taxes being imposed, of less than ten dollars (\$10.00) per 1.2 ounce package. No person may sell or offer for retail sale any smokeless tobacco/moist snuff unless it is sold in a package of at least 1.2 ounces minimum package size. The price floor for packages larger than 1.2 ounces shall be computed by adding two dollars and fifty cents (\$2.50) for each 0.3 ounces or any fraction thereof in excess of 1.2 ounces, excluding all applicable taxes.
- (h) No person may sell or offer for sale or otherwise distribute snus for a sales price, prior to applicable sales taxes being imposed, of less than ten dollars (\$10.00) per 0.32 ounce package. No person may sell or offer for retail sale any snus unless it is sold in a package of at least 0.32 ounces minimum pack size. The price floor for packages larger than 0.32 ounces shall be computed by adding two dollars and fifty cents (\$2.50) for each 0.08 ounces or any fraction thereof in excess of 0.32 ounces, excluding all applicable taxes.
- (i)

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

- (1) It is an affirmative defense to a charge under this subdivision if the defendant proves by a preponderance of the evidence that the defendant reasonably and in good faith relied on proof of age as described in Minn. Stats. § 340A.503, subd. 6.
- (j) No person may sell, offer for sale, or otherwise distribute any flavored products, unless excepted under section 324.07(l) of this chapter.
- (k) *Coupons and price promotions.* No holder of a license issued under this chapter, nor any employee or agent of same, may:
 - (1) Accept or redeem, offer to accept or redeem, or cause or hire any person to accept or redeem or offer to accept or redeem any price reduction instrument or other offer that provides any licensed product without charge or for less than the listed or non-discounted price; or
 - (2) Sell or offer to sell licensed products, to consumers through any multi-pack discounts (e.g., "buy-two-get-one-free") or otherwise provide or distribute to consumers any licensed products, without charge or for less than the listed or non-discounted price in exchange for the purchase of any other licensed products.

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

(l) *Exceptions.*

- (1) Notwithstanding section (i), individuals exempted under Minn. Stats. § 609.685 are also exempt from this section.
 - (2) The penalties in this section do not apply to a person under the age of twenty-one (21) years who purchases or attempts to purchase licensed products while under the direct supervision of a responsible adult for training, education, research, or enforcement purposes.
 - (3) Retail stores holding a tobacco products shop license are permitted to sell and offer for sale flavored tobacco products.
- (m) Any violation of this chapter will subject the licensee to provisions of chapter 310 and section 324.10 of the Saint Paul Legislative Code.

(Code 1956, § 336.07; Ord. No. 17714, § 1, 2-20-90; C.F. No. 94-341, § 7, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; C.F. No. 06-872, § 1, 10-11-06; C.F. No. 10-1014, § 2, 10-13-10; Ord 13-8, § 2, 4-24-13; Ord 14-34, § 2, 8-27-14; Ord 15-57, § 1, 1-6-16; Ord 17-28, § 2, 11-1-17; Ord 19-57, § 2, 10-16-19; Ord 21-29, § 7, 11-3-21)

461.12 MUNICIPAL LICENSE OF TOBACCO, TOBACCO-RELATED DEVICES, AND SIMILAR PRODUCTS.

Subdivision 1. **Authorization.** A town board or the governing body of a home rule charter or statutory city may license and regulate the retail sale of tobacco, tobacco-related devices, and electronic delivery devices as defined in section 609.685, subdivision 1, and nicotine and lobelia delivery products as described in section 609.6855, and establish a license fee for sales to recover the estimated cost of enforcing this chapter. The county board shall license and regulate the sale of tobacco, tobacco-related devices, electronic delivery devices, and nicotine and lobelia products in unorganized territory of the county except on the State Fairgrounds and in a town or a home rule charter or statutory city if the town or city does not license and regulate retail sales of tobacco, tobacco-related devices, electronic delivery devices, and nicotine and lobelia delivery products. The State Agricultural Society shall license and regulate the sale of tobacco, tobacco-related devices, electronic delivery devices, and nicotine and lobelia delivery products on the State Fairgrounds. Retail establishments licensed by a town or city to sell tobacco, tobacco-related devices, electronic delivery devices, and nicotine and lobelia delivery products are not required to obtain a second license for the same location under the licensing ordinance of the county.

Subd. 2. **Administrative penalties for sales and furnishing; licensees.** If a licensee or employee of a licensee sells, gives, or otherwise furnishes tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to a person under the age of 21 years, or violates any other provision of this chapter, the licensee shall be charged an administrative penalty of \$300 for the first violation. An administrative penalty of \$600 must be imposed for a second violation at the same location within 36 months after the initial violation. For a third or any subsequent violation at the same location within 36 months after the initial violation, an administrative penalty of \$1,000 must be imposed, and the licensee's authority to sell tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products at that location must be suspended for not less than seven days and may be revoked. No suspension, revocation, or other penalty may take effect until the licensee has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred must be in writing.

Subd. 2a. **Penalties for sales of certain products; licensees.** (a) A licensee's authority to sell tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products at that location must be suspended for not less than seven days and may be revoked if the licensee:

(1) holds a license or registration issued pursuant to chapter 342 or section 151.72, subdivision 5b, and the license or registration is revoked;

(2) is convicted of an offense under section 151.72, subdivision 7; or

(3) has been convicted under any other statute for the illegal sale of marijuana, cannabis flower, cannabis products, lower-potency hemp edibles, hemp-derived consumer products, or edible cannabinoid products and the sale took place on the premises of a business that sells tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products.

(b) No suspension, revocation, or other penalty may take effect until the licensee has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred must be in writing.

Subd. 3. **Administrative penalty for sales and furnishing; individuals.** An individual who sells, gives, or otherwise furnishes tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia

delivery products to a person under the age of 21 years may be charged an administrative penalty of \$50. No penalty may be imposed until the individual has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred must be in writing.

Subd. 4. **Alternative penalties for use of false identification; persons under age 21.** The licensing authority shall consult with interested persons, as applicable, including but not limited to educators, parents, guardians, persons under the age of 21 years, and representatives of the court system to develop alternative penalties for persons under the age of 21 years who purchase, or attempt to purchase, tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products using a driver's license, permit, Minnesota identification card, or any other type of false identification to misrepresent the person's age, in violation of section 609.685 or 609.6855. The licensing authority and the interested persons shall consider a variety of alternative civil penalties, including, but not limited to, tobacco-free education; tobacco cessation programs; notice to schools and parents or guardians; community service; and court diversion programs. Alternative civil penalties developed under this subdivision shall not include fines or monetary penalties.

Subd. 5. **Compliance checks.** A licensing authority shall conduct unannounced compliance checks at least once each calendar year at each location where tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products are sold to test compliance with sections 609.685 and 609.6855. Compliance checks conducted under this subdivision must involve persons at least 17 years of age, but under the age of 21, who, with the prior written consent of a parent or guardian if the person is under the age of 18, attempt to purchase tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products under the direct supervision of a law enforcement officer or an employee of the licensing authority. The age requirements for persons participating in compliance checks under this subdivision shall not affect the age requirements in federal law for persons participating in federally required compliance checks of these locations.

Subd. 6. **Defense.** It is an affirmative defense to the charge of selling tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to a person under the age of 21 years in violation of subdivision 2 or 3 that the licensee or individual making the sale relied in good faith upon proof of age as described in section 340A.503, subdivision 6.

Subd. 7. **Judicial review.** Any person aggrieved by a decision under subdivision 2 or 3 may have the decision reviewed in the district court in the same manner and procedure as provided in section 462.361.

Subd. 8. **Notice to commissioner.** The licensing authority under this section shall, within 30 days of the issuance of a license, inform the commissioner of revenue of the licensee's name, address, trade name, and the effective and expiration dates of the license. The commissioner of revenue must also be informed of a license renewal, transfer, cancellation, suspension, or revocation during the license period.

History: 1941 c 242 s 3; 1941 c 405 s 3; 1951 c 382 s 1; Ex1959 c 73 s 2; 1973 c 123 art 5 s 7; 1982 c 572 s 2; 1997 c 227 s 4; 1Sp2001 c 5 art 7 s 63; 2010 c 255 s 7; 2010 c 305 s 4-9; 2014 c 291 art 6 s 28; 2020 c 88 s 4-8; 2023 c 63 art 6 s 53

STATE OF MINNESOTA)
) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

Riddhi Mistry, being first duly sworn, deposes and says that on the fourteenth day of May she served the attached **NOTICE OF VIOLATION AND REQUEST FOR IMPOSITION OF \$1,000 MATRIX PENALTY FOR A SECOND UNDERAGE BUYER FAILURE** and a correct copy thereof in an envelope addressed as follows:

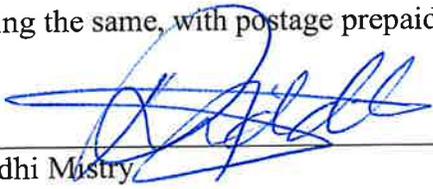
White Bear Tobacco Market Place Inc
d/b/a White Bear Tobacco
1662 White Bear Avenue North
Saint Paul, MN 55106
Attn: Anan Barbarawi

Anan Barbarawi
1320 Conservatory Court
Saint Paul, MN 55117

Hillcrest Center Llc
375 Jackson Street Ste 700w
Saint Paul, MN 55101-1810

Lisa Theis, Executive Director
Greater East Side Community Council
1365 Prosperity Avenue
Saint Paul, MN 55106

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

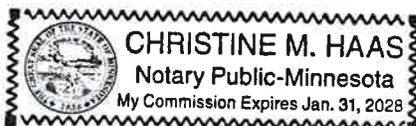


Riddhi Mistry

Subscribed and sworn to before me
This 14th day of May 2025



Notary Public





Inspector's Report

Inspectors Name: Allan Vang Date & Time: 4/22/2025 - 1:44pm

Doing Business As/DBA Name: White Bear Tobacco

Property Address: 1662 White Bear Avenue North - Saint Paul, MN 55106

Reason for Visit: State mandatory tobacco compliance inspection

Photos Taken: Yes No – Area(s) of where the Photo(s) where taken: Tobacco product and amount spent

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

On 4/22/2025 at 1:44pm while conducting an underage buyer State mandatory tobacco compliance inspection, located at 1662 White Bear Avenue - Saint Paul, MN 55106. This location failed the State mandatory tobacco compliance check, in an attempted purchase of a pack of Camel Crush Menthol that was successfully made from an underage buyer that was hired by DSI.

I instructed the trained underage buyer to enter the licensed business in an attempt to purchase of a pack of Camel Crush Menthol. The underage buyer was given a twenty-dollar (\$20) bill for the attempted tobacco purchase. I observed the underage buyer enter the store front entrance.

I observed the underage buyer leave the licensed establishment with a pack of Camel Crush Menthol. The underage buyer reported back to me that the licensed business failed the State mandatory tobacco compliance inspection. I asked the underage buyer if the clerk asked for their age, underage buyer responded with no, I asked if the clerk requested their identification, underage buyer responded with no, I asked if they presented their identification when asked to do so by the clerk, underage buyer response was no, the clerk sold to me anyways, I asked the underage buyer the description of the clerk including if the clerk was a male or female, race, facial hair, hair color, approximat height, weight and if the clerk had a name tag on. After documenting the above-mentioned questions and answers on the inspection form. I took photos of the tobacco product and the amount spent, this transaction was in the amount of thirteen dollars and fifty cents (\$13.50).

RECEIVED

By: OAH on 6/6/2025 11:28 AM

OAH Docket Number: _____

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of Tobacco Products Shop
license held by White Bear Tobacco
Market Place Inc d/b/a White Bear
Tobacco for the premises located at 1662
White Bear Avenue North in Saint Paul;
License ID #140001994

NOTICE OF APPEARANCE

[Insert matter title]

PLEASE TAKE NOTICE that:

1. The party/agency named below (Party/Agency) will appear at the prehearing conference and all subsequent proceedings in the above-entitled matter.

2. By providing its email address below, the Party/Agency chooses to opt into receiving electronic notice from the Office of Administrative Hearings in this matter.

Note: Provision of an email address does not constitute consent to electronic service from any opposing party or agency in this proceeding.

To opt in to electronic notice, this form must be emailed to OAH.efiling.support@state.mn.us. If the party does not wish to opt in to electronic notice, this form may be filed with the Office of Administrative Hearings via facsimile, U.S. Mail, or personal service.¹ The form must be served upon the opposing party.

3. The Party/Agency agrees to use best efforts to provide the Office of Administrative Hearings with the email address(es) for opposing parties and their legal counsel.

Party's/Agency's Name: Saint Paul City Attorney's Office

Pronouns (e.g., he/him; she/her; they/them): _____

Title (e.g., Mr.; Mrs.; Ms.; Mx.): _____

Email: _____ Phone: _____

Mailing Address: _____

¹ See Minn. R. 1400.5550, subps. 2-5 (2023).

Party's/Agency's Attorney: Therese Skarda (Attorney) and Riddhi Mistry (Paralegal)

Firm Name: Saint Paul City Attorney's Office, Civil Division

Email: Riddhi.mistry@ci.stpaul.mn.us and Therese.skarda@ci.stpaul.mn.us

Phone: Riddhi's # 651-266-8835 and Therese's # 651-266-8755

Mailing Address: 400 City Hall, 15 Kellogg Blvd. Saint Paul, MN 55102

Respondent's/Opposing Party's Name: _White Bear Tobacco

Email: Anansb48@gmail.com

Phone: (651) 960-9694

Mailing Address: _____

Submitted by:

Dated: 6.6.2025

/s/ Therese Skarda

Signature of Party/Agency or Attorney