



CITY OF SAINT PAUL
Mayor Melvin Carter

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

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

February 20, 2019

NOTICE OF COUNCIL HEARING

Michael A. Essien, Esq.
Essien Law Office, PLLC
2147 University Avenue West, Suite 109
St. Paul, MN 55114

RE: Auto Body Repair Shop license held by S & S Automotive Service Corp. d/b/a Parkway Auto Body, Inc.
for the premises located at 1906 Stillwater Avenue in Saint Paul
License ID #19990003142

Dear Mr. Essien:

Please take notice that this matter has been set on the Public Hearing Agenda for a City Council meeting on **Wednesday, March 20, 2019 at 5:30 p.m.**, in the City Council Chambers, Third Floor, Saint Paul City Hall and Ramsey County Courthouse, 15 West Kellogg Boulevard, St. Paul, MN 55102.

Enclosed is a copy of the letter you hand-delivered on January 22, 2019, indicating that your client was not contesting the facts related to the incident, but was requesting the opportunity to address the Council regarding the penalty, the resolution and any supporting documents. This information will be presented to City Council for their consideration.

This is an uncontested license matter related to a complaint-based inspection of the licensed premises on January 8, 2019 where an inspector from the Department of Safety and Inspections (DSI) observed and documented with photographs three (3) repeat license condition violations.

This is the third (3rd) violation within the past eighteen (18) months; therefore, the licensing office will recommend a \$2,000.00 matrix penalty and a ten (10) day suspension of their Auto Body Repair Shop license. In addition, the licensing office will also recommend imposition of the \$500.00 matrix penalty stayed by City Council on December 19, 2018 (RES PH #18-382).

Sincerely,

Therese Skarda
Assistant City Attorney
License No. 0240989

Cc: Lisa Theis, Community Organizer, District 2 Community Council, 1365 Prosperity Avenue, St. Paul, MN 55106
Italo Urigles, c/o Parkway Auto Body, 1906 Stillwater Avenue East, St. Paul, MN 55119-3711

STATE OF MINNESOTA)
) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

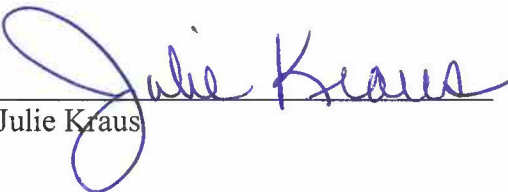
Julie Kraus, being first duly sworn, deposes and says that on the 20th day of February, she served the attached **NOTICE OF COUNCIL HEARING** a correct copy thereof in an envelope addressed as follows:

Michael A. Essien, Esq.
Essien Law Office, PLLC
2147 University Avenue West, Suite 109
St. Paul, MN 55114

Lisa Theis, Community Organizer
District 2 Community Council
1365 Prosperity Avenue
St. Paul, MN 55106

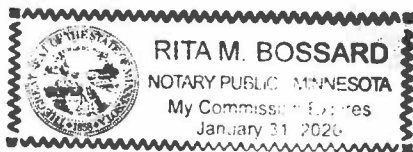
Italio Urgiles
c/o Parkway Auto Body
1906 Stillwater Avenue East
St. Paul, MN 55119-3711

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


Julie Kraus

Subscribed and sworn to before me
this 20th day of February 2019


Notary Public



UNCONTESTED LICENSE MATTER

Licensee Name: S & S Automotive Service Corp.
d/b/a Parkway Auto Body, Inc.

Address: 1906 Stillwater Avenue
St. Paul, MN 55119-3711

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

Violation: During a complaint-based inspection of the licensed premises on January 8, 2019, an inspector from the Department of Safety and Inspections (DSI) observed and documented with photographs three (3) repeat license condition violations.

This is the third (3rd) violation within the past eighteen (18) months.

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

\$2,000.00 matrix penalty and ten (10) day suspension of the license. In addition, imposition of \$500.00 matrix penalty stayed by City Council on December 19, 2018 (RES PH #18-832).

Attachments:

1. Resolution
2. Complaint form dated 1/08/2019 (1 page)
3. Inspection Report with photographs dated 1/08/2019 (4 pages)
4. Notice of Violation with Affidavit of Service dated 1/10/2019 (4 pages)
5. Hand-delivered letter from licensee's attorney requesting a public hearing dated 1/22/2019 (1 page)
6. Notice of Violation with Affidavit of Service dated 6/28/2018 (4 pages)
7. Email indicating \$500.00 matrix penalty payment dated 7/06/2018 (1page)
8. Notice of Violation with Affidavit of Service dated 10/25/2018 (3 pages)
9. Signature Copy of RES PH #18-382 adopted by Council 12/19/2018 and signed by the Mayor on 12/20/2018
10. Notice of City Council Action – Corrected dated 12/24/2018
11. Email indicating \$500.00 matrix penalty payment dated 12/31/2018
12. License Group Comments Text dated 1/09/2019 (7 pages)
13. License Group Conditions Text dated 1/09/2019 (1 page)
13. STAMP – Ownership/Zoning Information (1 page)
14. Saint Paul Legislative Code § 310.05 (m)

WHEREAS, the Auto Body Repair Shop license held by S & S Automotive Service Corp. d/b/a Parkway Auto Body, Inc. (License ID# 19990003142) for the premises located at 1906 Stillwater Avenue was the subject of a Notice of Violation dated January 10, 2019; and

WHEREAS, the Notice stated that during a complaint-based inspection of the licensed premises on January 8, 2019 an inspector from the Department of Safety and Inspections (DSI) observed and documented with photographs three (3) repeat license condition violations; and

WHEREAS, this was third (3rd) violation within eighteen (18) months so pursuant to Saint Paul Legislative Code § 310.05 (m) (1), the licensing office recommended a \$2,000.00 matrix penalty and a ten (10) day suspension of the Auto Body Repair Shop license; and

WHEREAS, the licensing office also recommended imposition the \$500.00 matrix penalty stayed by City Council on December 19, 2018 (RES PH #18-382) because these new license condition violations occurred within six (6) months of the previous violations; and

WHEREAS, on January 22, 2019, the licensee's attorney responded to the Notice of Violation to hand-deliver a letter on behalf of the licensee to request a public hearing which was held on March 20, 2019; now therefore be it;

RESOLVED, S & S Automotive Service Corp. d/b/a Parkway Auto Body, Inc. (License ID# 19990003142) for the premises located at 1906 Stillwater Avenue is hereby ordered to pay a matrix penalty of \$2,000.00 for three (3) repeat license condition violations observed and documented by a DSI Inspector during a complaint-based inspection of the licensed premises on January 8, 2019.

FURTHER RESOLVED, the licensee is also hereby ordered to pay the \$500.00 matrix penalty stayed by City Council on December 19, 2018 by RES #18-832.

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

FINALLY RESOLVED, the Auto Body Repair Shop license held by S & S Automotive Service Corp. d/b/a Parkway Auto Body, Inc. is hereby suspended for a period of ten (10) days. Said suspension shall begin at 12:00 midnight on Wednesday, April 10, 2019 and end at 11:59 p.m. on Friday, April 19, 2019.

Folder #: 2019 002236 LIC PIN: 262922310175 Status: Under Review

In Date: 1/8/19 Ward: 7 Zoning: B3 Subtype: License

Dist Council: 2 Owner: Worktype: Complaint

Complaint Location:

1906 STILLWATER AVE

Census Tract: 31802 Italo Urgiles/C/O Parkway Auto Body

Census Block: 4004 1906 Stillwater Ave E St Paul MN 55119- 3711

Homesteader:

Tax Owner:

Legal Desc: Beaver Lake Heights Part Of Nwly 90 Ft Of Blks B & D Lying Nely Of Ext Nely Line Of Lot 1 Blk 18 & Swly Of Ext Swly Line Of Nely 10 Ft Of Lot 3 Blk 18 Also; Ex Nely 10 Ft; Lot 3 Blk 18 And All Of Lot

Complainant:

Details: rear end car with no tires and doors

This complaint has been referred to the following departments:

DSI Licensing Response - Scheduled Date: 1/8/19

Comment:

Inspector Assigned: David Eide, Phone: 651- 266- 9088

Results	Entered By	Comment

Inspection Report

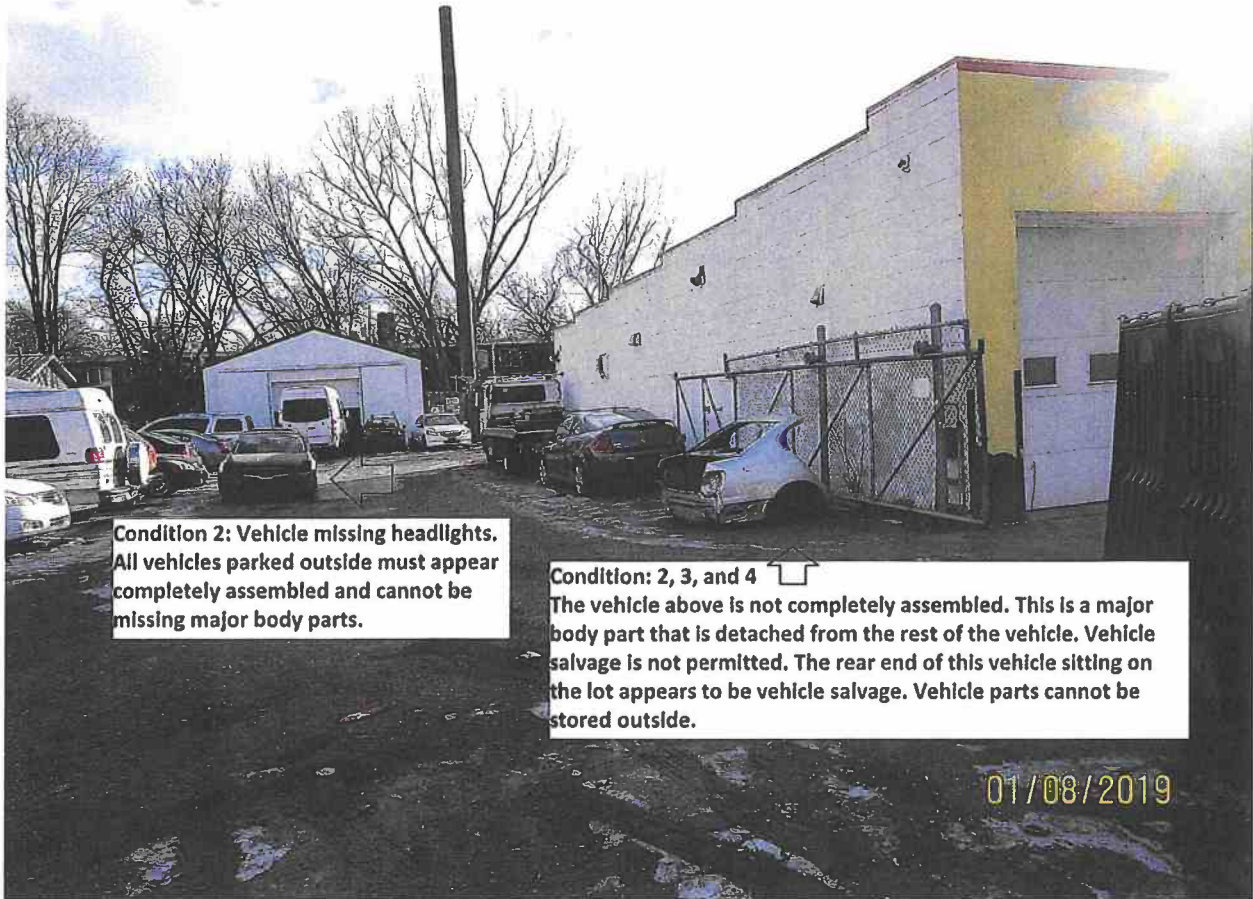
Date: 1/8/2019
Inspector: David Eide
License Address: 1906 Stillwater Ave
Licensee/ Violator: S & S Automotive Service Corp, d/b/a Parkway Auto Body Inc
License Number: 19990003142
Violation: License Conditions 2, 3, and 4

Condition #2: All vehicles parked outdoors must appear to be completely assembled with no major body parts missing. There were numerous vehicles on the site that were missing major body parts. Bumpers missing, headlights missing from vehicles. See attached photos.


Condition #3: Vehicle salvage is not permitted. The whole rear end of a vehicle was sitting on the ground and other vehicles had missing bumpers and were stored on the site with plastic sheeting covering windows. This appears to be vehicle salvage.

Condition #4: Vehicle parts, tires, oil or similar items will not be stored outdoors. Trash will be stored in a covered dumpster. Rear end of vehicle was sitting on east side of building. Pallets stored behind building and vehicle parts and equipment leaning against building. Vehicle parts were stored in the bed of a pickup truck on the site.

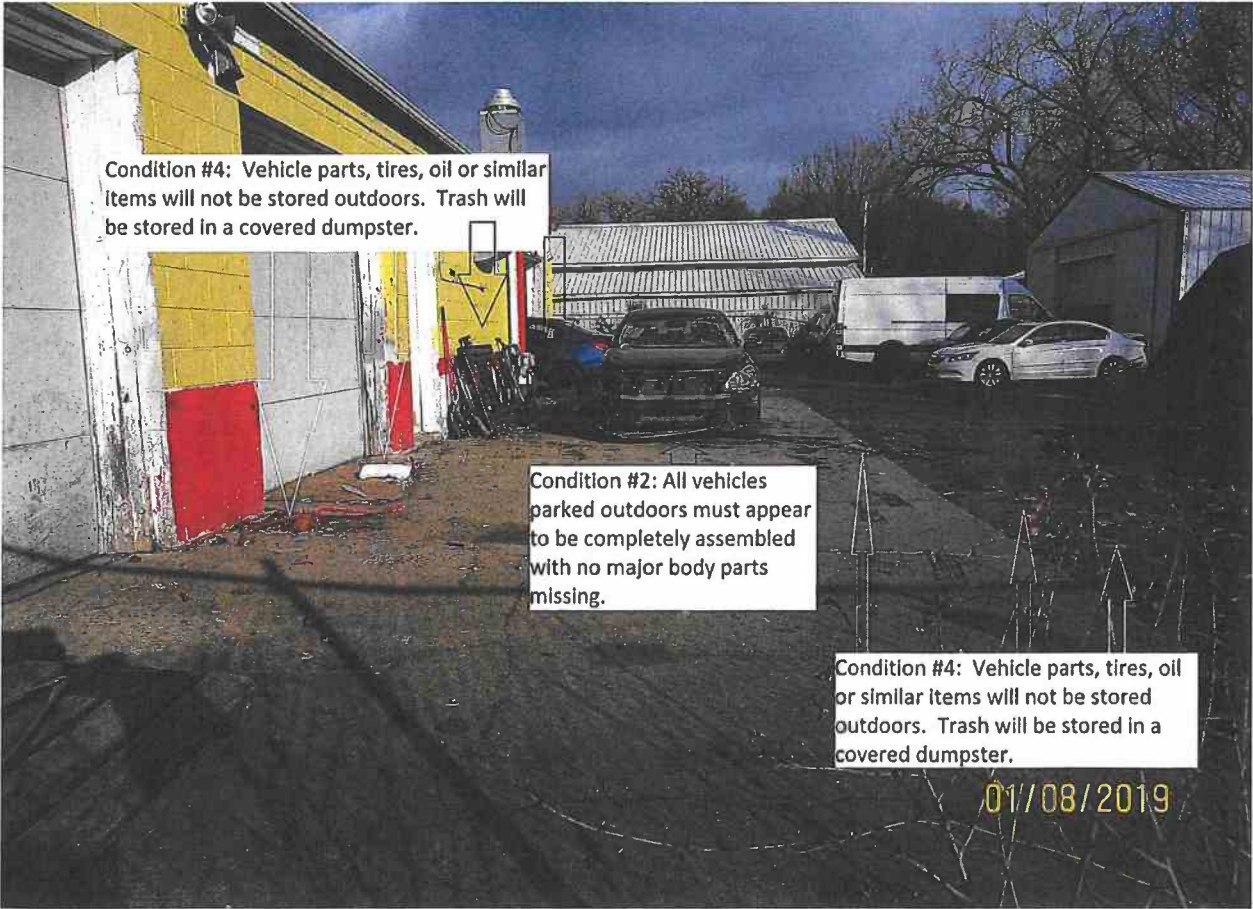
Visited site January 8, 2019 in response to a complaint about a vehicle rear end sitting on the site with no tires nor doors. The complaint was valid. The licensee was in violation of three conditions attached to their license. Many vehicles were missing major parts and a salvage operation appeared to be taking place on the site.



Condition 2: Vehicle missing headlights. All vehicles parked outside must appear completely assembled and cannot be missing major body parts.

Condition: 2, 3, and 4 
The vehicle above is not completely assembled. This is a major body part that is detached from the rest of the vehicle. Vehicle salvage is not permitted. The rear end of this vehicle sitting on the lot appears to be vehicle salvage. Vehicle parts cannot be stored outside.

01/08/2019

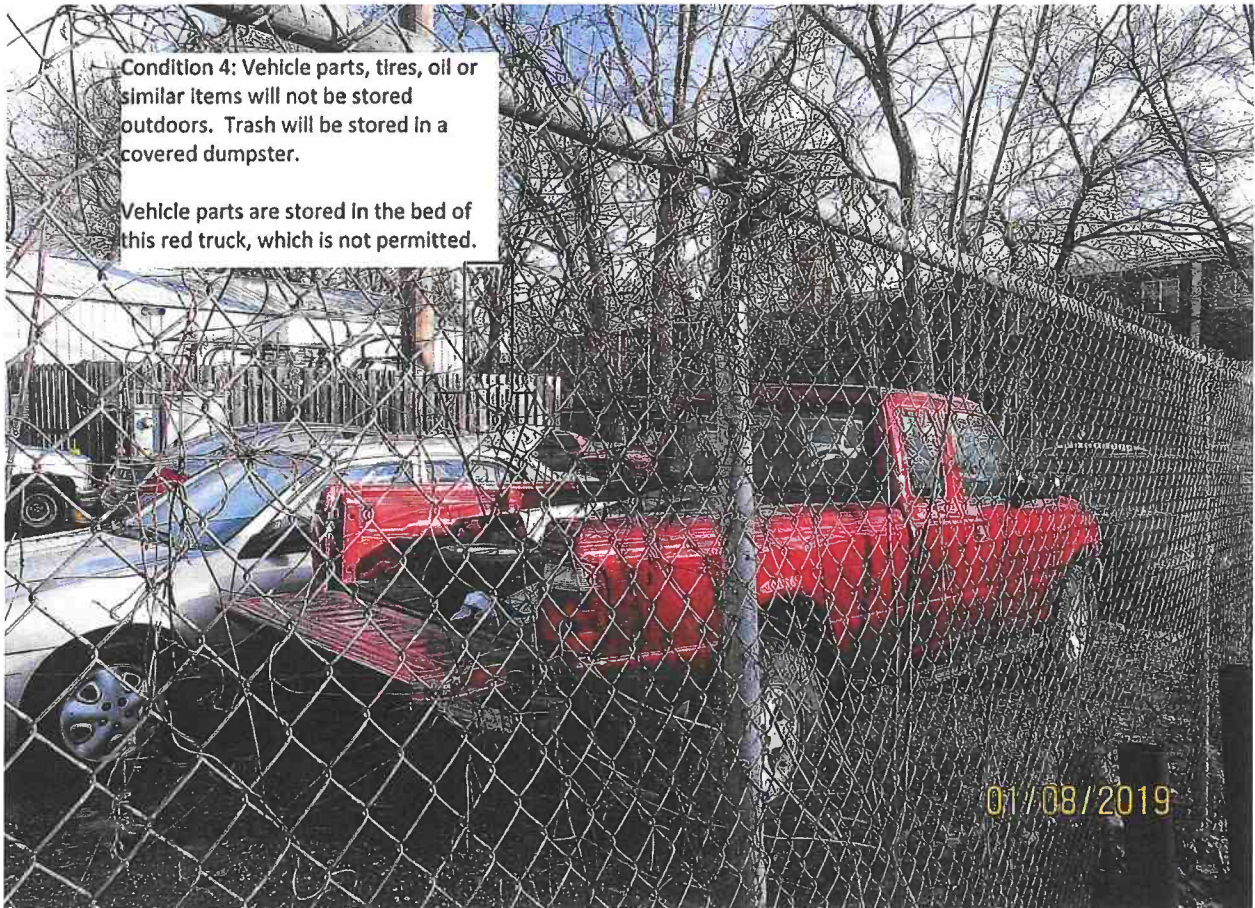
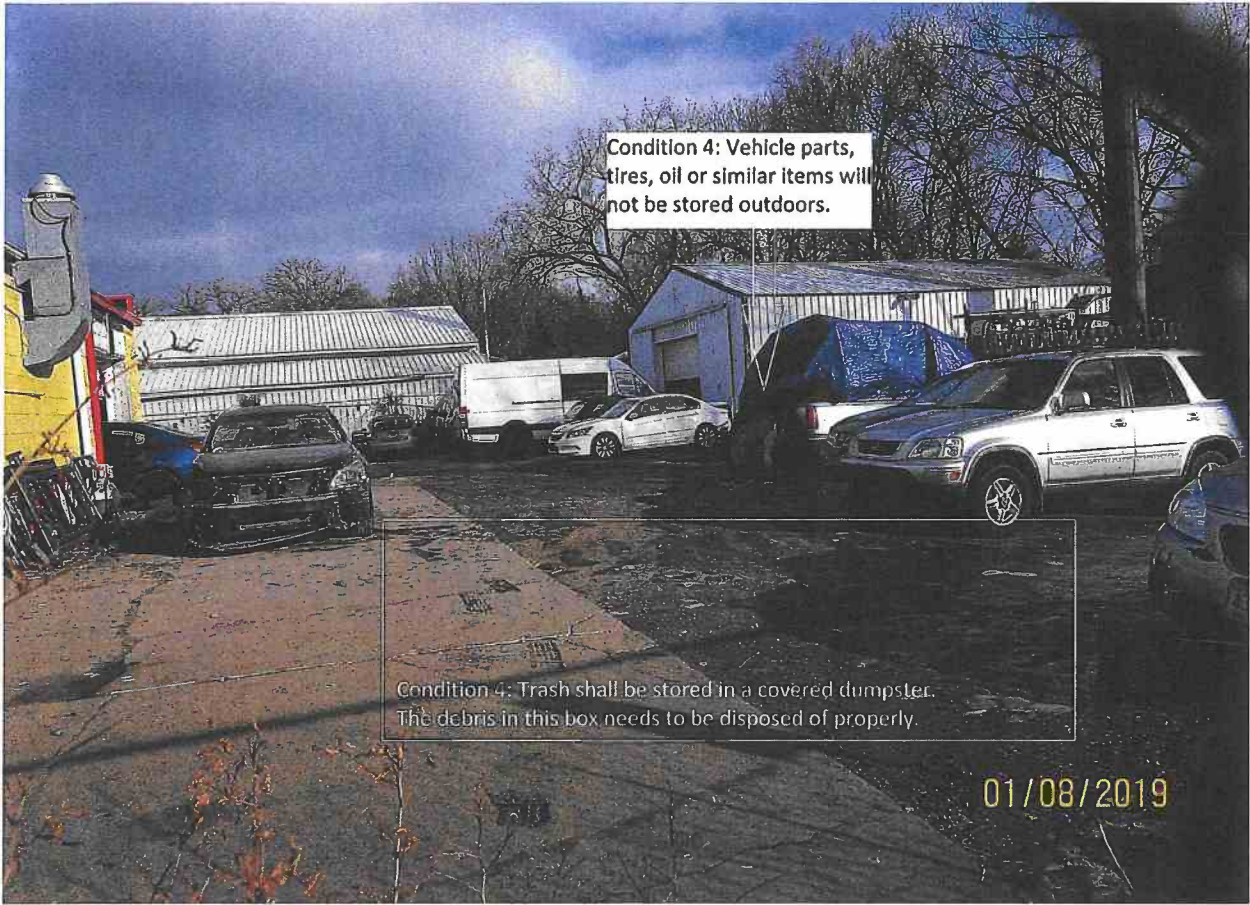


Condition #4: Vehicle parts, tires, oil or similar items will not be stored outdoors. Trash will be stored in a covered dumpster.

Condition #2: All vehicles parked outdoors must appear to be completely assembled with no major body parts missing.

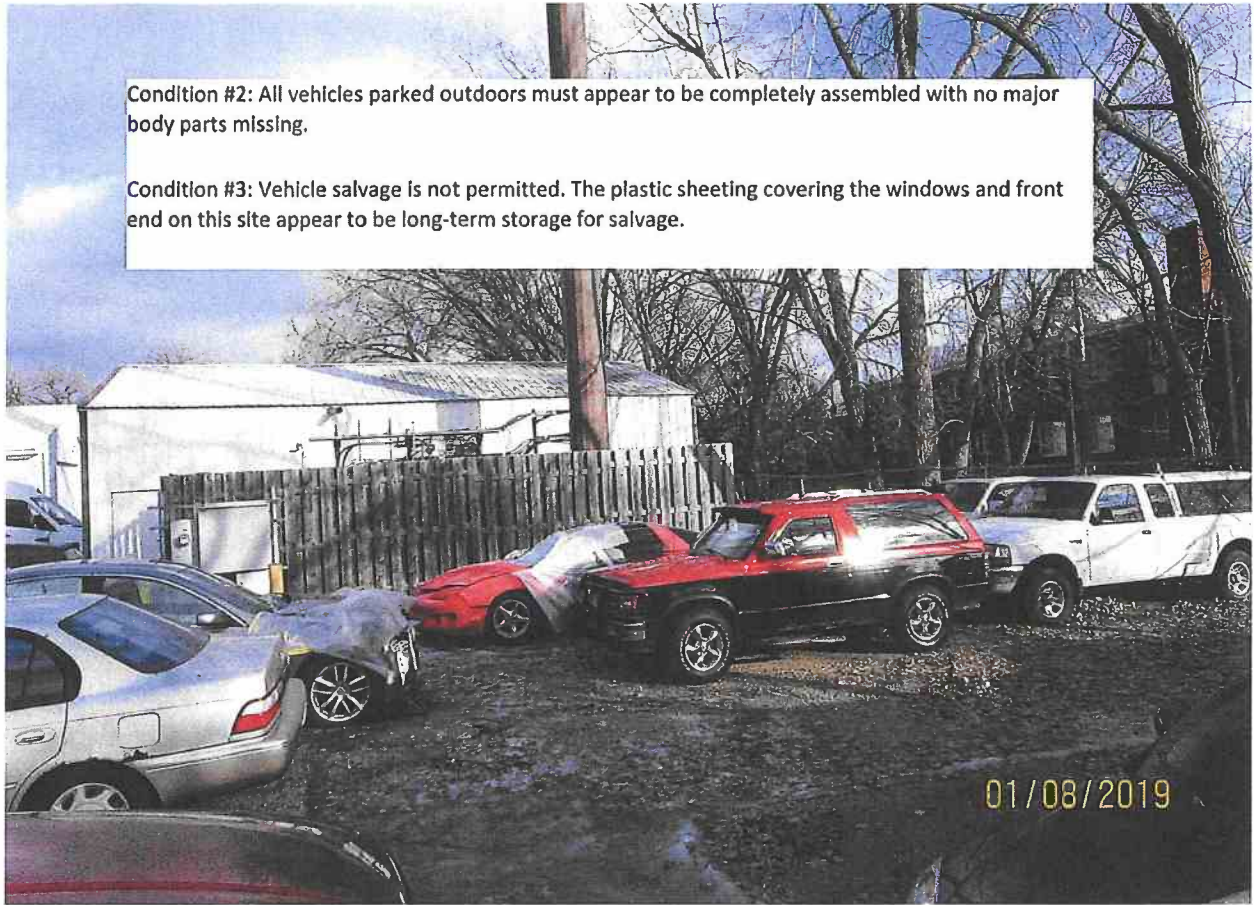
Condition #4: Vehicle parts, tires, oil or similar items will not be stored outdoors. Trash will be stored in a covered dumpster.

01/08/2019



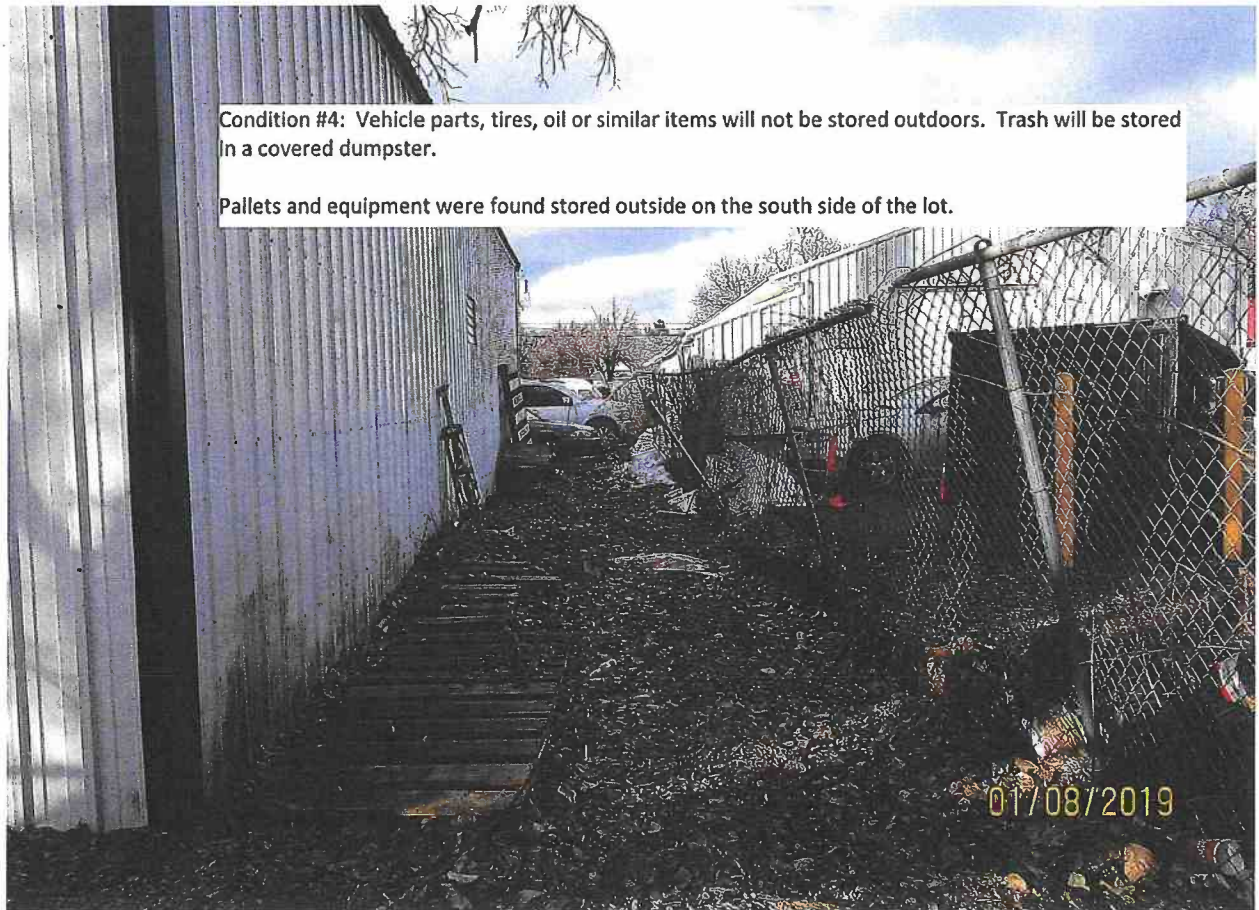
Condition #2: All vehicles parked outdoors must appear to be completely assembled with no major body parts missing.

Condition #3: Vehicle salvage is not permitted. The plastic sheeting covering the windows and front end on this site appear to be long-term storage for salvage.



Condition #4: Vehicle parts, tires, oil or similar items will not be stored outdoors. Trash will be stored in a covered dumpster.

Pallets and equipment were found stored outside on the south side of the lot.





CITY OF SAINT PAUL
Mayor Melvin Carter

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

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

January 10, 2019

NOTICE OF VIOLATION

S & S Automotive Service Corp - Licensee
Attn: Paul Seaton, CEO
Attn: Don Juen, COO
Parkway Auto Body, Inc.
1906 Stillwater Avenue East
St. Paul, MN 55119-3711

RE: Auto Body Repair/Painting Shop license held by S & S Automotive Service Corp d/b/a Parkway Auto Body, Inc. for the premises located at 1906 Stillwater Avenue East in Saint Paul.
License ID #: 19990003142

Dear Licensee:

The Department of Safety and Inspections (“Department”) has recommended adverse action against the Auto Body Repair/Painting Shop license held by S & S Automotive Service Corp. (“Licensee”) herein for the premises known as Parkway Auto Body, Inc. located at 1906 Stillwater Avenue East (“Licensed Premises”).

The Department asserts that the following facts along with attachments herein constitute proof of violations of License Conditions #2, #3 and #4 by a preponderance of the evidence.

On January 8, 2019, DSI Inspector David Eide conducted a complaint-based inspection of the License Premises and documented three (3) license condition violations:

- 1. Numerous vehicles on the site were missing major body parts (bumper and headlights missing from vehicles).**
- 2. The whole rear end of a vehicle was sitting on the ground and other vehicles missing bumpers were stored on the site with plastic sheeting covering windows.**
- 3. The rear end of a vehicle was sitting on east side of the building. Pallets stored behind building and vehicle parts and equipment were leaning against the building. Vehicle parts were stored in the bed of a pickup truck on the site.**

License condition #2 of the License for the Licensed Premises states that: “All vehicles parked outdoors must appear to be completely assembled with no major body parts missing”

License condition #3 of the License for the Licensed Premises states that: "Vehicle Salvage is not permitted."

License Condition #4 of the License for the Licensed Premises states that: "Vehicles parts, tires, oil or similar items will not be stored outdoors. Trash will be stored in a covered dumpster."

Under Saint Paul Legislative Code Section 310.05 (m)(1) a violation of a license condition placed on the license is a basis for adverse action.

This is a third (3rd) violation within the past eighteen (18) months. Pursuant to Saint Paul Legislative Code Section 310.05 (m)(1) the Department is recommending a \$2,000.00 matrix penalty and a ten (10) day suspension of your license. In addition, the licensing office will recommend imposition of the \$500.00 matrix penalty stayed by City Council on December 19, 2018 (RES PH #18-382).

You have three (3) options to proceed:

1. If you do not contest the imposition of the proposed adverse action, you may do nothing. If I have not heard from you by **Monday, January 21, 2019**, I will presume that you have chosen not to contest the proposed adverse action and the matter will be placed on the **Wednesday, February 6, 2019** City Council Consent agenda for approval of the proposed remedy.
2. If you wish to admit the facts but you contest the recommended penalty, you may have a public hearing before the Saint Paul City Council. You will need to send me a letter with a statement admitting to the facts and requesting a public hearing no later than **Monday, January 21, 2019**. The matter will then be scheduled before the City Council to determine whether to impose the \$2,000.00 matrix penalty and ten (10) day license suspension along with the \$500.00 stayed matrix penalty. You will have an opportunity to appear before the Council and make a statement on your own behalf.
3. 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 **Monday, January 21, 2019**. At that hearing both you and the City will appear and present witnesses, evidence and cross-examine each other's witnesses. After receipt of the ALJ's report (usually within 30 days), a public hearing will need to be scheduled. At that time, the City Council will decide whether to adopt, modify or reject the ALJ's report and recommendation.

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

S & S Automotive Service Group
d/b/a Parkway Auto Body, Inc.
January 10, 2019
Page 3

If you have not contacted me by Monday, January 21, 2019, I will assume that you do not contest the imposition of the \$2,000.00 matrix penalty and ten (10) day license suspension along with the \$500.00 matrix penalty that was previously stayed by City Council on December 19, 2018 (RES PH #18-382). In that case, the matter will be placed on the Wednesday, February 6, 2019 City Council Consent Agenda for approval of the recommended penalty.

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

Sincerely,



Therese Skarda
Assistant City Attorney
License No. 0240989

cc Paul Seaton, 6690 Goodview Court South, Cottage Grove, MN 55016
Chuck Repke, Executive Director, District 2 Community Council, 1365 Prosperity Avenue,
St. Paul, MN 55106
Italo Urgiles, C/o Parkway Auto Body, 1906 Stillwater Avenue East, St. Paul, MN 55119-3711

Attachments: Complaint

Inspection Report with photographs dated January 8, 2019
Screenshots from DSI ECLIPS system
STAMP Ownership Information
Notice of Violation with Affidavit of Service dated June 28, 2018
Email indicating \$500.00 matrix penalty payment dated July 6, 2018
Notice of Violation with Affidavit of Service dated October 25, 2018
Signature Copy of RES PH #18-382 signed by Mayor on 12/20/2018
Notice of City Council Action – Corrected dated December 24, 2018
Email indicating \$500.00 matrix penalty payment dated December 31, 2018

STATE OF MINNESOTA)
) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

Julie Kraus, being first duly sworn, deposes and says that on the 10th day of January, she served the attached **NOTICE OF VIOLATION** a correct copy thereof in an envelope addressed as follows:

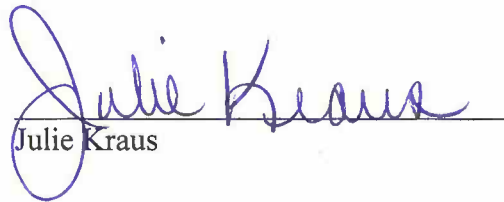
S & S Automotive Service Corp - Licensee
Attn: Paul Seaton, CEO
Attn: Don Juen, COO
Parkway Auto Body, Inc.
1906 Stillwater Avenue East
St. Paul, MN 55119-3711

Paul Seaton
6690 Goodview Court South
Cottage Grove, MN 55016


Chuck Repke, Executive Director
District 2 Community Council
1365 Prosperity Avenue,
St. Paul, MN 55106

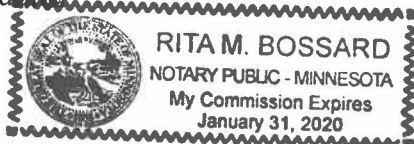
Italo Urgiles
C/o Parkway Auto Body
1906 Stillwater Avenue East
St. Paul, MN 55119-3711

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


Julie Kraus

Subscribed and sworn to before me
this 10th day of January 2019


Notary Public





ESSIEN LAW OFFICE, PLLC

Patents | Trademarks | Business | Int'l Transactions

Attorneys and Counselors at Law

Mike Essien, Esq.

p: 651-340-4310

e: messien@essienlaw.com

January 21, 2019

Ms. Therese Skarda
Assistant City Attorney
Civil Division
400 City Hall and Court House
15 West Kellogg Boulevard
Saint Paul, MN 55102

RECEIVED

JAN 22 2019

CITY ATTORNEY

Dear Ms. Skarda:

**Re: Auto Body Repair Shop License Held by S & S Automotive Service Group d/b/a Parkway Auto Body, Inc. for the Premises Located at 1906 Stillwater Avenue in Saint Paul License ID # 19990003142
Our File: 10096-001**

This letter is submitted in response to your Notice of Violation of January 10, 2019 against our Client, Parkway Auto Body, Inc. ("Parkway"). For the process, Parkway admits the facts (although the images are not available), but desires to contest the penalty. Our understanding is that this will proceed as a request to the City Council for a public hearing to determine whether to impose the matrix penalty.

Our Client recognizes that the second Matrix penalty of \$500.00 was stayed during the City Council proceeding of December 19, 2018 and look forward to having this issue addressed as part of this next proceeding.

Please let me know if there are procedural issues to address.

Sincerely,

Michael A. Essien, Esq.

c: Paul Seaton
Lisa Theis, Community Organizer, District 2 Community Council
1365 Prosperity Avenue, St. Paul, MN 55106
Italio Urgiles

2147 University Avenue West, Suite 109, Saint Paul, MN 55114

p: 1.651.340.4310 f: 1.651.340.4311

www.essienlaw.com

OFFICE OF THE CITY ATTORNEY

Lyndsey M. Olson, City Attorney



CITY OF SAINT PAUL

Mayor Melvin Carter

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

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

June 28, 2018

NOTICE OF VIOLATION

Paul Seaton, CEO
Parkway Auto Body, Inc.
1906 Stillwater Avenue
St. Paul, MN 55119-3711

RE: Auto Body Repair Shop license held by S & S Automotive Service Group d/b/a Parkway Auto Body, Inc. for the premises located at 1906 Stillwater Avenue in Saint Paul
License ID #19990003142

Dear Licensee:

The Department of Safety and Inspections (DSI) will recommend adverse action against the Auto Body Repair Shop license held by S & S Automotive Service Group d/b/a Parkway Auto Body, Inc. for the premises located at 1906 Stillwater Avenue in Saint Paul. The basis for this recommendation is as follows:

On June 5, 2018, an inspector from the Department of Safety and Inspections came to 1906 Stillwater Avenue based on a complaint submitted in April. During the inspection, he found the following six (6) license condition violations which were documented with photographs:

- 1. There was no handicap space designated on the site, vehicles were not parked according to site plan and the parking lot was not striped according to site plan in violation of license #1: "All customer and employee vehicles (one space shall be designated and marked for Handicap parking) must be parked in the area designated on the approved site plan on file with DSI."**
- 2. There were numerous vehicles on the site that were missing major body parts in violation of license condition #2: "All vehicles parked outdoors must appear to be completely assembled with no major parts missing."**
- 3. Many vehicles on site were parked in a way where it appeared they were being stored long-term for vehicle salvage. Bumpers and major body parts were stored on many areas of the site in violation of license condition #3: "Vehicle salvage is not permitted."**

4. **Many vehicle parts were stored outdoors in violation of license condition #4:** "Vehicle parts, tires, oil or similar items will not be stored outdoors. Trash will be stored in a covered dumpster."
5. **Numerous vehicles were found outside in various stages of disrepair which appears to show work is being performed outside of the shop area in violation of license condition #5:** "No repair of vehicles is allowed on the lot. All repair work must be done inside the shop."
6. **A battery was found lying on its side on the site which is not an approved disposal or storage method in violation of license condition #9:** "Licensee must comply with all federal, state and local laws."

Per Saint Paul Legislative Code § 310.05 (m) (1), the licensing office will recommend a \$500.000 matrix penalty.

You have four (4) options to proceed:

1. If you do not contest the imposition of the proposed adverse action, you may do nothing. If I have not heard from you by **Monday, July 9, 2018**, I will presume that you have chosen not to contest the proposed adverse action and the matter will be placed on the **July 25, 2018** City Council Agenda for approval of the proposed remedy.
2. You can pay the \$500.00 matrix penalty. If this is your choice, you should send your payment to the Department of Safety and Inspections at 375 Jackson Street, Ste. 220, St. Paul, MN 55101-1806 no later than **Monday, July 9, 2018**. A self-addressed envelope is enclosed for your convenience. Payment of the \$500.00 matrix penalty will be considered a waiver of the hearing to which you are entitled.
3. If you wish to admit the facts but you contest the penalty, you may have a public hearing before the Saint Paul City Council. You will need to send me a letter with a statement admitting to the facts and requesting a public hearing no later than **Monday, July 9, 2018**. The matter will then be scheduled before the City Council to determine whether to impose the \$500.00 matrix penalty. You will have an opportunity to appear before the Council and make a statement on your own behalf.
4. If you dispute the facts outlined above, you may request a hearing before an Administrative Law Judge (ALJ). You will need to send me a letter disputing the facts and requesting an administrative hearing no later than **Monday, July 9, 2018**. At that hearing both you and the City will appear and present witnesses, evidence and cross-examine each other's witnesses. After receipt of the ALJ's report (usually within 30 days), a public hearing will need to be scheduled. At that time, the City Council will decide whether to adopt, modify or reject the ALJ's report and recommendation.

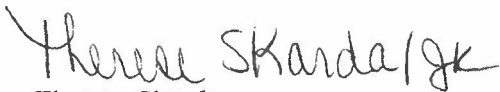
Please note: If you choose an administrative hearing, the Department of Safety and Inspections reserves the right to request that City Council impose the costs of the administrative hearing per Saint Paul Legislative Code § 310.05 (k).

Parkway Auto Body, Inc.
June 28, 2018
Page 3

If you have not contacted me by Monday, July 9, 2018, I will assume that you do not contest the imposition of the \$500.00 matrix penalty. In that case, the matter will be placed on the July 25, 2018 City Council Consent Agenda for approval of the recommended penalty.

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

Sincerely,

A handwritten signature in black ink that reads "Therese Skarda/jk". The signature is written in a cursive style with a large initial 'T' and a clear 'jk' at the end.

Therese Skarda
Assistant City Attorney
License No. 024989

cc: Paul Seaton, 6690 Goodview Court South, Cottage Grove, MN 55016
Lisa Theis, Community Organizer, District 2 Community Council
1365 Prosperity Avenue, St. Paul, MN 55106
Italo Urgiles, 1906 Stillwater Avenue East, St. Paul, MN 55119-3711

STATE OF MINNESOTA)
) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

Julie Kraus, being first duly sworn, deposes and says that on the 28th day of June she served the attached **NOTICE OF VIOLATION** and a correct copy thereof in an envelope addressed as follows:


Paul Seaton, CEO
Parkway Auto Body, Inc.
1906 Stillwater Avenue
St. Paul, MN 55119-3711

Paul Seaton
6690 Goodview Court South
Cottage Grove, MN 55016

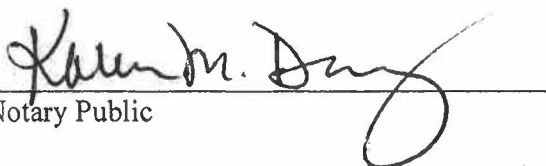
Lisa Theis, Community Organizer
District 2 Community Council
1365 Prosperity Avenue
St. Paul, MN 55106

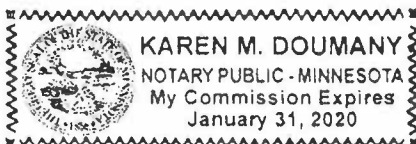
Italo Urgiles
1906 Stillwater Avenue East
St. Paul, MN 55119-3711

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


Julie Kraus

Subscribed and sworn to before me
this 28th day of June, 2018


Notary Public



Kraus, Julie (CI-StPaul)

From: Notarino, Marie (CI-StPaul)
Sent: Friday, July 6, 2018 2:32 PM
To: Schweinler, Kristina (CI-StPaul); Kraus, Julie (CI-StPaul); Niziolek, Dan (CI-StPaul); Ferrara, Tom (CI-StPaul); Skarda, Therese (CI-StPaul)
Subject: 1906 Stillwater Ave - Parkway Auto Body Inc

Received \$500 for license violations.

OFFICE OF THE CITY ATTORNEY

Lyndsey M. Olson, City Attorney



CITY OF SAINT PAUL

Mayor Melvin Carter

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

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

October 25, 2018

NOTICE OF VIOLATION

Paul Seaton, CEO
Parkway Auto Body, Inc.
1906 Stillwater Avenue
St. Paul, MN 55119-3711

RE: Auto Body Repair Shop license held by S & S Automotive Service Group d/b/a Parkway Auto Body, Inc. for the premises located at 1906 Stillwater Avenue in Saint Paul
License ID #19990003142

Dear Licensee:

The Department of Safety and Inspections (DSI) will recommend adverse action against the Auto Body Repair Shop license held by S & S Automotive Service Group d/b/a Parkway Auto Body, Inc. for the premises located at 1906 Stillwater Avenue in Saint Paul. The basis for this recommendation is as follows:

On October 15, 2018, an inspector from the Department of Safety and Inspections came to 1906 Stillwater Avenue for a follow-up inspection and found the following three (3) license condition violations where were documented with photographs:

- 1. There were numerous vehicles on the site there were missing major body parts in violation of license condition #2: "All vehicles parked outdoors must appear to be completely assembled with no major body parts missing."**
- 2. Many vehicles on site were parked in a way where it appeared they are being stored for long-term vehicle salvage. Bumpers and major body parts were stored on many areas of the site in violation of license condition #3 "Vehicle salvage is not permitted."**
- 3. Many vehicle parts were stored outdoors on the site as noted in the photos. Many bumpers and doors were on the site surrounding the dumpster in violation of license condition #4 "Vehicle parts, tires, oil or similar items will not be stored outdoors. Trash will be stored in a covered dumpster."**

This is the second (2nd) violation to your license conditions within the past twelve (12) months; therefore, pursuant to Saint Paul Legislative Code § 310.05 (m) (1), the licensing office will recommend a \$1,000.00 matrix penalty.

"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."

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 **Monday, November 5, 2018**, I will presume that you have chosen not to contest the proposed adverse action and the matter will be placed on the **November 28, 2018** City Council Agenda for approval of the proposed remedy.
2. You can pay the \$1,000.00 matrix penalty. If this is your choice, you should send your payment to the Department of Safety and Inspections at 375 Jackson Street, Ste. 220, St. Paul, MN 55101-1806 no later than **Monday, November 5, 2018**. A self-addressed envelope is enclosed for your convenience. Payment of the \$1,000.00 matrix penalty will be considered a waiver of the hearing to which you are entitled.
3. If you wish to admit the facts but you contest the penalty, you may have a public hearing before the Saint Paul City Council. You will need to send me a letter with a statement admitting to the facts and requesting a public hearing no later than **Monday, November 5, 2018**. The matter will then be scheduled before the City Council to determine whether to impose the \$1,000.00 matrix penalty. You will have an opportunity to appear before the Council and make a statement on your own behalf.
4. If you dispute the facts outlined above, you may request a hearing before an Administrative Law Judge (ALJ). You will need to send me a letter disputing the facts and requesting an administrative hearing no later than **Monday, November 5, 2018**. At that hearing both you and the City will appear and present witnesses, evidence and cross-examine each other's witnesses. After receipt of the ALJ's report (usually within 30 days), a public hearing will need to be scheduled. At that time, the City Council will decide whether to adopt, modify or reject the ALJ's report and recommendation.

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

If you have not contacted me by Monday, November 5, 2018, I will assume that you do not contest the imposition of the \$1,000.00 matrix penalty. In that case, the matter will be placed on the November 28, 2018 City Council Consent Agenda for approval of the recommended penalty.

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

Sincerely,



Therese Skarda
Assistant City Attorney
License No. 0240989

cc: Paul Seaton, 6690 Goodview Court South, Cottage Grove, MN 55016
Lisa Theis, Community Organizer, District 2 Community Council
1365 Prosperity Avenue, St. Paul, MN 55106
Italo Urgiles, c/o Parkway Auto Body, 1906 Stillwater Avenue East, St. Paul, MN 55119-3711



City of Saint Paul

Signature Copy

Resolution-Public Hearing: RES PH 18-382

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

File Number: RES PH 18-382

Approving adverse action against the Auto Body Repair Shop license held by S & S Automotive Service Corp., d/b/a Parkway Auto Body, Inc. at 1906 Stillwater Avenue.

WHEREAS, the Auto Body Repair Shop license held by S & S Automotive Service Corp. d/b/a Parkway Auto Body, Inc. (License ID# 19990003142) for the premises located at 1906 Stillwater Avenue was the subject of a Notice of Violation dated October 25, 2018; and

WHEREAS, the Notice stated that during an inspection of the licensed premises on October 15, 2018, an Inspector from the Department of Safety and Inspections (DSI) observed and documented with photographs three (3) license condition violations; and

WHEREAS, this was second (2nd) violation within twelve (12) months so pursuant to Saint Paul Legislative Code § 310.05 (m) (1), the licensing office recommended a \$1,000.00 matrix penalty; and

WHEREAS, the licensee's attorney responded to the Notice of Violation to request a public hearing which was held on December 19, 2018; now therefore be it;

RESOLVED, S & S Automotive Service Corp. d/b/a Parkway Auto Body, Inc. (License ID# 19990003142) for the premises located at 1906 Stillwater Avenue is hereby ordered to pay a matrix penalty of \$1,000.00, with \$500 of the penalty stayed for six (6) months if no same or similar violations. for three (3) license condition violations observed and documented by a DSI Inspector during an inspection of the licensed premises on October 15, 2018.

At a meeting of the City Council on 12/19/2018 this resolution was adopted.

Yea: 6 Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, Councilmember Noecker, Councilmember Prince, and Councilmember Jalall Nelson

Nay: 0

Absent: 1 Councilmember Bostrom

Vote Attested by

Council Secretary Trudy Moloney

Date 12/19/2018

Signed by Mayor 
Melvin Carter III

Date 12/20/2018



CITY OF SAINT PAUL

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

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

December 24, 2018

NOTICE OF CITY COUNCIL ACTION-CORRECTED

Michael A. Essien, Esq.
Essien Law Office, PLLC
2147 University Avenue West, Suite 109
St. Paul, MN 55114

Dear Michael A. Essien:

Enclosed is a copy of City Council Resolution RES PH 18-382 which imposes a fine against the Auto Body Repair Shop license issued to you by the City of Saint Paul for the following:

Violation of three (3) license conditions, 2nd violation within twelve (12) months.

The fine was approved and ordered by the Saint Paul City Council at the Council's public hearing meeting on December 19, 2018. The fine in the amount of **\$1,000**, with **\$500** of the fine will be stayed for six (6) months pending there are no same or similar offenses, is due no later than January 25, 2019.

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

Sincerely,

Eric Hudak, Licensing Manger
Department of Safety and Inspections

Enclosure

c: Julie Kraus, Legal Assistant-CAO
Ricardo X. Cervantes, Director-DSI
Dan Niziolek, Deputy Director-DSI
Ross Haddow, License Inspector-DSI
Joseph Voyda, License Inspector-DSI
Italio Urgiles C/O Parkway Auto Body 1906 Stillwater Ave. E. St. Paul MN 55119

Kraus, Julie (CI-StPaul)

From: LaCasse, Diane (CI-StPaul)
Sent: Monday, December 31, 2018 3:37 PM
To: Hudak, Eric (CI-StPaul)
Cc: Haddow, Ross (CI-StPaul); Voyda, Joseph (CI-StPaul); Kraus, Julie (CI-StPaul)
Subject: \$500.00 fine received from Parkway Auto Body

Check #8722 for \$500.00 was deposited by DSI on 12/31/2018.

The payment was for a fine imposed by City Council RES PH 18-382

Diane LaCasse

Licensee: S & S AUTOMOTIVE SERVICE CORP

DBA: PARKWAY AUTO BODY INC

License #: 19990003142

01/09/2019 To CAO for 3rd adverse action. DSE
01/08/2019 Received complaint about vehicle rear end sitting outside. Inspected property and found vehicle parts and debris outside, salvage apparent, and major vehicle parts missing. DSE
1/8/2019 Per DSI fire inspector historically had an approved paint booth. Changed license type to auto body repair/ painting shop. ARM
10/16/18 To CAO 2nd adverse action.KLS
10/15/2018 Follow up inspection. Vehicle parts stored outside, dumpster overflowing, vehicle salvage appears to be occurring, and vehicles parked outside that do not appear to be fully assembled. DSE
07/06/2018 Received \$500 penalty for licensing violations. MN
6/11/18 To CAO for adverse action KS/DE
06/11/2018 Inspected site in response to a complaint and found that licensee was in violation of condition 1, 2, 3, 4, 5 and 9. Numerous vehicles missing major body parts, handicap space missing, vehicle salvage going on, repair outside, and not parked according to site plan. DE
5/21/12 violation letter sent correct by 6/15/12 KS
5/20 Pictures taken again. Spoke to operator need to clean up the mess.KS
10/26/10 Still operating pictures taken. KS
8/20/10 Still operating, cars still being stored on street. KS
7/19/10 took pic. 39 cars on lot 2 employee cars on street. Hummer w/illinois dealer plate belong to mgr. Trash over flowing KS
6/16/10 Took pic. KS
6/8/09 Took pictures they are making progress will re-ck in a week KS
04/20/2010 Rcvd \$1,000 for penalty. AMW
04/13/2010 Sent Fine letter (\$1,000 due 4/16/10). LAB
03/17/2010 Council File #10-284 imposes matrix penalty of \$1,000 for second license condition violation within one year (observed on 01/08/2010, and 03/17/2010). Payment required within 30 days. JWF
02/12/2010 Notice of Council Hearing from CAO. CPH 03/17/2010 at 5:30 p.m. Council Chambers. MXV
1/26/09 Still has car parts and garbage on the lot piled up against the fence.KS
01/08/2010 Notice of Violation from CAO for license condition violations. Given to 01/18/2010 to respond. CAR
12/21/2009 To CAO for adverse action based on inspections conducted on 12/02/2009 and 10/29/2009. On 12/02/2009, KS noted violations of conditions: Condition 2(vehicles are not completely assembled), Condition 4(Vehicle parts cannot be stored outside) \$1000 matrix penalty. CAR
12/2/09 Took pictures still in violation of many cond. #2,4,and KS
11/04/2009 Orders written by KS. Given to 11/28/2009 to respond. CAR
10/29/09 Pict. taken of license violations. KS
05/19/2009 Rcvd \$500.00 for violation. AMW
05/04/2009 Notice of Violation from CAO for condition violations. \$500 penalty. Given to 05/15/2009 to respond. CAR
04/16/2009 To CAO for adverse action. CAR
03/31/2009 Inspection made and photos taken. Conditions #2, #3, #4, and #8 have not been corrected. RWJ
03/06/2009 Letter sent [written orders] Given to 03/31/2009 to correct violations.RWJ
02/23/2009 Corinne Tilley and Yaya Diatta, DSI Zoning Section, are working on complaints involving this location and will provide update shortly. JWF
08/16/1999 Have received no complaints against this license by notification date per Gerry Strathman - license approved/CAM
07/12/1999 - Notification response date 8/13/99, notices mailed 07/12/99; 58M, 43EM/JL

Licensee: S & S AUTOMOTIVE SERVICE CORP

DBA: PARKWAY AUTO BODY INC

License #: 19990003142

1/8/2019 Per DSI fire inspector historically had an approved paint booth. Changed license type to auto body repair/ painting shop. ARM

12/31/2018 \$500.00 paid with ck#8722. DLL

12/19/2018 - CF #18-382 Imposes \$1,000.00 penalty for lic. cond. violations, with \$500 of penalty stayed 6 mos. no same or sim. SLH

12/6/2018 - Initiated resolution and attachments in Legistar (RES PH #18-382) for 12/19/2018 Public Hearing Agenda. JAK

12/6/2018 - Sent Notice of Council Hearing with attachments to licensee's attorney, District Council and property owner (December 19th 2018 @ 5:30 p.m.)
JAK

12/3/2018 - Received letter from licensee's attorney requesting a public hearing. JAK

10/25/2018 - Sent Notice of Violation (\$1000 penalty-2nd violation w/in 12 months) with a 11/5/2018 deadline to respond. JAK

7/6/2018 - Licensee paid \$500.00 matrix penalty. JAK

6/28/2018 - Sent Notice of Violation with a 7/9/2018 deadline to respond. JAK

License Query [-] [□] [×]

Address | Licensee | Contact | License | Cardholder

Licensee Name: S & S AUTOMOTIVE SERVICE CORP

DBA: PARKWAY AUTO BODY INC

Sales Tax Id: []


Find Now

OK

Cancel

New Search

Help



SEARCH WINDOW

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

License #	Tag #	Licensee Name	DBA	License Type	Status	
990003142	0	S & S AUTOMOTIVE SERVICE CORP	PARKWAY AUTO BODY INC	Auto Body Repair Shop	Canceled	1/8/2019 Per
				Auto Body Repair/Painting Shop	Pending	

< [] >

2 Items Found

Properties For License 1906 STILLWATER AVE

Licensee: S & S AUTOMOTIVE SERVICE CORP
 DBA: PARKWAY AUTO BODY INC

Property
 Licensee
 Unofficial

Street #: 1906
 Street Name: STILLWATER
 Street Type: AVE Direction:
 Unit Ind: Unit #:
 City: ST PAUL
 State: MN Zip: 55119
 Ward: 7
 Dist Council: 02

Project Facilitator: ASUNCION, CORINNE

Adverse Action Comments
 1/8/2019 Per DSI fire inspector historically had an approved paint booth. Changed license type to auto body repair/ painting shop. ARM

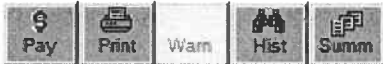
License Group Comments:
 01/09/2019 To CAO for 3rd adverse action. DSE
 01/08/2019 Received complaint about vehicle rear end sitting outside. Inspected property and found vehicle parts and debris outside, salvage apparent, and major vehicle parts missing. DSE

Licensee: S & S AUTOMOTIVE SERVICE CORP Licensee: 07/08/1999 S & S automotive Services
 DBA: PARKWAY AUTO BODY INC Comments: Corporation bought out the stock of Parkway Autobody Inc effective July 2, 1998.
 Sales Tax Id: ***** Bus Phone: () -

License Type	Class	Effective	Expiration	Conditions	License Fee
Auto Body Repair/Painting Shop	N	01/08/2019	01/08/2020	N	\$453.00
Auto Body Repair Shop	N	07/02/1999	07/02/2019	N	\$453.00
Total:					\$906.00

License # 990003142 Save Changes to History

Properties For License 1906 STILLWATER AVE



Licensee **S & S AUTOMOTIVE SERVICE CORP**
 DBA **PARKWAY AUTO BODY INC**

License Licensee Lic. Types Insurance Bond Requirements

Licensee Name: **S & S AUTOMOTIVE SERVICE CORP** Browse...
 DBA: **PARKWAY AUTO BODY INC**
 Sales Tax Id: ********* Non-Profit: Worker's Comp: **00/00/0000** Properties...
 AA Contract Rec'd: **00/00/0000** AA Training Rec'd: **00/00/0000**
 AA Fee Collected: **00/00/0000** Discount Rec'd:

Other Agency Licenses				Financial Hold Reasons		
Other Licensing Agency Name / License Type	License #	Expiration		Reason	Active	Date

Contacts for this Licensee

Addr. Type	Active	Inactive	Last Name	First Name	Title	Bus. Phone	Ho
Business/M	07/02/1998	00/00/0000				() -	(651
Other	07/02/1998	00/00/0000	SEATON	PAUL	CEO	() -	(651
Other	07/02/1998	00/00/0000	JUEN	DON	COO	() -	(651

Mail License To:
 Mail To Contact
 License Address

Mail Invoice To:
 Mail To Contact
 License Address

Background Check Required Contact Properties...

Properties for Licensee Contact

Name | Address | Phone | Email | Groups

Street #: 6690
Street Name: GOODVIEW
Street Prg Direct: <All>
Street Type: COURT
Street Post Direct: South
Unit #:
Unit Abbrev:
P.O. Box #:
City: COTTAGE GROVE
State: MN
Country: U.S.A.
Zip Code: 55016
Zip+4:

Inter Office Address:

Override Formatted Address for Mailing
US Post Formatted Address:

Last Upload: 01/01/1997

OK Cancel Help Save Changes to History

Properties For License 1906 STILLWATER AVE

Licensee **S & S AUTOMOTIVE SERVICE CORP**
 DBA **PARKWAY AUTO BODY INC**

License Licensee Lic. Types Insurance Bond Requirements

License Type: Auto Body Repair/Painting Shop	License Class: N
Effective: 01/08/2019 Expiration: 01/08/2020	Status: Pending
Apply Discount: <input type="checkbox"/> Remove Discount: <input type="checkbox"/> Discount Rec'd: <input type="checkbox"/>	Status Changed: 01/08/2019
Replace Fee: <input type="checkbox"/> # of Units: 1	Application Date: 01/08/2019

Inspector Name	Type	Phone #	
SCHWEINLER, KRISTINA (KRIS)	License	(651) 288-9110	<input type="button" value="Add"/> <input type="button" value="Remove"/>

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

Tag #:

Fields

License Type Comments(long):

1/8/2019 Per DSI fire inspector historically had an approved paint booth. Changed license type to auto body repair/painting shop. ARM

<< 1 of 2 >>

License # **990003142**

Save Changes to History

Licensee: S & S AUTOMOTIVE SERVICE CORP

DBA: PARKWAY AUTO BODY INC

License #: 19990003142

1. All customer and employee vehicles(one space shall be designated and marked for Handicap parking) must be parked in the area designated on the approved site plan, on file with DSI. (Submit site plan immediately.)
2. All vehicles parked outdoors must appear to be completely assembled with no major body parts missing.
3. Vehicle salvage is not permitted.
4. Vehicle parts, tires, oil or similar items will not be stored outdoors. Trash will be stored in a covered dumpster.
5. No repair of vehicles is allowed on the lot. All repair work must be done inside the shop.
6. No general auto repair is allowed; auto body repair and painting only.
7. No vehicle sales allowed.
8. Customer vehicles may not be parked longer than 10 days on the premises.
9. Licensee must comply with all federal, state and local laws.
10. Discontinue using or remove the illegal advertising sign located at 874 White Bear Avenue.

Run Date: 01/09/19 10:07 AM
House#: 1906
Street Name: Stillwater

Last u

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

1906 Stillwater Ave - 55119-3711 - [Other Applications](#)

PIN: 262922310175
Year Built:

Census Tract: 31802
Foundation Sq Feet:

Unverified Usage: 10- GENERAL RETAIL & SVC- B- Commercial

Existing Secondary Use 1: U-Antenna
Zoning: B3

Legal Desc: Beaver Lake Heights Part Of Nwly 90 Ft Of Blks B & D Lying Nely Of Ext Nely Line Of Lot 1 Blk 18 & Swly Of Ext Sw

Owner:
Italo Urgiles/C/O Parkway Auto Body
1906 Stillwater Ave E
St Paul MN 55119-3711

Certificate of Occupancy Responsible Party:
Parkway Auto Body
1906 Stillwater Ave
St Paul MN 55119
651-735-6447

Sec. 310.05. - Hearing procedures.

(m) *Presumptive penalties for certain violations* . The purpose of this section is to establish a standard by which the city council determines the amount of fines, the length of license suspensions and the propriety of revocations, and shall apply to all license types, except that in the case of a violation involving a liquor license § 409.26 shall apply where a specific violation is listed. In the case of an adverse action filed for a violation of chapter 331A, the licensee shall be given a fine for each individual violation of chapter 331A. The total fine amount for violations of chapter 331A may exceed the maximum fine outlined below due to multiple violations in one (1) appearance. All penalty recommendations for chapter 331A violations shall be based on the food penalty guideline referred to in chapter 331A. These penalties are presumed to be appropriate for every case; however the council may deviate therefrom in an individual case where the council finds and determines that there exist substantial and compelling reasons making it more appropriate to do so. When deviating from these standards, the council shall provide written reasons that specify why the penalty selected was more appropriate.

Type of Violation	Appearance			
	1st	2nd	3rd	4th
(1) Violations of conditions placed on the license	\$500.00 fine	\$1,000.00 fine	\$2,000.00 fine and 10-day suspension	Revocation
(2) Violation of provisions of the legislative code relating to the licensed activity	\$500.00 fine	\$1,000.00 fine	\$2,000.00 fine and 10-day suspension	Revocation
(3) Violation of provisions of the legislative code relating to the licensed activity, other than violations of the food code	\$500.00 fine	\$1,000.00 fine	\$2,000.00 fine and 10-day suspension	Revocation
(4) Failure to permit entrance or inspection by DSI inspector or police	5-day suspension	10-day suspension	15-day suspension	Revocation
(5) Commission of a crime other than a felony on the premises by a licensee or employee	\$700.00	\$1,500.00	5-day suspension	Revocation
(6) Commission of a felony on the premises by a licensee or employee	\$2,000.00	Revocation	n/a	n/a

(7) Death or great bodily harm in establishment related to violation of law or license conditions	30-day suspension	60-day suspension	Revocation	n/a
(8) Failure to pay license fees	Suspension	Revocation		
(9) Critical violations under 331A	\$250.00	\$500.00	\$1,000.00, 5-day suspension	Revocation
(10) Non-critical violation under 331A	\$150.00	\$250.00	\$500.00	\$1,000.00
(11) Taxi fail to display driver's license as required by 376.16(f)	\$100.00	\$250.00	\$500.00	Revocation
(12) Taxi fail to display number of information and complaint office as required by 376.11(v)	\$100.00	\$250.00	\$500.00	Revocation
(13) Violation of restrictions upon sidewalk café license under 106.01(b)	\$200.00	\$400.00	\$800.00	Revocation

(i) *Fines payable without hearing.*

- A. Notwithstanding the provisions of section 310.05(c), a licensee who would be making a first or second appearance before the council may elect to pay the fine to the department of safety and inspections without a council hearing, unless the notice of violation has indicated that a hearing is required because of circumstances which may warrant deviation from the presumptive fine amount. Payment of the recommended fine will be considered to be a waiver of the hearing to which the licensee is entitled, and will be considered an "appearance" for the purpose of determining presumptive penalties for subsequent violations.
- B. For adverse action initiated under chapter 331A of this Code, a fine may be paid without a hearing regardless of how many prior appearances that licensee has made before the council. The above council hearing requirement applies to violations under chapter 331A unless the fine recommended by the department of safety and inspections is equal to or less than the fine amount outlined in the above matrix. Payment of the recommended fine will be considered to be a waiver of the hearing to which the licensee is entitled, and will be considered an "appearance" for the purpose of determining presumptive penalties for subsequent violations. A non-critical violation under chapter 331A shall not be considered an "appearance" for purposes of determining presumptive penalties for non-331A violations. A council hearing is required if the department of safety and inspections recommends a fine that is an upward departure for the amount outlined above.

- (ii) *Multiple violations.* At a licensee's first appearance before the city council, the council shall consider and act upon all the violations that have been alleged and/or incorporated in the notices sent to the licensee under the administrative procedures act up to and including the formal notice of hearing. The council in that case shall consider the presumptive penalty for each such violation under the "1st Appearance" column in paragraph (b) above. The occurrence of multiple violations shall be grounds for departure from such penalties in the council's discretion.
- (iii) *Violations occurring after the date of the notice of hearing.* Violations occurring after the date of the notice of hearing that are brought to the attention of the city attorney prior to the hearing date before an administrative law judge (or before the council in an uncontested facts hearing) may be added to the notice(s) by stipulation if the licensee admits to the facts, and shall in that case be treated as though part of the "1st Appearance." In all other cases, violations occurring after the date of the formal notice of hearing shall be the subject of a separate proceeding and dealt with as a "2nd Appearance" before the council. The same procedures shall apply to a second, third or fourth appearance before the council.
- (iv) *Subsequent appearances.* Upon a second, third or fourth appearance before the council by a particular licensee, the council shall impose the presumptive penalty for the violation or violations giving rise to the subsequent appearance without regard to the particular violation or violations that were the subject of the first or prior appearance. However, non-critical violations of chapter 331A shall not be counted as an "appearance" before the council in relation to any violation other than another violation of chapter 331A.
- (v) *Computation of time.*
 - (1) *Second appearance.* A second violation within twelve (12) months shall be treated as a second appearance for the purpose of determining the presumptive penalty.
 - (2) *Third appearance.* A third violation within eighteen (18) months shall be treated as a third appearance for the purpose of determining the presumptive penalty.
 - (3) *Fourth appearance.* A fourth violation within twenty-four (24) months shall be treated as a fourth appearance for the purpose of determining the presumptive penalty.
 - (4) Any appearance not covered by subsections (1), (2) or (3) above shall be treated as a first appearance. Measurement of the twelve-, eighteen-, or twenty-four-month period shall be as follows: The beginning date shall be the earliest violation's date of appearance before the council, and the ending date shall be the date of the new violation. In case of multiple new violations, the ending date to be used shall be the date of the violation last in time.
 - (5) Notwithstanding subsections (iv)(1), (2), (3) or (4) above, a second appearance before the council regarding a death or great bodily harm in a licensed establishment that is related to a violation of the law or license conditions shall be counted as a second appearance, regardless of how much time has passed since the first appearance if the first appearance was also regarding a death or great bodily harm in a licensed establishment. A third appearance for the same shall be counted as a third appearance regardless of how much time has passed since the first or second appearance.
 - (6) For the purpose of a second, third or fourth appearance under this section, "violation" shall mean either one of those violations listed in paragraph (m) or a violation of section 409.26(b).

(Code 1956, § 510.05; Ord. No. 17551, § 2, 4-19-88; Ord. No. 17559, §§ 1, 2, 5-17-88; Ord. No. 17659, § 1, 6-13-89; Ord. No. 17911, § 1, 3-10-92; C.F. No. 94-46, § 7, 2-2-94; C.F. No. 94-898, §§ 2, 3, 7-13-94; C.F. No. 94-1340, § 2, 10-19-94; C.F. No. 95-473, § 4, 5-31-95; C.F. No. 05-180, § 1, 4-6-05; C.F. No. 06-954, § 1, 11-8-06; C.F. No. 06-1072, § 1, 12-27-06; C.F. No. 07-149, § 73, 3-28-07; C.F. No. 07-1053, § 1, 11-28-07; C.F. No. 08-1208, § 1, 12-17-08; C.F. No. 10-665, § 1, 7-28-10; Ord. No. 11-93, § 1, 9-28-11; Ord. No. 11-94, § 1, 10-12-11; Ord 12-42, § 1, 8-22-12; Ord 12-85, § 1, 1-23-13)