

STATE OF MINNESOTA)
) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

Shawn McDonald, being first duly sworn, deposes and says that on the 2nd day of July, she served the attached **EXHIBIT LIST, EXHIBITS AND WITNESS LIST** and a correct copy thereof in an envelope addressed as follows:

Khaled Aloul
231 105th St E
Bloomington, MN 55420

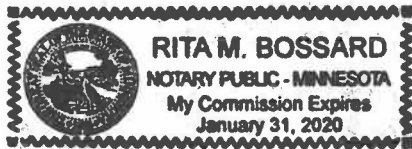
LauraSue Schlatter
Administrative Law Judge
Office of Administrative Hearings
P.O. Box 64620
St. Paul, MN 55164-0620

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


Shawn McDonald

Subscribed and sworn to before me
this 2nd day of July 2019


Notary Public





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

July 2, 2019

Khaled Aloul
231 105th St E
Bloomington, MN 55420

RE: In Re: In the Matter of Cigarette/Tobacco and Gas Station Licenses held by Midway University & Hamline, LLC d/b/a Midway Amoco for the Premises Located at 1347 University Avenue West in Saint Paul OAH Docket No.: 80-6020-36135
Dear Licensee:

Enclosed are exhibits the City may use at the July 15, 2019 administrative hearing. If there are any additions to these exhibits, I will provide those to you. Also, below is the list of witnesses the City may call to testify. If I add any witnesses to this list, I will provide you with that information as well.

1. Eric Hudak, Licensing Manager, 375 Jackson Street, Ste. 220, St. Paul, MN 55101 (651)-266-9132
2. Kristina Schweinler, DSI Inspector III, 375 Jackson Street, Ste. 220, St. Paul, MN 55101 (651)-266-9110

Sincerely,

Lisa Veith
Assistant City Attorney
License No: 0205060

Enclosures

Cc: LauraSue Schlatter, Administrative Law Judge, Office of Administrative Hearings, P.O. Box 64620
St. Paul, MN 55164-0620

**OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE COUNCIL OF
THE CITY OF SAINT PAUL**

In Re: In the Matter of Cigarette/Tobacco and Gas Station Licenses held by Midway University & Hamline, LLC d/b/a Midway Amoco for the Premises Located at 1347 University Avenue West in Saint Paul

**CITY'S PROPOSED
EXHIBITS**

DATE: July 2, 2019

TO: Judge LauraSue Schlatter - Office of Administrative Hearings, 600 North Robert Street.

The following constitutes a list of the City's proposed exhibits for the July 16, 2019 administrative hearing:

Exhibit No.	Description
Ex. No. 1	Minnesota Department of Revenue Seized Cigarette/Tobacco Product Letter dated November 13, 2018
Ex. No. 2	Minnesota Department of Revenue Notice of Seized Contraband dated September 7, 2019 (2 pages)
Ex. No. 3	Retail Inspection Log from the Minnesota Department of Revenue with photographs (5 pages)
Ex. No. 4	Screenshots from DSI ECLIPS System dated January 29, 2019 (6 pages)
Ex. No. 5	STAMP Ownership-Zoning Information
Ex. No. 6	Notice of Violation and Affidavit of Service dates March 12, 2019 (4 pages)
Ex. No. 7	Request for ALJ hearing from Respondent
Ex. No. 8	Tobacco Education Packet dated December 20, 2016 (11 pages)
Ex. No. 9	Tobacco Education Packet dated March 1, 2018 (13 pages)

Also attached please find courtesy copies of applicable City of Saint Paul city ordinances:

Saint Paul Legislative Code § 310.05
Saint Paul Legislative Code § 310.06
Saint Paul Legislative Code § 324
Minnesota Statute 297F.21

Respectfully submitted the 2nd day of July 2019



Lisa Veith, Assistant City Attorney
License No: 0205060
Office of the City Attorney
400 City Hall & Courthouse
15 West Kellogg Boulevard
Saint Paul, Minnesota 55102
(612) 266-8710



November 13, 2018

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

Seized Cigarette/Tobacco Product

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

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

Why are you contacting me?

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

Contact me if you have any questions.

Sincerely,

Steve Johnson
Compliance Coordinator
Phone: 651-556-4708
Email: steve.johnson@state.mn.us

Supervisor Contact Information:
Dan Hughes
651-556-4750
dan.hughes@state.mn.us





September 7, 2018

ID: XX-XXX7559
Letter ID: L2093341376
Notice Date: September 7, 2018

MIDWAY UNIVERSITY & HAMLIN PROPERTIES
1347 UNIVERSITY AVE W
SAINT PAUL MN 55104-4002

Notice of Seized Contraband

Seized Date and Time: 04-Sep-2018 11am
Seized by: Tom Piskor and Steve Johnson
Seizure Location: 1347 University Ave W
Seized From: Midway University Hamline BP

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

Quantity	Unit	Product Description
5	Boxes	Black & Mild Wood Tip Wine Cigars
13	Cigars	Black & Mild Wood Tip Wine Cigars
10	Boxes	Black & Mild Plastic Tip Wine Cigars
3	Cigars	Black & Mild Plastic Tip Wine Cigars

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

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

Cigarette/Tobacco 297F.21

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

What must I do?

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

How do I demand a judicial review?

600 N. Robert St., St. Paul, MN 55101
www.revenue.state.mn.us

An equal opportunity employer
This material is available in alternate formats.



1. File a civil complaint with the court administrator in the county where the seizure occurred.
2. Include proof that you served a copy of the complaint on the Department of Revenue.
3. List your name as "plaintiff" and the seized property as "defendant" in the title of the complaint.
4. State the grounds on which you allege the property was improperly seized and what your ownership interest is in the property.

You do not have to pay the court filing fee if it is determined you cannot afford the fee. If the value of the seized property is \$10,000 or less, you can file an action in conciliation court to recover the property. If the value of the seized property is less than \$500, you do not have to pay the conciliation court filing fee.

Thomas Piskor
Revenue Tax Specialist
Phone: 651-556-4725
Email: Thomas.Piskor@state.mn.us
Fax: 651-556-5236



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) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL


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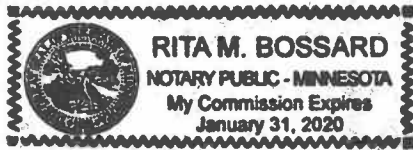
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Sincerely,

Lisa Veith
Assistant City Attorney
License No: 0205060

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Tobacco Licensing Division
375 Jackson Street #220
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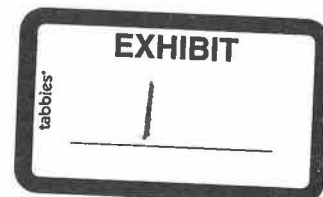
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Contact me if you have any questions.

Sincerely,

Steve Johnson
Compliance Coordinator
Phone: 651-556-4708
Email: steve.johnson@state.mn.us

Supervisor Contact Information:
Dan Hughes
651-556-4750
dan.hughes@state.mn.us





September 7, 2018

ID: XX-XXX7559
Letter ID: L2093341376
Notice Date: September 7, 2018

MIDWAY UNIVERSITY & HAMLIN PROPERTIES
1347 UNIVERSITY AVE W
SAINT PAUL MN 55104-4002

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www.revenue.state.mn.us

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1. File a civil complaint with the court administrator in the county where the seizure occurred.
2. Include proof that you served a copy of the complaint on the Department of Revenue.
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4. State the grounds on which you allege the property was improperly seized and what your ownership interest is in the property.

You do not have to pay the court filing fee if it is determined you cannot afford the fee. If the value of the seized property is \$10,000 or less, you can file an action in conciliation court to recover the property. If the value of the seized property is less than \$500, you do not have to pay the conciliation court filing fee.

Thomas Piskor
Revenue Tax Specialist
Phone: 651-556-4725
Email: Thomas.Piskor@state.mn.us
Fax: 651-556-5236



Retail Inspection Log

EXHIBIT
3-1

Taxpayer Name Midway University & Hamline LLC	Was this inspection assigned? No
Date of Inspection 09/04/18	Minnesota ID # 1256957
Arrival Time @ Business 9am	Departure Time from Business 11am
Time Invoices Requested 9:30am	Time Invoices Provided 10:00am
Clerk(s) Name(s) Alex Asai	Owner(s) Name(s) Khal Alou
Was there a seizure? Yes	Estimated Wholesale Value of Seizure \$ 761.85
Number of sticks? NA	Estimated Tax Value of Seizure \$723.80
Was a Stamp Reader Used? Yes	Auditor(s) @ Retail Inspection Site RTS Tom Piskor & Steve Johnson, Lead Compliance Officer

Notes:

Retail Tax Specialist Tom Piskor and Lead Compliance Officer Steve Johnson entered the business and introduced ourselves to Alex Asai, as Minnesota Department of Revenue employees and stated we would be conducting a cigarette/tobacco inspection.

We provided the establishment with:
 Fact Sheet #1 - "Random Compliance Checks of Cigarette and Tobacco Retailers" Yes
 Fact Sheet #2 - "License Requirements for Retailers" Yes
 Postcard - "Do you suspect tobacco smuggling?" Yes

Did the employee have any questions? No
 Did we ask to see the tobacco license and document all license information on the CT105? Yes
 Did we request from the store employee access to behind the sales counter and all storage areas? Yes

We continued our inspection of the business and found a locked metal cabinet in the back room. We requested access to that cabinet and waited approximately 15 to 20 minutes for Alex Asai to arrive with the key for the metal locker. The metal locker had a substantial amount of cigars and hookah tobacco stored inside.

Many of the products were substantiated with invoices. The Black & Mild Wood and Plastic Tip Wine cigars could not be substantiated with invoices from the distributor, Winner Tobacco. The manager, Alex, told us that Winner Tobacco had purposely misrepresented the Black & Mild Wine flavored cigars on their invoices as a non-flavored type of a Black & Mild Cigars due to flavor restrictions on cigars in the city of St. Paul. The store manager stated the Black & Mild Wine flavored cigars were actually delivered to this store in lieu of the cigars reported as non-flavored cigars.

The manager asked if we could accept the falsified data on the Winner Tobacco invoices to substantiate their inventory of Black & Mild Wine flavored cigars. This request was denied. The manager was informed that cigarette and tobacco invoices must reflect the actual product that is

delivered by the distributor and the invoices need to fully substantiate the retail inventory. The inventory of plastic and wood tipped Black & Mild Wine cigars was then seized as they could not be substantiated by the distributor invoices.

If there was a seizure - Were the appeal Rights explained to the taxpayer? Yes





EXHIBIT
3-3
tabbies



tabbies®
EXHIBIT
3-4



EXHIBIT
3-5

tabbies®

License Group Comments Text

01/29/2019

Licensee: MIDWAY UNIVERSITY & HAMLIN LLC

DBA: MIDWAY AMOCO BP

License #: 20100000243

1/4/19 revised request for adverse action to CAO KS
10/24/18 To CAO for adverse action. KLS
7/25/18 Tobacco youth compliance check pass ARM
4/23/2018 Menthol education / inspection Pass JNV
12/11/17 requested video for all cameras due by 12/14/17KS.
10/19/2017 Received \$200.00 matrix penalty for cig sales violation. MN
09/06/2017 Council file #17-1257 imposes \$200 matrix penalty for underage tobacco sales that occurred on 06/27/2017. JWF
08/31/2017 passed tobacco compliance recheck BLB
06/27/2017 FAILED tobacco compliance checks BLB
8/03/2016 Passed Tobacco Compliance Check BLB
07/17/15 Passed cigarette Compliance check BLB
03/23/2015 Rcvd \$200.00 for liquor sales violation. AMW
02/10/2015 CF letter sent. VS/jwf
02/05/2015 CF #15-236 imposes \$200 penalty for sale of tobacco to minor, payment due within 30 days. JWF
01/22/2015 Received \$50 from Ahmed M Saleh for cig sale violation. MN
12/29/2014 Failed tobacco compliance check. AAJ
04/03/2014 Sent delinquent letter. Response deadline date is April 24, 2014. ML
9/16/2013 - Geoff spoke with State of MN and determined the invoices were legitimate. Cancelled the administrative hearing scheduled 10/15/2013 and sent a letter to the licensee withdrawing adverse action and waiving the \$500.00 matrix penalty. JAK
06/24/2013 To CAO for adverse action. \$500 matrix penalty. CAR
06/13/2013 Received notice from DOR that contraband tobacco products were seized from this business on March 27, 2013. Contraband products are those for which the licensee is unable to produce an invoice from a licensed seller. This is a violation of Section 310.05(m)(2) of the Legislative Code. CAR
03/28/2013 Passed Cig. Comp.Ck KS
08/28/2012 Passed tobacco compliance check. TPF
02/21/2012 Passed tobacco compliance check. PF
08/10/2011 Passed tobacco comp. check. JWF
07/16/2010 Passed tobacco comp. check. JWF
07/16/2010 Passed tobacco compliance check. PF
06/11/2010 License effective dates backdated to coincide with expiration date of previous licenses. JWF
05/26/2010 Council File #10-551 approves license with 5 conditions. JWF
05/24/2010 Per email Steve Parsons, SPPD, security camera and lighting ok. JWF
05/18/2010 Rcvd. signed revised lic. cond. affidavit. JWF
05/12/2010 Letter sent return signed revised license condition affidavit and obtain SPPD approval of security cammeras, response date 05/28/2010. JWF
05/03/2010 EH fee paid. JWF
04/22/2010 License condition #5 added per Nhia Vang, Legislative Hearing Officer. JWF
04/19/2010 License Application Summary placed in inter-office mail to Nhia Vang. JWF
04/08/2010 Legislative hearing scheduled for 10:00 a.m. on 04/22/2010, room 330 CH. JWF
03/29/2010 Passed tobacco compliance check. PF
03/15/2010 Rcvd. signed lic. cond. affidavit. JWF
03/09/2010 Email received from Dist. 11 wanting concerns addressed with additional conditions. JWF
03/01/2010 License notification sent, 43M/34EM, response date 04/02/2010. JWF



Licensee: MIDWAY UNIVERSITY & HAMLINE LLC

DBA: MIDWAY AMOCO BP

License #: 20100000243

1. The licensee shall provide and maintain working video surveillance cameras and recorders on the premises (both inside and outside) in accordance with Saint Paul Police Department (SPPD) recommendations. The number of cameras, their placement and their quality must be approved by SPPD. This equipment must be in operation during all business hours. Tapes/recordings must be maintained for a minimum of thirty (30) days, and copies of recordings shall be available to SPPD and/or the Department of Safety and Inspections (DSI) staff within twenty-four (24) hours of such a request.
2. The licensee agrees to provide adequate lighting to support the camera placement, and to provide sufficient visibility of the premises in accordance with SPPD recommendations.
3. Licensee agrees to provide and maintain adequate fencing to comply with applicable City Ordinances, and to prevent access from the alley to the property.
4. Licensee agrees to limit the car wash hours of operation to between 6:00 a.m. and 10:00 p.m.
5. The licensee shall maintain a clean site, with all trash and litter picked up daily.



License Query

Address | Licensee | Contact | License | Cardholder

Licensee Name: MIDWAY UNIVERSITY & HAMLIN LLC

DBA: MIDWAY AMOCO BP

Sales Tax Id:


Find Now

OK

Cancel

New Search

Help



SEARCH WINDOW

License #	Licensee Name	DBA	License Type	Status	Reason
100000243	MIDWAY UNIVERSITY & HAMLIN LLC	MIDWAY AMOCO BP	Retail Fd (B) - Grocery 101-	Canceled	MDA/MDH has licensing aut 03
			Cigarette/Tobacco	Active Pending	*Approaching Renewal Dat:03
			Gas Station	Active Pending	*Approaching Renewal Dat:03
	MIDWAY UNIVERSITY & HAMLIN LLC	MIDWAY AMOCO BP	Alarm Permit (New)	Active Pending	*Approaching Renewal Dat:03

4 Items Found

Properties For License 1347 UNIVERSITY AVE W

Pay Print Warn Hist Summary

Licensee: MIDWAY UNIVERSITY & HAMLINE LLC
DBA: MIDWAY AMOCO BP

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

Property Licensee Unofficial

Street #: 1347
Street Name: UNIVERSITY
Street Type: AVE Direction: W
Unit Ind: Unit #:
City: ST PAUL
State: MN Zip: 55130
Ward: 4
Dist Council: 11

Project Facilitator: ROZEK, CHRISTINE

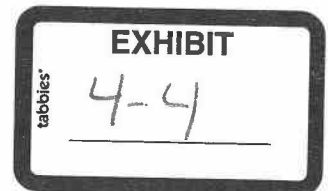
Adverse Action Comments
1/2/2018 - Manager name and phone number incorrect.
Left VM w/licensee to contact me. EVH
10/20/2017 fine paid JNV

License Group Comments:
1/4/19 revised request for adverse action to CAO KS
10/24/18 To CAO for adverse action. KLS
7/25/18 Tobacco youth compliance check pass ARM
4/23/2018 Menthol education / inspection Pass JNV
12/11/17 requested video for all cameras due by

Licensee: MIDWAY UNIVERSITY & HAMLINE LLC
DBA: MIDWAY AMOCO BP
Sales Tax Id: ***** Bus Phone: (651) 343-4995

License Type	Class	Effective	Expiration	Conditions	License Fee
Alarm Permit (New)	R	03/22/2010	03/22/2019	N	\$38.00
Gas Station	N	03/22/2010	03/22/2019	N	\$76.00
Retail Fd (B) - Grocery 101-1000 sq ft	R	03/22/2010	03/22/2014	N	\$109.00

License # 100000243 Save Changes to History OK Cancel Help



Properties For License 1347 UNIVERSITY AVE W

Pay Print Warn Hist Summary

Licensee: MIDWAY UNIVERSITY & HAMLIN LLC
 DBA: MIDWAY AMOCO BP

License	Licensee	Lic. Types	Insurance	Bond	Requirements
Licensee Name:	MIDWAY UNIVERSITY & HAMLIN LLC				
DBA:	MIDWAY AMOCO BP				
Sales Tax Id:	*****	Non-Profit: <input type="checkbox"/>	Worker's Comp: 00/00/0000		
AA Contract Rec'd:	00/00/0000	AA Training Rec'd:	00/00/0000		
AA Fee Collected:	00/00/0000	Discount Rec'd:	<input type="checkbox"/>		

Other Agency Licenses

Other Licensing Agency Name / License Type	License #	Expiration	Reason	Active	Date

Financial Hold Reasons

Contacts for this Licensee

Addr. Type	Active	Inactive	Last Name	First Name	Title	Bus. Phone	Ho
Business/M	01/21/2010	00/00/0000	ALOUL	KHALED	PRESIDENT	(651) 343-4995	(952)
Other	01/21/2010	00/00/0000	ALOUL	KHALED	PRESIDENT	(H) (651) 343-4995	(952)
Other	01/21/2010	00/00/0000	ALJADA	SALEH	MANAGER	() -	(952)

Background Check Required

License # 100000243 Save Changes to History OK Cancel Help



Properties for Licensee Contact

Name | Address | Phone | Email | Groups

Street #: 231
 Street Name: 105
 Street Prg Direct: <All>
 Street Type: ST
 Street Post Direct: East
 Unit #:
 Unit Abbrev:
 P.O. Box #:
 City: BLOOMINGTON
 State: MN
 Country: U.S.A.
 Zip Code: 55420
 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

EXHIBIT
 4-6

tables*

STAMP - Ownership / Zoning Information

[New Search](#)

[Help using this report](#)

Run Date: 01/04/19 12:11 PM
House#: 1347
Street Name: UNIVERSITY

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

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

1347 University Ave W - Hamline Amoco - 55130-4028 - [Other Applications](#)

PIN: 342923240234	Census Track: 32200	Census Block: 2008	Council Ward: 4	District Council: 11
Year Built:	Foundation Sq Feet:	Loan Company:	Land Value: 782000	Building Value: 270300

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

ISP:

Units: 0

Zoning: T2

Legal Desc: SYNDICATE NO. 5 ADDITION SUBJ TO RD; E 24 FT OF LOT 26 AND ALL OF LOTS 27 THRU LOT 30 BLK 30

Owner:

Midway University & Hamline Prop Lic/Attn Khal Aloul & Ibrahim Aqel
1347 University Ave W
St Paul MN 55104-4002

Certificate of Occupancy Responsible Party:

Khal Aloul
Midway University & Hamline Properties Lic
1347 University Ave W
Saint Paul MN 55104-4002
651-343-4995





CITY OF SAINT PAUL
Mayor Melvin Carter

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

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

March 12, 2019

NOTICE OF VIOLATION

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d/b/a Midway Amoco BP
1347 University Avenue West
St. Paul, MN 55104-4002
Attn: Khaled Aloul

RE: Cigarette/Tobacco and Gas Station licenses held by Midway University & Hamline, LLC d/b/a Midway Amoco BP for the premises located at 1347 University Avenue West in Saint Paul
License ID #: 20100000243

Dear Licensee:

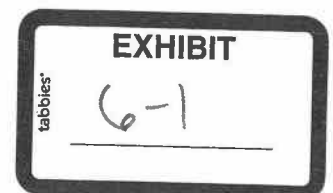
The Department of Safety and Inspections (“Department”) will recommend adverse action against the Cigarette/Tobacco and Gas Station licenses held by Midway University & Hamline, LLC (“Licensee”) for the premises known as Midway Amoco BP located at 1347 University Avenue West (“Licensed Premises”)

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

The Department of Safety and Inspections (DSI) received a Notice of Seized Contraband letter from the Minnesota Department of Revenue dated November 13, 2018. The Notice related to an inspection and seizure of contraband flavored tobacco products at the licensed premises on September 4, 2018.

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

5	Boxes	Black & Mild Wood Tip Wine Cigars
13	Cigars	Black & Mild Wood Tip Wine Cigars
10	Boxes	Black & Mild Plastic Tip Wine Cigars
3	Cigars	Black & Mild Plastic Tip Wine Cigars



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

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

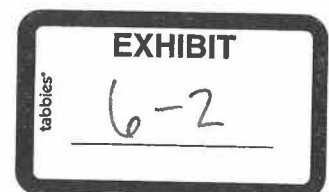
Section 310.06 (b) (6) (a): “the license or applicant (or any person whose conduct may by law be imputed to the licensee of applicant) has violated, or performed any act which is a violation of, any of the provisions of these chapters or of any statute, ordinance or regulation reasonably related to the licensed activity, regardless of whether criminal charges have or have not been brought in connection therewith...”

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

You have four (4) options:

1. If you do not contest the imposition of the proposed adverse action, you may do nothing. If I have not heard from you by **Friday March 22, 2019**, I will presume that you have chosen not to contest the proposed adverse action and the matter will be placed on the **Wednesday, April 3, 2019** City Council Consent Agenda for approval of the proposed remedy.
2. You can admit to the violation and pay the \$500.00 matrix penalty. If this is your choice, send the payment directly to DSI at 375 Jackson Street, Ste. 220, St. Paul, Minnesota 55101-1806 no later than **Friday March 22, 2019**. A self-addressed envelope is enclosed for your convenience. Payment of the \$500.00 matrix penalty will be considered a waiver of the hearing to which you are entitled.
3. If you wish to admit the facts but you contest the \$500.00 matrix penalty, you may have a public hearing before the Saint Paul City Council. You will need to send me a letter with a statement admitting to the facts and requesting a public hearing no later than **Friday March 22, 2019**. The matter will then be scheduled before the City Council to determine whether to impose the \$500.00 matrix penalty. You will have an opportunity to appear before the Council and make a statement on your own behalf.
4. If you dispute the facts outlined above, you may request a hearing before an Administrative Law Judge (ALJ). You will need to send me a letter disputing the facts and requesting an administrative hearing no later than **Friday March 22, 2019**. At that hearing both you and the City will appear and present witnesses, evidence and cross-examine each other's witnesses. After receipt of the ALJ's report (usually within 30 days), a public hearing will need to be scheduled. At that time, the City Council will decide whether to adopt, modify or reject the ALJ's report and recommendation.

“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.”



Midway University & Hamline LLC – Licensee
d/b/a Midway Amoco BP
March 12, 2019
Page 3

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

If you have not contacted me by Friday March 22, 2019, I will assume that you do not contest the imposition of the \$500.00 matrix penalty. In that case, the matter will be placed on the Wednesday, April 3, 2019 City Council Consent Agenda for approval of the recommended penalty.

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

Sincerely,



Lisa L. Veith
Assistant City Attorney
License No. 205060

Cc Khaled Aloul, 231-105th Street East, Bloomington, MN 55420
Melissa Cortes, Community Organizer, Hamline Midway Coalition, Hamline Midway Library
1558 W. Minnehaha Avenue, St. Paul, MN 55104
Midway University & Hamline Properties, LLC, Attn: Khal Aloul & Ibrahim Aqel
1347 University Avenue West, St. Paul, MN 55104-4002

Attachments Minnesota Department of Revenue Seized Cigarette/Tobacco Product letter dated November 13, 2018
Minnesota Department of Revenue Notice of Seized Contraband dated September 4, 2018
Screenshots from DSI ECLIPS System dated January 29, 2019
STAMP Ownership-Zoning Information
Minnesota Statutes Section 297F.21 Contraband
Saint Paul Legislative Code §310.05
Saint Paul Legislative Code §310.06

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



STATE OF MINNESOTA)
) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

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

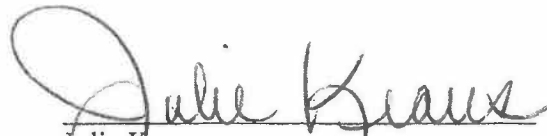
Midway University & Hamline LLC -- Licensee
d/b/a Midway Amoco BP
1347 University Avenue West
St. Paul, MN 55104-4002
Attn: Khaled Aloul

Khaled Aloul
231-105th Street East
Bloomington, MN 55420


Melissa Cortes, Community Organizer
Hamline Midway Coalition
Hamline Midway Library
1558 W. Minnehaha Avenue
St. Paul, MN 55104

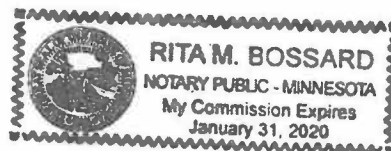
Midway University & Hamline Properties, LLC
Attn: Khal Aloul & Ibrahim Aqel
1347 University Avenue West
St. Paul, MN 55104-4002

(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 12th day of March 2019


Notary Public



STATE OF MINNESOTA)
) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

Shawn McDonald, being first duly sworn, deposes and says that on the 2nd day of July, she served the attached **EXHIBIT LIST, EXHIBITS AND WITNESS LIST** and a correct copy thereof in an envelope addressed as follows:

Khaled Aloul
231 105th St E
Bloomington, MN 55420

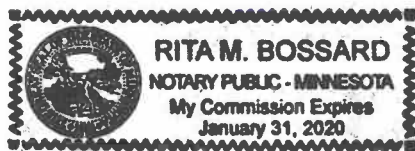
LauraSue Schlatter
Administrative Law Judge
Office of Administrative Hearings
P.O. Box 64620
St. Paul, MN 55164-0620

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


Shawn McDonald

Subscribed and sworn to before me
this 2nd day of July 2019


Notary Public





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

July 2, 2019

Khaled Aloul
231 105th St E
Bloomington, MN 55420

RE: In Re: In the Matter of Cigarette/Tobacco and Gas Station Licenses held by Midway University & Hamline, LLC d/b/a Midway Amoco for the Premises Located at 1347 University Avenue West in Saint Paul OAH Docket No.: 80-6020-36135
Dear Licensee:

Enclosed are exhibits the City may use at the July 15, 2019 administrative hearing. If there are any additions to these exhibits, I will provide those to you. Also, below is the list of witnesses the City may call to testify. If I add any witnesses to this list, I will provide you with that information as well.

1. Eric Hudak, Licensing Manager, 375 Jackson Street, Ste. 220, St. Paul, MN 55101 (651)-266-9132
2. Kristina Schweinler, DSI Inspector III, 375 Jackson Street, Ste. 220, St. Paul, MN 55101 (651)-266-9110

Sincerely,

Lisa Veith
Assistant City Attorney
License No: 0205060

Enclosures

Cc: LauraSue Schlatter, Administrative Law Judge, Office of Administrative Hearings, P.O. Box 64620
St. Paul, MN 55164-0620

**OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE COUNCIL OF
THE CITY OF SAINT PAUL**

In Re: In the Matter of Cigarette/Tobacco and Gas Station Licenses held by Midway University & Hamline, LLC d/b/a Midway Amoco for the Premises Located at 1347 University Avenue West in Saint Paul

**CITY'S PROPOSED
EXHIBITS**

DATE: July 2, 2019

TO: Judge LauraSue Schlatter - Office of Administrative Hearings, 600 North Robert Street.

The following constitutes a list of the City's proposed exhibits for the July 16, 2019 administrative hearing:

Exhibit No.	Description
Ex. No. 1	Minnesota Department of Revenue Seized Cigarette/Tobacco Product Letter dated November 13, 2018
Ex. No. 2	Minnesota Department of Revenue Notice of Seized Contraband dated September 7, 2019 (2 pages)
Ex. No. 3	Retail Inspection Log from the Minnesota Department of Revenue with photographs (5 pages)
Ex. No. 4	Screenshots from DSI ECLIPS System dated January 29, 2019 (6 pages)
Ex. No. 5	STAMP Ownership-Zoning Information
Ex. No. 6	Notice of Violation and Affidavit of Service dates March 12, 2019 (4 pages)
Ex. No. 7	Request for ALJ hearing from Respondent
Ex. No. 8	Tobacco Education Packet dated December 20, 2016 (11 pages)
Ex. No. 9	Tobacco Education Packet dated March 1, 2018 (13 pages)

Also attached please find courtesy copies of applicable City of Saint Paul city ordinances:

Saint Paul Legislative Code § 310.05
Saint Paul Legislative Code § 310.06
Saint Paul Legislative Code § 324
Minnesota Statute 297F.21

Respectfully submitted the 2nd day of July 2019



Lisa Veith, Assistant City Attorney
License No: 0205060
Office of the City Attorney
400 City Hall & Courthouse
15 West Kellogg Boulevard
Saint Paul, Minnesota 55102
(612) 266-8710



November 13, 2018

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

Seized Cigarette/Tobacco Product

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

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

Why are you contacting me?

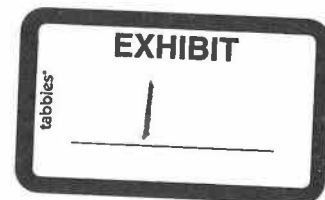
We are providing you information about our seizure of tobacco contraband so you may take any action against the city/county license as appropriate.

Contact me if you have any questions.

Sincerely,

Steve Johnson
Compliance Coordinator
Phone: 651-556-4708
Email: steve.johnson@state.mn.us

Supervisor Contact Information:
Dan Hughes
651-556-4750
dan.hughes@state.mn.us





September 7, 2018

ID: XX-XXX7559
Letter ID: L2093341376
Notice Date: September 7, 2018

MIDWAY UNIVERSITY & HAMLIN PROPERTIES
1347 UNIVERSITY AVE W
SAINT PAUL MN 55104-4002

Notice of Seized Contraband

Seized Date and Time: 04-Sep-2018 11am
Seized by: Tom Piskor and Steve Johnson
Seizure Location: 1347 University Ave W
Seized From: Midway University Hamline BP

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

Quantity	Unit	Product Description
5	Boxes	Black & Mild Wood Tip Wine Cigars
13	Cigars	Black & Mild Wood Tip Wine Cigars
10	Boxes	Black & Mild Plastic Tip Wine Cigars
3	Cigars	Black & Mild Plastic Tip Wine Cigars

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

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

Cigarette/Tobacco 297F.21

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

What must I do?

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

How do I demand a judicial review?

600 N. Robert St., St. Paul, MN 55101
www.revenue.state.mn.us

An equal opportunity employer
This material is available in alternate formats.



1. File a civil complaint with the court administrator in the county where the seizure occurred.
2. Include proof that you served a copy of the complaint on the Department of Revenue.
3. List your name as "plaintiff" and the seized property as "defendant" in the title of the complaint.
4. State the grounds on which you allege the property was improperly seized and what your ownership interest is in the property.

You do not have to pay the court filing fee if it is determined you cannot afford the fee. If the value of the seized property is \$10,000 or less, you can file an action in conciliation court to recover the property. If the value of the seized property is less than \$500, you do not have to pay the conciliation court filing fee.

Thomas Piskor
Revenue Tax Specialist
Phone: 651-556-4725
Email: Thomas.Piskor@state.mn.us
Fax: 651-556-5236



Retail Inspection Log

EXHIBIT
3-1

Taxpayer Name Midway University & Hamline LLC	Was this inspection assigned? No
Date of Inspection 09/04/18	Minnesota ID # 1256957
Arrival Time @ Business 9am	Departure Time from Business 11am
Time Invoices Requested 9:30am	Time Invoices Provided 10:00am
Clerk(s) Name(s) Alex Asai	Owner(s) Name(s) Khal Alou
Was there a seizure? Yes	Estimated Wholesale Value of Seizure \$ 761.85
Number of sticks? NA	Estimated Tax Value of Seizure \$723.80
Was a Stamp Reader Used? Yes	Auditor(s) @ Retail Inspection Site RTS Tom Piskor & Steve Johnson, Lead Compliance Officer

Notes:

Retail Tax Specialist Tom Piskor and Lead Compliance Officer Steve Johnson entered the business and introduced ourselves to Alex Asai, as Minnesota Department of Revenue employees and stated we would be conducting a cigarette/tobacco inspection.

We provided the establishment with:
 Fact Sheet #1 - "Random Compliance Checks of Cigarette and Tobacco Retailers" Yes
 Fact Sheet #2 - "License Requirements for Retailers" Yes
 Postcard - "Do you suspect tobacco smuggling?" Yes

Did the employee have any questions? No
 Did we ask to see the tobacco license and document all license information on the CT105? Yes
 Did we request from the store employee access to behind the sales counter and all storage areas? Yes

We continued our inspection of the business and found a locked metal cabinet in the back room. We requested access to that cabinet and waited approximately 15 to 20 minutes for Alex Asai to arrive with the key for the metal locker. The metal locker had a substantial amount of cigars and hookah tobacco stored inside.

Many of the products were substantiated with invoices. The Black & Mild Wood and Plastic Tip Wine cigars could not be substantiated with invoices from the distributor, Winner Tobacco. The manager, Alex, told us that Winner Tobacco had purposely misreported the Black & Mild Wine flavored cigars on their invoices as a non-flavored type of a Black & Mild Cigars due to flavor restrictions on cigars in the city of St. Paul. The store manager stated the Black & Mild Wine flavored cigars were actually delivered to this store in lieu of the cigars reported as non-flavored cigars.

The manager asked if we could accept the falsified data on the Winner Tobacco invoices to substantiate their inventory of Black & Mild Wine flavored cigars. This request was denied. The manager was informed that cigarette and tobacco invoices must reflect the actual product that is

delivered by the distributor and the invoices need to fully substantiate the retail inventory. The inventory of plastic and wood tipped Black & Mild Wine cigars was then seized as they could not be substantiated by the distributor invoices.

If there was a seizure - Were the appeal Rights explained to the taxpayer? Yes





EXHIBIT
3-3

tabbies®



EXHIBIT
3-4



EXHIBIT
3-5

License Group Comments Text

01/29/2019

Licensee: MIDWAY UNIVERSITY & HAMLINE LLC

DBA: MIDWAY AMOCO BP

License #: 20100000243

1/4/19 revised request for adverse action to CAO KS
10/24/18 To CAO for adverse action. KLS
7/25/18 Tobacco youth compliance check pass ARM
4/23/2018 Menthol education / inspection Pass JNV
12/11/17 requested video for all cameras due by 12/14/17KS.
10/19/2017 Received \$200.00 matrix penalty for cig sales violation. MN
09/06/2017 Council file #17-1257 imposes \$200 matrix penalty for underage tobacco sales that occurred on 06/27/2017. JWF
08/31/2017 passed tobacco compliance recheck BLB
06/27/2017 FAILED tobacco compliance checks BLB
8/03/2016 Passed Tobacco Compliance Check BLB
07/17/15 Passed cigarette Compliance check BLB
03/23/2015 Rcvd \$200.00 for liquor sales violation. AMW
02/10/2015 CF letter sent. VS/jwf
02/05/2015 CF #15-236 imposes \$200 penalty for sale of tobacco to minor, payment due within 30 days. JWF
01/22/2015 Received \$50 from Ahmed M Saleh for cig sale violation. MN
12/29/2014 Failed tobacco compliance check. AAJ
04/03/2014 Sent delinquent letter. Response deadline date is April 24, 2014. ML
9/16/2013 - Geoff spoke with State of MN and determined the invoices were legitimate. Cancelled the administrative hearing scheduled 10/15/2013 and sent a letter to the licensee withdrawing adverse action and waiving the \$500.00 matrix penalty. JAK
06/24/2013 To CAO for adverse action. \$500 matrix penalty. CAR
06/13/2013 Received notice from DOR that contraband tobacco products were seized from this business on March 27, 2013. Contraband products are those for which the licensee is unable to produce an invoice from a licensed seller. This is a violation of Section 310.05(m)(2) of the Legislative Code. CAR
03/28/2013 Passed Cig. Comp.Ck KS
08/28/2012 Passed tobacco compliance check. TPF
02/21/2012 Passed tobacco compliance check. PF
08/10/2011 Passed tobacco comp. check. JWF
07/16/2010 Passed tobacco comp. check. JWF
07/16/2010 Passed tobacco compliance check. PF
06/11/2010 License effective dates backdated to coincide with expiration date of previous licenses. JWF
05/26/2010 Council File #10-551 approves license with 5 conditions. JWF
05/24/2010 Per email Steve Parsons, SPPD, security camera and lighting ok. JWF
05/18/2010 Rcvd. signed revised lic. cond. affidavit. JWF
05/12/2010 Letter sent return signed revised license condition affidavit and obtain SPPD approval of security cammeras, response date 05/28/2010. JWF
05/03/2010 EH fee paid. JWF
04/22/2010 License condition #5 added per Nhia Vang, Legislative Hearing Officer. JWF
04/19/2010 License Application Summary placed in inter-office mail to Nhia Vang. JWF
04/08/2010 Legislative hearing scheduled for 10:00 a.m. on 04/22/2010, room 330 CH. JWF
03/29/2010 Passed tobacco compliance check. PF
03/15/2010 Rcvd. signed lic. cond. affidavit. JWF
03/09/2010 Email received from Dist. 11 wanting concerns addressed with additional conditions. JWF
03/01/2010 License notification sent, 43M/34EM, response date 04/02/2010. JWF



Licensee: MIDWAY UNIVERSITY & HAMLIN LLC

DBA: MIDWAY AMOCO BP

License #: 2010000243

1. The licensee shall provide and maintain working video surveillance cameras and recorders on the premises (both inside and outside) in accordance with Saint Paul Police Department (SPPD) recommendations. The number of cameras, their placement and their quality must be approved by SPPD. This equipment must be in operation during all business hours. Tapes/recordings must be maintained for a minimum of thirty (30) days, and copies of recordings shall be available to SPPD and/or the Department of Safety and Inspections (DSI) staff within twenty-four (24) hours of such a request.
2. The licensee agrees to provide adequate lighting to support the camera placement, and to provide sufficient visibility of the premises in accordance with SPPD recommendations.
3. Licensee agrees to provide and maintain adequate fencing to comply with applicable City Ordinances, and to prevent access from the alley to the property.
4. Licensee agrees to limit the car wash hours of operation to between 6:00 a.m. and 10:00 p.m.
5. The licensee shall maintain a clean site, with all trash and litter picked up daily.



License Query

Address | Licensee | Contact | License | Cardholder

Licensee Name: MIDWAY UNIVERSITY & HAMLINE LLC

DBA: MIDWAY AMOCO BP

Sales Tax Id:


Find Now

OK

Cancel

New Search

Help



SEARCH WINDOW

License #	Licensee Name	DBA	License Type	Status	Reason
100000243	MIDWAY UNIVERSITY & HAMLINE LLC	MIDWAY AMOCO BP	Retail Fd (B) - Grocery 101-	Canceled	MDA/MDH has licensing aut 03
			Cigarette/Tobacco	Active Pending	*Approaching Renewal Dat: 03
			Gas Station	Active Pending	*Approaching Renewal Dat: 03
	MIDWAY UNIVERSITY & HAMLINE LLC	MIDWAY AMOCO BP	Alarm Permit (New)	Active Pending	*Approaching Renewal Dat: 03

4 Items Found

EXHIBIT
4-3

Properties For License 1347 UNIVERSITY AVE W

Pay Print Warn Hist Screen

Licensee: MIDWAY UNIVERSITY & HAMLIN LLC
DBA: MIDWAY AMOCO BP

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

Property Licensee Unofficial

Street #: 1347
Street Name: UNIVERSITY
Street Type: AVE Direction: W
Unit Ind: Unit #:
City: ST PAUL
State: MN Zip: 55130
Ward: 4
Dist Council: 11

Project Facilitator: ROZEK, CHRISTINE

Adverse Action Comments
1/2/2018 - Manager name and phone number incorrect.
Left VM w/licensee to contact me. EVH
10/20/2017 fine paid JNV
10/10/2017 - ...

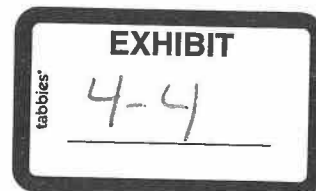
License Group Comments:
1/4/19 revised request for adverse action to CAO KS
10/24/18 To CAO for adverse action. KLS
7/25/18 Tobacco youth compliance check pass ARM
4/23/2018 Menthol education / inspection Pass JNV
12/11/17 requested video for all cameras due by

Licensee: MIDWAY UNIVERSITY & HAMLIN LLC
DBA: MIDWAY AMOCO BP
Sales Tax Id: ***** Bus Phone: (651) 343-4995

Licensee Comments:

License Type	Class	Effective	Expiration	Conditions	License Fee
Alarm Permit (New)	R	03/22/2010	03/22/2019	N	\$38.00
Gas Station	N	03/22/2010	03/22/2019	N	\$76.00
Retail Fd (B) - Grocery 101-1000 sq ft	R	03/22/2010	03/22/2014	N	\$109.00

License # 100000243 Save Changes to History OK Cancel Help



Properties For License 1347 UNIVERSITY AVE W

Pay Print Warn Hist Summary

Licensee: MIDWAY UNIVERSITY & HAMLINE LLC
 DBA: MIDWAY AMOCO BP

License Licensee Lic. Types Insurance Bond Requirements

Licensee Name: MIDWAY UNIVERSITY & HAMLINE LLC

DBA: MIDWAY AMOCO BP

Sales Tax Id: ***** Non-Profit: Worker's Comp: 00/00/0000

AA Contract Rec'd: 00/00/0000 AA Training Rec'd: 00/00/0000

AA Fee Collected: 00/00/0000 Discount Rec'd:

Other Agency Licenses

Other Licensing Agency Name / License Type	License #	Expiration	Reason	Active	Date

Financial Hold Reasons

Contacts for this Licensee

Addr. Type	Active	Inactive	Last Name	First Name	Title	Bus. Phone	Ho
Business/M	01/21/2010	00/00/000	ALOUL	KHALED	PRESIDENT	(651) 343-4995	(952)
Other	01/21/2010	00/00/000	ALOUL	KHALED	PRESIDENT (H)	(651) 343-4995	(952)
Other	01/21/2010	00/00/000	ALJADA	SALEH	MANAGER	() -	(952)

Mail License To:
 Mail To Contact
 License Address

Mail Invoice To:
 Mail To Contact
 License Address

Background Check Required

License # 100000243 Save Changes to History



Properties for Licensee Contact

Name | Address | Phone | Email | Groups

Street #: 231

Street Name: 105

Street Pre Direct: <All>

Street Type: ST

Street Post Direct: East

Unit #:

Unit Abbrev:

P.O. Box #:

City: BLOOMINGTON

State: MN

Country: U.S.A.

Zip Code: 55420

Zip+4:

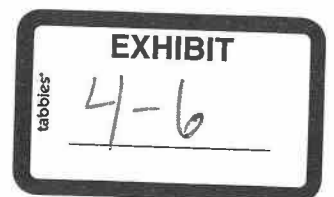
Inter Office Address:

Override Formatted Address for Mailing

US Post Formatted Address:

Last Upload: 01/01/1997

OK | Cancel | Help | Save Changes to History



STAMP - Ownership / Zoning Information

[New Search](#)

[Help using this report](#)

Run Date: 01/04/19 12:11 PM

House#: 1347

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

Street Name: UNIVERSITY

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

1347 University Ave W - Hamline Amoco - 55130-4028 - [Other Applications](#)

PIN: 342923240234

Census Track: 32200
Foundation Sq Feet:

Census Block: 2008
Loan Company:

Council Ward: 4
Land Value: 782000

District Council: 11
Building Value: 270300

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

ISP: Units: 0

Zoning: T2

Legal Desc: SYNDICATE NO. 5 ADDITION SUBJ TO RD; E 24 FT OF LOT 26 AND ALL OF LOTS 27 THRU LOT 30 BLK 30

Owner:

Midway University & Hamline Prop Llc/Attn Khal Aloul & Ibrahim Aqel
1347 University Ave W
St Paul MN 55104-4002

Certificate of Occupancy Responsible Party:

Khal Aloul
Midway University & Hamline Properties Llc
1347 University Ave W
Saint Paul MN 55104-4002
651-343-4995





CITY OF SAINT PAUL
Mayor Melvin Carter

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

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

March 12, 2019

NOTICE OF VIOLATION

Midway University & Hamline LLC – Licensee
d/b/a Midway Amoco BP
1347 University Avenue West
St. Paul, MN 55104-4002
Attn: Khaled Aloul

RE: Cigarette/Tobacco and Gas Station licenses held by Midway University & Hamline, LLC d/b/a Midway Amoco BP for the premises located at 1347 University Avenue West in Saint Paul
License ID #: 20100000243

Dear Licensee:

The Department of Safety and Inspections (“Department”) will recommend adverse action against the Cigarette/Tobacco and Gas Station licenses held by Midway University & Hamline, LLC (“Licensee”) for the premises known as Midway Amoco BP located at 1347 University Avenue West (“Licensed Premises”)

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

The Department of Safety and Inspections (DSI) received a Notice of Seized Contraband letter from the Minnesota Department of Revenue dated November 13, 2018. The Notice related to an inspection and seizure of contraband flavored tobacco products at the licensed premises on September 4, 2018.

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

5	Boxes	Black & Mild Wood Tip Wine Cigars
13	Cigars	Black & Mild Wood Tip Wine Cigars
10	Boxes	Black & Mild Plastic Tip Wine Cigars
3	Cigars	Black & Mild Plastic Tip Wine Cigars



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

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

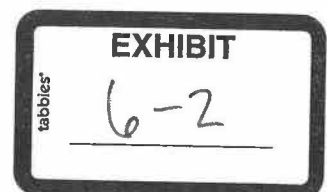
Section 310.06 (b) (6) (a): “the license or applicant (or any person whose conduct may by law be imputed to the licensee of applicant) has violated, or performed any act which is a violation of, any of the provisions of these chapters or of any statute, ordinance or regulation reasonably related to the licensed activity, regardless of whether criminal charges have or have not been brought in connection therewith...”

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

You have four (4) options:

1. If you do not contest the imposition of the proposed adverse action, you may do nothing. If I have not heard from you by **Friday March 22, 2019**, I will presume that you have chosen not to contest the proposed adverse action and the matter will be placed on the **Wednesday, April 3, 2019** City Council Consent Agenda for approval of the proposed remedy.
2. You can admit to the violation and pay the \$500.00 matrix penalty. If this is your choice, send the payment directly to DSI at 375 Jackson Street, Ste. 220, St. Paul, Minnesota 55101-1806 no later than **Friday March 22, 2019**. A self-addressed envelope is enclosed for your convenience. Payment of the \$500.00 matrix penalty will be considered a waiver of the hearing to which you are entitled.
3. If you wish to admit the facts but you contest the \$500.00 matrix penalty, you may have a public hearing before the Saint Paul City Council. You will need to send me a letter with a statement admitting to the facts and requesting a public hearing no later than **Friday March 22, 2019**. The matter will then be scheduled before the City Council to determine whether to impose the \$500.00 matrix penalty. You will have an opportunity to appear before the Council and make a statement on your own behalf.
4. If you dispute the facts outlined above, you may request a hearing before an Administrative Law Judge (ALJ). You will need to send me a letter disputing the facts and requesting an administrative hearing no later than **Friday March 22, 2019**. At that hearing both you and the City will appear and present witnesses, evidence and cross-examine each other's witnesses. After receipt of the ALJ's report (usually within 30 days), a public hearing will need to be scheduled. At that time, the City Council will decide whether to adopt, modify or reject the ALJ's report and recommendation.

“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.”



Midway University & Hamline LLC – Licensee
d/b/a Midway Amoco BP
March 12, 2019
Page 3

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

If you have not contacted me by Friday March 22, 2019, I will assume that you do not contest the imposition of the \$500.00 matrix penalty. In that case, the matter will be placed on the Wednesday, April 3, 2019 City Council Consent Agenda for approval of the recommended penalty.

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

Sincerely,

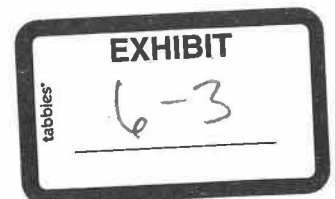


Lisa L. Veith
Assistant City Attorney
License No. 205060

Cc Khaled Aloul, 231-105th Street East, Bloomington, MN 55420
Melissa Cortes, Community Organizer, Hamline Midway Coalition, Hamline Midway Library
1558 W. Minnehaha Avenue, St. Paul, MN 55104
Midway University & Hamline Properties, LLC, Attn: Khal Aloul & Ibrahim Aqel
1347 University Avenue West, St. Paul, MN 55104-4002

Attachments Minnesota Department of Revenue Seized Cigarette/Tobacco Product letter dated November 13, 2018
Minnesota Department of Revenue Notice of Seized Contraband dated September 4, 2018
Screenshots from DSI ECLIPS System dated January 29, 2019
STAMP Ownership-Zoning Information
Minnesota Statutes Section 297F.21 Contraband
Saint Paul Legislative Code §310.05
Saint Paul Legislative Code §310.06

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



STATE OF MINNESOTA)
) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

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

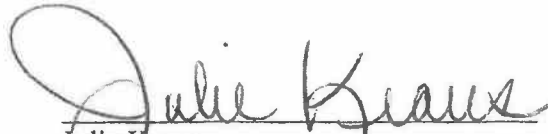
Midway University & Hamline LLC – Licensee
d/b/a Midway Amoco BP
1347 University Avenue West
St. Paul, MN 55104-4002
Attn: Khaled Aloul

Khaled Aloul
231-105th Street East
Bloomington, MN 55420


Melissa Cortes, Community Organizer
Hamline Midway Coalition
Hamline Midway Library
1558 W. Minnehaha Avenue
St. Paul, MN 55104

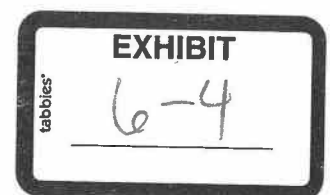
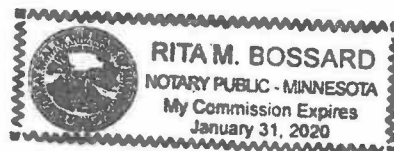
Midway University & Hamline Properties, LLC
Attn: Khal Aloul & Ibrahim Aqel
1347 University Avenue West
St. Paul, MN 55104-4002

(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 12th day of March 2019


Notary Public



3/15/19

To Whome it May Concern

City of St Paul

I'm writing in regards to Notice of Violation
for Midway University & Hamilton LLC.

I'm Admitting to the facts, but I wish to contest
the violation and request a public hearing before the
council.

these items were not displayed for sales
these items are left over before the bar on
flavor cigar, we cleaned the shelves and placed
them in in a locked cabinet in the back room
even employees have no access to them, we couldn't
returne them so we kept them locked in in storage
they were purchased over time from licensed
distributors.

Khal Alou

Thank you
Khal Alou

651 343 4995





CITY OF SAINT PAUL
Christopher B. Coleman, Mayor

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

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

December 20, 2016

Dear Cigarette/Tobacco License Holder,

The Department of Safety and Inspections (DSI) is required to conduct annual inspections of all Cigarette/Tobacco licensed establishments in Saint Paul to ensure compliance with laws restricting tobacco sales to juveniles – people who are under 18 years old. These standardized inspections involve the attempted purchase of tobacco products by an inspector-trained juvenile and may be repeated throughout the year. Other compliance inspections, in addition to the age restriction inspection, may also take place to ensure compliance with all tobacco regulations.

Results of the 2016 inspections were very favorable as 93% of the establishments tested passed the initial inspection for sale of tobacco to juveniles. This result was an increase from 91% in 2015 and 90% in 2014. We appreciate the continued efforts of Saint Paul licensed tobacco vendors to prevent juvenile access to tobacco.

Please be reminded of the following regulations to ensure compliance and avoid adverse licensing action:

Cigar Pricing & Flavored Tobacco

- *Single cigars and/or cigars in original packages of three or less must sell at a retail price of not less than \$2.60 per cigar before sales tax and cigars in original packages of four or more must sell at a retail price of \$10.40 or greater before sales tax.*
- *The sale of all flavored tobacco-related products (except menthol, mint and wintergreen) is restricted to tobacco products shops as defined in St Paul legislative code 65.535.*

E-Juice Packing

- *MN State Statute § 461.20, requires child-resistant packaging of any liquid (e-juice) for use in an electronic delivery device (e-cig); effective 2014.* (Vendors are strongly encouraged to work with their supplier to verify compliance with e-juice packaging requirements.)

Moveable Place of Business

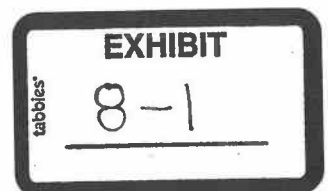
- *MN State Statute § 461.21, prohibits sales of tobacco, tobacco-related devices, or electronic delivery devices and nicotine or lobelia delivery products from a moveable place of business; effective 2014.* (Vendors are prohibited from conducting sales outside of their licensed premises to include festivals and block parties.)

The City of Saint Paul appreciates your continued cooperation in complying with all federal, state and local laws regulating tobacco and tobacco-related products. Questions regarding this letter may be directed to DSI Inspectors Barry Brown at 651-266-9143, Barry.Brown@ci.stpaul.mn.us or Thomas Ferrara at 651-266-9087, Tom.Ferrara@ci.stpaul.mn.us.

Respectfully,

Barry Brown
DSI Inspector 1

AA-ADA-EEO Employer





City of Saint Paul CIGAR PRICING REGULATION

Chapter 324 of the Saint Paul Legislative Code

Section 324.07 (e). Sales prohibited.

No person shall 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 shall 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.

Section 324.07 (f). Sales prohibited.

No person shall sell, offer for sale, or otherwise distribute any flavored products. This restriction shall not apply to retail stores that derive at least ninety (90) percent of their revenue from the sale of tobacco products, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products and where the retailer ensures that no person under eighteen (18) years of age is permitted to enter, at any time.

Cigar Pricing Examples

You may sell packages of three or less ONLY if they are priced as follows:

A single cigar must be sold in its original packaging for a minimum of \$2.60 before sales tax.

Two cigars in a package must retail for at least of \$5.20 before sales tax.

Three cigars in a package must retail for at least of \$7.80 before sales tax.

You may sell packages of four or more ONLY if they are priced as follows:

Four or more cigars in a package must retail for at least of \$10.40 before sales tax.





CITY OF SAINT PAUL
DEPARTMENT OF SAFETY AND INSPECTIONS
375 Jackson Street, Suite 220
Saint Paul, Minnesota 55101
Phone: 651-266-8989
Fax: 651-266-9124
Web: www.stpaul.gov/dsi



Guide for Complying with Saint Paul Tobacco Ordinance Chapter 324

Information about the ordinance, flavored tobacco products and cigar pricing requirements

As of April 13, 2016, Saint Paul prohibits the sale of flavored tobacco products, except for menthol, mint or wintergreen products, in stores with a tobacco license where minors can enter such as gas stations, corner stores, and grocery stores. Tobacco products shops (shops which make at least 90 percent of their revenue from tobacco and do not allow access to anyone under the age of 18) are exempted from the flavor restriction. Below are examples of flavored products that can only be sold in tobacco products shops, and similar non-flavored tobacco products that are allowed to be sold by all licensed tobacco vendors. Saint Paul also requires a minimum price for cigar products, which is described below.

NOT ALLOWED

Examples of flavored tobacco products that are NOT allowed to be sold in Saint Paul, except in tobacco shops.

ALLOWED

Examples of similar tobacco products that are unflavored and ARE allowed to be sold in Saint Paul by all licensed tobacco vendors.

Cigars



Examples: "Strawberry", "Sweet Razz", "Raspberry Cream", "Peach", "Mango", "Grape", "White Grape" and "Wine" cigars and cigarillos

Explanation: "Strawberry", "Sweet Razz", "Raspberry Cream", "Peach", "Mango", "Grape" and "White Grape" are fruit flavors; "Wine" is an alcoholic beverage flavor. These products are NOT allowed by ordinance.



Examples: Dutch Masters Palma, Swisher "Diamonds", White Owl "Black", and Black & Mild cigars and cigarillos

Explanation: tobacco products that are not flavored are allowed by ordinance.

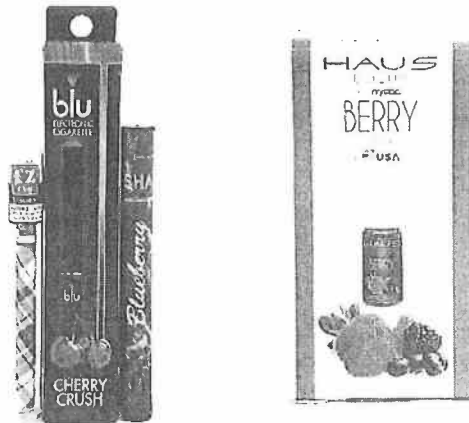
NOT ALLOWED

Examples of flavored tobacco products that are NOT allowed to be sold in Saint Paul, except in tobacco shops.

ALLOWED

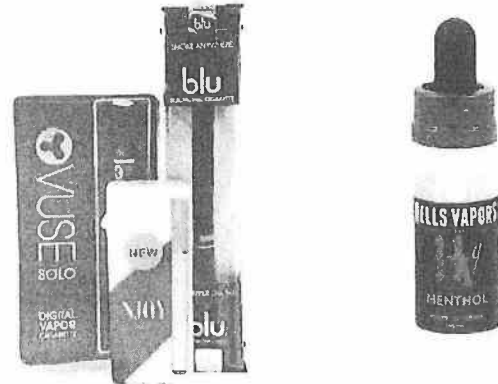
Examples of similar tobacco products that are "unflavored" and ARE allowed to be sold in Saint Paul by all licensed tobacco vendors.

E-cigarettes and E-juice



Examples: EZ Cig "Licorice", blu "Cherry Crush" and Shisha Time "Blueberry" e-cigarettes; Haus by Mystic "Berry" e-liquid

Explanation: "Licorice" is a candy flavor and "Cherry Crush", "Blueberry" and "Berry" are fruit flavors. These products are NOT allowed by ordinance.



Vuse "Menthol", NJOY and blu e-cigarettes; Hells Vapors "Menthol" e-liquid

Explanation: "Menthol" is a flavor allowed by ordinance; tobacco products that are not flavored are allowed by ordinance.

Smokeless Tobacco and Pouches



Examples: Skoal Pouches "Berry Blend" and Skoal "Berry"

Explanation: "Berry Blend" and "Berry" are fruit flavors. These products are NOT allowed by ordinance.



Copenhagen "Wintergreen" and Camel Snus "Mint"

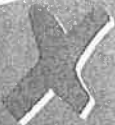
Explanation: "Wintergreen" and "Mint" are flavors allowed by ordinance.

EXHIBIT

8-4

tabbles

NOT ALLOWED



Examples of flavored tobacco products that are NOT allowed to be sold in Saint Paul, except in tobacco shops.

ALLOWED



Examples of similar tobacco products that are "non-flavored" and ARE allowed to be sold in Saint Paul by all licensed tobacco vendors.

Shisha



Examples: Al Fakher "Pineapple", Starbuzz "Apple Martini" or Fantasia "Bubble Gum" shisha

Explanation: "Pineapple" is a fruit flavor, "Apple Martini" is an alcoholic beverage flavor and "Bubble Gum" is a candy flavor. These products are NOT allowed by ordinance.



Example: Al Fakher "Mint" shisha

Explanation: "Mint" is a flavor allowed by ordinance.

Cigar wraps/blunt wraps



Example: Hood Wraps "Da Bomb Blueberry" cigar wraps

Explanation: "Da Bomb Blueberry" is a fruit flavor. This product is NOT allowed by ordinance.



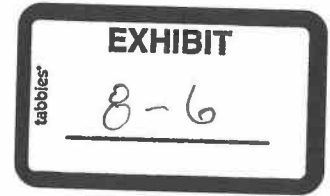
Example: Zig Zag "Straight Up" cigar wraps

Explanation: "Straight Up" is not a flavor. Products that are not flavored are allowed by ordinance.

EXHIBIT

tabbies

8-5



About

Recently, the Saint Paul City Council voted to change the way that tobacco is sold in our city. The tobacco ordinance was changed to:

1. Set a minimum price of \$2.60 per unit up to 4 units for cigar products after coupons and discounts have been applied. This means that all cigar products must be priced as follows:
 - 1 single cigar = at least \$2.60 + sales tax
 - 2-pack or "double" pack = at least \$5.20 + sales tax
 - 3-pack of cigars = at least \$7.80 + sales tax
 - 4 pack of cigars = at least \$10.40 + sales tax
 - Pack of 5 or more cigars = at least \$10.40 + sales tax
2. Limit the sale of flavored tobacco products (except for menthol, mint or wintergreen) to adult-only tobacco-only stores.
3. Require tobacco-only stores to prohibit entry to people under 18 years of age.

These changes take effect on April 13, 2016.

For more information, please contact Inspector Barry Brown at barry.brown@ci.stpaul.mn.us or 651-266-9143.

Frequently Asked Questions

Which cigars must follow this pricing structure?

All cigar products such as little cigars and cigarillos must be priced at \$2.60 each plus sales tax. A pack of four or more cigars must be sold for at least \$10.40 plus sales tax.

What tobacco products are included in the flavor restriction?

All forms of tobacco are included in the flavor restriction: e-cigarettes, e-cigarette liquid, cigars, cigarillos, blunt wraps, shisha, and smokeless tobacco. The following is the ordinance language defining each of these products:

Electronic delivery device means any product containing or delivering nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately. Electronic delivery device does not include any product that has been approved or certified by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose.

Nicotine or lobelia delivery product means any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not a tobacco product or an electronic delivery device, as defined in this section. Nicotine or lobelia delivery product does not include any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose.

Tobacco or tobacco product means any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product, including, but not limited to cigarettes, cigars, little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco.. Tobacco products excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

Tobacco-related devices means cigarette papers, pipes for smoking, or other devices intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking, or inhalation of vapors of tobacco or tobacco products. Tobacco-related devices include components of tobacco-related devices which may be marketed or sold separately.

Frequently Asked Questions (continued)

What “flavors” are restricted under this policy?

Any tobacco product that has a taste or smell other than plain tobacco, menthol, mint or wintergreen is restricted under the ordinance and can only be sold in tobacco-only shops.

How does the ordinance define a flavored product?

Flavored product means any tobacco product, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product that contains a taste or smell, other than the taste or smell of tobacco, menthol, mint, or wintergreen, that is distinguishable by an ordinary consumer either prior to or during the consumption of the tobacco product, electronic delivery device, or nicotine or lobelia delivery product, including, but not limited to, any taste or smell relating to chocolate, cocoa, vanilla, honey, or any candy, dessert, alcoholic beverage, herb, or spice. A public statement or claim, whether express or implied, made or disseminated by the manufacturer of a tobacco product, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such product or device, that the product or device has or produces a taste or smell other than tobacco, menthol, mint, or wintergreen, shall constitute presumptive evidence that the product or device is a flavored product.

What if I’m not sure if the product is flavored?

Tobacco products labeled with a flavor other than plain tobacco, menthol, mint, or wintergreen are considered “flavored” under this policy and cannot be sold. Several companies have removed flavor descriptions from their labels. For example, tobacco companies now sell grape-flavored cigars in purple wrappers without using the word “grape”. These products are still considered “flavored” under this policy because they include a flavor (in this case, grape).

In addition to the definition in the ordinance language, this document is intended to help clarify and provide examples of flavored products allowed and not allowed to be sold by tobacco retailers. If after reading the ordinance language, reviewing this document, and reading the product label you are still unsure if the product is flavored- the City recommends not selling the item. The City will also compile a list of example products; however, with new flavors and products continually entering the market, the list cannot be considered exhaustive. The burden is on the retailer to prove a product is not flavored- therefore we recommend not selling any products you are unsure about.

What if the product contains mint and another flavor, for example, *Mint Chocolate Chip*?

If the product contains multiple characterizing flavors, one being mint and another being a restricted flavor, then it is considered a flavored product that cannot be sold by regular tobacco vendors and can only be sold in tobacco-only shops.

When does this go into effect?

These changes go into effect April 13, 2016. Inspectors will begin checking and enforcing the ordinance after this date.

What are the penalties?

Violation of this ordinance will be treated the same as other tobacco license violations.

First violation—Two hundred dollar (\$200.00) fine.

Second violation—Four hundred dollar (\$400.00) fine.

Third violation—Eight hundred dollar (\$800.00) fine and a 7 day suspension of the license.

Fourth violation—Revocation of the tobacco license.

Who can I contact for more information?

For more information, please contact Inspector Barry Brown at barry.brown@ci.stpaul.mn.us or 651-266-9143 Inspector Tom Ferrara at Tom.Ferrara@ci.stpaul.mn.us or 651-266-9087, or License Manager Eric Hudak at Eric.Hudak@ci.stpaul.mn.us or 651-266-9132.



It is illegal to sell tobacco to any person under the age of 18.

Always ask for an ID

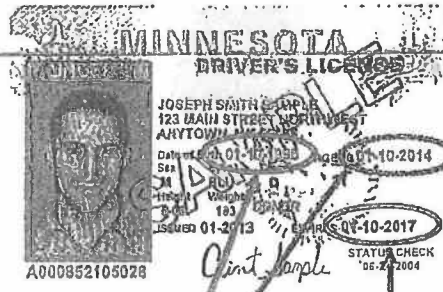
How to Read a Minnesota Driver's License

Standard Driver's License

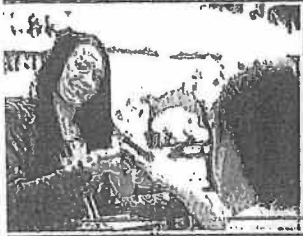


Date of Birth
Expiration Date

Under 18 Provisional Driver's License



Date of Birth
Date Card Holder Turns 18
(No need to do any math)
Expiration Date



More Selling Tobacco

Ask for the valid photo ID of any person who appears to be under the age of 35.

Acceptable ID

Minnesota driver's license, instruction permit, or identification card of any state or province of Canada

U.S. Armed Forces ID

Passport

Selling tobacco to a minor is a misdemeanor and may result in a fine up to \$1,000 and/or 90 days in jail.

North Suburban Tobacco Compliance Project is a program of Association for Nonsmokers-MN www.ansmn.org

Association for Nonsmokers-Minnesota
North Suburban Tobacco Compliance Project
University Ave. W., Suite 3110
St. Paul, MN 55114

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in-home training today!
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BUSINESS OWNER

Minnesota Congratulate & Educate Project Helping to Restrict Youth Access to Tobacco

WHAT IS THE MINNESOTA CONGRATULATE & EDUCATE PROJECT?

The Minnesota Department of Human Services, Alcohol and Drug Abuse Division is funding Sheriff Departments, Police Departments and County Public Health Agencies to conduct unannounced educational tobacco compliance checks. **Checks will be educational-based and no sanctions should be incurred from the State, County or City.** The goal of educational compliance checks is both to congratulate clerks who pass the compliance check (do NOT sell tobacco to the minor) and to provide education on: (1) the law, (2) what compliance checks are, (3) why compliance checks are important, (4) possible penalties to clerks AND owners if a clerk sells tobacco to someone under 18. This project encourages and supports community policing whereby local law enforcement and the community work together to restrict youth access to tobacco.

Here are the results of the educational tobacco compliance check conducted at your business:

On _____ at _____ o'clock AM / PM



Your clerk PASSED / FAILED an educational tobacco compliance check conducted by

Officer/Agent: _____

Department: _____

at the following location: _____

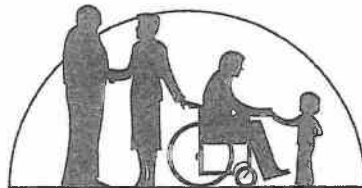
Certificate of Appreciation

A Special Thanks To:

For passing a Tobacco Compliance Check and doing your part to restrict youth access to tobacco.

Name/Department

Date



Minnesota Department of **Human Services**



EXHIBIT
8-11
tabbies



Minnesota Congratulate & Educate Project

Helping to Restrict Youth Access to Tobacco

You *FAILED* an Educational Tobacco Compliance Check

WHAT DOES MINNESOTA LAW SAY ABOUT SELLING TOBACCO TO YOUTH?

It is illegal to sell or furnish tobacco or tobacco-related devices (such as pipes or rolling papers), electronic delivery devices (such as e-cigarettes), or nicotine or lobelia delivery products to any person who is under the age of 18. FDA approved tobacco cessation products are exempt. This is commonly referred to as Minnesota's Youth Access Law. MN Statute 609.685-.6855.

WHAT DOES THIS MEAN?

It means you sold tobacco, an e-cigarette, or other related product to someone under the age of 18, which is against the law. Fortunately for you, this is an educational compliance check which means you won't be getting a fine or face a criminal penalty **THIS TIME**. Think of this as an opportunity to brush up on the law and what you need to do to avoid selling to anyone under the age of 18. You may still face a consequence from your employer - that is up to them.

HOW DO TOBACCO COMPLIANCE CHECKS WORK?

The most important thing to understand is that whether a compliance check is conducted by the County, City, or the FDA, the minors should NOT try to trick you into selling to them. Fake ID's should NOT be used and minors should NOT lie.

WHAT COULD HAPPEN IF I SELL TO SOMEONE UNDER 18?

Any person who sells to a minor may:

- Have to pay a \$50.00 Administrative fee (some cities/ counties may charge more).
- Be found guilty of a misdemeanor, which is punishable by up to 90 days in jail and/ or up to a \$1,000 fine for the first violation.
- Be found guilty of a gross misdemeanor, which is punishable by up to a year in jail and/ or up to a \$3,000 fine for any additional violations within 5 years of a previous conviction.
- Face re-training/ discipline/ or be fired from his or her job.

STEPS TO FOLLOW:

- Do NOT sell or furnish tobacco, tobacco-related devices (such as pipes or rolling papers), electronic delivery devices (such as e-cigarettes) or nicotine or lobelia delivery products to any person who is under the age of 18.
- Check an acceptable form of photo ID of everyone appearing under age 27 who attempts to purchase cigarettes, cigarette tobacco or smokeless tobacco. Your employer may have a stricter policy such as requiring you to check everyone's ID no matter what age they appear. Your employer may also require you to check ID prior to the sale of all tobacco, or tobacco/nicotine/lobelia related devices or products.
- Do NOT sell single cigarettes (often called "loosies").
- Do NOT give away free samples of cigarettes.
- Do NOT sell tobacco products, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products from a self-service display or vending machine if anyone under the age of 18 is permitted to enter the establishment at any time.



Minnesota Department of Human Services



CITY OF SAINT PAUL

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

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

March 01, 2018

Dear Cigarette/Tobacco License Holder,

Thanks to your hard work and cooperation, the results of 2017 compliance checks for the sale of tobacco to juveniles were very promising with 92% of Saint Paul's licensed vendors passing their initial inspection. The Department of Safety and Inspections (DSI) is required to conduct inspections at all cigarette/tobacco retail locations in the city to monitor for compliance with State Statute prohibiting tobacco sales to minors. Compliance checks consist of a person under the age of 18 entering your establishment and attempting to purchase cigarettes or other tobacco products. There may be multiple compliance inspections conducted throughout the year at any given location. The continued efforts of Saint Paul's licensed vendors to prevent juvenile access to tobacco are appreciated by many.

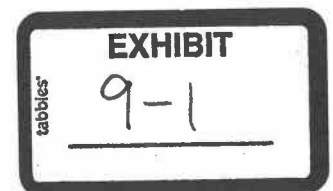
Effective November 1, 2018, NEW flavored tobacco regulations take effect that prohibit the sale of menthol, mint and wintergreen tobacco products including cigarettes at a vast majority of licensed cigarette/tobacco retail establishments in Saint Paul. Only liquor stores that hold a Cigarette/Tobacco license and tobacco product shops will be allowed to continue selling menthol, mint and wintergreen flavored tobacco products. Tobacco product shops continue to be the only establishments permitted to sell any other flavored tobacco products. It is strongly encouraged that you work with your supplier to verify that products are compliant with the City's flavored tobacco restrictions prior to placing on display or offering for sale.

Please be reminded that single cigars and/or cigars in original packages of three or less must sell at a retail price of not less than \$2.60 per cigar before sales tax and cigars in original packages of four or more must sell at a retail price of \$10.40 or greater before sales tax.

The City of Saint Paul appreciates your continued cooperation in complying with these and all other federal, state and local laws regulating tobacco and tobacco-related products. Failure to comply with all applicable requirements will result in adverse licensing action. If you have questions regarding cigarette/tobacco retailer requirements, you may contact a DSI Licensing Inspector at 651-266-8989 and/or email DSI-InformationAndComplaints@ci.stpaul.mn.us.

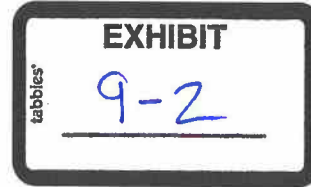
Respectfully,

Barry Brown
DSI Licensing Inspector





CITY OF SAINT PAUL
 DEPARTMENT OF SAFETY AND INSPECTIONS
 375 Jackson Street, Suite 220
 Saint Paul, Minnesota 55101
 Phone: 651-266-8989
 Fax: 651-266-9124
 Web: www.stpaul.gov/dsi



March 2018

Guide for Complying with Saint Paul Tobacco Ordinance Chapter 324

Information about the ordinance, menthol and flavored tobacco products

As of Nov. 1, 2018, mint, menthol and wintergreen tobacco products may only be sold in adult-only tobacco product shops and liquor stores licensed to sell tobacco. Tobacco product shops are stores that make at least 90 percent of their revenue from tobacco and do not allow access to anyone under the age of 18. Below are examples of flavored products that can only be sold in adult-only tobacco product shops, and similar non-flavored tobacco products that are allowed to be sold by all licensed tobacco vendors.

	Unflavored Tobacco Products	Menthol Flavored Tobacco Products	Other Flavored Tobacco Products
Adult-Only Tobacco Product Shops	✓ ALLOWED	✓ ALLOWED	✓ ALLOWED
Liquor Stores Licensed to Sell Tobacco	✓ ALLOWED	✓ ALLOWED	✗ NOT ALLOWED
Other Licensed Tobacco Vendors	✓ ALLOWED	✗ NOT ALLOWED	✗ NOT ALLOWED

Cigarettes

NOT ALLOWED



Examples of menthol cigarettes:
 Newport, Marlboro menthol, Kool true menthol, and Camel Crush

Menthol cigarettes can only be sold in liquor stores licensed to sell tobacco and adult-only tobacco product shops.

ALLOWED



Examples of non-menthol cigarettes: Marlboro, American Spirit, Pall Mall, and Camel unflavored

Cigarettes that are not flavored are allowed to be sold in all licensed tobacco vendors.

Cigars and Cigarillos

NOT ALLOWED



**Examples of flavored cigars and cigarillos:
Strawberry, Raspberry Cream, Mango, White Grape, Wintergreen, Arctic Ice, and Grape**

Menthol, Mint, and Wintergreen flavored cigars and cigarillos can only be sold in liquor stores licensed to sell tobacco and adult-only tobacco product shops. Other flavored cigars and cigarillos can only be sold in adult-only tobacco product shops.

ALLOWED



**Examples of non-flavored cigars and cigarillos:
Garcia Vega, Swisher Diamonds, White Owl Silver, and unflavored Black & Mild**

Cigarillos and cigars that are not flavored are allowed to be sold in all licensed tobacco vendors.

Smokeless Tobacco and Pouches

NOT ALLOWED



**Examples of flavored smokeless tobacco:
Wintergreen Grizzly, Cherry Skoal, Wintergreen Camel, Camel Snus Winterchill, General Swedish Snus Mint and Camel Snus Mint**

Menthol, Mint, and Wintergreen flavored smokeless tobacco can only be sold in liquor stores licensed to sell tobacco and adult-only tobacco product shops. Other flavored smokeless tobacco can only be sold in adult-only tobacco product shops.

ALLOWED



**Examples of non-flavored smokeless tobacco:
Copenhagen Snuff, Grizzly Premium Straight, Skoal Classic Straight, and Camel Snus Robust**

Smokeless Tobacco that is not flavored is allowed to be sold in all licensed tobacco vendors.

E-cigarettes and E-juice

NOT ALLOWED



Examples of flavored e-cigarettes and e-juice:
Peach, Menthol, and Fruit Stripe e-juice; Cherry Crush blu, Cool Menthol NJOY, Menthol Vuse Vibe, Chai Vuse, and Sex on the Beach Starbuzz

Menthol, Mint, and Wintergreen flavored e-cigarettes and e-juice can only be sold in liquor stores licensed to sell tobacco and adult-only tobacco product shops. Other flavored e-cigarettes and e-juice can only be sold in adult-only tobacco product shops.

ALLOWED



Examples of non-flavored e-cigarettes and e-juice:
FIN Rich Tobacco, Rich Tobacco NJOY, Original Vuse VIBE, and Classic Tobacco blu

E-cigarettes and e-juice that are not flavored are allowed to be sold in all licensed tobacco vendors.

Tobacco and Hemp Cigar and Blunt Wraps

NOT ALLOWED



Examples of flavored wraps: Strawberry, Grape Ape, Blueberry Bomb and Mango/Pineapple hemp wraps, Watermelon, Chicken & Waffles, and Menthol wraps

Menthol, Mint, and Wintergreen flavored wraps can only be sold in liquor stores licensed to sell tobacco and adult-only tobacco product shops. Other flavored wraps can only be sold in adult-only tobacco product shops.

ALLOWED



Example of non-flavored wraps: Natural hemp wraps and Double Platinum Zer0 blunt wraps

Tobacco and hemp cigar and blunt wraps that are not flavored are allowed to be sold in all licensed tobacco vendors.

About

Recently, the Saint Paul City Council voted to change the way that tobacco is sold in our city. The tobacco ordinance was changed to:

Limit the sale of tobacco products flavored with menthol, mint or wintergreen to adult-only tobacco product shops and liquor stores that are licensed to sell tobacco.

These changes take effect on November 1, 2018.

For more information, please contact DSI Licensing:
651-266-8989 or DSIComplaints@ci.stpaul.mn.us



CITY OF SAINT PAUL
DEPARTMENT OF SAFETY AND INSPECTIONS
375 Jackson Street, Suite 220
Saint Paul, Minnesota 55101
Phone: 651-266-8989
Fax: 651-266-9124
Web: www.stpaul.gov/dsi

Frequently Asked Questions

What tobacco products are included in the flavor restriction?

All forms of tobacco are included in the flavor restriction: cigarettes, e-cigarettes, e-cigarette liquid, cigars, cigarillos, blunt and hemp wraps, shisha, and smokeless tobacco.

What "flavors" are restricted under this policy?

Any tobacco product that has a taste or smell other than plain tobacco is restricted under the ordinance. Menthol, mint, and wintergreen flavored tobacco products can only be sold in adult-only tobacco product shops and liquor stores licensed to sell tobacco. Other flavored tobacco products can only be sold in adult-only tobacco product shops.

How does the ordinance define a flavored product?

Flavored product means any tobacco product, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product that contains a taste or smell, other than the taste or smell of tobacco, that is distinguishable by an ordinary consumer either prior to or during the consumption of the tobacco product, electronic delivery device, or nicotine or lobelia delivery product, including, but not limited to, any taste or smell relating to chocolate, cocoa, vanilla, honey, fruit, or any candy, dessert, alcoholic beverage, herb, or spice. A public statement or claim, whether express or implied, made or disseminated by the manufacturer of a tobacco product, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such product or device, that the product or device has or produces a taste or smell other than tobacco shall constitute presumptive evidence that the product or device is a flavored product.



Continued...

Frequently Asked Questions (continued)

What if I'm not sure if the product is flavored?

Tobacco products with a flavor other than plain tobacco are considered "flavored" under this policy and cannot be sold. Several companies have removed flavor descriptions from their labels. For example, tobacco companies now sell grape-flavored cigars in purple wrappers without using the word "grape". These products are still considered "flavored" under this policy because they include a flavor (in this case, grape).

In addition to the definition in the ordinance language, this document is intended to help clarify and provide examples of flavored products allowed and not allowed to be sold by tobacco retailers. If after reading the ordinance language, reviewing this document, and reading the product label you are still unsure if the product is flavored, the City recommends not selling the item. The burden is on the retailer to prove a product is not flavored. Therefore we recommend not selling any products you are unsure about.

What are the penalties?

The penalties for selling tobacco to people under the age of 18 years are:

First violation—\$200.00 fine

Second violation—\$400.00 fine

Third violation—\$800.00 fine and a 7-day suspension of the license

Fourth violation—Revocation of the tobacco license

All other license violations incur the following penalties:

First violation—\$500.00 fine

Second violation—\$1,000.00 fine

Third violation—\$2,000.00 fine and a 10-day suspension of the license

Fourth violation—Revocation of the tobacco license

What are other tobacco ordinance provisions I should remember?

1. Non-premium cigars, such as little cigars and cigarillos, must be priced at \$2.60 each plus sales tax, after coupons and discounts have been applied. A pack of four or more cigars must be sold for at least \$10.40 plus sales tax. The minimum price of cigars is as follows:

- 1 single cigar = \$2.60 + sales tax
- 2-pack = \$5.20 + sales tax
- 3-pack = \$7.80 + sales tax
- 4-pack or larger = \$10.40 + sales tax

2. Tobacco product shops are required to prohibit entry to people under 18 years of age.

3. Cigarettes should not be sold in packages fewer than 20.

4. No tobacco or tobacco-related devices should be sold from a vehicle or other movable place of business.

5. Tobacco should not be sold from a vending machine unless the facility does not permit those under 18 to enter at any time.

Who can I contact for more information?

For more information, please contact:

Inspector Barry Brown
Barry.Brown@ci.stpaul.mn.us
651-266-9143

License Manager Eric Hudak
Eric.Hudak@ci.stpaul.mn.us
651-266-9132





St. Paul's New Menthol Sales Requirement

As of November 1, 2018, menthol, mint and wintergreen tobacco products may only be sold in adult-only tobacco product shops and liquor stores licensed to sell tobacco.

General reminders about the sale of tobacco:

- Flavored tobacco products, such as kiwi strawberry hemp wraps and grape cigarillos, can only be sold in adult-only tobacco product shops (a store where at least 90 percent of revenue comes from tobacco sales). Menthol flavored tobacco products, including cigarettes, can only be sold in adult-only tobacco shops and liquor stores licensed to sell tobacco.
- Cigars must be sold for a minimum price of \$2.60 each plus sales tax. The minimum price of cigars is as follows:
 - o Single cigar = \$2.60 + sales tax
 - o 2 Pack = \$5.20 + sales tax
 - o 3 Pack = \$7.80 + sales tax
 - o 4 Pack or larger = \$10.40 + sales tax
- License holders must keep all tobacco products behind the counter or in a locked cabinet, unless minors under the age of 18 years are prohibited from entering at all times.
- Penalties and adverse actions will be imposed for violations of the tobacco ordinance.

Dear Saint Paul Tobacco Vendor,

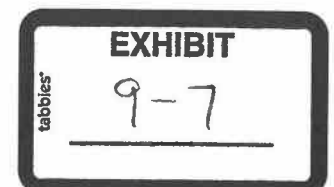
As of November 1, 2018, menthol, mint and wintergreen tobacco products can only be sold in adult-only tobacco product shops and liquor stores licensed to sell tobacco. This restriction includes all tobacco products such as cigarettes, cigars, blunt wraps, e-cigarettes and e-juice, smokeless tobacco products, and shisha. If a tobacco product has a taste or smell of menthol, mint, or wintergreen, these restrictions apply.

If you have questions or concerns, please contact the City of Saint Paul Licensing Department:

651-266-8989 or DSIComplaints@ci.stpaul.mn.us

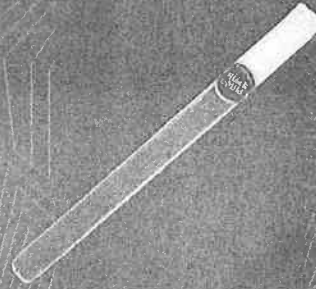
Association for Nonsmokers-Minnesota
2395 University Avenue West, Suite 310
Saint Paul, MN 55114

NON-PROFIT. ORG.
U.S. POSTAGE
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Twin Cities, MN
Permit No. 2985



SAINT PAUL'S NEW CIGAR PRICING REQUIREMENT

As of April 13, 2016, if you sell non-premium cigars in Saint Paul, they must be sold at the following prices:



1 Cigar for or least

\$2.60
+sales tax



A Pack of
2 Cigars for or least

\$5.20
+sales tax



A Pack of
3 Cigars for or least

\$7.80
+sales tax



A pack of 4 or more
cigars for or least

\$10.40
+sales tax

EXHIBIT
9-8

General reminders about the sale of tobacco:

- Stores must be licensed as a tobacco vendor to sell tobacco products, including electronic cigarettes.
- Tobacco products with flavors other than mint, menthol or wintergreen can only be sold in adult-only tobacco products shops (at least 90 percent of revenue from tobacco sales). Tobacco products include items such as cigars, shisha, blunt wraps, smokeless tobacco, e-cigarettes and e-cigarette liquid.
- Stores must keep all tobacco products behind the counter or in a locked cabinet, unless anyone under 18 is prohibited from entering at all times.
- Liquid sold for use in an electronic delivery device must be sold in child-resistant packaging. Stores are required to provide written proof from the manufacturer upon request from the City that packaging is child-resistant.
- Penalties for violating the minimum cigar pricing or flavored product restrictions are the same as other tobacco license-related violations: \$200 for a first violation; \$400 for a second violation; \$800 and license suspension for a third violation; and license revocation for a fourth violation.

Dear Saint Paul Tobacco Vendor,

As of April 13, 2016, flavored tobacco products, excluding menthol, mint and wintergreen, can only be sold in tobacco products shops accessible exclusively by adults, 18 and older. Additionally, non-premium cigars must be sold for a minimum of \$2.60 each plus sales tax. The minimum price of cigars is as follows:

- Single Cigar - \$2.60 + sales tax
- 2 Pack - \$5.20 + sales tax
- 3 Pack - \$7.80 + sales tax
- 4 Pack or longer - \$10.40 + sales tax

This requirement applies regardless of promotional offering, such as buy one get one free. Please use this postcard as a guide for how to price non-premium cigars.

If you have any questions or concerns, please contact the City of Saint Paul Licensing Department: 651-266-8989 or DSLComplaints@cisstpaulmn.us

Association for Nonsmokers-Minnesota
2395 University Avenue West, Suite 310
Saint Paul, MN 55114

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SAINT PAUL, MN 55102

EXHIBIT

9-9

esj9b9t

It is illegal to sell tobacco to any person under the age of 18.

Always ask for an ID



Before Selling Tobacco

Check the valid photo ID of any person who appears to be under the age of 35.

Acceptable ID

- Valid driver's license, instruction permit, or identification card of any state or providence of Canada
- Valid U.S. Armed Forces ID
- Valid Passport

How to Read a Minnesota Driver's License

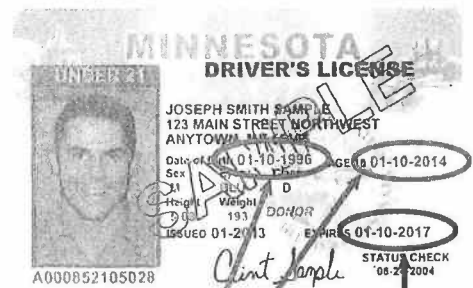
Standard Driver's License



Date of Birth

Expiration Date

Under 18 Provisional Driver's License



Date of Birth

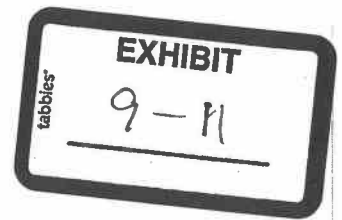
Date Card Holder Turns 18
(No need to do any math)

Expiration Date

Selling tobacco to a minor is a misdemeanor and may result in a fine up to \$1,000 and/or 90 days in jail.

North Suburban Tobacco Compliance Project is a program of Association for Nonsmokers - MN www.ansrmn.org





Training for retailers to prevent tobacco sales to minors.

MINNESOTA TOBACCO RETAILER TRAINING

The Minnesota tobacco retailer training is designed to help tobacco retailers comply with Minnesota and federal laws that regulate the sale of tobacco, electronic delivery devices, or e-cigarettes, and tobacco-related devices.

FORMAT

The training takes approximately one hour to complete and is divided into three sections. There are a total of 25 questions and the retailer must correctly answer 17 questions to be awarded a certificate. The certificate will be emailed to the email address provided by the retailer at registration.

Section 1: Tobacco and Health & State and Federal Laws

10 minute video

10 question quiz

Section 2: Compliance Checks and Penalties

5 minute video

5 question quiz

Section 3: Avoiding Illegal Sales

15 minute video

10 question quiz

Access this *free* training at www.stopsalestominors.org

Also available in Somali and Spanish

This training was created in 2016 by the Association for Nonsmokers-Minnesota, with assistance from the Public Health Law Center, and made possible with support from the Minnesota Department of Health.





CITY OF SAINT PAUL
Melvin Carter, Mayor

*25 West Fourth Street, Ste. 1300
Saint Paul, MN 55102*

Telephone: 651-266-6565

Dear Business Owner,

On November 1, 2017, the Saint Paul City Council adopted ordinance 17-28, limiting the sales of menthol, mint, wintergreen and fruit-flavored tobacco products to adults-only tobacco shops and liquor stores. The ordinance takes effect on November 1, 2018.

We understand this may have a significant impact on your business, and that you may be considering changes to deal with that impact. To assist with this transition, the City of Saint Paul's Business Resource Center has multiple resources available to help. The Business Resource Center can assist with:

- **General Consultation:** Our staff can make personalized recommendations that fit the unique needs of your business plan;
- **Financial Assistance:** The City and State offer multiple low-interest loans and grants for businesses located in Saint Paul interested in expanding or making capital improvements;
- **Connecting with City departments or other agencies:** Our partner agencies can assist with business planning, technical services, skills training, marketing and more.

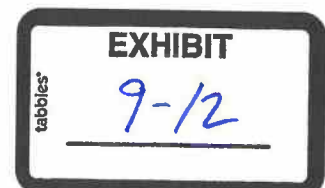
The Business Resource Center is available Monday through Friday from 8:30 a.m. to 4 p.m. at **651-266-6600**, or online at stpaul.gov/BusinessResources. You may also reach out through email at BusinessResources@ci.stpaul.mn.us.

City staff from the Department of Safety and Inspection (DSI) and/or from Planning and Economic Development (PED) will be visiting your store in the coming weeks to personally answer questions or address concerns. We look forward to meeting you.

Thank you for doing business in Saint Paul. We are appreciative of your contributions to your community. Please do not hesitate to reach out for assistance.

Thank you,

Martin Schieckel
Director of Economic Development, Department of Planning and Economic Development



CITY OF SAINT PAUL - BUSINESS RESOURCE CENTER



651-266-6600

BusinessResources@ci.stpaul.mn.us

When you contact the business resource center,
Economic Development staff can assist you with:



TECHNICAL SERVICE PROVIDERS

The City of Saint Paul's Department of Planning and Economic Development (PED) staff can help connect you to partner organizations that offer expertise in numerous areas. The following organizations can provide you with resources and information on loans and financial counseling, business planning, general technical information and/or services, skills training and/or workforce development, facade improvements, marketing and/or tax preparation and/or information.

If you have questions, please contact the Business Resource Center at 651-266-6600 or BusinessResources@ci.stpaul.mn.us.

Organization	Contact	Description	Services	Languages
African Economic Development Solutions (AEDS)	651-646-9411 info@aeds-mn.org	Builds wealth within communities of Black heritage through economic development activities	\$ 📶 🔨	English, Somali, Swahili
Asian Economic Development Association	651-222-7798 info@aeda-mn.org	Expands opportunities for economic success for low-income Asian Americans	\$ 🔨 📶	English, Hmong, Thai, Vietnamese, Lao, Spanish
East Side Neighborhood Development Corporation, Inc.	651-288-8744 adejoy@esndc.org	Engages with the community to create affordable housing and support affordable housing	\$ 📶	English, Somali, Swahili
Latino Economic Development Center	651-724-5332	Transforms community by creating economic opportunity for Latinos	\$ 📶 🔨 !	English, Spanish
Metropolitan Economic Development Association (MEDA)	612-332-6332 info@meda.net	Business services for minority entrepreneurs	\$ 📶 🔨 ✓	English
North East Neighborhoods Development Corporation	612-771-6955 info@nendc.net	Improves economic conditions for area residents and businesses	\$ 🔨 !	English, Hmong
WomenVenture	612-224-9540 info@womenventure.org	Provides women with tools to achieve economic success through small business ownership	\$ 📶 ! 🔨	English



stpaul.gov/BusinessResources | [@cityofsaintpaul](https://twitter.com/cityofsaintpaul) | [City of Saint Paul](https://www.facebook.com/cityofsaintpaul)

EXHIBIT

9-13

tabbles

Chapter 324. - Tobacco

Sec. 324.01. - License required.

- (a) No person shall sell or offer for sale at retail within the city any tobacco, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product or in any manner represent or hold himself or herself out as one who sells or offers for sale at retail any tobacco, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product or maintain a tobacco vending machine for the sale of tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products without a license.
- (b) A tobacco vending machine may be located in a public accommodation, provided that:
 - (1) All tobacco vending machines shall be operable only by the activation of an electronic switch operated by an employee of the establishment before each sale, or by insertion of a token provided to the purchaser by an employee of the licensee; and
 - (2) The machine shall be located in the immediate vicinity, plain view and control of a responsible employee so that all tobacco purchases will be readily observable by that employee. The tobacco vending machine shall not be located in a coatroom, restroom, unmonitored hallway, outer waiting area or similar unmonitored areas. The tobacco vending machine shall be inaccessible to the public when the establishment is closed.
- (c) Any license issued pursuant to this chapter shall be issued to the person, firm or corporation that operates the principal business at that address. Each vending machine shall be required to have a separate license.
- (d) No license may be issued pursuant to this chapter for a location or place of sale if a tobacco license previously issued for that location or place of sale has been revoked for any reason other than nonpayment of license fees within the past five (5) years, subject to the following exceptions:
 - (1) Notwithstanding subdivision (d), a license may be issued if the new applicant:
 - a. Currently holds another tobacco license in the city;
 - b. Has held the license for at least five (5) years; and
 - c. The license:
 - 1. Has not been subject to adverse action within the past two (2) years;
 - 2. Has been subject to no more than one (1) adverse action within the past five (5) years; and
 - 3. Is not the subject of any pending adverse actions.
 - (2) Notwithstanding subdivision (d), a license may be issued if the new applicant is otherwise able to demonstrate at least five (5) years of previous experience operating a tobacco retail establishment in a law abiding manner in the State of Minnesota. In considering an application made pursuant to this subsection, the factors to be considered by the council include, but are not limited to:
 - a. Any adverse or disciplinary actions against any business licenses held by the applicant in the previous five (5) years; and
 - b. Any violations of the law related to operating a retail establishment, committed by the applicant in the previous five (5) years, regardless of whether any criminal charges have been brought in connection therewith.
 - (3) Any license granted pursuant to subpart (d)(1) or (d)(2) must be approved by the affirmative vote of no less than five (5) members of the council.

(Code 1956, § 366.02; Ord. No. 17714, § 1, 2-20-90; C.F. No. 94-341, § 1, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; Ord 15-12, § 1, 4-22-15; Ord 15-57, § 1, 1-6-16)

Sec. 324.02. - License for each location or vending machine.

A license shall permit the licensee to sell tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products at retail at the one (1) location specified in said license, and a separate license shall be required for each location or tobacco vending machine.

(Code 1956, § 366.05; C.F. No. 94-341, § 2, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; Ord 15-57, § 1, 1-6-16)

Sec. 324.03. - Definitions.

The following words and phrases, as used in this chapter, shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this section, except in those cases where the context clearly indicates a different meaning:

- (1) *Cigar* means any roll of tobacco that is wrapped in tobacco leaf, or in any other substance containing tobacco, with or without a tip or mouthpiece, that is not a cigarette as defined in Minn. Stat. § 297F.01, subd. 3, as may be amended from time to time.
- (2) *Electronic delivery device* means any product containing or delivering nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately. Electronic delivery device does not include any product that has been approved or certified by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose.
- (3) *Flavored product* means any tobacco product, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product that contains a taste or smell, other than the taste or smell of tobacco that is distinguishable by an ordinary consumer either prior to or during the consumption of the tobacco product, electronic delivery device, or nicotine or lobelia delivery product, including, but not limited to, any taste or smell relating to menthol, mint, wintergreen, chocolate, cocoa, vanilla, honey, fruit or any candy, dessert, alcoholic beverage, herb, or spice. A public statement or claim, whether express or implied, made or disseminated by the manufacturer of a tobacco product, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such product or device, that the product or device has or produces a taste or smell other than tobacco shall constitute presumptive evidence that the product or device is a flavored product.
- (4) *Nicotine or lobelia delivery product* means any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not a tobacco product or an electronic delivery device, as defined in this section. Nicotine or lobelia delivery product does not include any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose.
- (5) *Sale* means and includes any transfer, conditional or otherwise, of title or possession.
- (6) *Sale at retail* means and includes all sales except those where the merchandise is sold for the purpose of resale by a person principally engaged in selling merchandise for resale.

- (7) *Tobacco or tobacco product* means any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product, including, but not limited to cigarettes, cigars, little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobacco; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco. Tobacco products excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.
- (8) *Tobacco-related devices* means cigarette papers, pipes for smoking, or other devices intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking, or inhalation of vapors of tobacco or tobacco products. Tobacco-related devices include components of tobacco-related devices which may be marketed or sold separately.
- (9) *Tobacco vending machine* means a machine for vending tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery devices by the insertion of money, tokens, or other form of payment.

(Code 1956, § 336.01; C.F. No. 94-341, § 3, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; C.F. No. 10-1014, § 1, 10-13-10; Ord 13-8, § 1, 4-24-13; Ord 14-34, § 1, 8-27-14; Ord 15-57, § 1, 1-6-16; Ord 17-28, § 1, 11-1-17)

Sec. 324.04. - Fee, duration, limitation on number of licenses.

The annual license fee for each location of sale or each tobacco vending machine shall be established by ordinance as specified in section 310.09(b) of the Legislative Code. The license shall expire one (1) year from the date of issuance during each calendar year. The annual license fee shall be prorated for licenses in force less than a full year.

The total number of licenses issued by the city for the retail sale of tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products shall not exceed two hundred forty-two (242). Establishments or locations holding licenses on July 1, 2018, or with an application of a license pending on July 1, 2018, that is ultimately granted shall not be affected by this limitation, but shall be entitled to have such licenses renewed or new license granted, subject to the following exceptions:

1. The establishment or location is in compliance with all other requirements of law and there exist no grounds for adverse actions against such licenses;
2. The previous license has not terminated or expired more than two (2) years before the new license had been first applied for;
3. A previous license has not been revoked by the council.

(Code 1956, § 336.03; Ord. No. 17386, § 1, 8-19-86; C.F. No. 92-1930, § 1, 1-14-93; C.F. No. 94-341, § 4, 4-13-94; C.F. No. 95-1271, § 1, 11-8-95; C.F. No. 97-314, § 1, 4-20-97; Ord 18-19, § 1, 6-27-18)

Sec. 324.05. - Application.

In addition to any other information required by the director, the applicant shall state the true name of the applicant, the name under which he or she shall conduct his or her business, whether such business is that of an individual, sole trader, firm, partnership, or corporation, and the address where such business is to be conducted. Any person applying for more than one (1) license shall file with the department of

safety and inspections a list of all locations of sale and/or the location of each vending machine for which license applications are being filed. Any change in the location of the place of sale shall be reported to the director within five (5) days of said change.

(Code 1956, § 336.04; C.F. No. 94-341, § 5, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; C.F. No. 07-149, § 81, 3-28-07)

Sec. 324.06. - License to be displayed.

The license shall be displayed by the licensee in a prominent and conspicuous place at the licensed location. In the case of a tobacco vending machine, the operator shall also affix his or her name, address and telephone number in a conspicuous place on each machine.

(Code 1956, § 336.06; C.F. No. 94-341, § 6, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; Ord 15-57, § 1, 1-6-16)

Sec. 324.07. - Sales prohibited.

- (a) No person shall sell a cigarette outside its original packaging containing health warnings satisfying the requirements of federal law. No cigarettes shall be sold in packages of fewer than twenty (20) cigarettes.
- (b) No person shall sell or dispense tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery devices from a motor vehicle or other movable place of business.
- (c) No person shall sell tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products from vending machines unless the vending machines are in a facility that cannot be entered at any time by persons younger than eighteen (18) years of age.
- (d) No person shall offer for sale tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products in any open displays which are accessible to the public without the intervention of a store employee. This restriction shall not apply to retail stores which derive at least ninety (90) percent of their revenue from tobacco and tobacco-related devices, and where the retailer ensures that no person younger than eighteen (18) years of age is present, or permitted to enter, at any time.
- (e) No person shall 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 shall 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 shall sell, offer for sale, or otherwise distribute any flavored products.
- (g) Sale to minors prohibited.
 - (1) Whoever sells or furnishes tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to a person under the age of eighteen (18) years is guilty of a misdemeanor for the first violation. Whoever violates this section a subsequent time within five (5) years of a previous conviction is guilty of a gross misdemeanor.
 - (2) 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. Stat. § 340A.503, subd. 6.

(h) Exceptions.

- (1) Notwithstanding section (g), individuals exempted under Minn. Stat. § 609.685 are also exempt from this section.
- (2) The penalties in this section do not apply to a person under the age of eighteen (18) years who purchases or attempts to purchase tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia products while under the direct supervision of a responsible adult for training, education, research, or enforcement purposes.
- (3) Retail stores that derive at least ninety (90) percent of their revenue from the sale of tobacco products, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products and where the retailer ensures that no person under eighteen (18) years of age is permitted to enter, at any time are permitted to sell and offer for sale flavored tobacco products.
- (4) Establishments holding an off-sale intoxicating liquor license issued by the City of Saint Paul under chapter 409 of the Saint Paul Legislative Code who also hold a license for tobacco sales under this chapter shall be permitted to sell and offer for sale flavored tobacco products only in the following flavors: menthol, mint, and wintergreen.

- (i) Any violation of this chapter shall subject the licensee to provisions of chapter 310 and section 324.11 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)

Editor's note— Ord 17-28, § 2, adopted November 1, 2017, shall take effect and be in force beginning November 1, 2018.

Sec. 324.08. - Distribution of free products prohibited.

No person in the business of selling or promoting tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products or agent or employee of such person shall distribute any products free to any person on the sidewalks, pedestrian concourses, pedestrian malls or pedestrian skyway systems within the city.

(Code 1956, § 336.08; Ord. No. 17714, § 1 2-20-90; C.F. No. 92-1930, § 2, 1-14-93; C.F. No. 94-341, § 8, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; Ord 15-57, § 1, 1-6-16)

Sec. 324.09. - Use of false identification by minors prohibited.

No person under the age of eighteen (18) years shall purchase tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products using a driver's license, a Minnesota identification card, or other form of identification which is false, fictitious, altered or counterfeited as to age or any other material fact of identification. Use of false identification to purchase tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products is a misdemeanor.

(Ord. No. 17733, § 1, 5-8-90; C.F. No. 94-341, § 9, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; Ord 13-8, § 3, 4-24-13; Ord 15-57, § 1, 1-6-16)

Sec. 324.10. - Use of tobacco prohibited.

No person under the age of eighteen (18) years shall purchase, use or possess tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products. Possession of tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products by a minor is a petty misdemeanor.

(Ord. No. 17733, § 2, 5-8-90; C.F. No. 94-341, § 10, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; Ord 13-8, § 4, 4-24-13; Ord 15-57, § 1, 1-6-16)

Sec. 324.11. - Presumptive penalties.

- (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. 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. When deviating from these standards, the council shall provide written reasons that specify why the penalty selected was more appropriate.
- (b) *Presumptive penalties for violations.* Adverse penalties for violations or convictions shall be presumed as follows:

Type of Violation	Appearance			
	1st	2nd	3rd	4th
(1) Sale to a minor	\$200.00 fine	\$400.00 fine	\$800.00 fine and 7-day suspension	Revocation

- (c) *Fines payable without hearing.* Notwithstanding the provisions of section 310.05(l), 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.
- (d) *Computation of time.*
 - (1) Second, third and fourth appearances. A second violation within twenty four (24) months shall 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 shall be treated as a first appearance. Measurement of the twenty four (24) 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.

(Ord. No. 17733, § 3, 5-8-90; C.F. No. 94-341, § 11, 4-13-94; C.F. No. 97-314, § 1, 4-20-97;
C.F. No. 02-898, § 1, 11-6-02; C.F. No. 07-149, § 82, 3-28-07; Ord. No. 11-114, § 1, 12-28-11;
Ord 15-57, § 1, 1-6-16)

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)

Sec. 310.06. - Revocation; suspension; adverse actions; imposition of conditions.

- (a) *Council may take adverse action.* The council is authorized to take adverse action, as defined in section 310.01 above, against any or all licenses or permits, licensee or applicant for a license, as provided in and by these chapters. Adverse actions against entertainment licenses issued under chapter 411 of the Legislative Code may be initiated for the reasons set forth in subsection (b) below, or upon any lawful grounds which are communicated to the license holder in writing prior to the hearing before the council. Such actions shall be initiated and carried out in accordance with the procedures outlined in section 310.05; provided, however, that the formal notice of hearing shall be used to initiate the adverse action without the use of prior procedural steps.
- (b) *Basis for action.* Such adverse action may be based on one (1) or more of the following reasons, which are in addition to any other reason specifically provided by law or in these chapters:
- (1) The license or permit was procured by misrepresentation of material facts, fraud, deceit or bad faith.
 - (2) The applicant or one acting in his or her behalf made oral or written misstatements or misrepresentations of material facts in or accompanying the application.
 - (3) The license was issued in violation of any of the provisions of the zoning code, or the premises which are licensed or which are to be licensed do not comply with applicable health, housing, fire, zoning and building codes and regulations.
 - (4) The license or permit was issued in violation of law, without authority, or under a material mistake of fact.
 - (5) The licensee or applicant has failed to comply with any condition set forth in the license, or set forth in the resolution granting or renewing the license.
 - (6) a. The licensee or applicant (or any person whose conduct may by law be imputed to the licensee or applicant) has violated, or performed any act which is a violation of, any of the provisions of these chapters or of any statute, ordinance or regulation reasonably related to the licensed activity, regardless of whether criminal charges have or have not been brought in connection therewith;
 - b. The licensee or applicant has been convicted of a crime that may disqualify said applicant from holding the license in question under the standards and procedures in Minnesota Statutes chapter 364; or
 - c. The licensee or applicant (or any person whose conduct may by law be imputed to the licensee or applicant) has engaged in or permitted a pattern or practice of conduct of failure to comply with laws reasonably related to the licensed activity or from which an inference of lack of fitness or good character may be drawn.
 - (7) The activities of the licensee in the licensed activity created or have created a serious danger to the public health, safety or welfare, or the licensee performs or has performed his or her work or activity in an unsafe manner.
 - (8) The licensed business, or the way in which such business is operated, maintains or permits conditions that unreasonably annoy, injure or endanger the safety, health, morals, comfort or repose of any considerable number of members of the public.
 - (9) Failure to keep sidewalks or pedestrian ways reasonably free of snow and ice as required under chapter 114 of the Saint Paul Legislative Code.

- (10) The licensee or applicant has shown by past misconduct or unfair acts or dealings: physical abuse, assaults or violent actions done to others, including, but not limited to, actions meeting the definition of criminal sexual conduct pursuant to Minnesota Statutes sections 609.342 through 609.3451; sexual abuse, physical abuse or maltreatment of a child as defined in Minnesota Statutes section 626.556, subdivisions 2 and 10e, including, but not limited to, acts which constitute a violation of Minnesota Statutes sections 609.02, subdivision 10; 609.321 through 609.3451; or 617.246; neglect or endangerment of a child as defined in Minnesota Statutes section 626.557, subdivision 2; the manufacture, distribution, sale, gift, delivery, transportation, exchange or barter of a controlled substance as defined in Minnesota Statutes chapter 152; the possession of a controlled substance as defined in Minnesota Statutes chapter 152 in such quantities or under circumstances giving rise to a reasonable inference that the possession was for the purpose of sale or distribution to others; or by the abuse of alcohol or other drugs, that such licensee or applicant is not a person of the good moral character or fitness required to engage in a licensed activity, business or profession.
- (11) The licensee or applicant has materially changed or permitted a material change in the design, construction or configuration of the licensed premises without the prior approval of the city council in the case of Class N licenses, the director in the case of Class T licenses, and the inspector in the case of Class R licenses, or without first having obtained the proper building permits from the city.
- (12) The licensee or applicant has violated section 294.01 of the Legislative Code, or has made or attempted to make a prohibited ex parte contact with a council member as provided in section 310.05(c-2) of the Legislative Code.
- (13) The licensee violated the law or any license condition and that violation is related to a death or great bodily harm, as defined in Minnesota Statute section 609.02, subd. 8, in or near the establishment.
- (14) The licensee has failed to pay license fees within sixty (60) days of the date the fees are due. Licensee must pay any outstanding fees and delinquent fees in total. Failure to do so within sixty (60) days of the due date may result in revocation of the license. A revocation for this reason, however, is not considered a revocation resulting from misconduct or unfitness of the licensee, evidence of violations of law involving licensed premises, evidence that the applicant had been involved in the operation of a nuisance, or fraud or deception in the license application. Therefore, the requirement of § 310.02(d) prohibiting re-application within one year of revocation shall not apply to revocations under this paragraph.

The terms "licensee" or "applicant" for the purpose of this section shall mean and include any person who has any interest, whether as a holder of more than five (5) percent of the stock of a corporation, as a partner, or otherwise, in the premises or in the business or activity which are licensed or proposed to be licensed.

With respect to any license for activities entitled to the protection of the First Amendment, notwithstanding the foregoing provisions, neither the lack of good moral character or fitness of the licensee or applicant nor the content of the protected speech or matter shall be the basis for adverse action against the license or application.

- (c) *Imposition of reasonable conditions and/or restrictions.* When a reasonable basis is found to impose reasonable conditions and/or restrictions upon a license issued or held under these chapters, any one (1) or more such reasonable conditions and/or restrictions may be imposed upon such license for the purpose of promoting public health, safety and welfare, of advancing the public peace and the elimination of conditions or actions that constitute a nuisance or a detriment to the peaceful enjoyment of urban life, or promoting security and safety in nearby neighborhoods. Such reasonable conditions and/or restrictions may include or pertain to, but are not limited to:

- (1) A limitation on the hours of operation of the licensed business or establishment, or on particular types of activities conducted in or on said business or establishment;
- (2) A limitation or restriction as to the location within the licensed business or establishment where particular type of activities may be conducted;
- (3) A limitation as to the means of ingress or egress from the licensed establishment or its parking lot or immediately adjacent area;
- (4) A requirement to provide off-street parking in excess of other requirements of law;
- (5) A limitation on the manner and means of advertising the operation or merchandise of the licensed establishment;
- (6) Any other reasonable condition or restriction limiting the operation of the licensed business or establishment to ensure that the business or establishment will harmonize with the character of the area in which it is located, or to prevent the development or continuation of a nuisance.

The inspector may impose such conditions on Class R licenses with the consent of the license holder, or may recommend the imposition of such conditions as an adverse action against the license or licenses; the inspector has the same power with respect to Class T licenses. The council may impose such conditions on Class N licenses with the consent of the license holder, or upon any class of license as an adverse action against the license or licenses following notice and hearing as may be required. Such conditions may be imposed on a license or licenses upon issuance or renewal thereof, or upon and as part of any adverse action against a license or licenses, including suspension. Conditions imposed on a license or licenses shall remain on such licenses when renewed and shall continue thereafter until removed by the council in the case of conditions on Class N licenses or conditions imposed by adverse action, and by the inspector in the case of Class R and T licenses.

- (d) *Standards for multiple license determination.* In any case in which the council is authorized to take adverse action against less than all of the licenses held by a licensee, or applied for by an applicant, the following standards may be used:
- (1) The nature and gravity of the grounds found by the council to exist upon which the adverse action would be based;
 - (2) The policy and/or regulatory goals for the particular licenses involved, either as embodied in the Legislative Code or as found and determined by the council;
 - (3) The interrelationship of the licenses and their relative importance to the overall business enterprise of the licensee or applicant;
 - (4) The management practices of the licensee or applicant with respect to each of such licenses;
 - (5) The extent to which adverse action against less than all of the licenses or applications would result in difficulty in enforcing and monitoring the adverse action taken;
 - (6) The hardship to the licensee or applicant that would be caused by applying adverse action to all licenses or applications; and
 - (7) The hardship and/or danger to the public, or to the public health and welfare, that would result from adverse action against less than all of the licenses or applications.

(Code 1956, § 510.06; Ord. No. 17584, § 1, 8-25-88; Ord. No. 17657, § 15, 6-8-89; Ord. No. 17659, § 2, 6-13-89; Ord. No. 17901, §§ 2, 3, 1-14-92; Ord. No. 17917, §§ 2, 3, 3-31-92; Ord. No. 17922, § 1, 4-28-92; C.F. No. 94-500, § 3, 7-6-94; C.F. No. 94-1340, § 3, 10-19-94; C.F. No. 95-473, § 5, 5-31-95; C.F. No. 99-500, § 3, 7-7-99; C.F. No. 06-954, § 2, 11-8-06; C.F. No. 06-1072, § 2, 12-27-06)

297F.21 CONTRABAND.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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