

OFFICE OF THE CITY ATTORNEY

Lyndsey M. Olson, City Attorney



CITY OF SAINT PAUL

Mayor Melvin Carter

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

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

June 20, 2019

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

Carter's BP
623 Como Avenue
Saint Paul, MN 55103
Attn: Carter's Oil & Food Shop Inc.

RE: Cigarette/Tobacco license held by Carter's Oil & Food Shop Inc. d/b/a Carter's BP for the premises located at 623 Como Avenue in Saint Paul
License ID #: 20060003657

Dear Carter's Oil & Food Shop Inc.:

The Department of Safety and Inspections ("Department") will recommend adverse action against the Cigarette/Tobacco license held by Carter's Oil & Food Shop Inc. ("Licensee") for the premises known as Carter's BP located at 623 Como Avenue in Saint Paul. ("Licensed Premises").

Saint Paul Legislative Code §310.05(m)(2) provides for a presumptive penalty of \$500 for a first-time violation of a provision of the legislative code related to the licensed activity.

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

The Department asserts the following facts along with attachments herein constitute proof of a violation of Saint Paul Legislative Code §324.07(f) by a preponderance of the evidence.

On April 4, 2019 all cigarette/tobacco licensees in the City of Saint Paul were notified by letter that cigar pricing, flavored tobacco, temporary window sign and tobacco display requirement compliance checks would be conducted during the week of April 8th through May.

On April 23, 2019, Inspector Akbar Muhammad conducted a cigarette/tobacco and price compliance inspection at 623 Como Avenue, Saint Paul, MN 55103. Inspector Muhammad observed and documented violations of Saint Paul Legislative Code §324.07(f). Specifically, he observed the following flavored products: Juicy Double Wraps and Double Platinum Up & Up Blunts Wraps (vanilla) being offered for sale.

As the Licensee you have four (4) options:

1. If you do not contest the imposition of the proposed adverse action, you may do nothing. If I have not heard from you by **Friday, July 5, 2019**, I will presume that you have chosen not to contest the proposed adverse action and the matter will be placed on the **Wednesday, July 5, 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, July 5, 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, July 5, 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, July 5, 2019**. At that hearing both you and the City will appear and present witnesses, evidence and cross-examine each other's witnesses. After receipt of the ALJ's report (usually within 30 days), a public hearing will need to be scheduled. At that time, the City Council will decide whether to adopt, modify or reject the ALJ's report and recommendation.

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

If you have not contacted me by Friday, July 5, 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, July 24, 2019 City Council Consent Agenda for approval of the recommended penalty.

If you have questions about these options, please contact Shawn McDonald, my Legal Assistant at (651) 266-8729.

Sincerely,

A handwritten signature in cursive script, appearing to read "Therese Skarda / S.M.", written in dark ink.

Therese Skarda
Assistant City Attorney
License No.: 0240989

d/b/a Carter's BP

June 20, 2019

Page 3

cc: Carter's Oil & Food Shop Inc.; 623 Como Avenue; Saint Paul, MN 55103
Kerry Antrim, Executive Director, 171 Front Street, Saint Paul, MN 55117
John Carter, Owner, 7116 Idaho Avenue, Brooklyn Park, MN 55428

Attachments: Inspector's Report
Photo
Screenshots from DSI EClips system
STAMP Ownership/Zoning Information



CITY OF SAINT PAUL

Business Licensing
373 Jackson Street, Suite 220
Saint Paul, Minnesota 55101-1800

Telephone: 651-266-5023
Facsimile: 651-266-5174
Web: www.stpaul.gov/dsl

Inspector's Report

Inspectors Name: Akbar R. Muhammad

Date of Inspection: April 23, 2019

Date sent to the CAO: May 9, 2019

Business/Property Name: Carter's BP

Property Address: 623 Como Ave

License #: 2006003657

Reason for Visit: Flavor/Price Compliance Check

Observations: Flavor Violations: Juicy Double Wraps and Double Platinum Up & Up Blunt Wraps (vanilla)

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

☐ No

Action Taken: ☐ Citation

☐ Warning

Other: Sent to the CAO for Adverse Licensing Action

Details of Conversations (Statements to and by Person Responsible for Property): Upon arrival for a cigarette/tobacco flavor and price compliance inspection, I Akbar R. Muhammad, an inspector for the DSI, introduced myself as inspector from DSI to the supervisor, Mr. Chet. I asked him if he received the letter that was mailed out dated April 4, 2019. As I conducted my inspection I observed Juicy Double Wraps and Double Platinum Up & Up Blunt Wraps (vanilla). I advised him that these were all flavors violations and needed to be removed asap to be in compliance with ordinance 324.



CITY OF SAINT PAUL

Business Licensing
333 Jackson Street, Suite 229
Saint Paul, Minnesota 55101-1806

Telephone: 651-266-8989
Facsimile: 651-266-9134
Web: www.stpaul.gov/ci/biz

April 4, 2019

Dear Cigarette/Tobacco License Holder,

The Saint Paul Legislative Code establishes minimum cigar prices, prohibits the sale of flavored tobacco products at most retail locations, limits the size of temporary window signs in stores, and regulates customer access to the tobacco and tobacco-related products on display. Compliance checks for these items are typically conducted a minimum of once per calendar year where tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products are sold. These checks consist of a DSI Licensing Inspector visiting the establishment unannounced then observing product placement and labeling, speaking with clerks, taking photos, etc. to monitor for compliance with retail tobacco requirements.

Please consider this letter formal notice that the Department of Safety and Inspections (DSI) will begin to conduct the 2019 routine compliance checks for cigar pricing, flavored tobacco, temporary window sign, and tobacco display requirements the week of April 8th and expects to complete the initial checks of all vendors by late May. Of further note, compliance checks may be conducted at any time during the year in response to complaints or reported violations of these or other applicable requirements. Ordinance violations will be forwarded to the City Attorney's Office for adverse action against your license(s) that will result in fines and potential license suspension.

A link to the Cigarette/Tobacco License webpage is further below for your reference and if you have any questions about license requirements or inspection procedures, contact me at 651-266-9014 or joseph.voyda@ci.stpaul.mn.us. Other DSI Licensing Inspectors are available during my absence at 651-266-8989 to answer questions as well.

Cigarette / Tobacco License | Saint Paul, Minnesota
<https://www.stpaul.gov/departments/safety-inspections/licenses/business/cigarette-tobacco-license>

Sincerely,

Joseph Voyda,
Inspector, DSI Licensing



CITY OF SAINT PAUL

Business Licensing
375 Jackson Street, Suite 220
Saint Paul, Minnesota 55101-1805

Telephone: 651-266-8989
Facsimile: 651-266-9174
Web: www.spsaint.gov/dsl

Tobacco Compliance Check

Business Type:
20060003657
CARTER'S BP
623 COMO AVE

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

Cigar prices: Single 2 Pack 3 Pack 4 Pack or More
\$2.60 \$ \$ \$ \$

Menthol, mint & wintergreen
flavored products on premises?
☒ Yes or ☒ No

Flavored tobacco issues present
during inspection?
☒ Yes or ☐ No (if Yes, list below)

Were pictures taken of
flavored items/issues?
☒ Yes or ☐ No

More than thirty (30) percent
of the store window / doors
covered by temporary signs?
Yes or ☒ No

Were pictures taken of the
windows / doors?
Yes or ☒ No

Name of (Owner) or ☒ Clerk: Steve Bergstrom

Notes/Issues: Juicy Double Wraps and Double Platinum
Up & Up Blunt Wraps Vanilla

Reason no inspection was conducted:

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

Inspector: Akbar R. Muhammad Date: 4 / 23 / 19 Time: 3:55 a.m. ☒ p.m.

AA-ADA-EEO Employer

Properties For License623 COMO AVE

Pay

Print

Warn

Hist

Summ

Licensee

CARTER'S OIL & FOOD SHOP INC

DBA

CARTER'S BP

License

Licensee

Lic. Types

Insurance

Bond

Requirements

Licensee Name:

CARTER'S OIL & FOOD SHOP INC

Browse...

DBA:

CARTER'S BP

Sales Tax Id:

Non-Profit:

☐

Worker's Comp:

07/01/2019

Properties...

AA Contract Rec'd:

00/00/0000

AA Training Rec'd:

00/00/0000

AA Fee Collected:

00/00/0000

Discount Rec'd:

☐

Other Agency Licenses

Financial Hold Reasons

Other Licensing Agency Name / License Type	License #	Expiration	Reason	Active	Date
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Contacts for this Licensee

Addr. Type	Active	Last Name	First Name	Title
Other	10/31/2006	CARTER	JOHN	HOME ADDRESS (OWNER)
Business/M	10/31/2006	CARTER	JOHN	OWNER

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Mail License To:

☒ Mail To Contact

☐ License Address

Mail Invoice To:

☒ Mail To Contact

☐ License Address

Background Check Required

☐

Contact Properties...

License #

060003657

Save Changes to History

☒

OK

Cancel

Help

Properties For License623 COMO AVE

Pay

Print

Warn

Hist

Summ

Licensee

CARTER'S OIL & FOOD SHOP INC

DBA

CARTER'S BP

License

Licensee

Lic. Types

Insurance

Bond

Requirements

Licensee Name:

CARTER'S OIL & FOOD SHOP INC

Browse...

DBA:

CARTER'S BP

Sales Tax Id:

Non-Profit:

☐

Worker's Comp:

07/01/2019

Properties...

AA Contract Rec'd:

00/00/0000

AA Training Rec'd:

00/00/0000

AA Fee Collected:

00/00/0000

Discount Rec'd:

☐

Other Agency Licenses

Financial Hold Reasons

Other Licensing Agency Name / License Type	License #	Expiration	Reason	Active	Date
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Contacts for this Licensee

Bus. Phone	Home Phone	Contact Address	City	Zip
() -	(763) 560-5637	7116 IDAHO AVE	BROOKLYN PARK	55428
(651) 489-5555		623 COMO AVE	ST PAUL	55103

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>

Mail License To:

☒ Mail To Contact

☐ License Address

Mail Invoice To:

☒ Mail To Contact

☐ License Address

Background Check Required

☐

Contact Properties...

License #

060003657

Save Changes to History

☒

OK

Cancel

Help



CITY OF SAINT PAUL

Tobacco Com

Business Type:
20060003657
CARTER'S BP
623 COMO AVE

☐ Convenience ☒ Convenience / Gas ☐ Gas ☐ Drug
☐ Supermarket / Grocery ☐ General Merchant ☐ Liquor Store

Cigar prices: Single 2 Pack 3 Pack
\$2.60 \$ \$

Menthol, mint & wintergreen
flavored products on premises?
Yes or No

More than thirty (30) percent
of the store window / doors
covered by temporary signs?
Yes or No

Flavored tobacco issues
during inspection?
Yes or No (if Yes, list)

Were pictures taken of the
windows / doors?
Yes or No

Name of (Owner) or (Clerk):

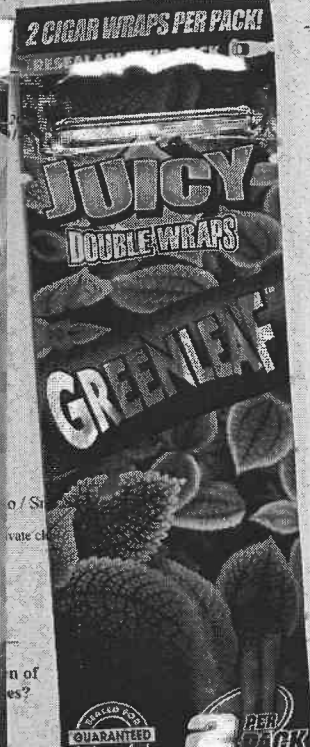
Notes/Issues: Juicy Double Wraps and Double Platinum
Up & Up Blunt Wraps

Reason no inspection was conducted:

☐ Does not sell tobacco ☐ Unsatisfactory/unsafe conditions ☐ Out of business
☐ Refused inspection Why? ☐ Other

Inspector: Akbar R. Muhammad Date: 4 / 23 / 11
MM DD

AA-ADA-EEO Employer



Properties For License 623 COMO AVE



Licensee: CARTER'S OIL & FOOD SHOP INC
DBA: CARTER'S BP

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

☒ Property ☐ Licensee ☐ Unofficial

Street #: 623
Street Name: COMO
Street Type: AVE Direction:
Unit Ind: Unit #:
City: ST PAUL
State: MN Zip: 55103
Ward: 5
Dist Council: 06

Project Facilitator: SOLEY, REID

Adverse Action Comments

License Group Comments:

4/23/19 Tobacco compliance check, failed flavors. ARM
7/31/18 Tobacco youth compliance check pass ARM
4/24/2018 Menthol education / inspection Pass JNV
06/22/2017 passed tobacco compliance check BLB
06/18/2015 Passed tobacco comp. check. JWF

Licensee: CARTER'S OIL & FOOD SHOP INC
DBA: CARTER'S BP
Sales Tax Id: ***** Bus Phone: (651) 489-5555

Licensee
Comments:

License Type	Class	Effective	Expiration	Conditions	License Fee
False Alarms	R	01/01/2009	12/31/2009	N	\$0.00
False Alarms	R	01/01/2013	12/31/2013	N	\$0.00
False Alarms	R	01/01/2015	12/31/2015	N	\$0.00

License # 060003657

Save Changes to History ☒

OK

Cancel

Help

Properties for Licensee Contact

Name

Address

Phone

Email

Groups

Contact for Patron: CARTER'S OIL & FOOD SHOP INC

Last Name:

CARTER

First Name:

JOHN

Middle Initial:

W

Business Title:

OWNER

Preferred Method:

MAIL

Maiden Name:

Date of Birth:

09/08/1957

SSN:

Driver's License #:

D-694-038-863-019

Last Check:

00/00/0000


Other Licensing Agency Name/License Type	License #	Expiration	Add
			Remove

OK

Cancel

Help

Save Changes to History



 Properties for Licensee Contact


— □ ×


Name | Address | Phone | Email | Groups |

Street #: 7116


Street Name: IDAHO

Street Pre Direct: <All>  

Street Type: AVE 


Street Post Direct: <All> 

Unit #:

Unit Abbrev: 

P.O. Box #:

City: BROOKLYN PARK

State: MN 

Country: U.S.A.

Zip Code: 55428

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:** 06/20/19 10:43 AM**House#:** 623**Last updated from Ramsey County
data on:** 07/07/2018**Street
Name:** como

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

623 Como Ave - Carter'S Bp - 55103-1509 - [Other Applications](#)

PIN: 262923140086	Census Track: 31200	Census Block: 1006	Council Ward: 5	District Council: 10
Year Built:	Foundation Sq Feet:	Loan Company: 95 Amoco Oil	Land Value: 157100	Building Value: 108600

Unverified Usage: 30- GAS STATION- C- Automotive**ISP:****Units:****Zoning:** B3**Legal Desc:** WARE AND HOSPES,REARRANGEMENT LOTS 1 THRU LOT 4**Owner:**Jwc Properties Llc
7116 Idaho Ave N
Brooklyn Park MN 55428-1784**Certificate of Occupancy Responsible Party:**John Carter
623 Como Ave
St Paul MN 55103
651-489-5555

STATE OF MINNESOTA)

) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

Shawn McDonald, being first duly sworn, deposes and says that on June 20, 2019, he served the attached **NOTICE OF VIOLATION, RECOMMENDATION FOR IMPOSITION OF \$500.00 MATRIX PENALTY** and a correct copy thereof in an envelope addressed as follows:

Carter's BP
623 Como Avenue
Saint Paul, MN 55103

Kerry Antrim, Executive Director
171 Front Street
Saint Paul, MN 55117

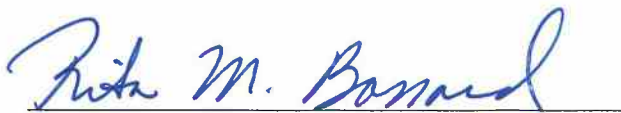
John Carter, Owner
7116 Idaho Avenue
Brooklyn Park, MN 55428

(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 20th day of June 2019



Notary Public

