



Legislation Details (With Text)

File #: RES 24-1234 **Version:** 1
Type: Resolution **Status:** Passed
In control: City Council
Final action: 8/28/2024

Title: Directing the Department of Safety and Inspections to proceed with the 10-day license suspension of the Tobacco Shop License and adverse action against MNA Grocery LLC d/b/a MNA Grocery, (License ID #20230002089) for the premises located at 361 Earl Street.

Sponsors: Cheniqua Johnson

Indexes:

Code sections:

Attachments: 1. 6-25-2024- MNA Grocery - NOV Packet

Date	Ver.	Action By	Action	Result
9/4/2024	1	Mayor's Office	Signed	
8/28/2024	1	City Council	Adopted	Pass

Directing the Department of Safety and Inspections to proceed with the 10-day license suspension of the Tobacco Shop License and adverse action against MNA Grocery LLC d/b/a MNA Grocery, (License ID #20230002089) for the premises located at 361 Earl Street.

WHEREAS, the Tobacco Shop license (“License”) held by MNA Grocery LLC d/b/a MNA Grocery under License ID #20230002089 for the premises located at 361 Earl Street in Saint Paul (“Licensed Premises”), which is owned by Marwan Wardi was the subject of adverse action pursuant to a June 25, 2024, Notice of Violation (Notice”) in which the Department of Safety and Inspections (“Department”) provided notice to the Licensee of its intent to request for a 10-day license suspension and move forward with adverse action supported by Saint Paul Legislative Code 310.03(a); and

WHEREAS, the Notice laid out the basis for adverse action and the Legislative Code upon which the Department was relying as follows:

Saint Paul Legislative Code §310.01, defines Adverse Action as: “the revocation or suspension of a license, the imposition of conditions upon a license, the denial of an application of the grant, issuance or renewal of a license, the imposition of a fine, the assessment of the costs of a contested hearing, and any other disciplinary or unfavorable action taken with respect to a license, Licensee or applicant for a license. “Adverse action” includes any of the foregoing directed at one (1) or more licenses held by a Licensee at any location in the city. “Adverse action” also includes disapproval of licenses issued by the state under statutory provisions which permit the governing body to disapprove the issuance of the license.”

Saint Paul Legislative Code §324.03(5) states: “flavored products could mean any tobacco product, tobacco related 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 any 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.”

WHEREAS, on June 7, 2024, Department of Safety and Inspections (“DSI”) Licensing Inspector, Joseph

Voyda; inspected the premises at 361 Earl Street due to a flavored tobacco complaint from the Minnesota Department of Revenue. Inspector Voyda requested for the clerk, Mohamed to contact the owner of the Tobacco Shop, Marwan Wardi. Inspector Voyda asked Marwan where the flavored tobacco is hidden and Marwan replied, “nothing is hidden only non-flavored tobacco is on the shelves and in my store.”; and

WHEREAS, on June 7, 2024, Inspector Voyda discovered a number of flavored tobacco throughout the Tobacco Shop during his inspection of the premises, as follows:

Inspector Voyda continued his inspection and noticed the following products on display, in plain sight:

1. (2) full boxes of Dutch Diamond Fusion cigars
2. (2) full boxes of Dutch Platinum Fusion cigars
3. (1) box of Backwood Pennsylvania Primo cigars

Inspector Voyda continued his inspection downstairs and discovered the following within two boxes, under a desk:

1. (1) full box of Dutch Diamond gold cigars
2. (1) full box of Backwoods Honey Bourbon cigars

Inspector Voyda then noticed three hooded sweatshirts hanging from the door frame of the convenient store leading to downstairs, the sweatshirts contained the following:

1. First sweatshirt - (1) Pack of Dutch Blue Dream Fusion cigars and (1) pack of Backwoods Dark Stout cigars.
2. Second sweatshirt - (1) pack of Newport Menthol Cigarettes
3. Third sweatshirt - (1) Vape Pen Loon Maxx Strawberry Banana

Inspector Voyda also noticed a box on a shelf on the way downstairs containing the following:

1. (1) full box of Dutch Diamond gold cigars
2. (1) full box of Backwoods Honey Bourbon cigars

Saint Paul Legislative Code §324.07(j) states: “no person may sell, offer for sale, or otherwise distribute any flavored tobacco products, unless expected under section 324.07(l) of this chapter”.

WHEREAS, Inspector Voyda educated the owner, Marwan Wardi of the above-mentioned tobacco products which are in violation of the City Ordinance of the issued license type that is currently issued to Marwan; and

WHEREAS, the Department of Safety and Inspections recommended a 10-day suspension for flavored tobacco; and

WHEREAS, the Notice laid out options for the Licensee:

“You have four (4) options on how to proceed:

1. If you do not contest the imposition of the proposed adverse action, you may do nothing. If I have not heard from you by **July 5, 2024**, I will presume that you have chosen not to contest the proposed adverse action and the matter will be placed on the City Council Consent agenda for approval of the proposed remedy.
2. You can accept the penalty. If this is your choice, you should indicate it directly to the

Department of Safety and Inspections, at 375 Jackson Street, Ste. 220, St. Paul, Minnesota 55101-1806 no later than **July 5, 2024**. A self-addressed envelope is enclosed for your convenience. Acceptance of the penalty will be considered an admission to the violation and waiver of the hearing to which you are entitled. This matter will then be placed on the City Council addenda for imposition of the recommended penalty of a 10-day suspension.

3. If you wish to admit the facts but you contest the penalty, you may have a public hearing before the Saint Paul City Council. You will need to send me a letter with a statement admitting to the facts and requesting a public hearing no later than **July 5, 2024**. The matter will then be scheduled before the City Council to determine whether to suspend your license for ten (10) days. 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 **July 5, 2024**. At that hearing both you and the City will appear and present witnesses, evidence and cross-examine each other's witnesses. After receipt of the ALJ's report (usually within 30 days), a hearing will need to be scheduled before the City Council. At that time, the City Council will decide whether to adopt, modify or reject the ALJ's report and recommendation.

WHEREAS, the Notice was sent to the licensee on June 25, 2024, providing that you respond by July 5, 2024, on whether you contest the proposed adverse action; and

WHEREAS, on August 7, 2024, the Licensee's attorney contacted the City Attorney's Office stating they do not contest and accept the penalty; and

RESOLVED, the Tobacco Shop license held by MNA Grocery LLC d/b/a MNA Grocery (License ID #20230002089) for the premises located at 361 Earl Street in Saint Paul is hereby to have their license suspended for 10 days in violation of Saint Paul Legislative Code §324.07(j).