



Legislation Text

File #: RES PH 17-285, **Version:** 1

Sustaining adverse action against the Recycling Processing Center license held by Strategic Materials, Inc., d/b/a Strategic Materials (SMI) at 195 Minnehaha Avenue East.

WHEREAS, the Recycling Processing Center license held by Strategic Materials, Inc. d/b/a Strategic Materials (SMI) for the premises located at 195 Minnehaha Avenue East in Saint Paul (License ID #20100003436) was the subject of a Notice of Violation and Notice of Intent to Suspend License on December 13, 2016; and

WHEREAS, the Notice stated the Department of Safety and Inspections (DSI) received repeated and continued complaints of dust and odor coming from the licensed premises which were substantiated by DSI Inspectors and nearby residential properties; and

WHEREAS, as a result of this third violation within the past eighteen (18) months, the licensing department recommended a \$2,000.00 penalty and a ten (10) day suspension of their licenses; and

WHEREAS, on December 23, 2016, the City Attorney's Office received a letter from the licensee's attorney disputing the allegations and requesting an administrative hearing;

WHEREAS, a pre-hearing conference was held on June 9, 2017; and

WHEREAS, an administrative hearing was then scheduled for the week of December 11, 2017; and

WHEREAS, during the interim DSI and the City Attorney's Office worked with the licensee and his attorney to come to a resolution of the matter; and

WHEREAS, on June 26, 2017 Deputy Director Niziolek and Licensing Manager Hudak toured the SMI facility and observed the changes and updates made by SMI management; and

WHEREAS, on June 29, 2017 an Amended Notice of Violation and Notice of Intent to Suspend License and Add Additional Conditions to License was sent to the licensee's attorney; and

WHEREAS, on August 29, 2017 a settlement was reached between the parties and a Final Settlement Agreement was sent to the licensee's attorney for signature; and

WHEREAS, the terms agreed upon in the settlement agreement will be added to SMI's license as additional conditions; and

WHEREAS, on September 6, 2017, the signed Final Settlement Agreement was sent by electronic mail to the Assistant City Attorney with the following agreed upon terms:

1. SMI shall employ best management practices ("BMP") for control of avoidable dust, odor and noise coming from the plant in accordance with the 8/21/2014 document prepared by Strategic Materials, titled Northeast Operations/St Paul NOV Improvement Strategy and will continue to monitor and evaluate the effectiveness of the BMP's making adjustments as necessary to ensure effectiveness of these controls.

2. SMI shall maintain continued, uninterrupted compliance with all applicable state laws and rules, including, but not limited to, those contained in Chapter 7007 of the Minnesota Administrative Rules and with the corrective action plans submitted in the May 13, 2016 letter from SCS Engineers to the MPCA, specifically corrective actions 1, 4 and 6. The City acknowledges that it does not have the authority to determine that SMI violated applicable state laws and rules, including but not limited to those contained in Chapter 7007 of the Minnesota Administrative Rules, and that the City cannot take action against SMI under this paragraph unless the violation has been established and there is no further right of appeal.

3. SMI shall implement and continually maintain reasonable operating procedures and processes that minimize the migration of avoidable dust, debris, other materials, or odor off the licensed premises. Such reasonable procedures and processes include, but are not limited to, maintenance of properly fitted and functional chute covers on all conveyors that dispense material from the interior of building to any exterior bunker and a sprinkler system that perpetually moistens the exposed layer of any material stored within exterior bunkers. It is expressly understood that the migration of dust, debris, other materials, or odor may occur due to no negligence of SMI. It is further expressly understood that SMI's facility is in an area zoned "12," which section 66.513 of the St. Paul City Code describes "12" as "general industrial district is intended primarily for manufacturing, assembling and fabrication activities, including large scale or specialized industrial operations whose external effects will be felt in surrounding districts. The 12 district is intended to permit the manufacturing, processing and compounding of semi-finish products from raw material and prepared material." Finally, it is expressly understood that even though SMI's facility is located in an area zoned "12"; it must fully comply with section 310 of the St. Paul City Code.

4. SMI shall maintain accurate, up-to-date records of required safety and emission controls including, baghouse filter changes, pressure in the baghouse, and baghouse maintenance.

5. SMI shall use its best efforts to operate the onsite building with all doors and windows closed during active processing activity. However, it is expressly understood and agreed that SMI must (and is allowed to) open and close doors as necessary to allow vehicles in and out as part of SMI's operations, as well as to ensure its compliance with workplace safety requirements, including those established by the Minnesota Department of Labor and Industry - Occupational Safety and Health Administration. SMI will implement and maintain reasonable operating procedures to prevent nuisance dust migration off the site due to open doors.

6. SMI shall post and strictly enforce a 5 mile per hour speed limit throughout for all vehicle movement areas on licensed premises.

7. Receiving of unprocessed materials (3 Mix) shall be limited to the hours between 6:00 a.m. and 4:00 p.m. Monday through Friday. No materials shall be received on Saturday or Sunday, except as necessary during holiday weeks, during which it may be necessary to receive materials on Saturday or Sunday, or before 6:00 a.m. and after 4:00 p.m. Monday through Friday.

8. Railcar loading shall take place in a structure that provides a barrier against dust migration from the rail car to the ground.

9. SMI shall submit a new site plan to DSI for review and approval by September 18, 2017 and demonstrate continuous, timely progress when implementing the site plan.

10. SMI shall comply with its City approved site plan.

11. SMI shall pay a \$1,000 penalty.

Now, therefore, be it

RESOLVED, That as resolution of the Adverse Action, SMI hereby agrees that the terms of the September 6, 2017 Final Settlement Agreement will be added to their Recycling Processing Center license; and

FURTHER RESOLVED, SMI will comply with the additional license conditions; and

FINALLY RESOLVED, Strategic Materials, Inc. d/b/a Strategic Materials is hereby ordered to pay a matrix penalty of \$1,000.00. Payment of such penalty shall be made within thirty (30) days of the date of the adoption of this resolution.

A copy of this resolution, as adopted, shall be sent by first class mail to the Administrative Law Judge and to the license holder.