



## Legislation Text

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**File #:** RES 25-94, **Version:** 1

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Authorizing the Department of Safety and Inspections (“DSI”) to enter into a Settlement Agreement with Ali Alfureedy on behalf of Maryland Tobacco Inc., d/b/a Maryland Tobacco (“Licensee”).

WHEREAS, Licensee holds a Cigarette/Tobacco Product Shop license (#20180003636) for the premises located at 444 Maryland Avenue West in Saint Paul (“Licensed Premises”); and

WHEREAS, on November 9, 2020, The City Attorney’s Office and the Department of Safety and Inspections learned that a zoning issue needed to be investigated; and

WHEREAS, on January 15, 2021, a Notice of Violation illustrates that DSI examined the licensed premises of 444 Maryland Avenue West and determined that the Cigarette/Tobacco Product Shop license was issued in error based on an errant zoning determination; and

WHEREAS, on January 15, 2021, a Notice of Violation letter illustrates the DSI zoning administrator determined that the Licensee’s shop is within a B1 zoning district, the Saint Paul Legislative Code strictly prohibits Tobacco Product Shops within the B1 zoning district. It was also made clear in the Notice of Violation letter that the current use is not permitted in the space; and

WHEREAS, on March 4, 2021, Licensee drafted a letter to request for continuance of the public hearing before the zoning committee; and

WHEREAS, on March 25, 2021, Licensee applied for rezoning of the licensed premises from a B1 zoning district to a T2 zoning district; and

WHEREAS, on April 22, 2021, the zoning committee approved of the rezoning from B1 to T2 for 444 Maryland Avenue West, allowing DSI to impose conditions on the license; and

WHEREAS, on June 16, 2021, a Notice of Violation letter indicated the proposed rezoning failed and 444 Maryland Tobacco Product Shop had to cease use; and

WHEREAS, there has been a longstanding litigation of this zoning issue, dating back to Saint Paul City Council denying the rezoning from B1 to T2 and even through the District Court, Minnesota Court of Appeals, and the administrative appeal process; and,

WHEREAS, Saint Paul Legislative Code 61.801(a) states, “The council may, from time to time, amend, supplement or change the district boundaries or the regulations herein, or subsequently established herein pursuant to the provisions of Minnesota Statutes section 462.357 and amendments thereto as may be made from time to time,” and,

WHEREAS, Saint Paul Legislative Code 310.03(m)(3) states, “Penalties for convictions or violations 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;” and,

WHEREAS, subsequent discussions between Counsel for Licensee, CAO and DSI have resulted in a signed

Settlement Agreement under which, if approved by City Council would result in Revocation of the Cigarette/Tobacco Product Shop License held by Licensee effective April 30, 2025; and

WHEREAS, Licensee releases, acquits and forever discharges the City and DSI and their agents, servants, successors, heirs, executors, administrators and all other persons, firms, corporations, associations or partnerships of and from any and all claims, actions, causes of action, demands, rights, damages, costs, expenses, attorneys' fees and compensation whatsoever, which Licensee now has or which he may accrue on account of or in any way growing out of any and all known and unknown, foreseen and unforeseen damages from the revocation of the Tobacco Product Shop license; and,

WHEREAS, Licensee understands and acknowledges that the City and DSI do not admit to any wrongdoing, improper action, or liability for any of Licensee's alleged damages. Licensee agrees to defend and hold the City and DSI harmless from the same; and,

WHEREAS, Licensee further declares and represents that no promise, inducement, or agreement not expressed in this document has been made to him and that this release contains the entire agreement between the parties and that the terms of this release are contractual and not a mere recital; and

WHEREAS, the Parties wish to settle and resolve all outstanding disputes and claims between them to avoid the uncertainties and costs associated with continued litigation; and,

WHEREAS, DSI believes that the Settlement Agreement will provide certainty regarding the violation and accompanying penalties; and

WHEREAS, the parties agree that settling this matter as described below is beneficial to both parties; and

WHEREAS, both parties knowingly and voluntarily wish to enter into this Settlement Agreement; and

WHEREAS, the terms of the Settlement Agreement, herein incorporated as Exhibit 1, include the following terms:

1. "The City agrees to the requested revocation of the Cigarette/Tobacco Product Shop License from Maryland Tobacco.
2. Maryland Tobacco agrees to sign the License Conditions and agrees to the imposition of the following license condition upon its Cigarette/Tobacco Product Shop license:
  - a. No further subsequent violations, this includes but not limited to:
    - i. No late night deliveries between the hours of 11:00pm- 6:00am,
    - ii. License is issued for a retail use only, and the Licensee shall conduct retail cigarette/tobacco business in compliance with the "Minnesota Clean Indoor Air Act" (MN Stat. 144.411-144.417),
    - iii. Licensee acknowledges per the Ramsey County Clean Indoor Air Ordinance resolution B2015-302 sec 5.02 prohibits the use of electronic cigarettes (or e-cigarettes) in public spaces where cigarette smoking is currently prohibited under the Minnesota Clean Indoor Act, as well as prohibiting vaping or smoking within 25 feet of public

building entrances,

- iv. Licensee agrees to operate the business in a manner that is consistent with the Business Summary submitted by the Licensee dated 10/05/2018 and floor plans submitted with DSI. Licensee agrees to obtain prior written approval from DSI before making any substantive changes to their approved method of operation,
  - v. No sampling of tobacco products is permitted unless the space is made compliant with applicable code discipline requirements including the mechanical ventilation code,
  - vi. Licensee agrees to provide a detailed breakdown of all items sold, including total dollar amounts for individual items by category, at the time of license renewal if requested by DSI,
  - vii. Licensee agrees to take appropriate measurements to ensure that no person under eighteen (18) years of age is permitted to enter, compliance with age limitations in accordance with the City of St. Paul legislative code chapter 324 tobacco, which include age restrictions of who may enter the establishment,
  - viii. Temporary window signs placed between the height of four (4) to seven (7) feet above grade shall not cover more than thirty (30) percent of this window space area, and cannot block views into the clerk or cashier station,
  - ix. Licensee acknowledges that the interior door between the Tobacco Product Shop and other adjoining retail space (currently grocery store) shall remain locked at all times. The clerk/cashier of the Tobacco Product Shop shall have a key with the ability to unlock the door only to allow customers/patrons of the Tobacco Product Shop access to use of the restroom in the adjoining retail space at all times the Tobacco Product Shop is open for business,
  - x. Maintain landscaping on licensed premises,
  - xi. Maintain the property clean from trash on a daily basis,
  - xii. The sale of blunts and single cigarettes is not permitted. Tobacco products must be sold in the original packaging,
  - xiii. Licensee must comply with all federal, state and local laws,
  - xiv. No sale or possession of unauthorized THC products, including edible marijuana products in the licensed premises, or
  - xv. No sell of tobacco products to a person under the age of twenty-one (21) years.
3. Failure to comply with any conditions listed in paragraph 2 above, will result in an immediate revocation of the Cigarette/Tobacco Product Shop license prior to the April 30, 2025 revocation.
  4. The Parties agree that this is a subsequent violation, which warrants a revocation of license under the Saint Paul Legislative Code Chapter 310.03(3) penalty matrix.
  5. By executing this agreement, Licensee acknowledges that this Settlement Agreement and Release has been read by him, and his attorney, which he understands and fully agrees to each and every provision within this document.”

and;

WHEREAS, the Council finds that the terms and license conditions agreed upon by the parties will improve safety and help ensure that the Licensed Premises stays in compliance with the Saint Paul Legislative Code, and Minnesota law; and now, therefore, be it,

RESOLVED, that the Department of Safety and Inspections is authorized to enter into the Settlement Agreement; and be it

FURTHER RESOLVED that the execution of the agreement will be considered the final adverse action of Council and the revocation of the license will be imposed.