



SAINT PAUL
CITY ATTORNEY

OFFICE OF THE CITY ATTORNEY
LYNDSEY M. OLSON, CITY ATTORNEY

Civil Division, 15 Kellogg Blvd. West, 400 City Hall
Saint Paul, MN 55102
Tel: 651-266-8710 | Fax: 651-298-5619

September 28, 2023

**NOTICE OF VIOLATION
AND REQUEST FOR IMPOSITION OF
\$500 MATRIX PENALTY**

KMH Retail LLC
d/b/a Mini Pac
1184 Maryland Avenue East
St. Paul, MN 55106

RE: Tobacco Shop license held by KMH Retail LLC d/b/a Mini Pac for the premises located at 1184 Maryland Avenue East in Saint Paul.
License ID #: 20210000750

Dear Licensee:

The Department of Safety and Inspections ("Department") has recommended adverse action against the Tobacco Shop license held by KMH Retail LLC ("Licensee") herein for the premises known as Mini Pac located at 1184 Maryland Avenue East (Licensed Premises").

Legal Basis for Action:

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 for 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 §310.03 (m)(1)(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.

CITY OF SAINT PAUL
MELVIN CARTER, MAYOR

STPAUL.GOV

The Saint Paul City Attorney's Office does not discriminate on the basis of race, color, national origin, religion, sex/gender, disability, sexual orientation, gender identity, age, or veteran status. It is the policy of the City of Saint Paul to provide equal employment opportunities for all persons without regard to race, color, national origin, religion, sex/gender, disability, sexual orientation, gender identity, age, or veteran status.



Saint Paul Legislative Code §310.04 (b) sets forth a variety of reasons on which adverse action may be based. §310.04 (b)(6) allows for adverse action when a licensee 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.

Minnesota Statute §297F.21 states: 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).

Adverse Action Recommendation:

The Department of Safety and Inspections will recommend a \$500.00 matrix penalty for the following violations of Minnesota Statute §297F.21 (g), (i) and (j).

Factual basis for imposition of \$500.00 matrix penalty:

On September 19, 2023, the Department of Safety and Inspections (DSI) received a Seized Cigarette/Tobacco Product letter from the Minnesota Department of Revenue/Tobacco Licensing Division. Attached to the letter was a Notice of Seized Contraband report from an inspection conducted on June 14, 2023, at the license premises listing the items seized as contraband which were not listed on an invoice and therefore illegally obtained:

<u>Quantity</u>	<u>Unit</u>	<u>Product Description</u>
2	Packs	Winston Natural Select
4	Packs	American Spirit Turquoise
4	Packs	American Spirit Blue
9	Packs	American Spirit Tan
8	Packs	American Spirit Orange
7	Packs	Camel Red Wides
9	Packs	Camel Blue Wides
7	Packs	Winston Red
19	Packs	Winston Red 100's
23	Packs	Marlboro Reds
11	Packs	Marlboro Gold
10	Packs	Marlboro Black
5	Packs	Marlboro Red 100's Special Select



SAINT PAUL
CITY ATTORNEY

OFFICE OF THE CITY ATTORNEY
LYNDSEY M. OLSON, CITY ATTORNEY

Civil Division, 15 Kellogg Blvd. West, 400 City Hall
Saint Paul, MN 55102
Tel: 651-266-8710 | Fax: 651-298-5619

<u>Quantity</u>	<u>Unit</u>	<u>Product Description</u>
9	Packs	Marlboro Red Special Select
9	Packs	Marlboro Gold 75's
20	Packs	Marlboro Silver 72's
5	Packs	Marlboro Southern Cut
4	Packs	Newport Non-Menthol 100's
9	Packs	Newport Non-Menthol
9	Packs	Pall Mall 100's Red Filter
2	Packs	Pall Mall Red Filter
5	Packs	Pall Mall Blue Filter 100's
9	Packs	Montego Blue 100's
10	Packs	Montego Blue Kings
5	Packs	Montego Red 100's
6	Packs	Montego Red Kings
8	Packs	Camel Blue 99's
7	Packs	Camel Blue King
8	Packs	Camel Red 99's
7	Packs	Kamel Original King size
4	Packs	Game Garcia Y Vega Diamond Save on 2
7	Packs	Optimo Silver Cigarillos 2 cigar pack
8	Packs	Zig Zag Leaf Rough Cut Natural Cigars 2 per pack
3	Packs	Dutch Leaf Pure Tobacco Save more on 2
22	Packs	Zig Zag Wraps Straight Up 2 per pack
44	Packs	Dutch Masters Palma 3 Naturally Smooth Cigars
7	Packs	Swisher Sweets Blunt 5 Cigars
4	Packs	Dutch Master President 5 Fine Cigars
2	Can	Top Regular 6oz can
6	Can	Top Gold 6oz can
1	Can	Buglar Turkish & Blended 6oz can
1	Can	Drum Halfzware Shag 5oz
2	Bag	The Good Stuff Red 1 lb.
3	Bag	The Good Stuff Tobacco 1b.
4	Bag	The Good Stuff Gold 1 lb.
3	Bag	The Good Stuff Silver 1b.
1	Bag	The Good Stuff Silver 6oz
2	Bag	OHMRed8oz
2	Bag	OHM Bold 8oz

CITY OF SAINT PAUL
MELVIN CARTER, MAYOR

STPAUL.GOV

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



SAINT PAUL
CITY ATTORNEY

OFFICE OF THE CITY ATTORNEY
LYNDSEY M. OLSON, CITY ATTORNEY

Civil Division, 15 Kellogg Blvd. West, 400 City Hall
Saint Paul, MN 55102
Tel: 651-266-8710 | Fax: 651-298-5619

<u>Quantity</u>	<u>Unit</u>	<u>Product Description</u>
3	Bag	OHM Yellow 8oz
2	Bag	OHM Blue 8oz
3	Bag	OHM Silver 8oz
3	Bag	OHM Natural 8oz
3	Bag	OHM Yellow 16oz
3	Bag	OHM Bold 16oz
3	Bag	OHM Blue 16oz
3	Bag	OHM Natural 16oz
3	Bag	OHM Red 16oz

You have four (4) options 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 **October 8, 2023**, 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 pay the \$500 matrix penalty. If this is your choice, you should make payment directly to the Department of Safety and Inspections, at 375 Jackson Street, Ste. 220, St. Paul, Minnesota 55101-1806 no later than **October 8, 2023**. A self-addressed envelope is enclosed for your convenience. Payment of the \$500.00 matrix penalty will be considered an admission to the violation and waiver of the hearing to which you are entitled.
3. If you wish to admit the facts but you contest the \$500 matrix penalty, you may have a 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 Council hearing no later than **October 8, 2023**. The matter will then be scheduled before the City Council to determine whether to impose the \$500 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 **October 8, 2023**. 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. At that time, the City Council will decide whether to adopt, modify or reject the ALJ's report and recommendation.



SAINT PAUL
CITY ATTORNEY

OFFICE OF THE CITY ATTORNEY
LYNDSEY M. OLSON, CITY ATTORNEY

Civil Division, 15 Kellogg Blvd. West, 400 City Hall
Saint Paul, MN 55102
Tel: 651-266-8710 | Fax: 651-298-5619

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 § 310.03 (k).

If you have not contacted me by October 8, 2023, I will assume that you do not contest the imposition of the \$500 matrix penalty. In that case, the matter will be placed on the City Council Consent Agenda for approval of the recommended penalty.

If you have questions about these options, please contact my Alan Tellez Berkowitz (651) 266-8744.

Sincerely,

/s/

Therese Skarda
Assistant City Attorney
License No. 0240989

Cc: Khalil Hammad, 2630 Mississippi Street, New Brighton, MN 55112
Sarah Properties LLC, 4329 Central Avenue Northeast, Columbia Heights, MN 55421-2925
Jack Byers, Executive Director, Payne-Phalen Community Council
567 Payne Ave., St. Paul, MN 55130

Attachments: September 19, 2023, Letter from Minnesota Department of Revenue
June 28, 2023, Notice of Seized Contraband
Screenshots from ECLIPS system
Saint Paul Legislative Code §310.01
Saint Paul Legislative Code §310.03
Saint Paul Legislative Code §310.04
Minnesota Statute 297F.21

STATE OF MINNESOTA)

) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

Alan Tellez Berkowitz, being first duly sworn, deposes and says that on the 28th day of September he served the attached **NOTICE OF VIOLATION RECOMMENDATION FOR IMPOSITION OF \$500 MATRIX PENALTY** as follows:

KMH Retail LLC
d/b/a Mini Pac
1184 Maryland Avenue East
St. Paul, MN 55106

Khalil Hammad
2630 Mississippi Street
New Brighton, MN 55112

Sarah Properties Llc
4329 Central Avenue Northeast
Columbia Heights, MN 55421-2925

Jack Byers, Executive Director
Payne-Phalen Community Council
567 Payne Ave
St. Paul, MN 55130

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



Alan Tellez Berkowitz

Subscribed and sworn to before me
This 28th day of September 2023



Notary Public





September 19, 2023

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



June 28, 2023

ID: XX-XXX1036
Letter ID: L1947395744
Notice Date: **June 28, 2023**

MINI PAC GRILL LLC
1184 MARYLAND AVE E
SAINT PAUL MN 55106-2828

Notice of Seized Contraband

Seized Date and Time: 14-Jun-2023 235PM
Seized by: Lindsay Rivard/Jody True/Steve Johnson
Seizure Location: 1600 W BROADWAY AVE
MINNEAPOLIS MN 55411-2449
Seized From: MINI PAC GRILL LLC

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

Quantity	Unit	Product Description
2	Packs	Winston Natural Select
4	Packs	American Spirit Turquoise
4	Packs	American Spirit Blue
9	Packs	American Spirit Tan
8	Packs	American Spirit Orange
7	Packs	Camel Red Wides
9	Packs	Camel Blue Wides
7	packs	Winston Red
19	packs	Winston Red 100's
23	packs	Marlboro Reds
11	packs	Marlboro Gold
10	packs	Marlboro Black
5	packs	Marlboro Red 100's Special Select
9	packs	Marlboro Red Special Select
9	packs	Marlboro Gold 75's
20	packs	Marlboro Silver 72's
5	packs	Marlboro Southern Cut
4	packs	Newport Non-Menthol 100's
9	packs	Newport Non-Menthol

9	packs	Pall Mall 100's Red Filter
2	packs	Pall Mall Red Filter
5	packs	Pall Mall Blue Filter 100's
9	Packs	Montego Blue 100's
10	Packs	Montego Blue Kings
5	Packs	Montego Red 100's
6	Packs	Montego Red Kings
8	Packs	Camel Blue 99's
7	Packs	Camel Blue King
8	Packs	Camel Red 99's
7	Packs	Kamel Original King size
4	Packs	Game Garcia Y Vega Diamond Save on 2
7	Packs	Optimo Silver Cigarillos 2 cigar pack
8	Packs	Zig Zag Leaf Rough Cut Natural Cigars 2 per pack
3	Packs	Dutch Leaf Pure Tobacco Save more on 2
22	Packs	Zig Zag Wraps Straight Up 2 per pack
44	Packs	Dutch Masters Palma 3 Naturally Smooth Cigars
7	Packs	Swisher Sweets Blunt 5 Cigars
4	Packs	Dutch Master President 5 Fine Cigars
2	Can	Top Regular 6oz can
6	Can	Top Gold 6oz can
1	Can	Buglar Turkish & Blended 6oz can
1	Can	Drum Halfzware Shag 5oz
2	Bag	The Good Stuff Red 1 lb.
3	Bag	The Good Stuff Tobacco 1lb
4	Bag	The Good Stuff Gold 1lb
3	Bag	The Good Stuff Silver 1lb
1	Bag	The Good Stuff Silver 6oz
2	Bag	OHM Red 8oz
2	Bag	OHM Bold 8oz
3	Bag	OHM Yellow 8oz
2	Bag	OHM Blue 8oz
3	Bag	OHM Silver 8oz
3	Bag	OHM Natural 8oz
3	Bag	OHM Yellow 16oz

3	Bag	OHM Bold 16oz
3	Bag	OHM Blue 16oz
3	Bag	OHM Natural 16oz
3	Bag	OHM Red 16oz

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

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

(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.

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?

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 \$15,000 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.

Steven Johnson
Revenue Tax Specialist
Phone: 651-556-4708
Email: steve.johnson@state.mn.us
Fax: 651-282-3933

License Group Comments Text

09/25/2023

Licensee: KMH RETAIL LLC

DBA: MINI PAC

License #: 20210000750

9/13/2023 Tobacco compliance check passed. AYV

5/16/2023 Placard for 10-day suspension. AYV

05/03/2023 CF 23-566 approves a 10-day suspension of the Tobacco Shop license for the period of 5.16.2023 to 5.25.2023. SLH

3/22/2023 Hand delivered "Notice of compliance checks" letter & Ihab Aqueel-store manger accepted the letter. AYV

1/23/2023 Sent to the CAO for a ten day suspension for a first flavor violation JNV

1/23/2023 AA sent to JNV for review. AYV

1/3/2023 Violation of flavor tobacco products. Under review. AYV

11/08/22 Youth compliance check passed. AYV

10/27/2021 Council file #21-1553 approves license with four (4) conditions. JWF

10/18/2021 Sent to the CAO for CC approval JNV

10/18/2021 Per SPPD Charles Graupman ok for security camera. To JNV for CC action. 11/17/2021. JWF

10/15/2021 Rcvd. signed lic. cond. affidavit. JWF

09/07/2021 No objection to lic. notice per Nhia Vang's office, Leg. Hrg. Officer. JWF

08/02/2021 Lic. notice sent, 72M/35EM, response date 09/03/2021. JWF

7/29/2021 Spoke with the License Applicant and the new Camera license condition - and to submit a camera plan JNV

06/23/2021 Per email from RH Eric is reviewing applicaiton in depth and will inform when application is ready for public notice. JWF

06/22/2021 To EH/RH for review. JWF

06/08/2021 Incomplete letter sent (site/floor plan, corp. doc., ownership, personal affidavit, business operation information), 06/30/2021 response date. JWF

Licensee: KMH RETAIL LLC

DBA: MINI PAC

License #: 20210000750

LICENSE CONDITION #1 PER CONDITIONAL USE PERMIT (CUP) #03-351642

1. The hours of operation of the car wash are limited to no more than from 8:00 a.m. to 8:00 p.m.

ADDITIONAL LICENSE CONDITIONS #2 - 4

2. Access to the car wash from the alley is prohibited. The car wash can only be accessed via the drive lane (immediately south of the building and located entirely on this property). The licensee shall take appropriate actions to ensure vehicle access from the alley to the car wash does not occur.

3. 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.

4. License holder will create a video surveillance camera and lighting placement plan (video surveillance plan) for the interior and exterior of the licensed premises. License holder will submit the video surveillance plan to the Saint Paul Police Department (SPPD) liaison with the Department of Safety and Inspection (DSI) for review and approval. In accordance with the approved video surveillance plan, license holder will ensure that video surveillance camera system is in good working order, ensure it is recording 24 hours per day, ensure it can produce recorded surveillance video in a commonly used, up-to-date format, and ensure that accurate date and time of day are visible on all recorded video. License holder will retain surveillance video for a minimum of thirty (30) days. If an incident is deemed serious by SPPD, licensee shall make surveillance video immediately available for viewing by SPPD. If a copy of the surveillance video for a serious incident is requested by SPPD, Licensee shall have the technology, materials and staff available to immediately make the copy. In all other cases, license holder shall provide a copy of the surveillance video to the requestor within 48 hours.

RESOLVED, that the Council of the City of Saint Paul does ordain:

SECTION 2

Chapter 310.01 of the Saint Paul Legislative Code is hereby amended as follows:

Chapter 310. Uniform License Procedures

The procedures in this chapter are meant to govern the issuance of all licenses and certain permits in the City of Saint Paul unless a different process is required by statute. The requirements laid out in this chapter are meant to supersede all requirements laid out in ordinance related to Applications for the Grant or Issuance of a License, New Application Investigation and Review, Application Denial, Notice, Levels of Approval, Objections, and Renewal Procedures.

Sec. 310.01. Definitions.

For the purposes of this chapter, any chapter of the Legislative Code pertaining to licenses as hereinafter mentioned, and subsequently enacted ordinances establishing or relating to the requirements for Class R, for routinely issued licenses, Class T for temporary licenses and Class N for licenses in which neighbors are required to be notified, under authority of the City of Saint Paul, the terms defined in this section will have the following meanings:

Adverse action means the revocation or suspension of a license, the imposition of conditions upon a license, the denial of an application for 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.

Bond means a bond meeting the requirements of section 310.05 and indemnifying the city against all claims, judgments or suits caused by, resulting from or in connection with any licensed business, activity, premises, thing, facility, occurrence or otherwise under these chapters.

Building official means the official in the department of safety and inspections charged with the responsibility of enforcement of the building code.

Chapters and these chapters mean this uniform license ordinance, any chapter of the Legislative Code pertaining to licenses as hereinafter mentioned, and subsequently enacted ordinances establishing or relating to the requirements for class R, class T, and class N licenses under authority of the city.

Class R licenses means those licenses and certain permits which can be issued by the Director without council approval if no conditions are imposed upon the license and which do not require a hearing if there is an objection. Class R Licenses follow the Procedures for Application for the Grant or Issuance of a License, New Application Investigation and Review, Application Denial, Notice, Levels of Approval, Objections, and Renewal Procedures laid out in Section 310.02(1). The following licenses are so classified, and the numbers shown opposite them correspond to the chapters in the Legislative Code pertaining to each license:

Sec. 310.03 (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, the General Presumptive Penalty Matrix applies to all license types, except that in the case of a violation involving a liquor license the Penalty Matrix for Intoxicating Liquor; Nonintoxicating Malt Liquor applies and for a violation involving tobacco, the Penalty Matrix for Tobacco applies. 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 must provide written reasons that specify why the penalty selected was more appropriate.

1.General presumptive penalties matrix - The general penalty matrix is to be used if there is not a specific penalty matrix for the license type or a category within the specific penalty matrix does not address the violation.

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 fine	\$1,500.00 fine	5-day suspension	Revocation

(6) Commission of a felony on the premises by a licensee or employee	\$2,000.00 fine	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) Taxi fail to display driver's license as required by 376.16(f)	\$100.00 fine	\$250.00 fine	\$500.00 fine	Revocation
(10) Taxi fail to display number of information and complaint office as required by 376.11(v)	\$100.00 fine	\$250.00 fine	\$500.00 fine	Revocation
(11) Violation of restrictions upon sidewalk café license under 106.01(b)	\$200.00 fine	\$400.00 fine	\$800.00 fine	Revocation

SECTION 5

Section 310.06 is renumbered as 310.04 and amended as follows:

Sec. 310.04. 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 must be initiated and carried out in accordance with the procedures outlined in section 310.03; provided, however, that the formal notice of hearing must be used to initiate the adverse action.

(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 Director 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 310.03 (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.

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).

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).

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).