

STATE OF MINNESOTA)
) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

Riddhi Mistry, being first duly sworn, deposes and says that on the thirtieth day of July she served the attached **NOTICE OF TWO VIOLATIONS AND REQUEST FOR IMPOSITION OF \$500 MATRIX PENALTY AND 10-DAY LICENSE SUSPENSION** and a correct copy thereof in an envelope addressed as follows:

Sanaa LLC
d/b/a Twins Market & Meat
1055 4th Street East
Saint Paul, MN 55106
Attn: Mustafa Othman Al Zehhawi

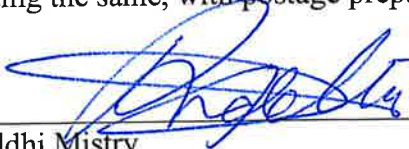
Mustafa Othman Al Zehhawi
2008 Willow Circle
Centerville, MN 55038

Sadiq Alnabi
1631 Camelot Lane Northeast
Fridley, MN 55432

Sadiq Alnabi
1055 4th Street East
Saint Paul, MN 55106

Eric Zidlicky, Chair Board,
Dayton's Bluff Community Council
East Side Enterprise Center
804 Margaret St.
Saint Paul, MN 55107

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

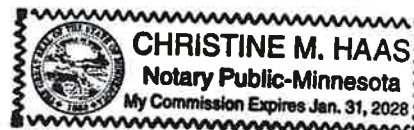


Riddhi Mistry

Subscribed and sworn to before me
This thirtieth day of July 2024



Notary Public





July 30, 2024

**NOTICE OF TWO VIOLATIONS
AND REQUEST FOR IMPOSITION OF
\$500 MATRIX PENALTY AND 10-DAY LICENSE SUSPENSION**

Sanaa LLC
d/b/a Twins Market & Meat
1055 4th Street East
St. Paul, MN 55106
Attn: Mustafa Othman Al Zehhawi

RE: Tobacco Shop license held by Sanaa LLC d/b/a Twins Market & Meat for the premises located at 1055 4th Street East, in Saint Paul.
License ID #: 20240000006

Dear Licensee:

The Department of Safety and Inspections ("Department") has recommended two adverse actions against the Tobacco Shop license held by Sanaa LLC ("Licensee") herein for the premises known as Twins Market & Meat located at 1055 4th Street East (Licensed Premises").

Legal Basis for Actions:

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 §310.04(b) states that adverse action may be based on one (1) or more of the following reasons :

- (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 license 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 Minn. Stat. ch. 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.

Saint Paul Legislative Code §310.14 states that any act or conduct by any clerk, employee, manager or agent of a licensee, or by any person providing entertainment or working for or on behalf of a licensee, whether compensated or not, which act or conduct takes place either on the licensed premises or in any parking lot or other area adjacent to (or under the lease or control of) the licensed premises, and which act or conduct violates any state or federal statutes or regulations, or any city ordinance must be considered to be and treated as the act or conduct of the licensee for the purpose of adverse action against all or any of the licenses held by such licensee.



Saint Paul Legislative Code §324.07(i) states that no holder of a license issued under this chapter, nor any employee or agent of the same may sell tobacco products under the age of twenty-one (21) years. Sale to persons under the age of twenty-one (21) years prohibited.

(1) It is an affirmative defense to a charge under this subdivision if the defendant proves by a preponderance of the evidence that the defendant reasonably and in good faith relied on proof of age as described in Minn. Stats. §340A.503, subd. 6.

Saint Paul Legislative Code §310.03(m) states presumptive penalties for licensees for violations. Adverse penalties or licensees for violations or convictions shall be presumed as follows:

Type of Violation	Appearance			
	1st	2nd	3 rd	4th
(1) Sale to a person under twenty-one (21) years of age	\$500.00 fine	\$1,000.00 fine	\$2,000.00 fine and 7-day suspension	Revocation
(2) Display, possession or multiple incidents of sales of; - single cigarettes; - menthol tobacco products; or - flavored tobacco products	10- day suspension	Revocation		

Minnesota Statute §297F.21(a) states 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.

Saint Paul Legislative Code §297F.20 Subd. 5 states:



(a) Except as provided in paragraph (b), whenever a package of cigarettes is found in the place of business or in the possession of any person without a proper stamp affixed as required by this chapter, it is presumed that those cigarettes are kept there or held by that person illegally.

(b) This presumption does not apply to:

(1) cigarettes in the place of business or in the possession of a licensed distributor;

(2) cigarettes in the possession of a common carrier or sleeping car company engaged in interstate commerce;

(3) cigarettes held in a public warehouse of first destination in this state, in the unbroken, original shipping containers, subject to delivery or shipping instructions from the manufacturer or a distributor;

(4) cigarettes in the possession of a person other than a distributor in quantities of 200 cigarettes or less, when those cigarettes have had the individual packages or seals broken, and when they are intended for personal use and not to be sold or offered for sale;

(5) cigarettes sold under circumstances in which the tax cannot legally be imposed because of the laws or Constitution of the United States.

Saint Paul Legislative Code §297F.20 Subd. 6 states:

(a) A person, other than a licensed distributor or a consumer, who possesses, receives, or transports fewer than 5,000 unstamped cigarettes, or up to \$350 worth of untaxed tobacco products is guilty of a misdemeanor.

(b) A person, other than a licensed distributor or a consumer, who possesses, receives, or transports 5,000 or more, but fewer than 20,001 unstamped cigarettes, or more than \$350 but less than \$1,400 worth of untaxed tobacco products is guilty of a gross misdemeanor.

(c) A person, other than a licensed distributor or a consumer, who possesses, receives, or transports more than 20,000 unstamped cigarettes, or \$1,400 or more worth of untaxed tobacco products is guilty of a felony.

(d) For purposes of this subdivision, an individual in possession of more than 4,999 unstamped cigarettes, or more than \$350 worth of untaxed tobacco products, is presumed not to be a consumer.

Violation 1 (\$500 fine for failure to provide copy of video)

Factual Basis for Violation:

Department of Safety and Inspections ("DSI") Licensing Inspector, Eric Hudak was informed of both complaints and reviewed the Twins Market & Meat Licensing Conditions. It was decided that DSI



would have to request videos from Twins Market & Meat. As per licensing conditions, the licensee is to produce videos upon request. Furthermore, in accordance to the license conditions, licensee will ensure that video surveillance camera system is in good working order, ensure it is recording 24 hours per day, ensure that accurate date and time of day are visible on all recorded video. Licensee will retain surveillance video for a minimum of thirty (30) days. Accordingly, if an incident is deemed serious by Saint Paul Police Department ("SPPD"), licensee shall make surveillance video immediately available to 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 a copy. Additionally, licensee shall provide a copy of the surveillance video to the requestor within 48 hours.

On May 17, 2024, you received letter via U.S. mail from the Department of Safety and Inspections (DSI) requesting that you provide a copy of continuous, uninterrupted video footage from all camera views of your camera surveillance system for the requested period of Monday, April 22, 2024, from 12:30 pm until 1:30 pm. You were requested to provide a copy of the video to the Department of Safety and Inspections (DSI), no later than 4:00 p.m. on Monday, May 20th, 2024. Two copies of the request were sent to you. The first copy was sent via U.S. Mail to you, and the second copy was hand delivered at the business of the licensed premises by Inspector Voyda on Friday, May 17, 2024.

On May 20, 2024, Sgt. Graupman was notified by DSI Inspector Voyda that the requested footage was dropped off on a flash drive and received by DSI. Upon reviewing the footage it had contained footage for (10) camera angles on both dates the videos were requested. Sgt. Graupman immediately noticed the (2) of the camera angles from the business were not included in the footage. The camera angles which were missing covered the overview of the sales counter (from the sales side) as well as the front view of the sales counter (from the customers side). The missing camera angles were C2 and C15 (failure to the condition of the license). Therefore, a second video request was drafted on May 21, 2024.

On May 21, 2024, you received a second hand delivered letter at your place of business from the Department of Safety and Inspections (DSI), requesting that you provide a copy of continuous, uninterrupted video footage from all camera views of your camera surveillance system for the period of Monday, April 22, 2024, from 3:00 pm until 4:00 pm, and Monday, May 6th, 2024, from 10:30 am until 11:30 am. You were requested to provide a copy of the video to the Department of Safety and Inspections (DSI), no later than 4:00 pm on Thursday, May 23, 2024.

On May 21, 2024, Sgt. Graupman was notified via email by you, the licensee, Al Zehhawi, tried to download the video footage and during the process you did something wrong. You were then prompted that no video footage was found and may have been deleted by mistake. Sgt. Graupman replied back to



your email and copied DSI Licensing Manager, Eric Hudak on the email. Sgt. Graupman asked you if you tried to do anything to recover the deleted footage and included a copy of the licensing conditions with that email. Licensing Manager, Eric Hudak also responded to the email advising it is you, the licensee's responsibility to produce the video footage upon request. You then responded stating that you tried to uncover the footage but were unsuccessful. On May 22, 2024, you sent another email to DSI with still images copied showing video was not found for angles C2 & C15. As a result, this was a repeat violation of the license condition.

On June 25, 2024, according to the police report DSI investigated a complaint regarding menthol tobacco sales at the premises of Twins Market & Meat. It was concluded that a license condition violation took place for failing to provide a copy of the video to DSI upon their request.

Violation 2 (10-day suspension for flavor tobacco):
Factual Basis for Violation 2:

On April 22, 2024, at 1:00 pm, Officer Hamblin (squad 779) and Officer Ueland (squad 780) were assigned to the Criminal Intelligence Unit (CIU) where they were monitoring cameras at the Twins Market & Meat shop. There was a video camera footage showing the store employee who walked out of the store with a customer who had previously entered the store. Both men walked to the trunk of the white Toyota Camry which belongs to the store employee. The store employee opened the trunk of his vehicle to retrieve what appeared to be a pack of cigarettes from an open cardboard box. The store employee grabbed something out of the box which appeared to be a pack of Newport cigarettes (appeared to be green and white). The customer then walked up to the store employee and stuck his hand out low behind his back. The customer grabbed what is given to him and walks away, the store employee then returns to the store.

On April 23, 2024, Sgt. Charles Graupman was contacted via telephone by the District Chief Salim Omari, of the Eastern District regarding the video footage captured on April 22, 2024 (explained in the above paragraph). District Chief Omari had explained that the St. Paul Police CIU (Criminal Intelligence Unit) was monitoring the camera due to a high number of citizen complaints regarding quality-of-life concerns which involved the following (narcotics, disorderly behavior and loitering). This video footage was then shown to Sgt. Graupman and DSI Inspector Joe Voyda. Accordingly, Sgt. Graupman and DSI Inspector, Joe Voyda decided to open a complaint and conduct an investigation with the information provided. Additionally, Sgt. Charles Graupman informed District Chief Omari that the Twins Market & Meat, currently has a city issued cigarette tobacco license and is not a tobacco product shop and therefore is prohibited to sell menthol cigarettes. Chief Omari responded and advised that a police report would be written by Officer Hamblin, of the incident and the video footage would be available if needed further.



On May 6, 2024 during DSI's investigation, DSI Inspector Joe Voyda was notified by ANSR (The Association for Nonsmokers-Minnesota), that, an undercover decoy was sent into the Twins Market & Meat shop where they had purchased a single pack of Newport Menthol Cigarettes. This information was provided to Inspector Voyda. Inspector Voyda determined that the cigarettes purchased did not contain a MN tax ID stamp, when in fact it contained a Missouri tax ID stamp. Inspector Voyda then mentioned he would need to follow up with the Minnesota Department of Revenue upon completion of DSI's investigation.

On May 6, 2024, there was a video camera footage facing the front counter position of a customer purchasing Newport Cigarettes (Menthol) at 10:58 am. It appears a cash sale was made between the employee and the customer. The employee then reached into the corner of the sales counter area where he then handed an item to the customer. At 10:59 am, on the day of the violation, the customer was seen leaving the counter where he then holds up the purchased item which was Newport Cigarettes (Menthol). The customer then leaves the store after this purchase is made. Thus, a violation of the license condition.

Adverse Action Recommendation:

The Department will recommend a \$500 fine, and a 10-day suspension matrix penalty for the following violations of Saint Paul Legislative Code § 310.04(b), 310.03(m), 310.14, 324.07(i), 324.10(b)(1) and Minnesota Statutes 297F.21(a) and 297F.20 Subd. 5 &6.

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 **August 9, 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. 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. I will need to receive your letter by **August 9, 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.
3. 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 **August 9, 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 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 § 310.03 (k).

If you have not contacted me by August 9, 2024, I will assume that you do not contest the ten (10) day suspension of your license. 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 Paralegal Riddhi Mistry at riddhi.mistry@ci.stpaul.mn.us, (651) 266-8835.

Sincerely,

Sly Onyia
Assistant City Attorney
License No. 0402320

Cc: Mustafa Othman Al Zehhawi, 2008 Willow Circle, Centerville, MN 55038
Sadiq Alnabi, 1631 Camelot Lane Northeast, Fridley, MN 55432
Sadiq Alnabi, 1055 4th Street East, Saint Paul, MN 55106
Executive Director, Dayton's Bluff Community Council, East Side Enterprise Center, 804 Margaret St.
Saint Paul, MN 55107

Attachments: DSI/SPPD – Camera Plan – 1/31/2024
ANSR Emails of Evidence from jw@ansrmn.org to Joseph Voyda – 5/6/2024
Video Snip Photo Evidence of ANSR Purchase – 5/6/2024
SPPD Police Report 5/6/2024
Hand Delivered Letter re: Video Request – 05/17/2024
Second Notice Hand Delivered Letter re: Video Request – 5/21/2024
Email from salzehhawi@gmail.com to Charles Graupman – 5/21/2024



Email from Charles Graupman to salzehhawi@gmail.com – 5/22/2024
Email from salzehhawi@gmail.com to Charles Graupman – 5/22/2024
Email from Eric Hudak to salzahhawi@gmail.com – 5/22/2024
Email from Eric Hudak to Charles Graupman – 5/22/2024
USB – copy of surveillance footage
Saint Paul Legislative Code §310.04(b)
Saint Paul Legislative Code §310.03(m)
Saint Paul Legislative Code §310.14
Saint Paul Legislative Code §324.07(i)
Saint Paul Legislative Code §324.10(b)(1)
Minnesota Statute §297F.21(a)
Minnesota Statute §297F.20 Subd. 5 &6

DSI/SPPD - Camera Plan

Twins Market & Meat
1055 4th St. St. Paul, MN. 55106

Inspection/Review Completed:

By Sgt. Charles Graupman, SPPD on 01/31/2024

Licensee:

Sanaa LLC.

DBA: Twins Market & Meat

Contact: Mustafa Othman Al Zehhawi

Ph: 832-929-3716

Email: salzehhawi@gmail.com

Camera System:

Type: Indoor & Outdoor Fixed Cameras

Listed (29) Cameras & Angles:

1. Exterior – Facing S/E – Covering parking lot.
2. Exterior – Facing S/W – Covering sidewalk & 4th St. alongside of business.
3. Exterior – Facing N/E – Covering parking lot.
4. Exterior – Facing N/E – Covering parking lot.
5. Interior – Facing E – Covering front door.
6. Interior – Facing E – Covering aisles.
7. Interior – Facing W – Covering aisles & front counter.
8. Interior – Facing S – Covering aisles.
9. Interior – Facing S/E – Covering aisles.
10. Interior – Facing E – Covering aisles.
11. Interior – Facing E – Covering aisles.
12. Interior – Facing N – Covering aisles.

Recommendations:

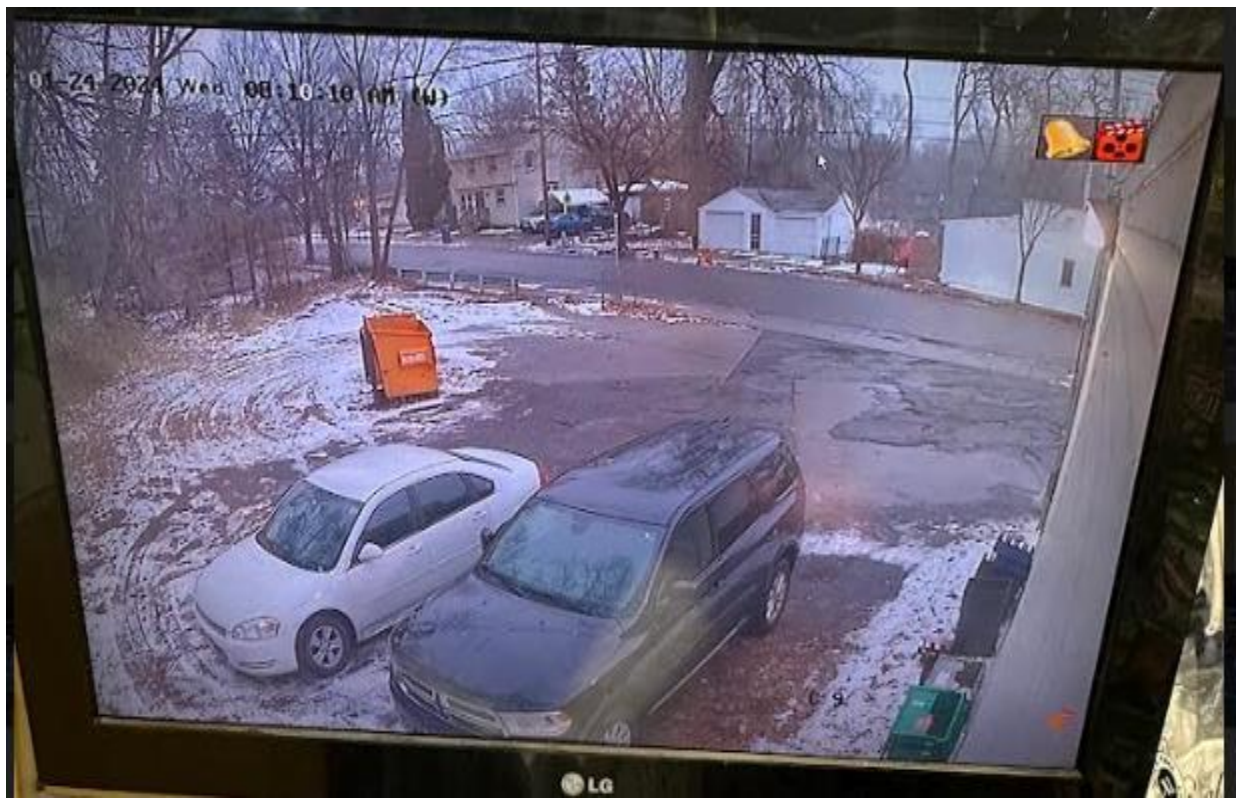
1. Verification of DVR & 30-day retention period. (Include a written log of quarterly audits / checks by staff to ensure recordings are retained).
2. A “cheat sheet/policy” to be placed near the bar area providing instructions to staff on expectations. (Specifically, when Police respond and request video, to include your contact information).
3. Designate or have staff member on site that is trained and proficient with accessing and providing video to SPPD upon request (significant incident).

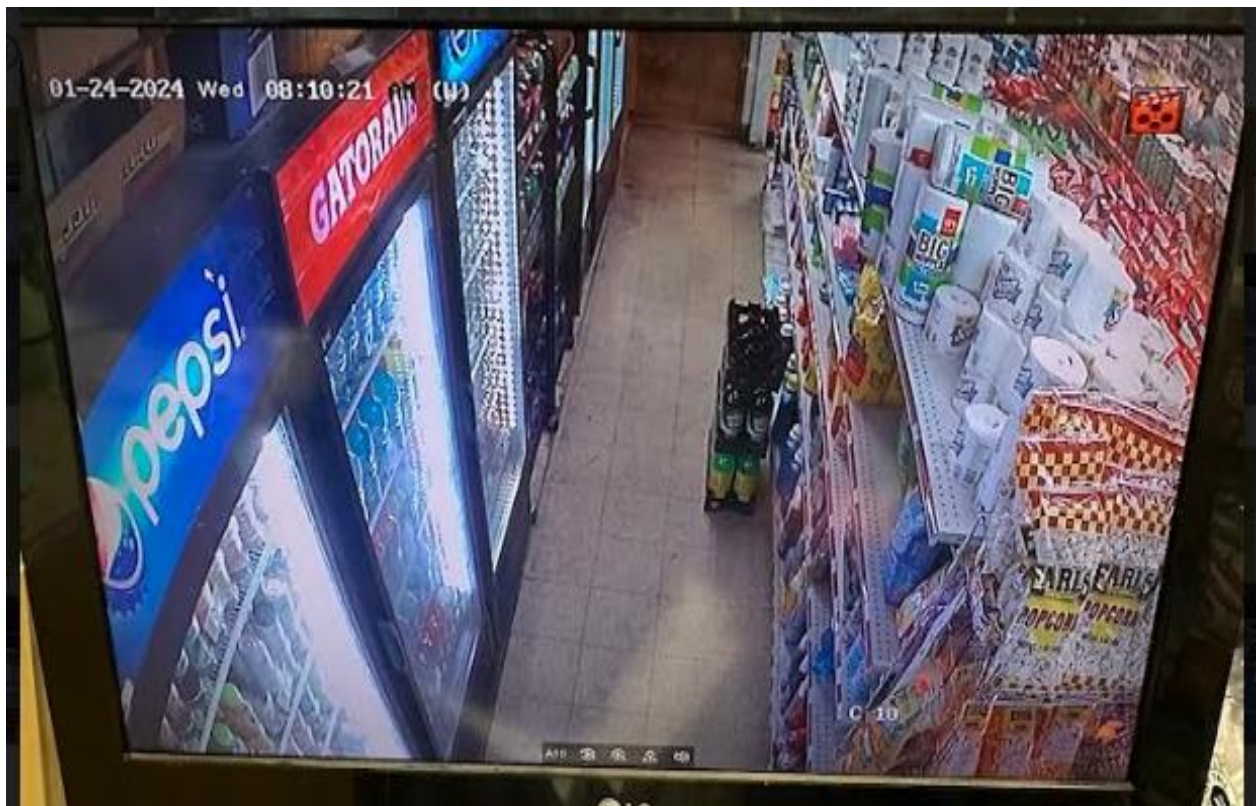
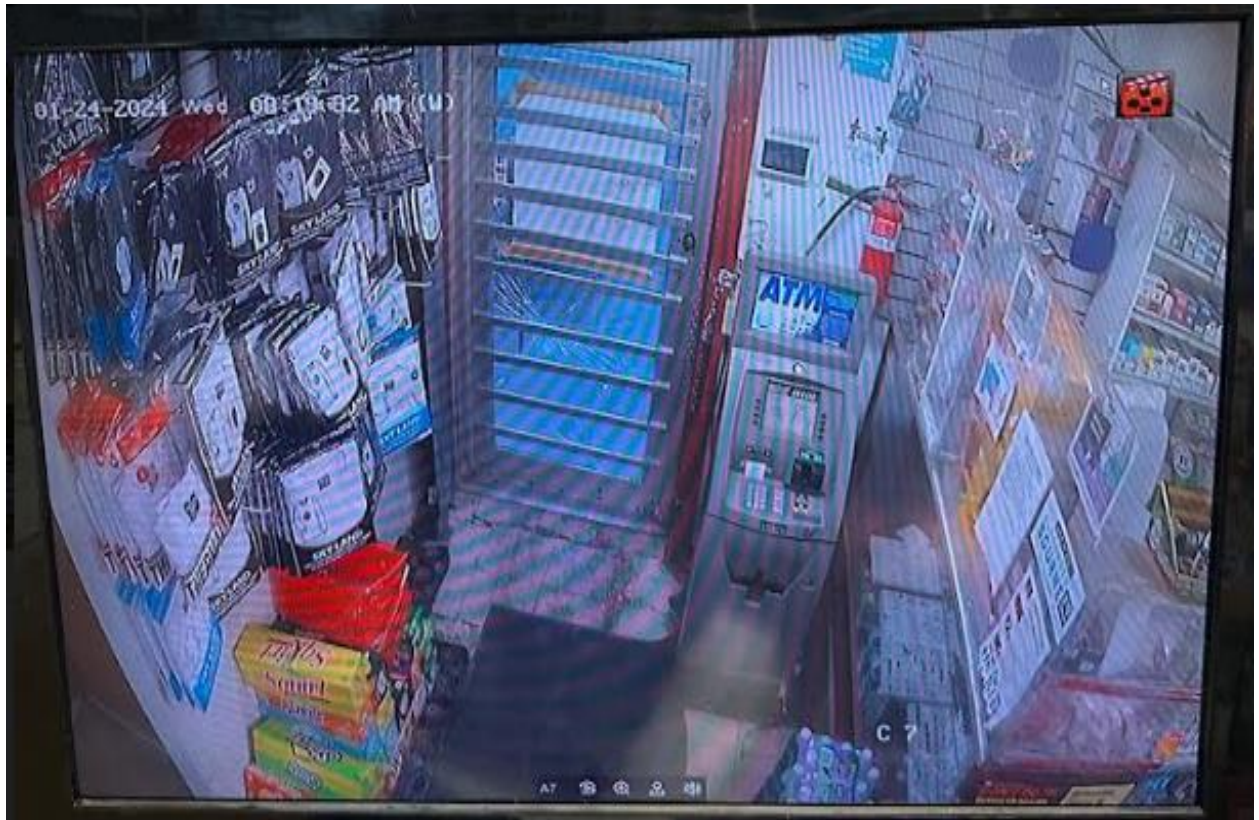
Follow up inspection:

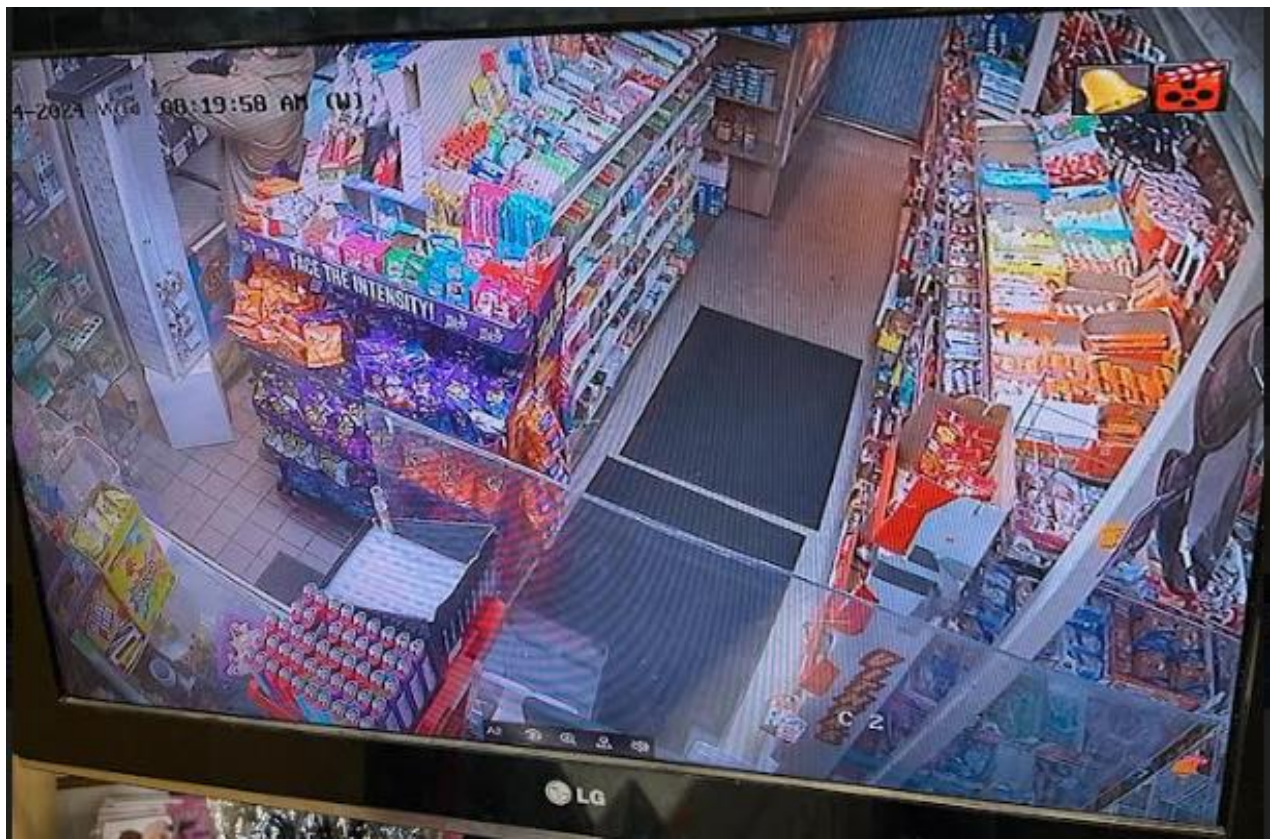
1. N/A

Camera Views:













Charles Graupman

From: Eric Hudak
Sent: Wednesday, May 22, 2024 2:21 PM
To: Charles Graupman; SJM
Subject: RE: Missing camera

Mr. Alzehhawi,

Please be advised the correct address for the DSI Offices is: 375 Jackson St. #220 St. Paul, MN 55101.

Eric Hudak



From: Eric Hudak
Sent: Wednesday, May 22, 2024 2:19 PM
To: Charles Graupman <charles.graupman@ci.stpaul.mn.us>; SJM <salzehhawi@gmail.com>
Subject: RE: Missing camera

Hello Mr. Alzehhawi,

It is your responsibility as license holder to provide the requested video footage from all cameras included in the video surveillance camera and lighting placement plan as it was approved when you were issued your Tobacco Shop license.

You are hereby provided an extension of the deadline to deliver the missing footage from cameras C2 and C12 to the DSI Offices at 275 Jackson St. #220 St. Paul, MN 55101 until 4:00 p.m. Thursday, May 23, 2024.

Failure to satisfy the license condition below by providing the missing requested video footage for all dates and times requested may result in adverse legal action against your Tobacco Shop license.

Eric Hudak
(651) 266-9132



From: Charles Graupman <charles.graupman@ci.stpaul.mn.us>
Sent: Wednesday, May 22, 2024 12:13 PM
To: SJM <salzehhawi@gmail.com>

Cc: Eric Hudak <Eric.Hudak@ci.stpaul.mn.us>

Subject: RE: Missing camera

Understood.

Mr. Hudak is cc'd here. He may have further questions or requests.



Sergeant Charles Graupman

Vice Unit-DSI
St. Paul Police Dept.
367 Grove St.
Saint Paul, MN 55101
Desk: 651-266-5733
Cell: 651-359-7075

Charles.graupman@stpaul.gov

Trust | Service | Respect

Please take our survey:

<http://stpaul.gov/PoliceCommunitySurvey>

From: SJM <salzehhawi@gmail.com>

Sent: Wednesday, May 22, 2024 12:10 PM

To: Charles Graupman <charles.graupman@ci.stpaul.mn.us>

Subject: Re: Missing camera

Think Before You Click: This email originated outside our organization.

I have tried but it says no video footage found.

On Wed, May 22, 2024 at 11:58 AM Charles Graupman <charles.graupman@ci.stpaul.mn.us> wrote:

Good afternoon Mustafa,

Are you certain the requested footage is missing? Are you taking any additional steps to recover the footage?

Please note: Per directed in the 1st & 2nd video request letter (*attached*), all camera angles need to be provided to DSI. The footage you provided was reviewed and it was noted that camera angle views C 2 & C 12, (per your on file camera plan) were missing. As a reminder, your license conditions require you to provide video upon request:

1. 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, License holder 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, license holder 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.

I have cc'd DSI Licensing Manager Hudak on this email to make him aware of the situation and reply as needed.

CG



Sergeant Charles Graupman

Vice Unit-DSI

St. Paul Police Dept.

367 Grove St.

Saint Paul, MN 55101

Desk: 651-266-5733

Cell: 651-359-7075

Charles.graupman@stpaul.gov

Trust | Service | Respect

Please take our survey:

<http://stpaul.gov/PoliceCommunitySurvey>

From: SJM <salzehhawi@gmail.com>

Sent: Tuesday, May 21, 2024 7:39 PM

To: Charles Graupman <charles.graupman@ci.stpaul.mn.us>

Subject: Missing camera

Think Before You Click: This email originated outside our organization.

Hello Charles,

This is Mustafa Alzehhawi. I was trying to download the footages that you need but it says no video footage found. I think i did something wrong or I deleted it by mistake.

Thank you

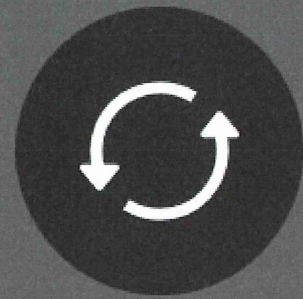
Charles Graupman

From: SJM <salzeshawi@gmail.com>
Sent: Wednesday, May 22, 2024 12:19 PM
To: Charles Graupman
Subject: Re: Missing camera

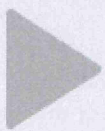
Think Before You Click: This email originated outside our organization.



C 15



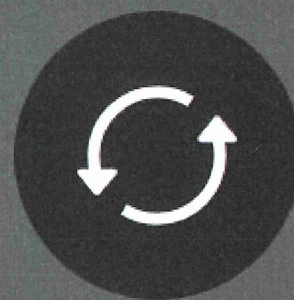
No video footage four



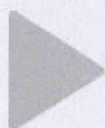
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● Playback

0.00 k/s

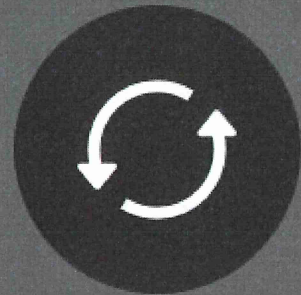


No video footage found

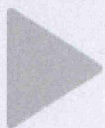




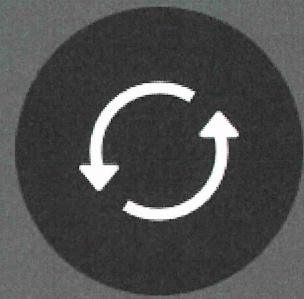
C 2



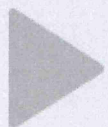
No video footage found



< C 2



No video footage four



On Wed, May 22, 2024 at 12:12 PM Charles Graupman <charles.graupman@ci.stpaul.mn.us> wrote:

Understood.

Mr. Hudak is cc'd here. He may have further questions or requests.



Sergeant Charles Graupman

Vice Unit-DSI

St. Paul Police Dept.

367 Grove St.

Saint Paul, MN 55101

Desk: 651-266-5733

Cell: 651-359-7075

Charles.graupman@stpaul.gov

Trust | Service | Respect

Please take our survey:

<http://stpaul.gov/PoliceCommunitySurvey>

From: SJM <salzehhawi@gmail.com>

Sent: Wednesday, May 22, 2024 12:10 PM

To: Charles Graupman <charles.graupman@ci.stpaul.mn.us>

Subject: Re: Missing camera

Think Before You Click: This email originated outside our organization.

I have tried but it says no video footage found.

On Wed, May 22, 2024 at 11:58 AM Charles Graupman <charles.graupman@ci.stpaul.mn.us> wrote:

Good afternoon Mustafa,

Are you certain the requested footage is missing? Are you taking any additional steps to recover the footage?

Please note: Per directed in the 1st & 2nd video request letter (*attached*), all camera angles need to be provided to DSI. The footage you provided was reviewed and it was noted that camera angle views C 2 & C 12, (per your on file camera plan) were missing. As a reminder, your license conditions require you to provide video upon request:

1. 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, License holder 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, license holder 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.

I have cc'd DSI Licensing Manager Hudak on this email to make him aware of the situation and reply as needed.

CG



Sergeant Charles Graupman

Vice Unit-DSI

St. Paul Police Dept.

367 Grove St.

Saint Paul, MN 55101

Desk: 651-266-5733

Cell: 651-359-7075

Charles.graupman@stpaul.gov

Trust | Service | Respect

Please take our survey:

<http://stpaul.gov/PoliceCommunitySurvey>

From: SJM <salzehhawi@gmail.com>

Sent: Tuesday, May 21, 2024 7:39 PM

To: Charles Graupman <charles.graupman@ci.stpaul.mn.us>

Subject: Missing camera

Think Before You Click: This email originated outside our organization.

Hello Charles,

This is Mustafa Alzehhawi. I was trying to download the footages that you need but it says no video footage found. I think i did something wrong or I deleted it by mistake.

|| Thank you

Licensee: SANAA LLC

DBA: TWINS MARKET & MEAT

License #: 2024000006

1. 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, License holder 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, license holder 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.

Licensee: SANAA LLC

DBA: TWINS MARKET & MEAT

License #: 2024000006

5/22/2024 Licensing Manager(LM) received phone call regarding missing video - LM reiterated the importance to deliver missing video by EOB(4pm) on
5/23/2024 to avoid AA (entered by) JNV
5/21/2024 SPPD hand delivered a second attempt for video for missing video (entered by) JNV
5/17/2024 Hand Delivered Letter for Video Request JNV
1/12/2024 Sent to the CAO for CC APP approval JNV



Friday, May 17, 2024

Sanaa LLC.
Twins Market & Meat
1055 4th St. E.
St. Paul, MN 55106

HAND DELIVERED – Friday, May 17, 2024

RE: VIDEO REQUEST

Mr. Mustafa Othman Al Zehhawi,

In accordance with a condition set forth in your City of Saint Paul issued license(s) you are hereby requested to provide a copy of continuous, uninterrupted video footage from all camera views of your camera surveillance system for the following periods:

- **Monday, April 22, 2024 From 12:30 pm until 1:30 pm.**

The requested copy of video must be delivered in a commonly used, readable format to the Department of Safety and Inspections (DSI) located at 375 Jackson Street, Suite 200, Saint Paul MN 55101 **no later than 4:00 p.m. on Monday, May 20, 2024.** Failure to deliver the requested copy of video at or before this deadline may result in adverse licensing action taken through the Saint Paul City Attorney's Office.

This DSI video request is separate and independent from any similar video request which may have been made by the Saint Paul Police Department and must be satisfied accordingly.

Questions regarding this letter can be directed to me at (651) 266-9132.

Eric Hudak
Licensing Manager, Department of Safety, and Inspections

cc: Asst. City Attorney Therese Skarda, Saint Paul City Attorney's Office
Sgt. Charles Graupman, Saint Paul Police Department
Mr. Mustafa Othman Al Zehhawi, 2008 Willow Circle Centerville, MN. 55038.



***** 2nd NOTICE – REQUEST NOT SATISFIED – VIDEO FOOTAGE INCOMPLETE *****

Missing: C 2 & C 15

Tuesday, May 21, 2024

Sanaa LLC.
Twins Market & Meat
1055 4th St. E.
St. Paul, MN 55106

HAND DELIVERED – Tuesday, May 21, 2024

RE: VIDEO REQUEST

Mr. Mustafa Othman Al Zehhawi,

In accordance with a condition set forth in your City of Saint Paul issued license(s) you are hereby requested to provide a copy of continuous, uninterrupted video footage from all camera views of your camera surveillance system for the following periods:

- **Monday, April 22, 2024 From 3:00 pm until 4:00 pm.**
- **Monday, May 6, 2024 From 1030 am until 11:30 am.**

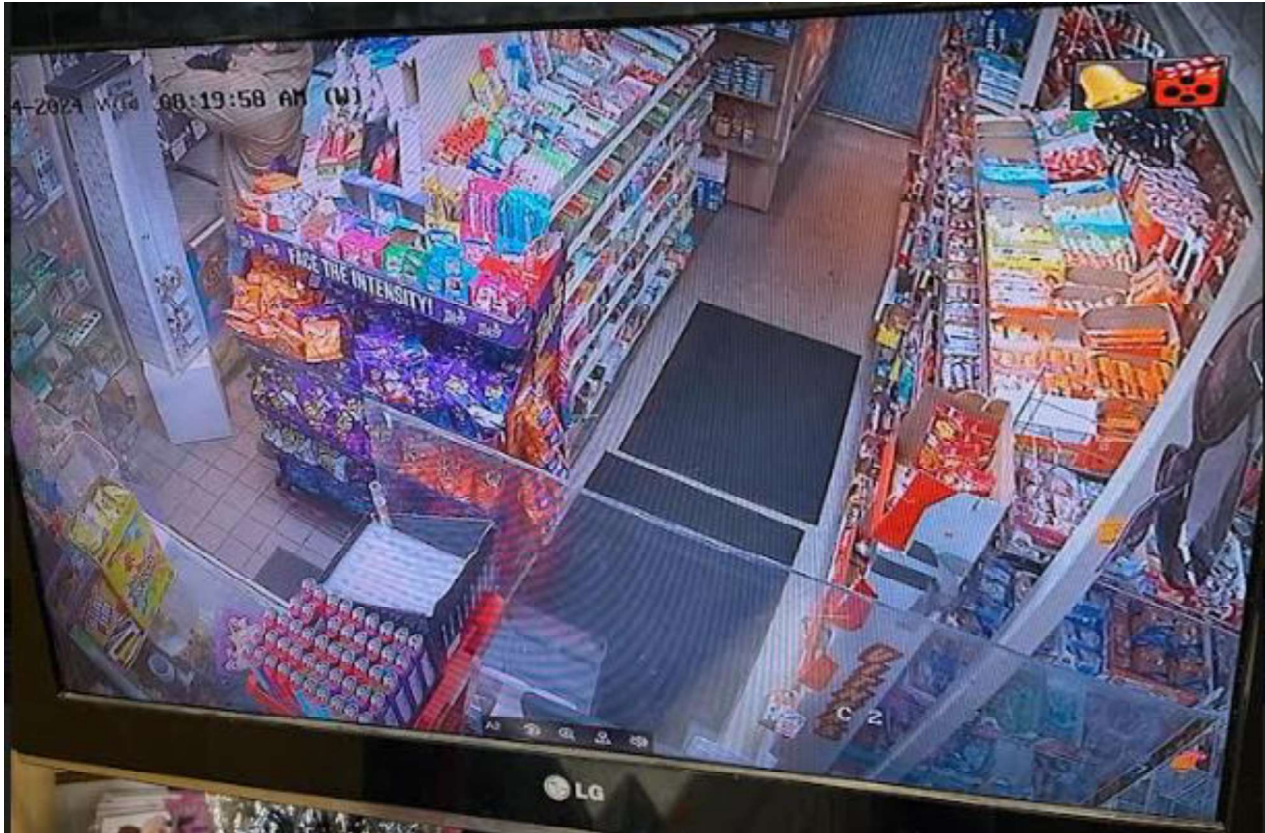
The requested copy of video must be delivered in a commonly used, readable format to the Department of Safety and Inspections (DSI) located at 375 Jackson Street, Suite 200, Saint Paul MN 55101 **no later** than **4:00 p.m. on Thursday, May 23, 2024.** Failure to deliver the requested copy of video at or before this deadline may result in adverse licensing action taken through the Saint Paul City Attorney’s Office.

This DSI video request is separate and independent from any similar video request which may have been made by the Saint Paul Police Department and must be satisfied accordingly.

Questions regarding this letter can be directed to me at (651) 266-9132.

Eric Hudak
Licensing Manager, Department of Safety, and Inspections

cc: Asst. City Attorney Therese Skarda, Saint Paul City Attorney’s Office
Sgt. Charles Graupman, Saint Paul Police Department
Mr. Mustafa Othman Al Zehhawi, 2008 Willow Circle Centerville, MN. 55038.



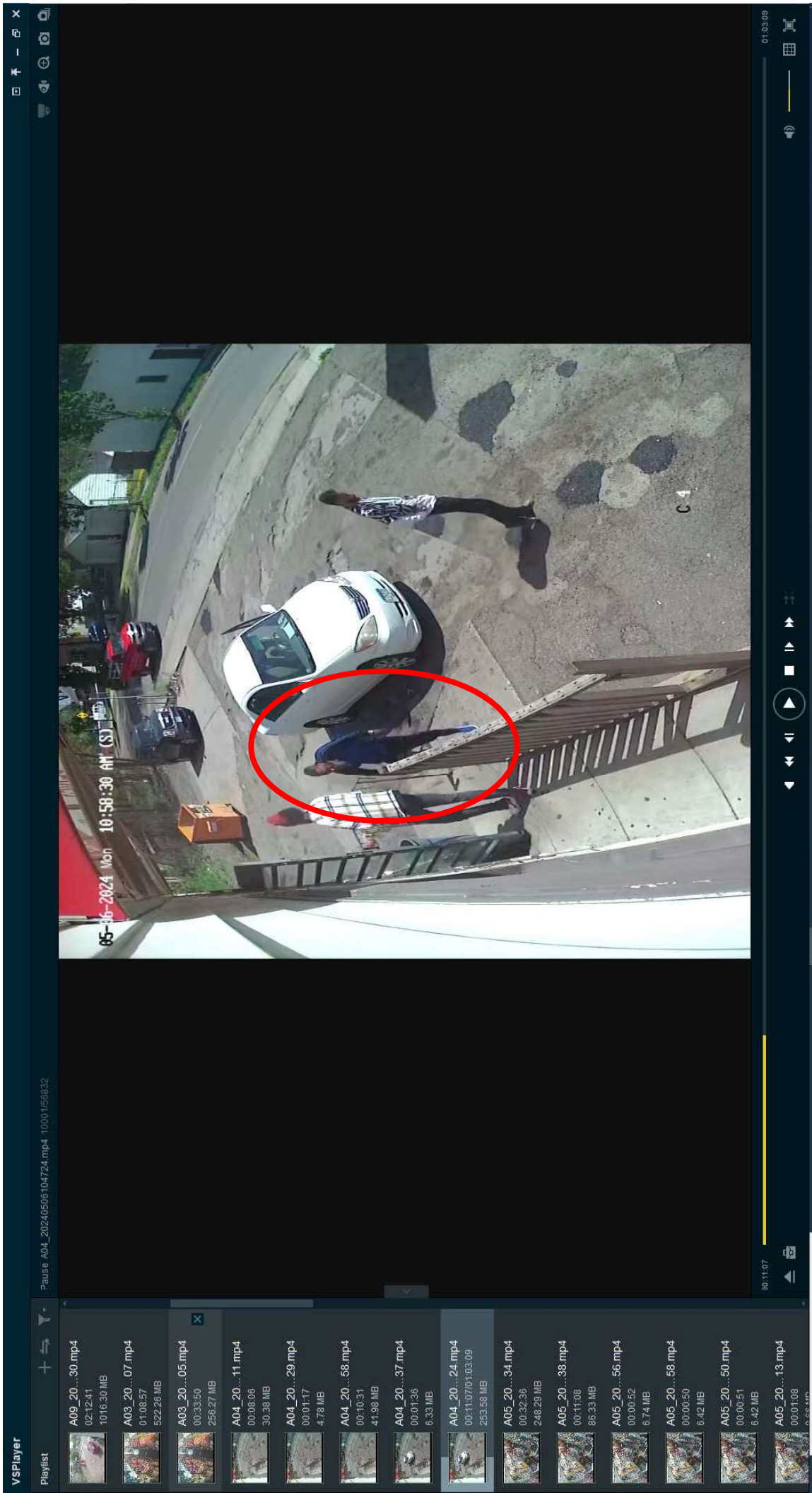
SPPD Police Report

Video Snip of ANSR Purchase on 5/6/2024 at 11:00am

1055 4th Street East – DBA: Twins Market & Meat – 5/6/2024

Enters the establishment at 10:58:30am

NOTE: Camera time stamp may not be accurate of the time. Actual time of arrival was at 11:00am according to ANSR.



10:58:33am – Entering the Front Door of Establishment

Pause A07_20240506090010.mp4 10E5477131355

05-06-2024 Mon 10:58:33 AM (S)

C 7

02:25:57

00:02:08 16.46 MB
A05_20...12.mp4

00:00:49 6.27 MB
A05_20...39.mp4

00:00:43 5.40 MB
A05_20...27.mp4

00:08:56 68.84 MB
A05_20...14.mp4

02:25:57 1016.21 MB
A07_20...10.mp4

02:23:41 1016.21 MB
A07_20...08.mp4

00:03:17 20.48 MB
A08_20...59.mp4

00:01:46 10.43 MB
A08_20...02.mp4

00:06:13 37.64 MB
A08_20...51.mp4

00:07:24 44.44 MB
A08_20...14.mp4

00:05:58 35.55 MB
A08_20...54.mp4

00:00:48 4.68 MB
A08_20...32.mp4

00:00:50 4.97 MB
A08_20...21.mp4

00:01:31 4.97 MB
A08_20...31.mp4

00:00:00

10:58:44 am - Front Counter Purchasing Newport Cigarettes (Menthol)

VsPlayer

Pause A03_30240506101407.mp4 40147/62058

00:00:00

- A09_20...30.mp4
02:12:41
1016.30 MB
- A03_20...07.mp4
01:08:57
522.26 MB
- A03_20...05.mp4
03:33:50
256.27 MB
- A04_20...11.mp4
03:08:06
31:38 MB
- A04_20...29.mp4
03:01:17
4.78 MB
- A04_20...58.mp4
03:10:31
41:98 MB
- A04_20...37.mp4
00:01:36
6.33 MB
- A04_20...24.mp4
01:03:09
253.58 MB
- A05_20...34.mp4
00:32:36
248.29 MB
- A05_20...38.mp4
00:11:08
86.33 MB
- A05_20...56.mp4
00:00:52
6.74 MB
- A05_20...58.mp4
00:00:50
6.42 MB
- A05_20...50.mp4
00:00:51
6.42 MB
- A05_20...13.mp4
00:01:08
6.66 MB



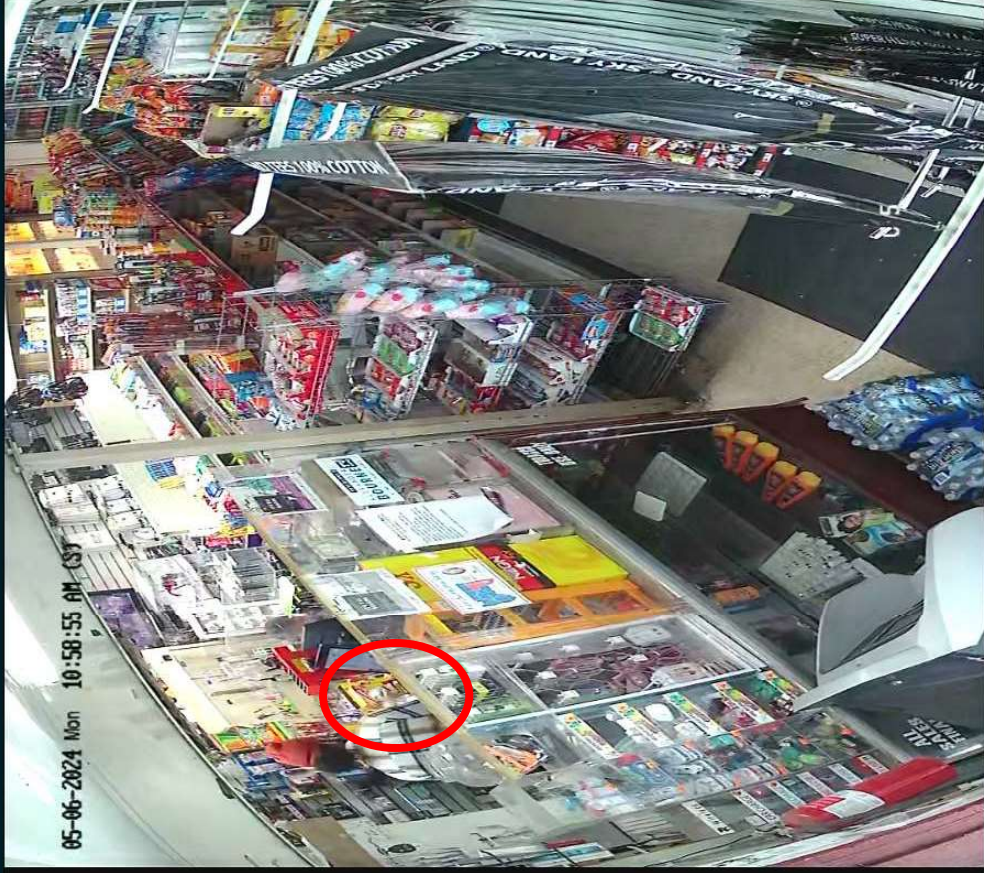
10:58:55am – Handing Newport Cigarettes (Menthol) to Customer

VSPPlayer

Pause A05_20240506102734.mp4 2322229347

00:00:00

- A09_20...30.mp4 02:12:41 1016.30 MB
- A03_20...07.mp4 01:08:57 522.26 MB
- A03_20...05.mp4 00:33:50 258.27 MB
- A04_20...11.mp4 00:08:05 30.38 MB
- A04_20...29.mp4 00:01:17 4.78 MB
- A04_20...58.mp4 00:10:31 41.98 MB
- A04_20...37.mp4 00:01:36 6.33 MB
- A04_20...24.mp4 01:03:09 253.58 MB
- A05_20...34.mp4 00:32:36 246.29 MB
- A05_20...38.mp4 00:11:08 86.33 MB
- A05_20...56.mp4 00:00:52 6.74 MB
- A05_20...58.mp4 00:00:50 6.42 MB
- A05_20...50.mp4 00:00:51 6.42 MB
- A05_20...13.mp4 00:01:08 6.68 MB



00:00:00

00:32:36



10:59:00am – Newport Cigarettes (Menthol) in Hand of Customer

VPlayer

Pause A05_20240506102734.mp4 28.300/293.47

00:00:00

- A09_20...30.mp4
02:12:41
1016.30 MB
- A03_20...07.mp4
01:08:57
522.26 MB
- A03_20...05.mp4
00:33:50
256.27 MB
- A04_20...11.mp4
00:08:06
30.38 MB
- A04_20...29.mp4
00:01:17
4.76 MB
- A04_20...58.mp4
00:10:31
41.98 MB
- A04_20...37.mp4
00:01:36
6.33 MB
- A04_20...24.mp4
01:03:09
253.58 MB
- A05_20...34.mp4
00:32:36
248.29 MB
- A05_20...38.mp4
00:11:08
86.33 MB
- A05_20...56.mp4
00:00:52
6.74 MB
- A05_20...58.mp4
00:00:50
6.42 MB
- A05_20...50.mp4
00:00:51
6.42 MB
- A05_20...13.mp4
00:01:08
6.54 MB



00:00:00

Video playback controls including a play/pause button, a progress slider, and volume control icons.

System tray icons including a network icon, a volume icon, and a power icon.


00:32:36

10:59:04am - Customer Leaving the Store

VSPlayer

Pause A04_20240506104724.mp4 10501756832

05-06-2024 Mon 10:59:04 AM (S)



00:11:40

01:03:09

Playlist

- A09_20...30.mp4 02:12:41 1016.30 MB
- A03_20...07.mp4 01:08:57 522.26 MB
- A03_20...05.mp4 00:33:50 256.27 MB
- A04_20...11.mp4 00:08:06 30.38 MB
- A04_20...29.mp4 00:01:17 4.78 MB
- A04_20...58.mp4 00:10:31 41.98 MB
- A04_20...37.mp4 00:01:36 6.33 MB
- A04_20...24.mp4 00:11:40/01:03:09 253.58 MB
- A05_20...34.mp4 00:32:36 248.29 MB
- A05_20...38.mp4 00:11:08 86.33 MB
- A05_20...56.mp4 00:00:52 6.74 MB
- A05_20...58.mp4 00:00:50 6.42 MB
- A05_20...50.mp4 00:00:51 6.42 MB
- A05_20...13.mp4 00:01:08 6.55 MB

State Statutes – Tax Stamps

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

(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 the item (i) are found, including all contents contained within the devices.

ANSR Emails of Evidence

Joseph Voyda

From: Jeanne Weigum <jw@ansrmn.org>
Sent: Monday, May 6, 2024 1:35 PM
To: Joseph Voyda
Subject: 1055 4th Street E

Think Before You Click: This email originated outside our organization.

story over the phone, photo to follow

--
Plant a tree you will never Climb
Jeanne Weigum

Joseph Voyda

From: Jeanne Weigum <jw@ansrmn.org>
Sent: Monday, May 6, 2024 1:37 PM
To: Joseph Voyda
Subject: Pic
Attachments: IMG_20240506_133538832.jpg; IMG_20240506_133550656.jpg
Categories: Personal

Think Before You Click: This email originated outside our organization.

Newport

Twins Market +

Meats

1055 4th ST E

11:00

Monday

5-6-24

TA



Twins Market +
 Meats
 1055 445FE
 11:00
 Monday
 5-6-24



Saint Paul Police Department

Search Filter=> Date Range Column: CAD Data, Date Range Type: Exact From 6/25/2023 12:00:00 AM To 6/25/2024 11:59:00 PM

LocationFilter: HouseNumber: From: 1055,StreetSearchType: Street,StreetName: [4]

ID	CN	CALLDATE	DISPOSITION	PRIMARYRMSOFFENSE	ADDRESS
1	23117681	07/03/2023 14:55	A	POLICE VISIT-PROACTIVE POLICE VISIT	1055 4 ST E , St Paul
2	23120119	07/06/2023 20:09	A	DISTURBANCE-DISORDERLY BOYS,GIRLS,PERSONS	1055 4 ST E , St Paul
3	23121548	07/08/2023 20:03	A	DRUGS-NARCOTICS	1055 4 ST E , St Paul
4	23135399	07/28/2023 11:24	A	POLICE VISIT-PROACTIVE POLICE VISIT	1055 4 ST E , St Paul
5	23814614	08/10/2023 04:07	RR	FRAUD-IDENTITY FRAUD	1055 4 ST E , St Paul
6	24008191	01/15/2024 16:15	G	WARRANT ARREST-WHERE NO CN IS REF ON WARRANT	1055 4 ST E , St Paul
7	24008326	01/15/2024 21:45	G	CHECK WELFARE	1055 4 ST E , St Paul
8	24062903	04/10/2024 15:35	A	INVESTIGATE-AND ALL OTHER	1055 4 ST E , St Paul
9	24073495	04/26/2024 12:43	A	INVESTIGATE-CODE ENFORCEMENT	1055 4 ST E , St Paul
10	24087877	05/17/2024 11:23	A	INVESTIGATE-AND ALL OTHER	1055 4 ST E , St Paul
11	24091201	05/22/2024 11:22	A	INVESTIGATE-AND ALL OTHER	1055 4 ST E , St Paul



INCIDENT REPORT

SAINT PAUL POLICE DEPARTMENT

Incident Overview

Case Status	: Active	Occ Date From	: 04/22/2024, 13:16
Case Number	: 24-080110	Occ Date To	: 05/06/2024, 14:00
Reported Date	: 05/06/2024, 13:16:56	Bias Motivation	:
Location	: 1155 4 Street E, St. Paul, MN 55106	Arrest	:
Offenses	: Investigate-Code Enforcement	Resistance Encountered	: No

Incident Summary

Created by:		05/09/2024, 08:00
<p>On April 22, 2024 at 1300 hours, officers assigned to the Criminal Intelligence Unit (CIU) were monitoring cameras at Twins Market (1155 4th St E). Officers observed a store employee who drives a white Toyota Camry (MN plate KJZ-130) walk out of the store with a black male who had previously entered the store. The males walk to the trunk of the Toyota which was parked on 4th Street in front of the store. The store employee opens the trunk which you can see a large box inside of it. He grabs something, and when the camera zoom it appears to be a pack of Newport cigarettes. The black males walks to him and faces east and put his hand low behind his back as if he is trying to hide what is being handed to him. The male grabs what's given to him and walks away. The store employee then returns to the store.</p>		

CASE NUMBER: 24-080110

Printed by: 237125



INCIDENT REPORT

SAINT PAUL POLICE DEPARTMENT

Staff Involved

Officer	Type	BWC	ICC	Resistance Encounter	Force Used	Vehicle Pursuit
Graupman, Charles (237725)	Submitter, Primary	No		No	No	No
Hamblin, Christopher (255231)	Submitter, Primary	No		No	No	No
Ueland, Laura (700100)	Assisting			No	No	No

Narratives

Narrative 1 Created by: **HAMBLIN, CHRISTOPHER (255231)** **05/06/2024, 13:54**

Synopsis :

On April 22, 2024 at 1300 hours, officers assigned to the Criminal Intelligence Unit (CIU) were monitoring cameras at Twins Market (1155 4th St E). Officers observed a store employee who drives a white Toyota Camry (MN plate KJZ-130) walk out of the store with a black male who had previously entered the store. The males walk to the trunk of the Toyota which was parked on 4th Street in front of the store. The store employee opens the trunk which you can see a large box inside of it. He grabs something, and when the camera zoom it appears to be a pack of Newport cigarettes. The black males walks to him and faces east and put his hand low behind his back as if he is trying to hide what is being handed to him. The male grabs what's given to him and walks away. The store employee then returns to the store.

Narrative :

On April 22, 2024 at 1300 hours, I Officer Hamblin (squad 779) and Officer Ueland (squad 780) assigned to the Criminal Intelligence Unit (CIU) were monitoring cameras at Twins Market (1155 4th St E).

Officers observed a store employee who drives a white Toyota Camry (MN plate KJZ-130) walk out of the store with a black male who had previously entered the store. The males walk to the trunk of the Toyota which was parked on 4th Street in front of the store. The store employee opens the trunk which you can see a large box inside of it. He grabs something, and when the camera zoom it appears to be a pack of Newport cigarettes. The black males walks to him and faces east and put his hand low behind his back as if he is trying to hide what is being handed to him. The male grabs what's given to him and walks away. The store employee then returns to the store.

No further info at this time

CASE NUMBER: 24-080110

Printed by: 237725



INCIDENT REPORT

SAINT PAUL POLICE DEPARTMENT

Narrative 2

Created by: **GRAUPMAN, CHARLES (237725)**

05/09/2024, 08:00

Synopsis :

Narrative :

I, Sgt. C. Graupman am currently assigned to the Department of Safety & Inspection, located at 375 Jackson St. As part of my regular duties, I assist DSI Licensing Inspectors with monitoring, reviewing and recording activities at businesses that pertain to their current licensing conditions. This is done to ensure that businesses are operating within the licensing conditions they are mandated to follow by the City of St. Paul and that public safety is regarded while doing so.

On 05/08/24, I received this case on transfer for review and investigation, due to potential code and life safety concerns related to this property. I began by reviewing all of the included reports and information, as well as any pictures if applicable. The reports on all parties involved were reviewed to determine the course of investigation, as well as the level and probability of solvability. This is all done for information gathering purposes, as well as possible future criminal charges.

Narrative 3

Created by: **GRAUPMAN, CHARLES (237725)**

06/25/2024, 11:59

Synopsis :

Narrative :

It should be noted that the address in the original report was listed as 1155 4th St. E. The correct address for the Twins Market & Meat is 1055 E. 4th St. St. Paul, MN. 55106. I later obtained a digital copy of the footage detailed in the report from Officer Laura Ueland and reviewed the footage. A copy of the footage and a copy of this report was submitted to Asst. City Attorney Sly Onyia, Civil Division for Adverse Action Review.

This case will be closed as noted at this time.

-Noted.

CASE NUMBER: 24-080110

Printed by: 237725



INCIDENT REPORT

SAINT PAUL POLICE DEPARTMENT

Offenses

Offense 1 - INVESTIGATE-CODE ENFORCEMENT

NIBRS Offense Description	:	Criminal Activity Gang Info	:
Crime Scene Type	:	Weapons Used	:
Forced Entry	:	Bias Motivation	:
Attempt Only	:	Bias Target	:
Number Of Premises Entered	:	Bias Based On	:
Offender Suspected Of Using	:		:

CASE NUMBER: 24-080110

Printed by: 23/1/25



INCIDENT REPORT

SAINT PAUL POLICE DEPARTMENT

Vehicles

Vehicle 1

Info

License# : KJZ130	Model : CAMRY	Type : SEDAN
State : MN	Year : 2006	VIN : 4T1BE32K66U674600
Make : TOYT	Color : White	Mileage :

Registration

Registered Owner

First Name :	Middle Name :	Last Name :
--------------	---------------	-------------

Registered Address

House # : 3950	Street : 227TH	Suffix : AV
Direction : NW	Apt # :	City : SAINT FRANCIS
State :	Zip : 55070-9364	

Tow

Other Details

Tow Date/ Time :	Vehicle Property Code : Notapplicable
Towing Contractor:	Associated Offense :
Where Towed :	Vehicle OOC Recovery :
Vehicle Held :	Seized For Forfeiture :
Held For :	Vehicle Inventory :
Reason for Tow :	Associated Offense :
Forfeiture :	Estimated Value :
Vehicle Inventory :	Keys With Vehicle :
	Vehicle Left Running :

CASE NUMBER: 24-080110

Printed by: 23/1/25



INCIDENT REPORT

SAINT PAUL POLICE DEPARTMENT

CAD Information

CAD Info 1

Info

Location	: 1155 4 Street E	Sector	: 3	Time Received	: 13:16
Locale	:	Grid	: 96	Time Sent	: 13:16
Call Date	:	Disposition	: Records received	Time Arrived	: 13:16
Occur Date	: 05/06/2024	Priority	: 2A	Time Cleared	: 13:19
Caller Information	:	Source	: Officer	Reopen Time	:
Address	:	Fire/Amb	:	Citation #	:
Phone	:	EDP	:		
		Alarm	:		
		ECC Console	: 779		

Employees

Officer	Squad	Type	Beat	Received	Sent	Arrived	Cleared
HAMBLIN, CHRISTOPHER	779	1		13:16	13:16	13:16	13:19

CAD Comments

Master Incident Number: 20240506-0245865 CAD Address: 1155 4th Street E, Lat/Lon: 0 / 0
 05/06/2024 13:16:57779 [1] Automatic Case Number(s) issued for Incident #[20240506-0245865],
 Jurisdiction: SPPD. Case Number(s): SP240506080110. requested by 779. 05/06/2024
 13:16:56779 [2] Twins Market Investigate INV

CASE NUMBER: 24-080110

Printed by: 23/1/25



INCIDENT REPORT

SAINT PAUL POLICE DEPARTMENT

Incident Overview

Case Status	: Active	Occ Date From	: 06/25/2024, 12:07
Case Number	: 24-114625	Occ Date To	: 06/25/2024, 12:13
Reported Date	: 06/25/2024, 12:07:55	Bias Motivation	:
Location	: 375 Jackson Street, St Paul, MN 55101	Arrest	:
Offenses	: Investigate-Code Enforcement	Resistance Encountered	: No

Incident Summary

Created by:		06/25/2024, 14:35
<p>DSI Investigation regarding complaints of menthol tobacco sales at Twins Market & Meat, 1055 4th St. E. St. Paul, MN. 55106. Request for action was drafted for flavored tobacco sales and a licensing condition violation of failing to provide video to DSI upon request by the business. Case was sent to the City Attorney Civil Division for AA review.</p>		

CASE NUMBER: 24-114625

Printed by: 237/25



INCIDENT REPORT

SAINT PAUL POLICE DEPARTMENT

Staff Involved

Officer	Type	BWC	ICC	Resistance Encounter	Force Used	Vehicle Pursuit
Graupman, Charles (237725)	Submitter, Primary	No	No	No	No	No

Narratives

Narrative 1 Created by: **GRAUPMAN, CHARLES (237725)** **06/25/2024, 14:35**

Synopsis :

DSI Investigation regarding complaints of menthol tobacco sales at Twins Market & Meat, 1055 4th St. E. St. Paul, MN. 55106. Request for action was drafted for flavored tobacco sales and a licensing condition violation of failing to provide video to DSI upon request by the business. Case was sent to the City Attorney Civil Division for AA review.

Narrative :

I, Sgt. C. Graupman am currently assigned to the Department of Safety & Inspection, located at 375 Jackson St. As part of my regular duties, I assist DSI Licensing Inspectors with monitoring, reviewing and recording activities at businesses that pertain to their current licensing conditions. This is done to ensure that businesses are operating within the licensing conditions they are mandated to follow by the City of St. Paul and that public safety is regarded while doing so.

On 04/23/24, I was contacted via phone by District Chief Salim Omari, of the Eastern District regarding video footage captured on 4/22/24 by a police trailer camera of a possible menthol tobacco sales occurring outside of the Twins Market & Meat, located at 1055 4th St. E. St. Paul, MN. 55106. District Chief Omari explained that the St. Paul Police CIU (Criminal Intelligence Unit), had been monitoring the camera due to a high number of citizen complaints regarding quality of life concerns involving (narcotics, disorderly behavior and loitering). Chief Omari was able to share the video footage with me and later DSI Licensing Inspector Joe Voyda. The video footage shows (2) B/M's exiting the front of the store and approaching a vehicle MN LIC/KJZ-130), which was parked near the business on 4th St. Facing West. One of the males is then seen opening the driver's door and then popping the trunk and retrieves what appears to be a pack of cigarettes from an open cardboard box in the trunk and then handing it to the other male. It's unclear due to the quality of the footage what brand or type of cigarettes are being handed. However, the box is green and white in color and appears to be similar to a pack of Newport menthol flavored cigarettes. I informed Chief Omari that the Twins Market & Meat, currently has a city issued cigarette tobacco license and is not a tobacco product shop, and therefore is prohibited to sell menthol cigarettes. Chief Omari advised that a police report would be written by Officer Hamblin under CN (24-080-110), of the incident and the video footage would be available if needed further.

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Printed by: 237725



INCIDENT REPORT

SAINT PAUL POLICE DEPARTMENT

Based upon the information provided from Chief Omari, DSI Licensing Inspector Joe Voyda and I decided to open a complaint and conduct and investigation.

While we were conducting our investigation, DSI Licensing Inspector Joe Voyda was notified by ANSR (The Association for Nonsmokers - Minnesota), that on 05/06/24, they had sent in an undercover decoy into the Twins Market and Meat and had purchased a single pack of Newport Menthol Cigarettes. The information related to the decoy and a photograph of the item purchased was provided to Inspector Voyda. Inspector Voyda noted that the cigarettes purchased did not contain a MN tax ID stamp and in fact contained a Missouri Tax ID stamp. Inspector Voyda added that he would be following up with MN Department of Revenue once our investigation was complete.

We notified DSI Licensing Manager Eric Hudak of both complaints and reviewed the Twins Market & Meat Licensing Conditions. A decision was then made to request video from the Twins Market & Meat. As part of their licensing conditions (listed below) they are required to produce video upon request.

Licensing Conditions: Twins Market & Meat, 1055 4th St. E. St. Paul, MN. 55106

1. 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, License holder 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, license holder 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.

On 05/17/24, DSI Licensing Manager Eric Hudak assisted me with drafting a video request letter for the Twins Market & Meat. The video footage requested was for 04/22/24 from 12:30pm until 1:30 pm and for 05/06/24 from 10:30am until 11:30 am. Drafted were (2) copies and the first copy was sent via U.S. mail to the Licensee (AL Zehhawi, Mustafa Othman, 2008 Willow Circle. Centerville, MN. 55038) and the second copy was hand delivered at the business by Inspector Voyda on 05/17/24.

On 05/20/24, I was notified by Inspector Voyda that the requested footage had been dropped off on a flash drive and received by DSI. I began reviewing the footage and noted that it contained the footage for (10) camera angles on both dates requested. I immediately noticed that (2) of the camera angles from the business were not included in the footage. I knew this because on 01/31/2024, I had went out to the business and conducted their required camera inspection & plan (a condition of the license). The camera angles that were missing were (C2 and C15) which covered the overhead view of the sales counter (from sales side) and front view of the sales counter (from the customer side).

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INCIDENT REPORT

SAINT PAUL POLICE DEPARTMENT

I reviewed the footage from 04/22/24, and observed the B/M employee working from behind the counter speaking with a B/M customer at the sales counter. It appears the customer is attempting to make a purchase at the counter and then suddenly the employee leaves from behind the counter and then escorts the customer outside to the vehicle previously mentioned in this report and hands in him the item from the trunk of the vehicle. This is all captured on cameras (C4,C5,C7, & C11).

I reviewed the footage from 05/06/24, with Inspector Voyda who was able to identify the ANSR decoy arriving and entering the store at 10:58 am. We observed the decoy approach the front counter and it appears a cash sale is made between the employee and him. The employee is seen taking money and then reaching into the corner of the sales counter area an handing an item to the decoy. The decoy is then seen leaving the counter area where he clearly holds up the item purchased (Newport menthol cigarettes). We observed the decoy then leave the store. This is all captured on cameras (C4, C7, & C5).

Because the video footage provided was incomplete, (missing footage C2 & C15), a second video request was drafted on 05/21/24 and mailed again to the licensee and hand delivered at the business by me.

On 05/21/24, I was notified via email by the licensee (AL ZEHHAWI) that as he was trying to download the footage he believed he did something wrong, and was prompted that no video footage was found and may have deleted it by mistake. I replied back to the email and copied DSI Licensing Manger Hudak on the thread. I asked (AL ZEHHAWI) if he was doing anything to recover the footage and included a copy of his licensing conditions. Licensing Manager Hudak also replied back to the email that it was the licensee's responsibility to produce the requested footage. AL ZEHHAWI replied that he had tried but was unsuccessful. On 05/22/24, (AL ZEHHAWI) sent another email with still images copied showing video was not found for (C2 & C15).

Based upon the findings of this investigation, a request for Adverse Action was drafted by Inspector Voyda due to failure to provide video and flavor tobacco violations.

A copy of this report, above referenced reports and video footage from the business and police trailer camera were all forwarded to St. Paul Assistant City Attorney Sly Onyia and DSI Licensing Manager Eric Hudak for review and possible adverse action.

Narrative 2

Created by: **GRAUPMAN, CHARLES (237725)**

06/25/2024, 15:02

Synopsis :

Narrative :

I, Sgt. C. Graupman am currently assigned to the Department of Safety & Inspection, located at 375 Jackson St. As part of my regular duties, I assist DSI Licensing Inspectors with monitoring, reviewing and recording activities at businesses that pertain to their current licensing conditions. This is done to ensure that businesses are operating within the licensing conditions they are mandated to follow by the City of St. Paul and that public safety is regarded while doing so.

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INCIDENT REPORT

SAINT PAUL POLICE DEPARTMENT

On 06/25/24, I received this case on transfer for review and investigation, due to potential code and life safety concerns related to this property. I began by reviewing all of the included reports and information, as well as any pictures if applicable. The reports on all parties involved were reviewed to determine the course of investigation, as well as the level and probability of solvability. This is all done for information gathering purposes, as well as possible future criminal charges.

A copy of this report was sent to the City Attorney Civil Division. This case will be closed as noted at this time.

-NOTED

CASE NUMBER: 24-114625

Printed by: 237125



INCIDENT REPORT

SAINT PAUL POLICE DEPARTMENT

Offenses

Offense 1 - INVESTIGATE-CODE ENFORCEMENT

NIBRS Offense Description	:	Criminal Activity Gang Info	:
Crime Scene Type	:	Weapons Used	:
Forced Entry	:	Bias Motivation	:
Attempt Only	:	Bias Target	:
Number Of Premises Entered	:	Bias Based On	:
Offender Suspected Of Using	:		:

CASE NUMBER: 24-114625

Printed by: 23/1/23



INCIDENT REPORT

SAINT PAUL POLICE DEPARTMENT

Participants / Persons

Person 1

Twins Market & Meat (Business)

1055 4 Street E, St. Paul, MN

Phone: 651-330-2548

Info

Participant Type : **Other**

Age :

Gender :

Race :

Hispanic :

Business Name : **Twins Market & Meat**

Phones

Cell Phone :

Home Phone :

Work Phone : **651-330-2548**

Email Address :

Social Media :

Physical Description

Height :

Weight :

Eye Color :

Hair Color :

Build :

Attributes

School Name :

Employer Name :

Occupation :

Requested Non Public :

License / ID Number :

Limited English / Language :

Employment

Employer :

Type :

Occupation :

Address :

Injuries

Type of Injury :

Arrest Detail

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INCIDENT REPORT

SAINT PAUL POLICE DEPARTMENT

Associations

Participants

Role(s)	Association	Last Name	First Name	Middle Name	Name Suffix	DOB
Other	BusinessOwner	AL ZEHAWI	MUSTAFA	OTHMAN	MIR	10/10/1990

Person 2

Mustafa Othman Mir Al Zehawi **DOB: 10/10/1990**
2008 Willow Circle, Centerville, MN 55038

Info

Participant Type : **Other**
 Age : **33**
 Gender : **Male**
 Race : **Other**
 Hispanic :
 Business Name :

Phones

Cell Phone :
 Home Phone :
 Work Phone :
 Email Address :
 Social Media :

Physical Description

Height : **511**
 Weight : **201**
 Eye Color :
 Hair Color :
 Build :

Attributes

School Name :
 Employer Name : **Sanaa Llc Db: Twins Market & Meat**
 Occupation : **Licensee**
 Requested Non Public :
 License / ID Number :

CASE NUMBER: 24-114625

Printed by: 23/1/25



INCIDENT REPORT

SAINT PAUL POLICE DEPARTMENT

Limited English / Language :

Employment

Injuries

Employer : **Sanaa LLC DBA: Twins Market & Meat**

Type of Injury :

Type :

Occupation : **Licensee**

Address : **1055 4 Street E, St. Paul, MN**

Arrest Detail

Associations

Businesses

Role(s)	Association	Name	Type	Description
Other	BusinessOwner	Twins Market & Meat	Gas Station/Conv. Store	

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INCIDENT REPORT

SAINT PAUL POLICE DEPARTMENT

Businesses

Business 1

Twins Market & Meat

1055 4 Street E, St. Paul, MN

Role Type	: Other	Cell Phone	:
Name	: Twins Market & Meat	Contact Phone	: 651-330-2548
Type	: Gas Station/Conv. Store	Home Phone	:
Description	:	Work Phone	: 651-330-2548
		Email Address	:
		Fax	:

Associations

Participants

Role(s)	Association	Last Name	First Name	Middle Name	Name Suffix	DOB
Other	BusinessOwner	AL ZEHAWI	MUSTAFA	OTHMAN	MIR	10/10/1990

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INCIDENT REPORT

SAINT PAUL POLICE DEPARTMENT

CAD Information

CAD Info 1

Info

Location	: 375 Jackson Street, St Paul	Sector	: 2	Time Received	: 12:07
Locale	: St Paul Safety and Inspection	Grid	: 153	Time Sent	: 12:07
Call Date	:	Disposition	: Records received	Time Arrived	: 12:07
Occur Date	: 06/25/2024	Priority	: 2A	Time Cleared	: 12:08
Caller Information	:	Source	: Phone	Reopen Time	:
Address	:	Fire/Amb	:	Citation #	:
Phone	:	EDP	:		
		Alarm	:		
		ECC Console	: 10		

Employees

Officer	Squad	Type	Beat	Received	Sent	Arrived	Cleared
GRAUPMAN, CHARLES	854	1	CN2	12:07	12:07	12:07	12:08

CAD Comments

Master Incident Number: 20240625-0353474 CAD Address: 375 Jackson St, Lat/Lon: 44948431 / 93090113 06/25/2024 12:07:56AMB [1] Automatic Case Number(s) issued for Incident # [20240625-0353474], Jurisdiction: SPPD. Case Number(s): SP240625114625. requested by 854. 06/25/2024 12:07:56AMB [2] DSI INV NO BWC INV

CASE NUMBER: 24-114625

Printed by: 231125

Sec. 310.03. - Hearing procedures.

- (a) *Adverse action; notice and hearing requirements.* In any case where the council may or intends to consider any adverse action, including the revocation or suspension of a license, the imposition of conditions upon a license, or the denial of an application for the grant, issuance or renewal of a license, or the disapproval of a license issued by the State of Minnesota, the applicant or licensee must be given notice and an opportunity to be heard as provided herein. The council may consider such adverse actions when recommended by the director, by the director of any executive department established pursuant to Chapter 9 of the Charter, by the city attorney or on its own initiative.
- (b) *Notice.* In each such case where adverse action is or will be considered by the council, the applicant or licensee must be notified in writing that adverse action may be taken against the license or application, and that they are entitled to a hearing before action is taken by the council. The notice must be served or mailed a reasonable time before the hearing date, and must state the place, date and time of the hearing. The notice must state the issues involved or grounds upon which the adverse action may be sought or based. The council may request that such written notice be prepared and served or mailed by the director or by the city attorney.
- (c) *Hearing.* Where there is no dispute as to the facts underlying the violation or as to the facts establishing mitigating or aggravating circumstances, the hearing must be held before the council. Otherwise the hearing must be conducted before a hearing examiner appointed by the council or retained by contract with the city for that purpose. The applicant or the licensee must be provided an opportunity to present evidence and argument as well as meet adverse testimony or evidence by reasonable cross-examination and rebuttal evidence. The hearing examiner may in its discretion permit other interested persons the opportunity to present testimony or evidence or otherwise participate in such hearing.
- (c-1) *Procedure; hearing examiner.* The hearing examiner will hear all evidence as may be presented on behalf of the city and the applicant or licensee, and must present to the council written findings of fact and conclusions of law, together with a recommendation for adverse action.

The council will consider the evidence contained in the record, the hearing examiner's recommended findings of fact and conclusions, and may not consider any factual testimony not previously submitted to and considered by the hearing examiner. After receipt of the hearing examiner's findings, conclusions, and recommendations, the council must provide the applicant or licensee an opportunity to present oral or written arguments alleging error on the part of the examiner in the application of the law or interpretation of the facts, and to present argument related to the recommended adverse action. Upon conclusion of that hearing, and after considering the record, the examiner's findings and recommendations,

together with such additional arguments presented at the hearing, the council must determine what, if any, adverse action should be taken, which action must be by resolution. The council may accept, reject or modify the findings, conclusions and recommendations of the hearing examiner.

- (c-2) *Ex-parte contacts.* If a license matter has been scheduled for an adverse hearing, council members shall not discuss the license matter with each other or with any of the parties or interested persons involved in the matter unless such discussion occurs on the record during the hearings of the matter or during the council's final deliberations of the matter. No interested person shall, with knowledge that a license matter has been scheduled for adverse hearing, convey or attempt to convey, orally or in writing, any information, argument or opinion about the matter, or any issue in the matter, to a council member or his or her staff until the council has taken final action on the matter; provided, however, that nothing herein will prevent an inquiry or communications regarding status, scheduling or procedures concerning a license matter. An interested person, for the purpose of this paragraph, means and includes a person who is an officer or employee of the licensee which is the subject of the scheduled adverse hearing, or a person who has a financial interest in such licensee.
- (d) *Licensee or applicant may be represented.* The licensee or applicant may represent himself or choose to be represented by another.
- (e) *Record; evidence.* The hearing examiner shall receive and keep a record of such proceedings, including testimony and exhibits, and shall receive and give weight to evidence, including hearsay evidence, which possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs.
- (f) *Council action, resolution to contain findings.* Where the council takes adverse action with respect to a license, licensee or applicant for a license, the resolution by which such action is taken must contain its findings and determination, including the imposition of conditions, if any. The council may adopt all or part of the findings, conclusions and recommendations of the hearing examiner, and incorporate the same in its resolution taking the adverse action.
- (g) *Additional procedures where required.* Where the provisions of any statute or ordinance require additional notice or hearing procedures, such provisions must be complied with and supersede inconsistent provisions of these chapters. This includes, without limitation by reason of this specific reference, Minn. Stats., Chapter 364 and Minn. Stats., § 340A.415.
- (h) *Discretion to hear notwithstanding withdrawal or surrender of application or license.* The council may, at its discretion, conduct a hearing or direct that a hearing be held regarding revocation or denial of a license, notwithstanding that the applicant or licensee has attempted or purported to

withdraw or surrender said license or application, if the attempted withdrawal or surrender took place after the applicant or licensee had been notified of the hearing and potential adverse action.

- (i) *Continuances.* Where a hearing for the purpose of considering revocation or suspension of a license or other disciplinary action involving a license has been scheduled before the council, a continuation of the hearing may be granted by the council president or by the council at the request of the licensee, license applicant, an interested person or an attorney representing the foregoing, upon a showing of good cause by the party making the request.
- (j) If the council imposes an adverse action as defined in section 310.01 above, a generic notice of such action must be prepared by the director and posted by the licensee so as to be visible to the public during the effective period of the adverse action. The licensee shall be responsible for taking reasonable steps to make sure the notice remains posted on the front door of the licensed premises, and failure to take such reasonable precautions may be grounds for further adverse action.
- (k) *Imposition of costs.* The council may impose upon any licensee or license applicant some or all of the costs of a contested hearing before an independent hearing examiner. The costs of a contested hearing include, but are not limited to, the cost of the administrative law judge or independent hearing examiner, stenographic and recording costs, copying costs, city staff and attorney time for which adequate records have been kept, rental of rooms and equipment necessary for the hearing, and the cost of expert witnesses. The council may impose all or part of such costs in any given case if (i) the position, claim or defense of the licensee or applicant was frivolous, arbitrary or capricious, made in bad faith, or made for the purpose of delay or harassment; (ii) the nature of the violation was serious, or involved violence or the threat of violence by the licensee or employees thereof, or involved the sale of drugs by the licensee or employees thereof, and/or the circumstances under which the violation occurred were aggravated and serious; (iii) the violation created a serious danger to the public health, safety or welfare; (iv) the violation involved unreasonable risk of harm to vulnerable persons, or to persons for whose safety the licensee or applicant is or was responsible; (v) the applicant or licensee was sufficiently in control of the situation and therefore could have reasonably avoided the violation, such as, but not limited to, the nonpayment of a required fee or the failure to renew required insurance policies; (vi) the violation is covered by the intoxicating liquor; nonintoxicating malt liquor; presumptive penalty matrix in subsection (m) below; or (vii) the violation involved the sale of cigarettes to a minor.
- (l) *Imposition of fines.* The council may impose a fine upon any licensee or license applicant as an adverse license action. A fine may be in such amount as the council deems reasonable and appropriate, having in mind the regulatory and enforcement purposes embodied in the particular licensing ordinance. A fine may be in addition to or in lieu of other adverse action in the sole

discretion of the council. To the extent any other provision of the Legislative Code provides for the imposition of a fine, both provisions must be read together to the extent possible; provided, however, that in the case of any conflict or inconsistency, the other provision must be controlling.

(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 violations 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.
2. **Intoxicating liquor; malt liquor; presumptive penalty matrix.**

Presumptive penalties for intoxicating liquor and nonintoxicating malt liquor violations. If a violation is not covered under this penalty matrix, the general presumptive penalty matrix should be used. 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. When deviating from these standards, the council must provide written reasons that specify why the penalty selected was more appropriate (unless specified, numbers below indicate consecutive days' suspension):

- (a) For on-sale intoxicating liquor establishments with a seating capacity of one hundred fifty (150) or more, the monetary penalty for any violation (including violations found in chapter 310) must be doubled.
- (b) For off-sale intoxicating liquor establishments with five thousand one (5,001) or more square feet of retail space, the monetary penalty for any violation (including violations found in chapter 310) must be doubled.
- (c) *Other penalties.* Nothing in this section restricts or limits the authority of the council to suspend licenses for up to sixty (60) days, revoke the license, or impose a civil fine not to exceed two thousand dollars (\$2,000.00), to impose conditions or take any other adverse action in accordance with law, provided, that the license holder has been afforded an opportunity for a hearing in the manner provided for in section 310.02 of this Code.

- (d) *Effect of responsible business practices in determining penalty.* In determining the appropriate penalty, the council may, in its discretion, consider evidence submitted to it in the case of uncontested adverse actions or submitted to a hearing examiner in a contested hearing upon which findings of fact have been made that a licensee has followed or is likely to follow in the future responsible business practices in regard to sales to intoxicated persons and sales to minors.
- (1) For the purposes of service to intoxicated persons, evidence of responsible business practices may include, but is not limited to, those policies, procedures and actions that are implemented at time of service and that:
- a) Encourage persons not to become intoxicated if they consume alcoholic beverages on the defendant's premises;
 - b) Promote availability of nonalcoholic beverages and food;
 - c) Promote safe transportation alternatives other than driving while intoxicated;
 - d) Prohibit employees and agents of defendant from consuming alcoholic beverages while acting in their capacity as employees or agents;
 - e) Establish promotions and marketing efforts that publicize responsible business practices to the defendant's customers and community;
 - f) Implement comprehensive training procedures;
 - g) Maintain an adequate, trained number of employees and agents for the type and size of defendant's business;
 - h) Establish a standardized method for hiring qualified employees;
 - i) Reprimand employees who violate employer policies and procedures; and
 - j) Show that the licensee has enrolled in recognized courses providing training to self and one (1) or more employees of the licensed establishment in regard to standards for responsible liquor service.
- 2) For the purposes of service to minors, evidence of responsible business practices may include, but is not limited to, those listed in subsection (1) and the following:
- a) Management policies that are implemented at the time of service and that ensure that proof of identification (as established by state law) is examined for all persons seeking service of alcoholic beverages who may reasonably be suspected to be minors;
 - b) Comprehensive training of employees who are responsible for such examination regarding the detection of false or altered identification; and
 - c)

Enrollment by the licensee in recognized courses providing training to self and one (1) or more employees of the licensed establishment in regard to standards for responsible liquor service.

3. Tobacco presumptive penalties matrix.

Tobacco presumptive penalties. 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. When deviating from these standards, the council must provide written reasons that specify why the penalty selected was more appropriate (unless specified, numbers below indicate consecutive days' suspension):

- (a) *Purpose.* The purpose of this section is to establish a standard by which the city council determines the amount of fines, length of license suspensions and the propriety of revocations for licensees. 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 which make it appropriate to do so, except, the council may not deviate below statewide minimum penalties for licensees. When deviating from these standards, the council shall provide written reasons that specify why the penalty selected was more appropriate. Where no penalty is listed below, the presumptive penalty under the general presumptive penalty matrix will apply.
- (b) *Presumptive penalties for licensees for violations.* Adverse penalties for licensees for violations or convictions shall be presumed as follows:
- (c) *Computation of time for violations under the tobacco presumptive penalties matrix.* If a violation is not covered under this penalty matrix, the general presumptive penalty matrix should be used. Except as otherwise provided by Minn. Stats. § 461.12, subd. 2, subsequent tobacco violations are subject to the following:
 - (1) *Second, third and fourth appearances for violations under the tobacco presumptive penalties matrix.* . A second violation within twenty four (24) months must be treated as a second appearance, a third within twenty four (24) months treated as a third appearance, and a fourth within twenty four (24) months treated as a fourth appearance for the purpose of determining the presumptive penalty.
 - (2) *Any appearance not covered by subsections (1) above must be treated as a first appearance for violations under the tobacco presumptive penalties matrix.* Measurement of the twenty four (24) month period must be as follows: The beginning date shall be the earliest violation's date of appearance before the council, and the ending date shall be the date of the new violation. In case of multiple new violations, the ending date to be used shall be the date of the violation last in time.

- (i) *Fines payable without hearing.*
 - A. Notwithstanding the provisions of section 310.03(c), a licensee who would be making a first or second appearance on a violation that calls for a monetary fine before the council may elect to pay the fine to the department of safety and inspections without a council hearing, unless the notice of violation has indicated that a hearing is required because of circumstances which may warrant deviation from the presumptive fine amount. Payment of the recommended fine will be considered to be a waiver of the hearing to which the licensee is entitled and will be considered an "appearance" for the purpose of determining presumptive penalties for subsequent violations.
- (ii) *Multiple violations.* At a licensee's first appearance before the city council, the council shall consider and act upon all the violations that have been alleged and/or incorporated in the notices sent to the licensee under the administrative procedures act up to and including the formal notice of hearing. The council in that case shall consider the presumptive penalty for each such violation under the "1st Appearance" column in the Penalty Matrixes above. The occurrence of multiple violations is grounds for departure from such penalties in the council's discretion.
- (iii) *Violations occurring after the date of the notice of hearing.* Violations occurring after the date of the notice of hearing that are brought to the attention of the city attorney prior to the hearing date before an administrative law judge (or before the council in an uncontested facts hearing) may be added to the notice(s) up to twenty (20) days before the hearing, and may in that case be treated as though part of the "1st Appearance" unless grounds for upward deviation from the presumptive penalties outlined in the presumptive penalty matrix outlined in 310.03(m) are included in the amended notice of the violation. In all other cases, violations occurring after the date of the formal notice of hearing must be the subject of a separate proceeding and dealt with as a "2nd Appearance" before the council. The same procedures must apply to a second, third or fourth appearance before the council.
- (iv) *Subsequent appearances.* Upon a second, third or fourth appearance before the council by a particular licensee, the council shall impose the presumptive penalty for the violation or violations giving rise to the subsequent appearance without regard to the particular violation or violations that were the subject of the first or prior appearance.
- (v) *Computation of time.*

- (1) *Second appearance.* A second violation within twelve (12) months must be treated as a second appearance for the purpose of determining the presumptive penalty.
- (2) *Third appearance.* A third violation within eighteen (18) months must be treated as a third appearance for the purpose of determining the presumptive penalty.
- (3) *Fourth appearance.* A fourth violation within twenty-four (24) months must be treated as a fourth appearance for the purpose of determining the presumptive penalty.
- (4) Any appearance not covered by subsections (1), (2) or (3) above must be treated as a first appearance. Measurement of the twelve-, eighteen-, or twenty-four-month period is as follows: The beginning date shall be the earliest violation's date of appearance before the council or payment of the fine related to the violation, and the ending date shall be the date of the new violation. In case of multiple new violations, the ending date to be used shall be the date of the violation last in time.
- (5) Notwithstanding subsections (iv)(1), (2), (3) or (4) above, a second appearance before the council regarding a death or great bodily harm in a licensed establishment that is related to a violation of the law or license conditions must be counted as a second appearance, regardless of how much time has passed since the first appearance if the first appearance was also regarding a death or great bodily harm in a licensed establishment. A third appearance for the same must be counted as a third appearance regardless of how much time has passed since the first or second appearance.
- (6) Violations of the general presumptive penalty matrix, the intoxicating liquor, malt liquor presumptive penalty matrix and the tobacco presumptive penalty matrix are meant to be cumulative. For the purpose of a second, third or fourth appearance under this section, "violation" shall must mean either one of those violations listed in paragraph (m)1, 2, or 3.

(Ord 22-46, § 3, 11-9-22)

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 Minn. Stat.s 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 Minn Stats. §§ 609.342 through 609.3451; sexual abuse, physical abuse or maltreatment of a child as defined in Minn. Stats. § 626.556, subdivisions 2 and 10e, including, but not limited to, acts which constitute a violation of Minn. Stats. §§ 609.02, subdivision 10; 609.321 through 609.3451; or 617.246; neglect or endangerment of a child as defined in Minn. Stats. § 626.557, subdivision 2; the manufacture, distribution, sale, gift, delivery, transportation, exchange or barter of a controlled substance as defined in Minn. Stats. chapter 152; the possession of a controlled substance as defined in Minn. Stats. 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 Minn. Stats. § 609.02, subd. 8, in or near the establishment.
- (14) The licensee has failed to pay license fees within sixty (60) days of the date the fees are due. Licensee must pay any outstanding fees and delinquent fees in total. Failure to do so within sixty (60) days of the due date may result in revocation of the license. A revocation for this reason, however, is not considered a revocation resulting from misconduct or unfitness of the

licensee, evidence of violations of law involving licensed premises, evidence that the applicant had been involved in the operation of a nuisance, or fraud or deception in the license application. Therefore, the requirement of section 310.02 prohibiting re-application within one (1) year of revocation shall not apply to revocations under this paragraph.

The terms "licensee" or "applicant" for the purpose of this section means and includes any person who has any interest, whether as a holder of more than five (5) percent of the stock of a corporation, as a partner, or otherwise, in the premises or in the business or activity which are licensed or proposed to be licensed.

With respect to any license for activities entitled to the protection of the First Amendment, notwithstanding the foregoing provisions, neither the lack of good moral character or fitness of the licensee or applicant nor the content of the protected speech or matter must be the basis for adverse action against the license or application.

(c) *Imposition of reasonable conditions and/or restrictions.* When a reasonable basis is found to impose reasonable conditions and/or restrictions upon a license issued or held under these chapters, any one (1) or more such reasonable conditions and/or restrictions may be imposed upon such license for the purpose of promoting public health, safety and welfare, of advancing the public peace and the elimination of conditions or actions that constitute a nuisance or a detriment to the peaceful enjoyment of urban life, or promoting security and safety in nearby neighborhoods. Such reasonable conditions and/or restrictions may include or pertain to, but are not limited to:

- (1) A limitation on the hours of operation of the licensed business or establishment, or on particular types of activities conducted in or on said business or establishment;
- (2) A limitation or restriction as to the location within the licensed business or establishment where particular type of activities may be conducted;
- (3) A limitation as to the means of ingress or egress from the licensed establishment or its parking lot or immediately adjacent area;
- (4) A requirement to provide off-street parking in excess of other requirements of law;
- (5) A limitation on the manner and means of advertising the operation or merchandise of the licensed establishment;
- (6) Any other reasonable condition or restriction limiting the operation of the licensed business or establishment to ensure that the business or establishment will harmonize with the character of the area in which it is located, or to prevent the development or continuation of a nuisance.

The director may recommend the imposition of such reasonable conditions and/or restrictions as an adverse action against the license or licenses. The council may impose such conditions with the consent of the license holder, as an adverse action against the license or licenses following notice and hearing as may be required. Such conditions may be imposed on a license or licenses upon issuance or renewal thereof, or upon and as part of any adverse action against a license or licenses, including suspension. Conditions imposed on a license or licenses will remain on such licenses when renewed and must continue thereafter until removed by the council.

- (d) Restrictions on intoxicating liquor, nonintoxicating and malt liquor licenses. When a reasonable basis is found by the council to impose restrictions or conditions upon an intoxicating liquor license held under this chapter, the council, upon issuing a new license or renewing a license or approving a transfer of a license, may impose reasonable conditions and restrictions pertaining to the manner and circumstances in which the business to preserve the public peace and protect and promote good order and security. These reasonable conditions or restrictions may pertain to:
- (1) The hours when intoxicating liquor may be sold and/or consumed on the licensed premises;
 - (2) The exact location within a building where intoxicating liquor will be served and/or sold and/or consumed;
 - (3) The means of ingress to or egress from the licensed establishment;
 - (4) A requirement that certain off-street parking facilities be provided;
 - (5) A condition that the license will be in effect only so long as the establishment remains a drugstore, restaurant or hotel as defined by the state liquor act or regulations adopted pursuant thereto;
 - (6) The means and methods of advertising the sale of intoxicating liquor on the building and/or on the premises adjacent thereto;
 - (7) Reasonable conditions limiting the operation of the licensed premises so as to ensure that the licensed business will comport with the character of the district in which it is located and/or to the end that nuisances will be prevented; and
 - (8) Additional conditions upon hotels and restaurants which may in the discretion of the council tend to ensure that the sale of liquor will take place only in conjunction with the sale and service of food.
- (e) *Standards for multiple license determination.* In any case in which the council is authorized to take adverse action against less than all of the licenses held by a licensee, or applied for by an applicant, the following standards may be used:
- (1) The nature and gravity of the grounds found by the council to exist upon which the adverse action would be based;
 - (2)

The policy and/or regulatory goals for the particular licenses involved, either as embodied in the Legislative Code or as found and determined by the council;

- (3) The interrelationship of the licenses and their relative importance to the overall business enterprise of the licensee or applicant;
- (4) The management practices of the licensee or applicant with respect to each of such licenses;
- (5) The extent to which adverse action against less than all of the licenses or applications would result in difficulty in enforcing and monitoring the adverse action taken;
- (6) The hardship to the licensee or applicant that would be caused by applying adverse action to all licenses or applications; and
- (7) The hardship and/or danger to the public, or to the public health and welfare, that would result from adverse action against less than all of the licenses or applications.

(Ord 22-46, § 5, 11-9-22)

Sec. 310.14. - Licensee's responsibility.

Any act or conduct by any clerk, employee, manager or agent of a licensee, or by any person providing entertainment or working for or on behalf of a licensee, whether compensated or not, which act or conduct takes place either on the licensed premises or in any parking lot or other area adjacent to (or under the lease or control of) the licensed premises, and which act or conduct violates any state or federal statutes or regulations, or any city ordinance, must be considered to be and treated as the act or conduct of the licensee for the purpose of adverse action against all or any of the licenses held by such licensee. To the extent this section is in conflict with sections 409.14 and 410.09 of the Legislative Code, this section must be controlling and prevail; but must not otherwise amend, alter or affect such sections.

(Ord 22-46, § 16, 11-9-22)

Sec. 324.07. - Sales prohibited.

- (a) No person may sell a cigarette outside its original packaging containing health warnings satisfying the requirements of federal law. No cigarettes may be sold individually or in packages of fewer than twenty (20) cigarettes.
- (b) No person may sell or dispense licensed products from a motor vehicle or other movable place of business.
- (c) No person may sell licensed products from vending machines unless the vending machines are in a facility that cannot be entered at any time by persons younger than twenty-one (21) years of age.
- (d) No person may offer for sale licensed products in any open displays which are accessible to the public without the intervention of a store employee. This restriction does not apply to establishments holding a tobacco products shop license.
- (e) No person may sell, offer for sale, or otherwise distribute cigars in original packages containing three (3) or fewer cigars for a sale price, after any coupons, multipack or buy-one/get-one promotions, or any other discounts are applied and prior to applicable sales taxes being imposed, of less than two dollars and sixty cents (\$2.60) per cigar contained within. In addition, no person may sell, offer for sale, or otherwise distribute cigars in original packages of four (4) or more cigars for a sale price, after any coupons, multipack or buy-one/get-one promotions, or any other discounts are applied and prior to applicable sales taxes being imposed, of less than ten dollars and forty cents (\$10.40) per package.
- (f) No person may sell or offer for retail sale cigarette packages or cartons for a sales price, prior to applicable sales taxes being imposed, of less than ten dollars (\$10.00) per pack.
- (g) No person may sell or offer for retail sale moist snuff retail packages or multipacks for a sales price, prior to applicable sales taxes being imposed, of less than ten dollars (\$10.00) per 1.2 ounce package. No person may sell or offer for retail sale any smokeless tobacco/moist snuff unless it is sold in a package of at least 1.2 ounces minimum package size. The price floor for packages larger than 1.2 ounces shall be computed by adding two dollars and fifty cents (\$2.50) for each 0.3 ounces or any fraction thereof in excess of 1.2 ounces, excluding all applicable taxes.
- (h) No person may sell or offer for sale or otherwise distribute snus for a sales price, prior to applicable sales taxes being imposed, of less than ten dollars (\$10.00) per 0.32 ounce package. No person may sell or offer for retail sale any snus unless it is sold in a package of at least 0.32 ounces minimum pack size. The price floor for packages larger than 0.32 ounces shall be computed by adding two dollars and fifty cents (\$2.50) for each 0.08 ounces or any fraction thereof in excess of 0.32 ounces, excluding all applicable taxes.
- (i)

No holder of a license issued under this chapter, nor any employee or agent of same may sell tobacco products to a person under the age of twenty-one (21) years. Sale to persons under the age of twenty-one (21) years prohibited.

- (1) It is an affirmative defense to a charge under this subdivision if the defendant proves by a preponderance of the evidence that the defendant reasonably and in good faith relied on proof of age as described in Minn. Stats. § 340A.503, subd. 6.
- (j) No person may sell, offer for sale, or otherwise distribute any flavored products, unless excepted under section 324.07(l) of this chapter.
- (k) *Coupons and price promotions.* No holder of a license issued under this chapter, nor any employee or agent of same, may:
 - (1) Accept or redeem, offer to accept or redeem, or cause or hire any person to accept or redeem or offer to accept or redeem any price reduction instrument or other offer that provides any licensed product without charge or for less than the listed or non-discounted price; or
 - (2) Sell or offer to sell licensed products, to consumers through any multi-pack discounts (e.g., "buy-two-get-one-free") or otherwise provide or distribute to consumers any licensed products, without charge or for less than the listed or non-discounted price in exchange for the purchase of any other licensed products.

Nothing in this chapter is intended to prohibit communication of pricing information or other truthful, non-misleading information to consumers.

(l) *Exceptions.*

- (1) Notwithstanding section (i), individuals exempted under Minn. Stats. § 609.685 are also exempt from this section.
 - (2) The penalties in this section do not apply to a person under the age of twenty-one (21) years who purchases or attempts to purchase licensed products while under the direct supervision of a responsible adult for training, education, research, or enforcement purposes.
 - (3) Retail stores holding a tobacco products shop license are permitted to sell and offer for sale flavored tobacco products.
- (m) Any violation of this chapter will subject the licensee to provisions of chapter 310 and section 324.10 of the Saint Paul Legislative Code.

(Code 1956, § 336.07; Ord. No. 17714, § 1, 2-20-90; C.F. No. 94-341, § 7, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; C.F. No. 06-872, § 1, 10-11-06; C.F. No. 10-1014, § 2, 10-13-10; Ord 13-8, § 2, 4-24-13; Ord 14-34, § 2, 8-27-14; Ord 15-57, § 1, 1-6-16; Ord 17-28, § 2, 11-1-17; Ord 19-57, § 2, 10-16-19; Ord 21-29, § 7, 11-3-21)

Sec. 324.10. - Presumptive penalties.

(a) *Purpose.* The purpose of this section is to establish a standard by which the city council determines the amount of fines, length of license suspensions and the propriety of revocations for licensees. 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 which make it appropriate to do so, except, the council may not deviate below statewide minimum penalties for licensees. When deviating from these standards, the council shall provide written reasons that specify why the penalty selected was more appropriate. Where no penalty is listed below, the presumptive penalty under Saint Paul Legislative Code Section 310.

(b) *Presumptive penalties for licensees for violations.* Adverse penalties for licensees for violations or convictions shall be presumed as follows:

Type of Violation	Appearance			
	1st	2nd	3rd	4th
(1) Sale to a person under twenty-one (21) years of age	\$500.00 fine	\$1,000.00 fine	\$2,000.00 fine and 7-day suspension	Revocation
(2) Display, possession or multiple incidents of sales of; <ul style="list-style-type: none"> • single cigarettes; • menthol tobacco products; or • flavored tobacco products 	10-day suspension	Revocation		

(c) *Fines payable without hearing.* Notwithstanding the provisions of section 310.05(l), a licensee who would be making a first or second appearance before the council may elect to pay the fine to the department of safety and inspections without a council hearing, unless the notice of violation has

indicated that a hearing is required because of circumstances which may warrant deviation from the presumptive fine amount. Payment of the recommended fine will be considered to be a waiver of the hearing to which the licensee is entitled, and will be considered an "appearance" for the purpose of determining presumptive penalties for subsequent violations.

(d) *Computation of time.* Except as otherwise provided by Minn. Stats. § 461.12, subd. 2, subsequent violations are subject to the following:

- (1) *Second, third and fourth appearances.* A second violation within twenty four (24) months shall be treated as a second appearance, a third within twenty four (24) months treated as a third appearance, and a fourth within twenty four (24) months treated as a fourth appearance for the purpose of determining the presumptive penalty.
- (2) *Any appearance not covered by subsections (1) above shall be treated as a first appearance.* Measurement of the twenty four (24) month period shall be as follows: The beginning date shall be the earliest violation's date of appearance before the council, and the ending date shall be the date of the new violation. In case of multiple new violations, the ending date to be used shall be the date of the violation last in time.

(Ord. No. 17733, § 3, 5-8-90; C.F. No. 94-341, § 11, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; C.F. No. 02-898, § 1, 11-6-02; C.F. No. 07-149, § 82, 3-28-07; Ord. No. 11-114, § 1, 12-28-11; Ord 15-57, § 1, 1-6-16; Ord 19-57, § 5, 10-16-19; Ord 21-29, § 10, 11-3-21)

Editor's note— Ord 19-57, §§ 4, 5, repealed § 324.10 and renumbered § 324.11 as § 324.10. Former § 324.10 pertained to the use of tobacco prohibited and derived from Ord. No. 17733, § 2, adopted May 8, 1990; C.F. No. 94-341, § 10, adopted April 13, 1994; C.F. No. 97-314, § 1, adopted April 20, 1997; Ord 13-8, § 4, adopted April 24, 2013; and Ord 15-57, § 1, adopted January 6, 2016.

297F.20 CRIMINAL PENALTIES.

Subdivision 1. **Penalties for failure to file or pay.** (a) A person or consumer required to file a return, report, or other document with the commissioner who fails to do so is guilty of a misdemeanor.

(b) A person or consumer required to pay or to collect and remit a tax under this chapter, who fails to do so when required, is guilty of a misdemeanor.

Subd. 2. **Penalties for knowing failure to file or pay.** (a) A person or consumer required to file a return, report, or other document with the commissioner, who knowingly, rather than accidentally, inadvertently, or negligently, fails to file it when required, is guilty of a gross misdemeanor.

(b) A person or consumer required to pay or to collect and remit a tax under this chapter, who knowingly, rather than accidentally, inadvertently, or negligently, fails to file it when required, is guilty of a gross misdemeanor.

Subd. 3. **False or fraudulent returns; penalties.** (a) A person or consumer who files with the commissioner a return, report, or other document, or who maintains or provides invoices subject to review by the commissioner under this chapter, known by the person or consumer to be fraudulent or false concerning a material matter, is guilty of a felony.

(b) A person or consumer who knowingly aids or assists in, or advises in the preparation or presentation of a return, report, invoice, or other document that is fraudulent or false concerning a material matter, whether or not the falsity or fraud is committed with the knowledge or consent of the person or consumer authorized or required to present the return, report, invoice, or other document, is guilty of a felony.

Subd. 4. **Counterfeiting.** Any person who makes, alters, forges, or counterfeits a stamp, or who possesses an altered, forged, or counterfeit stamp is guilty of a felony.

Subd. 5. **Unstamped cigarettes; presumption.** (a) Except as provided in paragraph (b), whenever a package of cigarettes is found in the place of business or in the possession of any person without a proper stamp affixed as required by this chapter, it is presumed that those cigarettes are kept there or held by that person illegally.

(b) This presumption does not apply to:

- (1) cigarettes in the place of business or in the possession of a licensed distributor;
- (2) cigarettes in the possession of a common carrier or sleeping car company engaged in interstate commerce;
- (3) cigarettes held in a public warehouse of first destination in this state, in the unbroken, original shipping containers, subject to delivery or shipping instructions from the manufacturer or a distributor;
- (4) cigarettes in the possession of a person other than a distributor in quantities of 200 cigarettes or less, when those cigarettes have had the individual packages or seals broken, and when they are intended for personal use and not to be sold or offered for sale;
- (5) cigarettes sold under circumstances in which the tax cannot legally be imposed because of the laws or Constitution of the United States.

Subd. 6. Unstamped cigarettes; untaxed tobacco products. (a) A person, other than a licensed distributor or a consumer, who possesses, receives, or transports fewer than 5,000 unstamped cigarettes, or up to \$350 worth of untaxed tobacco products is guilty of a misdemeanor.

(b) A person, other than a licensed distributor or a consumer, who possesses, receives, or transports 5,000 or more, but fewer than 20,001 unstamped cigarettes, or more than \$350 but less than \$1,400 worth of untaxed tobacco products is guilty of a gross misdemeanor.

(c) A person, other than a licensed distributor or a consumer, who possesses, receives, or transports more than 20,000 unstamped cigarettes, or \$1,400 or more worth of untaxed tobacco products is guilty of a felony.

(d) For purposes of this subdivision, an individual in possession of more than 4,999 unstamped cigarettes, or more than \$350 worth of untaxed tobacco products, is presumed not to be a consumer.

Subd. 7. Sale of cigarette packages with Indian stamp. (a) A retailer doing business off of an Indian reservation who sells or offers to sell more than 200 but fewer than 5,000 cigarettes with Indian stamps is guilty of a misdemeanor.

(b) A retailer doing business off of an Indian reservation who sells or offers to sell 5,000 or more, but fewer than 20,001 cigarettes with Indian stamps is guilty of a gross misdemeanor.

(c) A retailer doing business off of an Indian reservation who sells or offers to sell more than 20,000 cigarettes with Indian stamps is guilty of a felony.

Subd. 8. Sales after license revocation. A person selling cigarettes or tobacco products after the person's license has been revoked is guilty of a felony.

Subd. 9. Purchases from unlicensed sellers. (a) No retailer or subjobber shall purchase cigarettes or tobacco products from any person who is not licensed under section 297F.03 as a licensed distributor or subjobber.

(b) A retailer or subjobber who purchases from an unlicensed seller fewer than 5,000 cigarettes or up to \$350 worth of tobacco products is guilty of a misdemeanor.

(c) A retailer or subjobber who purchases from an unlicensed seller 5,000 or more, but fewer than 20,001 cigarettes or more than \$350 but less than \$1,400 worth of tobacco products is guilty of a gross misdemeanor.

(d) A retailer or subjobber who purchases from an unlicensed seller more than 20,000 cigarettes or \$1,400 or more worth of tobacco products is guilty of a felony.

Subd. 10. Penalties are additional. Criminal penalties imposed by this section are in addition to any civil penalties imposed by this chapter.

Subd. 11. Statute of limitations. Notwithstanding section 628.26, or any other provision of the criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon a criminal offense named in this section, in the proper court within six years after the offense is committed.

Subd. 12. Other penalties. A violation of this chapter unless otherwise specified is a misdemeanor.

History: 1997 c 106 art 1 s 20; 1Sp2001 c 5 art 11 s 6; 2003 c 127 art 7 s 7-11

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).

Subd. 2. **Seizure.** Cigarettes, tobacco products, or other property made contraband by subdivision 1 may be seized by the commissioner or authorized agents or by any sheriff or other police officer, with or without process, and are subject to forfeiture as provided in subdivision 3.

Subd. 3. **Inventory; judicial determination; appeal; disposition of seized property.** (a) Within ten days after the seizure of any alleged contraband, the person making the seizure shall serve by certified mail an inventory of the property seized on the person from whom the seizure was made, if known, and on any person known or believed to have any right, title, interest, or lien in the property, at the last known address, and file a copy with the commissioner. The notice must include an explanation of the right to demand a judicial forfeiture determination.

(b) Within 60 days after the date of service of the inventory, which is the date of mailing, the person from whom the property was seized or any person claiming an interest in the property may file a demand for a judicial determination of the question as to whether the property was lawfully subject to seizure and forfeiture. The demand must be in the form of a civil complaint and must be filed with the court administrator in the county in which the seizure occurred, together with proof of service of a copy of the complaint on the commissioner of revenue, and the standard filing fee for civil actions unless the petitioner has the right to sue in forma pauperis under section 563.01. If the value of the seized property is \$15,000 or less, the claimant may file an action in conciliation court for recovery of the property. If the value of the seized property is less than \$500, the claimant does not have to pay the conciliation court filing fee.

(c) The complaint must be captioned in the name of the claimant as plaintiff and the seized property as defendant, and must state with specificity the grounds on which the claimant alleges the property was improperly seized and the plaintiff's interest in the property seized. No responsive pleading is required of the commissioner, and no court fees may be charged for the commissioner's appearance in the matter. The proceedings are governed by the Rules of Civil Procedure. Notwithstanding any law to the contrary, an action for the return of property seized under this section may not be maintained by or on behalf of any person who has been served with an inventory unless the person has complied with this subdivision. The court shall decide whether the alleged contraband is contraband, as defined in subdivision 1. The court shall hear the action without a jury and shall try and determine the issues of fact and law involved.

(d) When a judgment of forfeiture is entered, unless the judgment is stayed pending an appeal, the commissioner:

(1) may authorize the forfeited property to be used for the purpose of enforcing a criminal provision of state or federal law;

(2) shall cause forfeited cigarette packages or tobacco products not used under clause (1) to be destroyed and products used under clause (1) to be destroyed upon the completion of use; and

(3) may cause the forfeited property, other than forfeited cigarette packages or tobacco products, to be sold at public auction as provided by law.

The person making a sale, after deducting the expense of keeping the property, the fee for seizure, and the costs of the sale, shall pay all liens according to their priority, which are established as being bona fide and as existing without the lienor having any notice or knowledge that the property was being used or was intended to be used for or in connection with the violation. The balance of the proceeds must be paid 75 percent to the Department of Revenue for deposit as a supplement to its operating fund or similar fund for official use, and 25 percent to the county attorney or other prosecuting agency that handled the court proceeding, if there is one, for deposit as a supplement to its operating fund or similar fund for prosecutorial

purposes. If there is no prosecuting authority involved in the forfeiture, the 25 percent of the proceeds otherwise designated for the prosecuting authority must be deposited into the general fund.

(e) If no demand for judicial determination is made, the property seized is considered forfeited to the state by operation of law and may be disposed of by the commissioner as provided in the case of a judgment of forfeiture.

Subd. 4. [Repealed, 1Sp2001 c 5 art 18 s 11]

History: *1997 c 106 art 1 s 21; 2000 c 490 art 10 s 20,21; 2000 c 496 s 1; 1Sp2001 c 5 art 18 s 6-8; 2008 c 154 art 7 s 3; 2008 c 366 art 14 s 7; 2012 c 283 s 3; 2018 c 182 art 1 s 88*