



SAINT PAUL
CITY ATTORNEY

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

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

April 5, 2023

NOTICE OF COUNCIL HEARING

Nathan M. Hansen
Raymond Smith
Attorneys at Law
P.O. Box 575
Willernie, MN 55090

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

Dear Mr. Hansen:

Please take notice that this matter has been set on the Council Hearing Agenda for a City Council meeting on **Wednesday, April 19, 2023, at 5:30 p.m.**, in the City Council Chambers, Third Floor, Saint Paul City Hall and Ramsey County Courthouse, 15 West Kellogg Boulevard, St. Paul, MN 55102.

Enclosed is a copy of the letter we received by fax on February 21, 2023, indicating that your client was not contesting the facts related to the incident, but was requesting the opportunity to address the Council regarding the penalty, the resolution and any supporting documents. This information will be presented to City Council for their consideration.

This is an uncontested license matter related to a complaint-based inspection on January 13, 2023, where an inspector from the Department of Safety and Inspections (DSI) discovered prohibited flavored tobacco products displayed in plain sight within the licensed premises in violation of Saint Paul Legislative Code §324.07 (j).

The licensing office will recommend imposition of a 10-day suspension of their Cigarette/Tobacco license.

CITY OF SAINT PAUL
MELVIN CARTER, MAYOR

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based on race, color, national origin, religion, sex/gender, disability, sexual orientation, gender identity, age, or veteran status
in the delivery of services or employment practices.*



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Sincerely,

/s/

Therese Skarda
Assistant City Attorney
License No. 0240989

Enclosure: April 19, 2023, Public Hearing Packet

cc: Sarah Properties LLC, 4329 Central Avenue NE, Columbia Heights, MN 55421-2925
Jack Byers, Executive Director, Payne-Phalen Community Council, 567 Payne Avenue,
Saint Paul, MN 55130

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STATE OF MINNESOTA)
) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

Julie Kraus, being first duly sworn, deposes and says that on the 5th day of April she served the attached **NOTICE OF COUNCIL HEARING** and a correct copy thereof in an envelope addressed as follows:

Nathan M. Hansen
Raymond Smith
Attorneys at Law
P.O. Box 575
Willernie, MN 55090

Sarah Properties LLC
4329 Central Avenue NE
Columbia Heights, MN 55421-2925

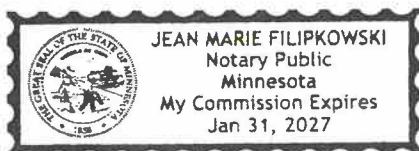
Jack Byers, Executive Director
Payne-Phalen Community Council
567 Payne Avenue
Saint Paul, MN 55130

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


Julie Kraus

Subscribed and sworn to before me
This 5th day of April 2023


Notary Public



UNCONTESTED LICENSE MATTER

Licensee Name: KMH Retail LLC
d/b/a Mini Pac

Address: 1184 Maryland Avenue East
Saint Paul, MN 55106

Council Date: Wednesday, April 19, 2023, at 5:30 p.m.

Violation: On January 13, 2023, during a complaint-based inspection of the licensed premises, an inspector discovered prohibited flavored tobacco products within the licensed premises in violation of Saint Paul Legislative Code §324.07 (j).

Recommendation of Assistant City Attorney on behalf of client, Department of Safety and Inspections:

10-day Suspension of Cigarette/Tobacco license

Attachments:

- 1. Inspector's Report with photographs dated 1/13/2023 (12 pages)**
- 2. Notice of Violation and Request for Imposition of a 10-day License Suspension of Your License dated 2/8/2023 (4 pages)**
- 3. Letter from licensee's attorney requesting a public hearing received by fax dated 2/21/2023 (1 pages)**
- 4. ECLIPS screens for License ID #20210000750 dated 1/13/2023 (4 pages)**
- 5. STAMP – Ownership/Zoning Information**
- 6. Saint Paul Legislative Code § 324.07 (j)**
- 7. Saint Paul Legislative Code § 324.10 (b)(2)**



SAINT PAUL
SAFETY & INSPECTIONS

DEPARTMENT OF SAFETY & INSPECTIONS (DSI)
ANGIE WIESE, DIRECTOR

375 Jackson Street, Suite 220
Saint Paul, MN 55101-1806
Tel: 651-266-8989 | Fax: 651-266-9124

Inspector's Report

Inspectors Name: Allan Vang
Date & Time: 1/13/2023 at 11:58 AM Staff Member's Name: _____
Business/DBA Name: Mini Pac
Property Address: 1184 Maryland Avenue
Reason for Visit: Complaint Inspection
Observations: Multiple flavor vape & liquid vape THC products, flavor cigars, and flavor cigarette

Photos Taken: ☒ Yes ☐ No – Area(s) of where the Photo(s) where taken: _____
Display cases

Action Taken: ☐ Education / warning
☒ Request for Adverse Action

Other: _____

Details of Conversations (Statements to and by Person Responsible for Property):

Upon arrival, I spoke with the clerk Mohamed, I introduced myself as a licensing Inspector for the City of Saint Paul with Department of Safety and Inspections. I explained I was there for an inspection from a complaint that was received by DSI for flavor tobacco product being sold. I asked him to contact the license holder, Mohamed's response was that he was not available. With permission from Mohamed to go behind the counter to conduct an inspection, in plain sight behind the counter flavor cigars were on display (see Photos). Backwoods - Russian Cream, Dutch Masters - Sweet Fusion Berry Fusion & Java Fusion, Black & Mild - Wine & Cream, Al Capone Leaf Wrap - Cognac.

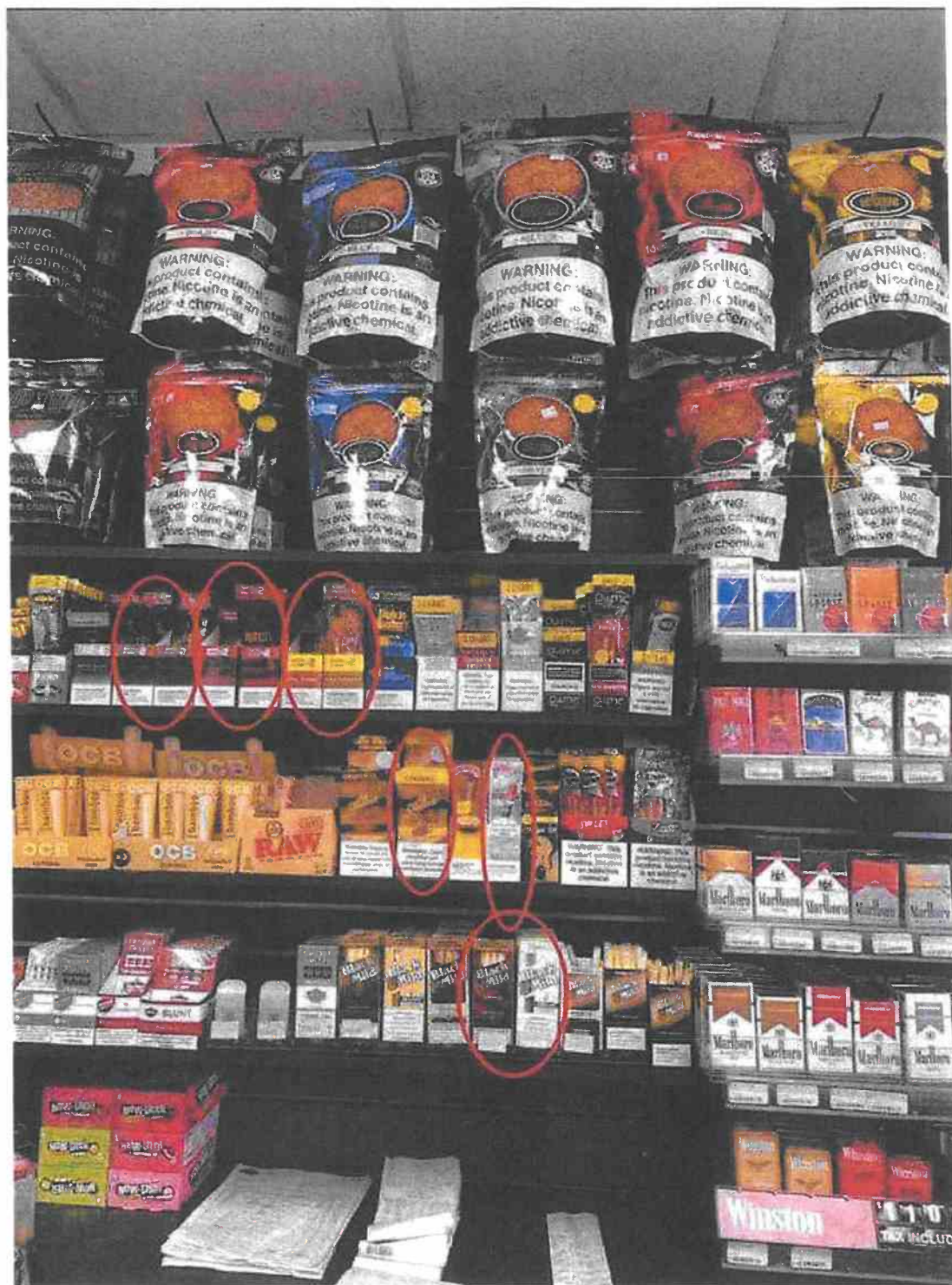
Located on the left side of the cash register there are three tall display cases that contain flavored smokable THC products. One (1) box of Dark matter Hybrid vape, one (1) box of Electric Lemonade vape, one (1) box of Northern Light vape, one (1) box of Sorbet vape, one (1) box of Blue Razz vape, one (1) box of Watermelon OG vape, one (1) box of Green Crack vape, one (1) box of Fruit Punch vape, one (1) box of Alien Apple Vape, one (1) box of Mango vape, one (1) box of Moon Dust vape, one (1) box of Pomegranate Planet vape, one (1) box of tropical landing vape, one (1) box of Casmo Crush vape, six (6) bottle of Uniflora Holistics Flavor vape liquid, four (4) box of Pineapple Express Sativa - Beez Waz THC+HHC vape, one (1) box of Live Resin Blend Hybrid Mai Tai vape, one (1) box of White Cherry Slushie vape, one (1) box of Pineapple Coconut Bash vape, one (1) box of Dragon Fruit + Georgia Pie vape, one (1) box of Blueberry Pancakes + Cream vape, one (1) box of Honey Bun + Rolex OG vape, one (1) box of Strawberry Gelato vape, one (1) box of Cereal Runtz vape, one (1) Orange Zkittles vape, one (1) box of Dream Queen vape, one (1) box of Pineapple Express vape, one (1) box of Sour Diesel vape, one (1) box of Strawberry & Cream vape, one (1) box of Great White Shark THC+DELTA 11+THC-JD vape, one (1) box of Purple Tangie vape, one (1) box of White Gushers vape, and one (1) box of Mango Mimosa vape. I advised the clerk to remove all flavor violations from shelving and the display cases and place the products in the back office for the distributor to pick up.

CITY OF SAINT PAUL
MELVIN CARTER, MAYOR

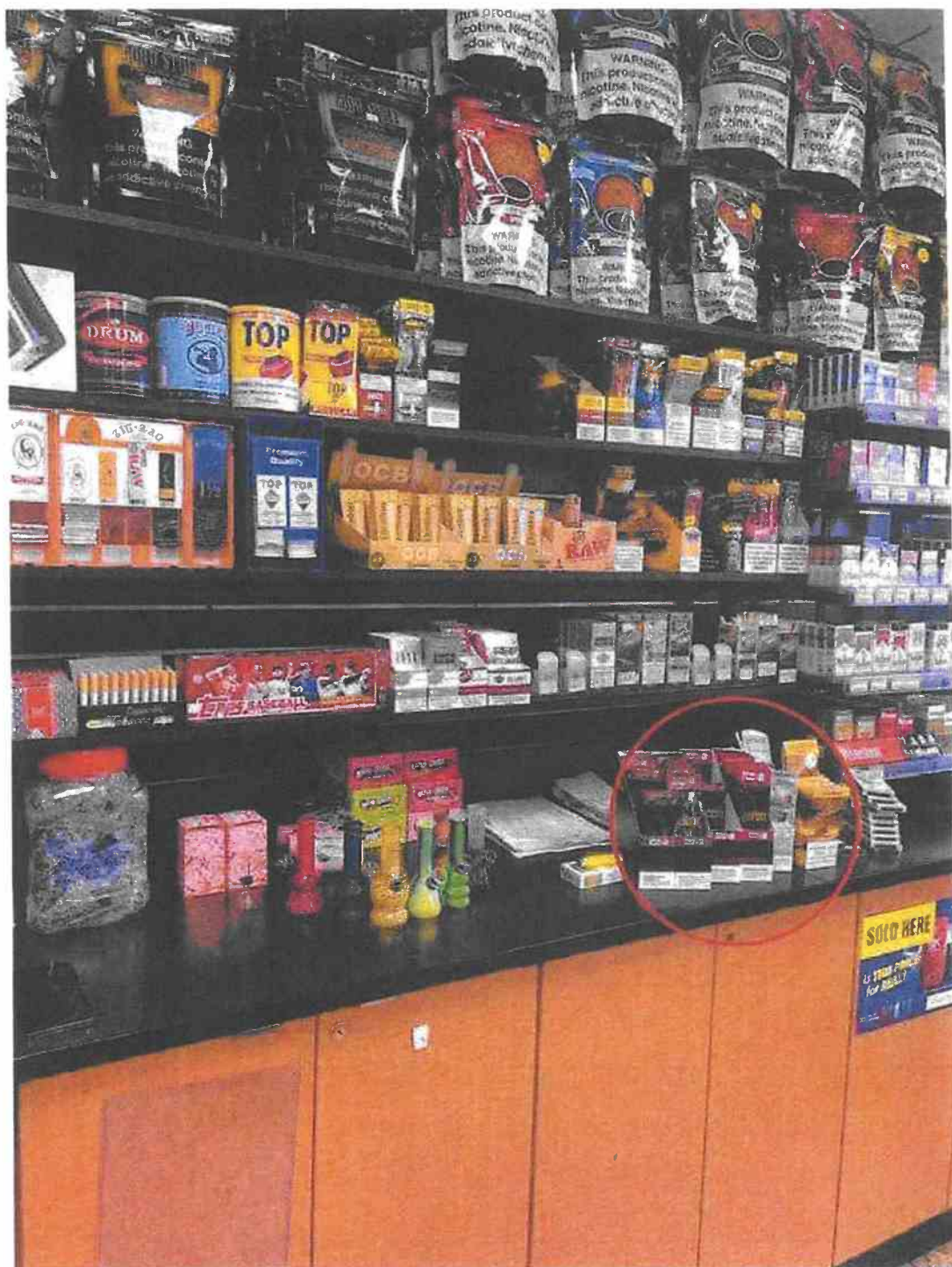
AFFIRMATION
I, DSI, REPORT INITIATED BY

STPAUL.GOV

When I arrived to the office after the inspection, I reported the tobacco flavor violations to the primary tobacco Inspector Voyda and explained that the clerk ignored my orders to remove the flavored tobacco products from the shelves. Inspector Voyda attempted to contact the license holder with no answer, Inspector Voyda also attempted to contact the store location, the person that answered the phone, hung up. Inspector Voyda and I visited the business location where Inspector Voyda introduced ourselves as licensing Inspectors from the City of Saint Paul for the Department of Safety Inspection (DSI). Inspector Voyda explained to Mohamed that the products identified earlier from Inspector Vang's inspection were indeed flavor violations, Inspector Voyda advised Mohamed that this location did not possess a tobacco products shop license to offer for sale of flavor tobacco products, per ordinance it is forbidden to have any flavor tobacco products within a business that isn't a tobacco products shop. Inspector Voyda advised Mohamed to contact the license holder and to remove all tobacco products that were found in violation from the shelving and be placed out of customers site in the back office and to have the license holder contact the distributor for a pickup, inspector Voyda educated Mohamed on the flavor violations that were discovered.







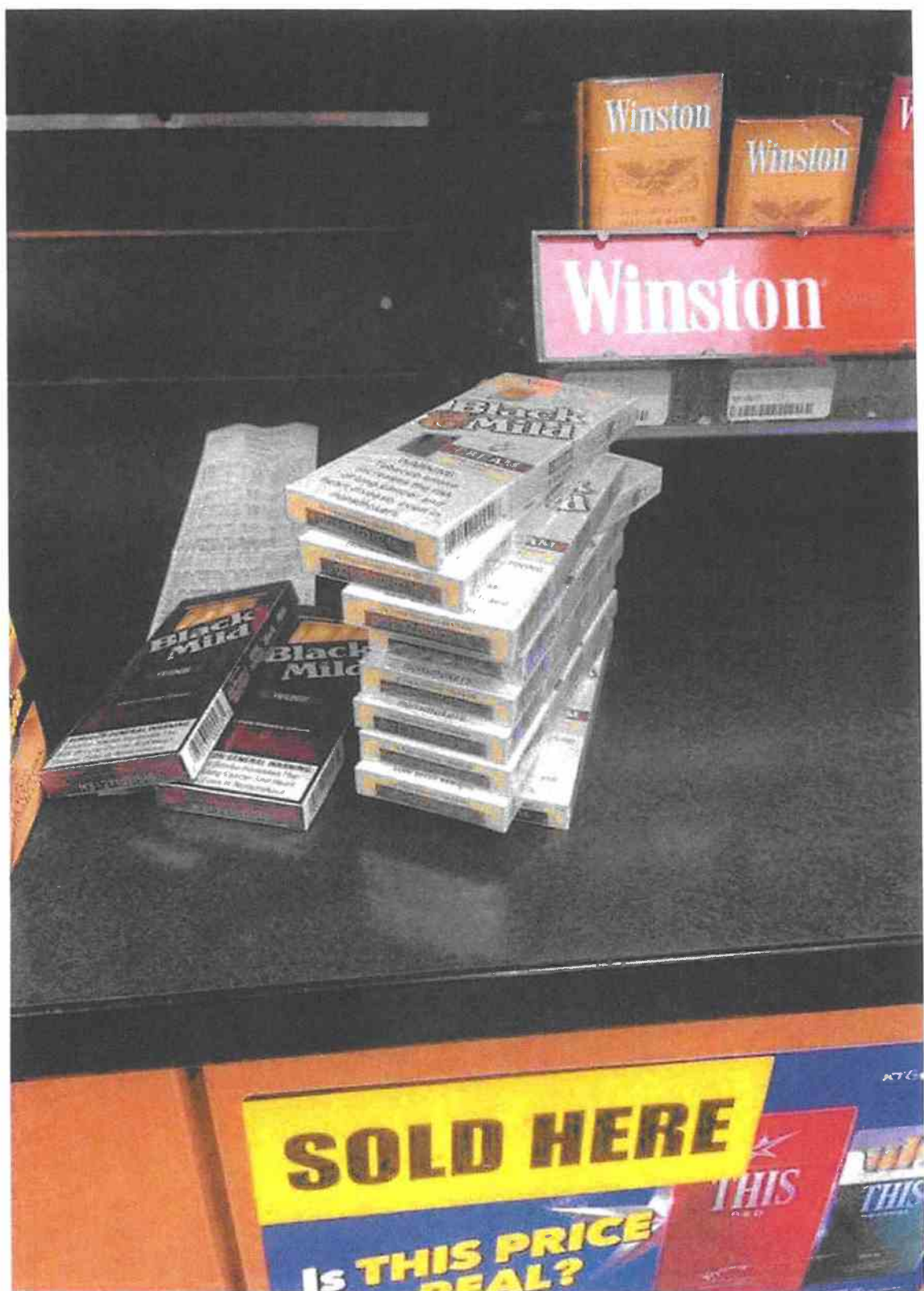
















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Saint Paul, MN 55102
Tel: 651-266-8710 | Fax: 651-298-5619

February 8, 2023

**NOTICE OF VIOLATION AND REQUEST FOR IMPOSITION
OF A 10-DAY SUSPENSION OF YOUR LICENSE**

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

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

Dear Licensee:

The Department of Safety and Inspections (the "Department") is recommending adverse action against the Cigarette/Tobacco license held by KMH Retail LLC, d/b/a Mini Pac (the "Licensee"), for the premises located at 1184 Maryland Avenue East in Saint Paul (the "Licensed Premises") for a first-time flavored product violation.

Saint Paul Legislative Code section 324.07(j) prohibits a licensee from selling, offering for sale, or otherwise distributing any flavored tobacco products. Under Saint Paul Legislative Code section 310.17, the conduct of any clerk, employee, manager, or agent working for or on behalf of a licensee is treated as the conduct of the licensee for the purpose of adverse action.

Saint Paul Legislative Code section 324.10(b)(2) sets the presumptive penalties for violations of provisions of the Legislative Code relating to the display, possession, or multiple incidents of sales of menthol or flavored tobacco products. Under section 324.10(b)(2), the presumptive penalty for a first-time violation is a 10-day license suspension.

The Department asserts that the following facts, along with photos of the violations attached herein, constitute proof of a violation of section 324.07(j) of the Saint Paul Legislative Code by a preponderance of the evidence.

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MELVIN CARTER, MAYOR

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in the delivery of services or employment practices.



Synopsis of Alleged Facts:

On January 13, 2023, Department Inspector Vang went to the Licensed Premises for a complaint inspection. Inspector Vang spoke with the store clerk, Mohamed, and informed him that the Department received a complaint that the Licensee was selling flavored tobacco products and he was there for an inspection. In plain sight behind the counter/cash register were flavored cigars specifically Backwoods – Russian Cream, Dutch Masters – Sweet Fusion Berry Fusion & Java Fusion, Black & Mild – Wine & Cream, and Al Capone Leaf Wrap – Cognac. Inspector Vang documented his findings in his report and with photographs and informed the store clerk to remove the prohibited flavored products.

You have three (3) 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 **February 22, 2023**, I will presume that you have chosen not to contest the proposed adverse action and the matter will be placed on the City Council Consent Agenda for a 10-day suspension of your license.

2. If you wish to admit the facts but you contest 10-day suspension penalty, you may have a public hearing before the Saint Paul City Council. You will need to send me a letter with a statement admitting to the facts and requesting a public hearing no later than **February 22, 2023**. The matter will then be scheduled before the City Council to determine whether to suspend your license. You will have an opportunity to appear before the Council and make a statement.

3. If you dispute the facts outlined above, you may request a hearing before an Administrative Law Judge (the "ALJ"). You will need to send me a letter disputing the facts and requesting an administrative hearing no later than **February 22, 2023**. At that hearing both you and the City will appear and present witnesses and 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 hearing, 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 reserves the right to request that City Council impose the costs of the administrative hearing, per Saint Paul Legislative Code section 310.05(k).



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If you have not contacted me by February 22, 2023, I will assume that you do not contest the imposition of a 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.

Sincerely,

S/S

Therese Skarda
Assistant City Attorney
License No.: 0402652

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

Attachments: Inspector's Report
Licensee information on Eclips System
Adverse Action Comments Text
License Group Comments Text
License Group Conditions Text
STAMP – Ownership/Zoning Information
Photos of tobacco products

CITY OF SAINT PAUL
MELVIN CARTER, MAYOR

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STATE OF MINNESOTA)

) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

Shawn McDonald, being first duly sworn, deposes and says that on the 8th day of February, he served the attached **NOTICE OF VIOLATION AND REQUEST FOR IMPOSITION OF A 10-DAY SUSPENSION OF YOUR LICENSE** and a correct copy thereof in an envelope addressed as follows:

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

Khalil Hammad
2630 Mississippi Street
New Brighton, MN 55112

Sarah Properties LLC
4329 Central Avenue NE
Columbia Heights, MN 55421-2925

Jack Byers, Executive Director
Payne-Phalen Community Council
567 Payne Avenue
Saint Paul, MN 55130

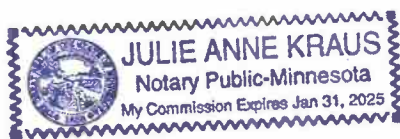
(which is the last known address of said person) depositing the same, with postage prepaid, in the United States mail at St. Paul, Minnesota.

S/S

Shawn McDonald

Subscribed and sworn to before me
This 8th day of February 2023

Julie Anne Kraus
Notary Public



Nathan M. Hansen

Attorney at Law
P.O. Box 575
Willernie, MN 55090
E-mail: nathan@hansenlawoffice.com
(651) 704-9600

February 21, 2023

VIA FACSIMILE
651-298-5619

Therese Skarda
Assistant St. Paul City Attorney
Civil Division
15 West Kellogg Boulevard
400 City Hall
St. Paul, MN 55102

Re: Cigarette/Tobacco License held by KMH Retail, LLC d/b/a Mini Pac, for the premises located at 1184 Maryland Avenue East, St. Paul

Dear Ms. Skarda:

I write in connection with your letter dated February 8, 2023. I represent KMH Retail, LLC. KMH Retail, LLC chooses option number 2 from your letter and requests a hearing to contest the 10-day suspension penalty.

Respectfully,

Nathan M. Hansen

Adverse Action Comments Text

01/23/2023

Licensee: KMH RETAIL LLC

DBA: MINI PAC

License #: 20210000750

License Group Comments Text

01/23/2023

Licensee: KMH RETAIL LLC

DBA: MINI PAC

License #: 20210000750

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

11/08/22 Youth compliance check passed. AYV

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

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

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

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

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

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

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

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

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

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

Licensee: KMH RETAIL LLC

OBA: MINI PAC

License #: 20210000750

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

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

ADDITIONAL LICENSE CONDITIONS #2 - 4

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

3. Temporary window signs placed between the height of four (4) to seven (7) feet above grade shall not cover more than thirty (30) percent of this window space area and cannot block views into the clerk or cashier station.

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

Properties For License 1184 MARYLAND AVE E

Pay Print Hist Summ

Licensee: KMH RETAIL LLC
DBA: MINI PAC

License	Licensee	Lic Types	Insurance	Bond	Requirements
Licensee Name: KMH RETAIL LLC DBA: MINI PAC Sales Tax Id: ***** Non-Profit: ☐ Worker's Comp: 00/00/0000 AA Contract Rec'd: 00/00/0000 AA Training Rec'd: 00/00/0000 AA Fee Collected: 00/00/0000 Discount Rec'd: ☐					

Other Agency Licenses

Other Licensing Agency Name / License Type	License #	Expiration	Reason	Active	Date

Financial Hold Reasons

Contacts for this Licensee

Addr Type	Active	Inactive	Last Name	First Name	Title	Bus Phone	Ho
Business/M	04/26/2021	00/00/0000				(651) 330-7012	
Other	04/26/2021	00/00/0000	HAMMAD	KHALIL	CEO	(851) 330-7012	

Background Check Required ☐

License # 210000750 Save Changes to History ☒ OK Cancel Help

Properties For License 1184 MARYLAND AVE E

Pay Print Hist Summ

Licensee: KMH RETAIL LLC
DBA: MINI PAC

License	Licensee	Lic Types	Insurance	Bond	Requirements
Licensee Name: KMH RETAIL LLC DBA: MINI PAC Sales Tax Id: ***** Non-Profit: ☐ Worker's Comp: 00/00/0000 AA Contract Rec'd: 00/00/0000 AA Training Rec'd: 00/00/0000 AA Fee Collected: 00/00/0000 Discount Rec'd: ☐					

Other Agency Licenses

Other Licensing Agency Name / License Type	License #	Expiration	Reason	Active	Date

Financial Hold Reasons

Contacts for this Licensee

Contact Address	City	Zip	DOB	Last Check	Drp
1184 MARYLAND AVE E	ST PAUL	55106	00/00/0000	00/00/0000	
2630 MISSISSIPPI ST	NEW BRIGHTON	55112	04/12/1986	00/00/0000	MN 813

Background Check Required ☐

License # 210000750 Save Changes to History ☒ OK Cancel Help

STAMP - Ownership / Zoning Information[New Search](#)[Help using this report](#)**Run Date:** 01/23/23 10:40 AM**House#:****Last updated from Ramsey County data on:****Street Name:**

Click on "Other Application" links below to access GISmo, MapIT, and Ramsey County Info

1184 Maryland Ave E - Mini Pac 66 - 55106-2828 - [Other Applications](#)**PIN:** 282922110007**Census Track:** 31100 **Census Block:** 1007**Council Ward:** 6 **District Council:** 5**Year Built:****Foundation Sq Feet:** **Loan Company:****Land****Building****Value:** 132000**Value:** 400000**Unverified Usage:** 10- GENERAL RETAIL & SVC- B- Commercial**ISP:****Units:****Zoning:** B2**Legal Desc:** LANE-HOSPES ADD, W 30 FT OF LOT 4 AND ALL OF LOTS 5 AND LOT 6 BLK 1**Owner:**Sarah Properties Llc Llc
4329 Central Ave Ne
Columbia Heights MN 55421-2925**Tax Owner:**Sarah Properties Llc Llc
4329 Central Ave Ne
Columbia Heights MN 55421-2925

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; • 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.