

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 twenty-fifth day of June she served the attached **NOTICE OF VIOLATION AND REQUEST FOR IMPOSITION OF 10 DAY SUSPENSION** and a correct copy thereof in an envelope addressed as follows:

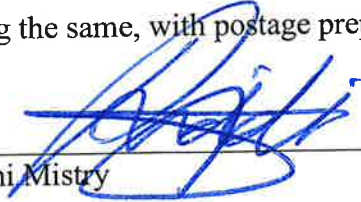
MNA Grocery LLC
d/b/a MNA Grocery
361 Earl Street
Saint Paul, MN 55106
Attn: Marwan Wardi

Marwan Wardi
407 Village Parkway
Circle Pines, MN 55014

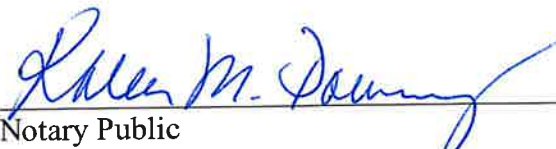
Emmisa Llc
977 Payne Avenue
Saint Paul, MN 55130-3901

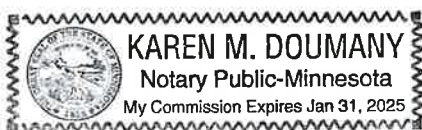
Eric Zidlicky, Board Chair,
Dayton's Bluff Community Council
East Side Enterprise Center
804 Margaret St.
Saint Paul, MN 55107

(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 twenty-fifth day of June 2024


Notary Public





June 25, 2024

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

MNA Grocery LLC
d/b/a MNA Grocery
361 Earl Street
St. Paul, MN 55106
Attn: Marwan Wardi

RE: Tobacco Shop licenses held by MNA Grocery LLC d/b/a MNA Grocery for the premises located at 361 Earl Street, in Saint Paul.
License ID #: 20230002089

Dear Licensee:

The Department of Safety and Inspections ("Department") has recommended adverse action against the Tobacco Shop licenses held by MNA Grocery LLC ("Licensee") herein for the premises known as MNA Grocery located at 361 Earl Street (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 §310.03 (m)(3)(2) provides for a presumptive penalty of \$500 for a first-time violation of a provision of the legislative code related to the licensed activity.

Saint Paul Legislative Code §324.03(5) states that flavored products could mean any tobacco product, tobacco related device, or nicotine or lobelia delivery product that contains a taste or smell, other than the taste or smell of tobacco that is distinguishable by any ordinary consumer either prior to or during the consumption



of the tobacco product, electronic delivery device, or nicotine or lobelia delivery product, including but not limited to, any taste or smell relating to menthol, mint, wintergreen, chocolate, cocoa, vanilla, honey, fruit or any candy, dessert, alcoholic beverage, herb, or spice. A public statement or claim, whether express or implied, made or disseminated by the manufacturer of a tobacco product, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such product or device, that the product or device has or produces a taste or smell other than tobacco will constitute presumptive evidence that the product or device is a flavored product.

Saint Paul Legislative Code §324.07(j) states no person may sell, offer for sale, or otherwise distribute any flavored products, unless expected under section 324.07(l) of this chapter.

Minnesota Statute §297F.01 Subd 13 states: "Place of business" means a place where cigarettes or tobacco products are sold or where cigarettes or tobacco products are manufactured, stores, or kept for the purpose of sale or consumption, including any vessel, vehicle, airplane, train, or vending machine.

Minnesota Statute §297F.01 Subd 18 states: "Storage" means any keeping or retention of cigarettes or tobacco products for use or consumption in this state.

Minnesota Statute §297F.01 Subd 19 states: "Tobacco products" means any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product, include, but not limited to, cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts; refuse scraps, clippings, cuttings and sweeping of tobacco, and other kinds and forms of tobacco; but does not include cigarettes as defined in this section. Tobacco products include nicotine solution products. Tobacco products excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

Minnesota Statute §297F.01 Subd 22 states: "Use" means the exercise of a right or power incidental to the ownership of cigarettes or tobacco products.



Factual Basis for Imposition of 10-day license suspension penalty:

On June 7, 2024, at 10:23 a.m., Department of Safety and Inspections (DSI) Inspector Joseph Voyda went to the licensed premises to inspect the premises due to a flavored tobacco products complaint. Inspector Voyda spoke to the clerk Mohamed and introduced himself as a licensing inspector for the City of Saint Paul with DSI. Inspector Voyda explained to Mohamed that he was there for an inspection from a complaint that was received by DSI from the Minnesota Department of Revenue (MN D of R), for flavor tobacco products being offered for sale. Inspector Voyda requested Mohamed to contact the license holder, Marwan. Inspector Voyda spoke to Marwan over the phone and explained to him that the MN D of R and DSI were there for a complaint inspection received by DSI. Inspector Voyda explained to him that the complaint was a result of offering for sale flavored tobacco products and Newport cigarettes with missing tax stamps. Inspector Voyda asked Marwan to make the process easy and to tell him where the Newport Cigarettes are hidden, and MN D of R will find them. Marwan replied, "nothing is hidden only non flavored tobacco is on the shelves and in my store, I am on my way I'll be there shortly."

Inspector Voyda continued his inspection and noticed the following products on display, in plain sight:

1. (2) full boxes of Dutch Diamond Fusion cigars
2. (2) full boxes of Dutch Platinum Fusion cigars
3. (1) box of Backwood Pennsylvania Primo cigars

Inspector Voyda continued his inspection downstairs and discovered the following within two boxes, under a desk:

1. (1) full box of Dutch Diamond gold cigars
2. (1) full box of Backwoods Honey Bourbon cigars

Inspector Voyda then noticed three hooded sweatshirts hanging from the door frame of the convenient store leading to downstairs, the sweatshirts contained the following:

1. First sweatshirt – (1) Pack of Dutch Blue Dream Fusion cigars and (1) pack of Backwoods Dark Stout cigars.
2. Second sweatshirt – (1) pack of Newport Menthol Cigarettes
3. Third sweatshirt – (1) Vape Pen Loon Maxx Strawberry Banana

Inspector Voyda also noticed a box on a shelf on the way downstairs containing the following:



1. (1) full box of Dutch Diamond gold cigars
2. (1) full box of Backwoods Honey Bourbon cigars

Inspector Voyda proceeded to educate Marwan that the above-mentioned tobacco products are in violation of the City Ordinance of the issued license type that is currently issued to him. Inspector Voyda then told Marwan that the products need to be stored in the back room and not removed until the distributor has scheduled and picked the product up. Inspector Voyda observed Marwan place the tobacco violations into two (2) black plastic bags which were placed on a shelf in the hallway landing between the convenient store and stairs leading downstairs.

Adverse Action Recommendation:

The Department of Safety and Inspections will recommend a 10-day suspension penalty for the following violations of Saint Paul Legislative Code § 310.03(m)(3)(2), 324.03(5), 324.07(j), and Minnesota Statute 297F.01, Subd. 13, 18, 19, & 22.

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 **July 5, 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. You can accept the penalty. If this is your choice, you should indicate it directly to the Department of Safety and Inspections, at 375 Jackson Street, Ste. 220, St. Paul, Minnesota 55101-1806 no later than **July 5, 2024**. A self-addressed envelope is enclosed for your convenience. Acceptance of the penalty will be considered an admission to the violation and waiver of the hearing to which you are entitled. This matter will then be placed on the City Council Consent agenda for imposition of the recommended penalty of a 10-day suspension.
3. 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 **July 5, 2024**. The matter will then be scheduled before the City Council to determine whether to suspend your licenses for ten (10) days. You will have an opportunity to appear before the Council and make a statement on your own behalf.



4. If you dispute the facts outlined above, you may request a hearing before an Administrative Law Judge (ALJ). You will need to send me a letter disputing the facts and requesting an administrative hearing no later than **July 5, 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 July 5, 2024, I will assume that you do not contest the imposition of the ten (10) day suspension of your licenses. 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: Marwan Wardi, 407 Village Parkway, Circle Pines, MN 55014
Emmisa LLC, 977 Payne Avenue, Saint Paul, MN 55130-3901
Board Chair, Eric Zidlicky, Dayton's Bluff Community Council, East Side Enterprise Center, 804 Margaret St. Saint Paul, MN 55107

Attachments: Notice of Compliance Checks – 1/18/2024
Inspector's Report – 6/7/2024
Complaint's Worksheet – 6/7/2024
Photo Evidence
Saint Paul Legislative Code §310.03(m)(3)(2)



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: 651-266-8571 | Fax: 651-298-5619

Saint Paul Legislative Code §324.03(5)
Saint Paul Legislative Code §324.07(j)
Minnesota Statute §297F.01, Subd. 13, 18, 19 & 22

CITY OF SAINT PAUL
MELVIN CARTER, MAYOR

STPAUL.GOV

*The Saint Paul City Attorney's Office does not discriminate
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.*



Inspector's Report

Inspectors Name: Joseph Voyda

Date & Time: 6/7/2024 at 10:23am Staff Member's Name: Mohamed (Clerk) & Marwan (Owner)

Business/DBA Name: MNA Grocery

Property Address: 361 Earl Street - Saint Paul, MN 55106

Reason for Visit: Complaint Inspection

Observations: Tobacco Flavor Violation - Stored and Hidden throughout the licensed premises

Photos Taken: ☒ Yes ☐ No – Area(s) of where the Photo(s) where taken: Behind the counter, down stairs, hallway landing and grocery store

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 Department of Safety and Inspections (DSI). I explained I was there for an inspection due to a complaint that was received by DSI that flavor tobacco product being offered for sale. I requested Mohamed to contact the license holder to inform him that I was here today for a complaint inspection and the Minnesota Department of Revenue (MN D of R) was here for the reported missing tax stamps.

I spoke with Marwan over the phone and explained to him that the MN D of R and DSI was present for a complaint inspection received by DSI for offering for sale flavor products and Newport cigarettes with missing tax stamps and other tobacco flavor products. I asked Marwan to make it easy on us and just tell me where the Newport cigarettes are hidden and that the MN D of R will find them. His replay was, nothing is hidden only non flavored tobacco is on the shelves and in my store, I am on my way I'll be there shortly.

Continuing my inspection in plain sight displayed on the shelves behind the counter, I observed five (2) full boxes of Dutch Diamond Fusion cigars, (2) full boxes of Dutch Platinum Fusion cigars and (1) box of Backwood Pennsylvania Primo Cigars. Stored down stairs I discovered under a desk within two big boxes, (1) full box of Dutch Diamond gold cigars, (1) full box of Backwoods Honey Bourbon cigars, (1) full



Page 2 of Inspection Report:

Three hooded sweatshirts hanging off the door frame from the convenient store side that is leading to the down stairs. Within the first hooded Sweatshirt (1) Pack of Dutch Blue Dream Fusion cigars and (1) Pack of Backwoods Dark Stout Cigars were discovered. In the pockets of the second hooded Sweatshirt (1) pack of Newport Menthol Cigarettes, in the pockets of the third hooded Sweatshirt (1) Vape Pen Loon Maxx Strawberry Banana. In a box on a shelf on the way down stairs (1) full box of Dutch Diamond gold cigars, (1) full box of Backwoods Honey Bourbon cigars were discovered.

I educated Marwan that the above mentioned tobacco products that were discovered are in violation of City Ordinance of the issued license type of tobacco license that is currently issued to you. These products will need to be stored in the back room and not removed until the distributor is schedule a pick the product up (return). I observed Marwan place the tobacco violations into two (2) black plastic bags and placed on a shelf of the hallway landing between the convenient store and the stairs leading downstairs.

Complaint ID#:	24 044197	PIN:	332922310103	Status:	Open		
In Date:	06/07/2024	Ward:	7	Zoning:	T2	Sub:	License
		Dist Council:	4	Owner:	Entered By: Sara Vang		
Complaint Location:	Census Tract:	34500	Emmisa Llc				
361 EARL ST	Census Block:	2003	977 Payne Ave St Paul MN 55130- 3901				
	Homesteader:						
	Tax Owner:						

Legal Desc: SCOTTEN'S SUB OF B71 LYMAN DAY S 4 50/100 FT OF VAC ALLEY ADJ AND FOL ...LOT 29 AND ALL OF LOT 30 BLK 71

Complainant:

Details: Tobacco- No tax stamps on Newport menthol cigarettes, possible other flavor tobacco being sold

Prob Prop

Other Depts:

DSI Licensing Response - Scheduled Date: 06/07/24

Comment:

Previous Results	Entered By	Comment
------------------	------------	---------

Inspector: Please circle inspection result and write comments below:

Resolved- ClosedUnder ReviewUnfounded

Transfer to Checklist Dept: Add Checklist Depts

Initial: Date:

Comments:

NOTICE OF COMPLIANCE CHECKS



SAINT PAUL
SAFETY & INSPECTIONS

January 18, 2024

20230002089
MNA GROCERY
361 EARL ST
ST PAUL, MN 55106-6111

Tobacco License Holder:

This letter is a reminder that the Department of Safety and Inspections (DSI) is in process of conducting our annual on-site inspections of all city licensed tobacco shops and tobacco products shops to ensure compliance with regulations including but not limited to:

- Minimum pricing and packaging requirements for cigars, cigarettes, and smokeless tobacco
- Prohibition of tobacco product discounts and coupon acceptance
- Prohibition of flavored tobacco at all tobacco shops to include the sale of menthol mint and wintergreen flavors at off-sale liquor stores
- Restrictions of temporary window sign(s) and tobacco displays
- Restriction of customer access to tobacco products within tobacco shops
- **Prohibition of tobacco and tobacco product sales to anyone under 21 years of age.**

Compliance checks may include but are not limited to; DSI Inspectors entering tobacco establishments unannounced in attempt to purchase tobacco products using an underage buyer, inspecting product placement, labeling, creating reports, taking photos and providing education.

Compliance checks may take place at any time during the year. Additional inspections and compliance checks may take place in response to complaints or reports of alleged violations.

It is the responsibility of the license holder to fully understand and comply with ordinance requirements that govern tobacco sales within the City of Saint Paul. Violations discovered during compliance checks and/or complaint inspections will be forwarded to the City Attorney's Office for adverse licensing action, which may result in fines, suspension or revocation.

Additional information can be found on the reverse of this document or you may visit the City of Saint Paul's website at [StPaul.gov](https://stpaul.gov), key word search 'tobacco'.

Questions regarding tobacco regulations and inspection procedures can be directed to Inspector Joseph Voyda at phone number **651-266-9014** or by email at joseph.voyda@ci.stpaul.mn.us.

DEPARTMENT OF SAFETY AND INSPECTIONS (DSI)

Angie Wiese, Director

375 Jackson Street, Suite 220
Saint Paul, MN 55101-1806

Tel: 651-266-8989 | Fax: 651-266-9124

Penalties: Sales to an Underage Buyer and Display, possession or sale of flavor tobacco products, chapter 310.03(m)(3) Section (c) of the Saint Paul Legislative Code.

Tobacco presumptive penalties for license holders for violations. Adverse penalties for licensees for violations or convictions shall be presumed as follows;

Type of Violation	1st Appearance	2nd Appearance	3rd Appearance	4th Appearance
(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		

Per Section 324.01 of the Saint Paul Legislative Code

Sec. 324.01. License Required

- (c) No license may be issued pursuant to this chapter for a location or place of sale if a tobacco license previously issued for that location or place of sale has been revoked for any reason other than nonpayment of license fees within the past five (5) years.

Sec. 324.03. Definitions.

(15) *Tobacco license* means either a tobacco shop or a tobacco products shop license.

(16) *Tobacco shop license* means a license issued to a person, firm, or corporation for an establishment that:

- May offer for sale licensed products which are accessible to the public only with the intervention of a store employee; and,
- May allow persons who are under the age of twenty-one (21) to enter the establishment.

(17) *Tobacco products shop license* means a license issued to a person, firm, or corporation for an establishment that:

- Must derive at least ninety (90) percent of its revenue from the sale of licensed products;
- Must prohibit persons who are under the age of twenty-one (21) from entering the establishment;**
- Must be accessible only through a door opening directly to the outside; and
- Must be staffed by at least one individual solely dedicated to the tobacco products shop during all operating hours.

Sec. 324.07. Sales prohibited.

(l) *Exceptions.*

- (3) Retail stores holding a tobacco products shop license are permitted to sell and offer for sale flavored tobacco products.

297F.01 DEFINITIONS.

Subd. 13. Place of business. "Place of business" means a place where cigarettes or tobacco products are sold or where cigarettes or tobacco products are manufactured, stored, or kept for the purpose of sale or consumption, including any vessel, vehicle, airplane, train, or vending machine.

Subd. 18. Storage. "Storage" means any keeping or retention of cigarettes or tobacco products for use or consumption in this state.

Subd. 19. Tobacco products. (a) "Tobacco products" means any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product, including, but not limited to, cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco; but does not include cigarettes as defined in this section. Tobacco products includes nicotine solution products. Tobacco products excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

Subd. 22. Use. "Use" means the exercise of a right or power incidental to the ownership of cigarettes or tobacco products.



(1) Box Dutch Diamond Fusion and (2) Boxes Dutch Platinum Fusion discovered within a broken ATM





Experience the heavenly tastes bestowed upon you by the legendary **Dutch Masters Foil Cigarillos Diamond**, the epitome of delicacy in every single way. What you're looking at here is the amalgamation of **freshly brewed coffee bean flavors** and mild Caribbean Basin Cigar leaves in one incredible recipe. Hidden behind a generous homogenized wrapper leaf are impeccably diced short filler leaves, which excel in the department of taste and aesthetics alike. The outside is assembled with a Natural Tobacco Leaf, made with pride to deliver the highest in quality tastes and flavors of tobacco plants. Each of these cigarillos is hidden inside of resealable pouches, which are built with strong zippers for the purpose of flavor and quality preservation.



Dutch Masters

Dutch Masters PLATINUM FUSION / 4.5 X 28 DMPF129

When time or my budget does not allow for a full-sized premium cigar, I turn to Dutch Masters Platinum Fusion cigarillos to fill my days with flavor. Unlike most cigarillos on the market, these 4.5x28 treats are made with a genuine Natural Tobacco Leaf wrapper over choice Caribbean Basin Cuban Seed fillers. Since they are machine made, I can expect top-notch consistency from one cigarillo to the next. Coming in resealable packs of 2 to keep top-quality freshness, each puff envelops my palate with mellow and traditional **flavors of leather, cedar,** and tobacco sweetness. Perfect for aficionados looking for an affordable smoke with traditional flavors, I ordered 30 packs of 2 Dutch Masters Platinum Fusion cigarillos online from Cigars.com to get them conveniently shipped right to my door.

Pack Size

30 Packs of 2 (60 total)
\$34.99
low stock
only 1 items left!

Qty: 1 ▼

\$34.99

~~\$38.79~~
Save \$3.71

Add to Cart

2 FOR 99¢

SLOW BURN



NATURAL LEAF WRAPPER

Dutch

BY DUTCH MASTERS®

GOLD FUSION

Made in the Dominican Republic
Distributed by ITG Brands, LLC
Greensboro, NC 27480
Sale only allowed in the
United States

ITG CIGARS®

WARNING:
This product
contains
Nicotine
addictive chemical

LOO
MAX

**2000
PUFFS**



WARNING:
This product
contains nicotine.
Nicotine is an
addictive chemical.





SURGEON GENERAL
WARNING: Cigars
Are Not A Safe
Alternative To Cigarettes.



SLOW BURN



NATURAL LEAF WRAPPER

Dutch

BY DUTCH MASTERS®

GOLD FUSION

30 PREMIUM
CIGARILLOS



This cigarillo is for those who love to enjoy a sweet and succulent smoking experience. These machine-made stogies offer the luscious flavor of fresh berries fused with creamy tobacco.



Dutch

**BLUE DREAM
FUSION**

2 PERIOD

**SURGEON GENERAL
WARNING: Quitting Now
Greatly Serious Risks to
Your Lung Cancer
And Heart Disease**



Dutch Cigarillos Blue Dream Fusion

[Write Review](#)

\$25.99

Qty:

[Add to cart](#)

Details

[Specifications](#)

Dutch Cigarillos Blue Dream Fusion

Dutch Masters Blue Dream Fusion Cigarillos by Altadis USA is indeed the hottest selling flavor of the year! Not only are they jammed-packed with authentic, premium-grade Cuban-seed tobacco, but they also feature an all-natural leaf wrapper as well.

Regarding flavor, Blue Dream Fusion Cigarillos are slightly creamy and feature strong hints of vanilla. At the same time, these bad boys are not too fruity or sweet. In fact, according to smokers, these cigars taste a lot like Silver Dutch Cigarillos and burn just as slow!

With this in mind, pick up a 30-count box of Blue Dream Fusion Cigarillos, shoot us an address, and we'll deliver your purchase straight to your house, eliminating unnecessary trips to the smoke shop, saving you time and money!



BACKWOODS
SELECT



PENNSYLVANIA
PRIMO

SURGEON GENERAL
WARNING: Cigars
Are Not A Safe
Alternative To Cigarettes



What are you looking for?

Sign in or Register

USD

(0)

ACCESSORIES NICOTINE POUCHES CIGAR CLUB FILTERED CIGARS HANDMADE CIGARS HOOKAH LITTLE CIGARS MACHINE MADE CIGARS ROLLING PAPERS

UNVEILING BACKWOODS SELECT CIGARS: A FUSION OF EXCELLENCE AND RARITY

In the realm of cigar aficionados, there exists a rare breed of cigars that transcends the ordinary, elevating the smoking experience to a realm of unparalleled satisfaction. Among these gems, Backwoods Select Cigars stand tall, offering connoisseurs a taste of exclusivity and refinement like no other. **Craftsmanship in Every Leaf.** Backwoods Select Cigars are a testament to the artistry and dedication of their makers. Available in three distinct variants, each boasting its own unique flavor profile, these cigars are a fusion of premium quality and meticulous craftsmanship.

1. **Connecticut Special**: Renowned for its smoothness and delicate aroma, the Connecticut Special leaf lends a touch of sophistication to every puff. Its subtle nuances delight the senses, making it a favorite among discerning smokers.
2. **Guatemala Satin**: Embodied by its rich, velvety texture and complex flavors, the Guatemala Satin leaf promises an indulgent smoking experience. With notes of earthiness and spice, it captivates the palate with every draw, leaving a lasting impression.
3. **Pennsylvania Primo**: Bold and robust, the Pennsylvania Primo leaf exudes strength and character. Its intense flavor profile, characterized by hints of wood and pepper, appeals to those who seek a full-bodied smoking sensation.

Aged to Perfection, Limited Release Only: Backwoods Select Cigars are not merely products; they are crafted with care and aged to perfection. Made in the Dominican Republic, each cigar undergoes an extensive aging process of eight months, allowing the flavors to mature and harmonize, resulting in a smoking experience unlike any other.

Available in Exclusive Packaging: To preserve their essence and ensure optimal freshness, Backwoods Select Cigars are packaged with precision. They come in pouches of three cigars each, ideal for those who prefer to savor their moments of indulgence. Additionally, they are offered in packs of ten pouches, catering to enthusiasts who appreciate convenience without compromising quality.

A Rare Opportunity: Backwoods Cigars have long been revered as one of the top-selling cigars nationwide, and the introduction of Backwoods Select Cigars only amplifies their allure.

Buitrago Cigars proudly stands as the first online cigar shop to make these gems available to aficionados, albeit for a limited time. This exclusive offering presents a rare opportunity for enthusiasts to acquire a piece of cigar history and elevate their smoking journey to new heights.

In conclusion, Backwoods Select Cigars embody the epitome of excellence and rarity in the world of cigars. From their meticulously selected leaves to their unparalleled craftsmanship, every aspect of these cigars speaks volumes about their superiority. For aficionados who crave sophistication, indulgence, and exclusivity, Backwoods

BOOSTED FLAVOR



BOOSTED FLAVOR

2000
PUFFS



BOOSTED FLAVOR

WARNING:
This product
contains nicotine.
Nicotine is an
addictive chemical.

LOON
MAXX

2000
PUFFS

5%
NIC



GUM
MINT

WARNING:
This product
contains nicotine.
Nicotine is an

A black barcode scanner is positioned above the cigarette pack, with its lens focused on the product.

BACKWOODS®

RUSSIAN CREAM

TP PR 0003
Distributed by ITG Brands, LLC
Greensboro, NC 27420
Sale only allowed in the United States



0 71610 30280 8

THIS UNIT CONTAINS
EIGHT PACKS OF FIVE SMOKES EACH
TOTAL: 40 SMOKES

WARNING: This

BACKWOODS®



**HONEY
BOURBON**
5 CIGARS

**ALL
NATURAL
LEAF WRAPPER**

**8 - 5 PACKS
40 CIGARS**

al.

**5%
NIC**

**GUM
MINT**

WARNING:
This product
contains nicotine.
Nicotine is an
addictive chemical.

4 Hemp Wraps 99¢

GRAPE BURST



GRAPE BURST

4 CONTAINS 4 Wraps Full Flavor

ON MAXX
PUFFS | 6.5ML



WARNING:
This product
contains nicotine.
Nicotine is an
addictive chemical.

LOON MAXX
2000 PUFFS
5% NIC
GUM MINT

WARNING:
This product
contains nicotine.
Nicotine is an
addictive chemical.

BACKWOODS
RUSSIAN
CREAM

WARNING: This
product contains
nicotine. Nicotine is
an addictive
chemical.



STUDIO

BY JAMES

SIZE XL

STYLE 10331111



\$56.00

LOON
MAX

2000 PUFFS | 6.5ML



BOOSTED FLAVOR

WARNING:
This product
contains
nicotine.
Nicotine is
an addictive
chemical.

his
contains
nicotine is
addictive
chemical.





Newport
socks
Newport

NEWPORT
socks
\$56.00

Ship To:
MNA Grocery LLC
MNA Grocery
361 East St.
St. Paul, MN

Ship To:

MINA GREENE LLC
MIN GREENE

361 Front St.
St. Paul, Minn.

Invoice #

721366

Date:

Via:

5/13/2024

Native:

GRGE

7 DAYS

Ayman

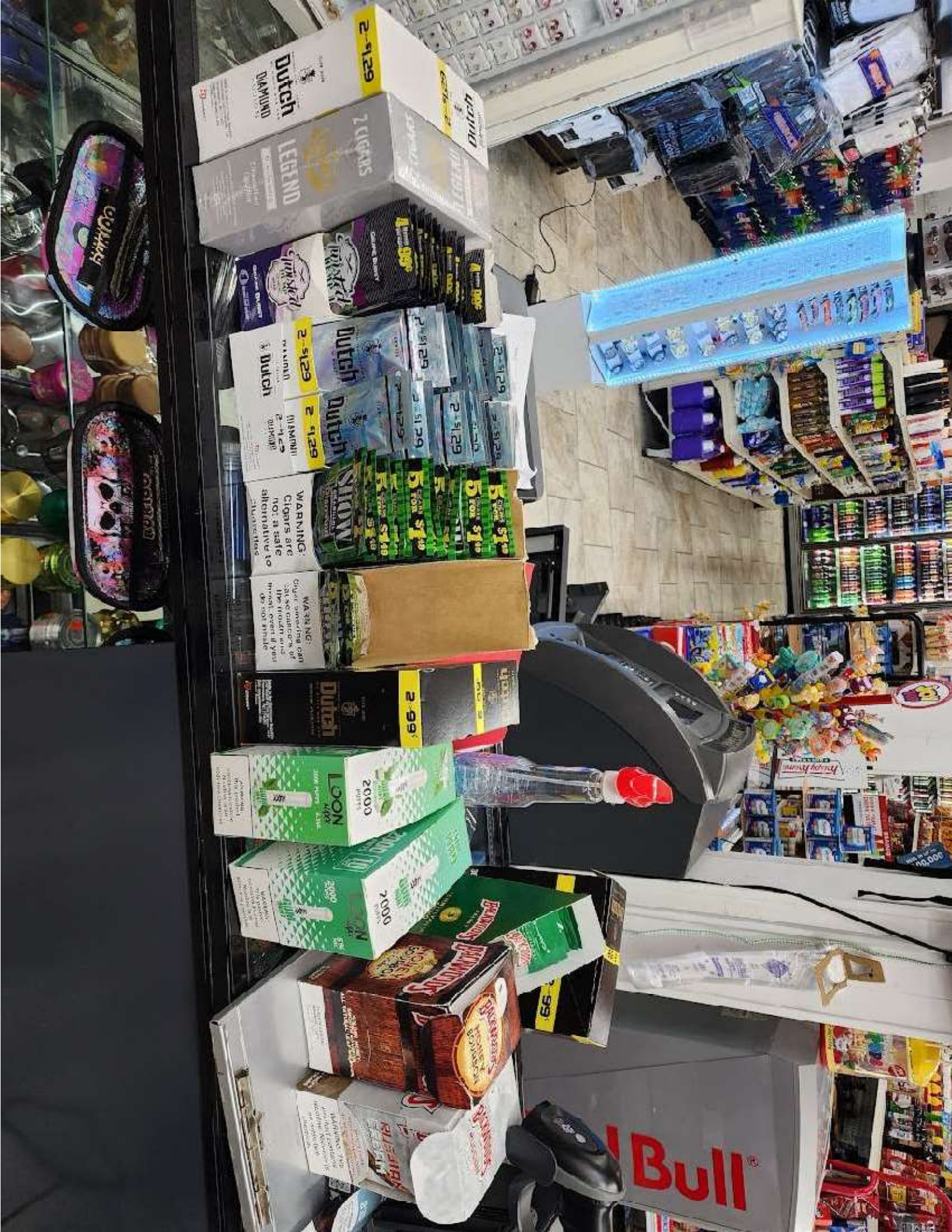
Newport



New York
BOX

[illegible]







WARNING:
Cigars are
not a safe
alternative to
cigarettes.

WARNING:
Cigar smoking
can cause cancer
of the mouth
and throat, even
if you do not
smoke.



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. 310.03. - 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. 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)

297F.01 DEFINITIONS.

Subdivision 1. **Applicability.** Unless the language or context clearly indicates that a different meaning is intended, the following terms for the purposes of this chapter, have the following meanings.

Subd. 2. **Business.** "Business" means any trade, occupation, activity, or enterprise engaged in selling or distributing cigarettes or tobacco products in this state.

Subd. 3. **Cigarette.** "Cigarette" means any roll for smoking made wholly or in part of tobacco that weighs 4.5 pounds or less per thousand:

- (1) the wrapper or cover of which is made of paper or another substance or material except tobacco; or
- (2) wrapped in any substance containing tobacco, however labeled or named, which, because of its appearance, size, the type of tobacco used in the filler, or its packaging, pricing, marketing, or labeling, is likely to be offered to or purchased by consumers as a cigarette, as defined in clause (1), unless it is wrapped in whole tobacco leaf and does not have a cellulose acetate or other cigarette-like filter.

Subd. 4. **Cigarette distributor.** "Cigarette distributor" means any of the following:

- (1) a person engaged in the business of selling cigarettes in this state and who manufactures or who brings, or causes to be brought, into this state from outside the state any packages of cigarettes for sale to subjobbers or retailers;
- (2) a person engaged in the business outside this state who ships or transports cigarettes to retailers in this state, to be sold by those retailers;
- (3) a person who is on direct purchase from a cigarette manufacturer and applies cigarette stamps on at least 50 percent of cigarettes sold by that person.

Subd. 5. **Cigarette subjobber.** "Cigarette subjobber" means any person who acquires stamped cigarettes or other state's stamped cigarettes for the primary purpose of resale to retailers, and any licensed distributor who delivers, sells, or distributes stamped cigarettes from a place of business other than that licensed in the distributor's license.

"Cigarette subjobber" also means a person who is a vending machine operator. A vending machine operator is a person whose principal business is operating, or owning and leasing to operators, machines for the vending of merchandise or service.

Subd. 6. **Commissioner.** "Commissioner" means the state commissioner of revenue.

Subd. 7. **Consumer.** "Consumer" means an individual who has title to or possession of cigarettes or tobacco products for personal consumption rather than for sale.

Subd. 7a. **Delivery sale.** "Delivery sale" has the meaning given in section 325F.781, subdivision 1.

Subd. 8. **Internal Revenue Code.** Unless specifically defined otherwise, "Internal Revenue Code" means the Internal Revenue Code as defined in section 289A.02, subdivision 7.

Subd. 9. **Licensing period.** "Licensing period" means a two-year period during which licenses are issued. A licensing period begins on January 1 of each even-numbered year and ends on December 31 of the following odd-numbered year.

Subd. 9a. **Invoice.** "Invoice" means a detailed list of cigarettes and tobacco products purchased or sold in this state that contains the following information:

- (1) name of seller;
- (2) name of purchaser;
- (3) date of sale;
- (4) invoice number;
- (5) itemized list of goods sold including brands of cigarettes and number of cartons of each brand, unit price, and identification of tobacco products by name, quantity, and unit price; and
- (6) any rebates, discounts, or other reductions.

Subd. 10. **Manufacturer.** "Manufacturer" means a person who produces and sells cigarettes or tobacco products.

Subd. 10a. **Out-of-state retailer.** "Out-of-state retailer" means a person engaged outside of this state in the business of selling, or offering to sell, cigarettes or tobacco products to consumers located in this state.

Subd. 10b. **Moist snuff.** "Moist snuff" means any finely cut, ground, or powdered smokeless tobacco that is intended to be placed or dipped in the mouth.

Subd. 11. **Package.** "Package" means the individual packet, box, or other container used to contain and convey cigarettes to the consumer.

Subd. 12. **Person.** "Person" means an individual or any entity engaged in the sale of cigarettes or tobacco products.

Subd. 13. **Place of business.** "Place of business" means a place where cigarettes or tobacco products are sold or where cigarettes or tobacco products are manufactured, stored, or kept for the purpose of sale or consumption, including any vessel, vehicle, airplane, train, or vending machine.

Subd. 13a. **Premium cigar.** "Premium cigar" means any cigar that is hand-constructed, has a wrapper that is made entirely from whole tobacco leaf, has a filler and binder that is made entirely of tobacco, except for adhesives or other materials used to maintain size, texture, or flavor, and has a wholesale price of no less than \$2.

Subd. 14. **Retailer.** "Retailer" means a person required to be licensed under chapter 461 engaged in this state in the business of selling, or offering to sell, cigarettes or tobacco products to consumers.

Subd. 15. **Retail outlet.** "Retail outlet" means each place of business from which cigarettes or tobacco products are sold to consumers.

Subd. 16. **Sale.** "Sale" means a transfer, exchange, or barter, in any manner or by any means, for consideration, and includes all sales made by any person. It also includes gifts or samples provided for advertising or promotional purposes, made by a person engaged in the selling of cigarettes or tobacco products.

Subd. 17. **Stamp.** "Stamp" means the adhesive stamp supplied by the commissioner of revenue for use on cigarette packages or any other indicia adopted by the commissioner to indicate that the tax has been paid.

Subd. 18. **Storage.** "Storage" means any keeping or retention of cigarettes or tobacco products for use or consumption in this state.

Subd. 19. **Tobacco products.** (a) "Tobacco products" means any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product, including, but not limited to, cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco; but does not include cigarettes as defined in this section. Tobacco products includes nicotine solution products. Tobacco products excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

(b) Except for the imposition of tax under section 297F.05, subdivisions 3 and 4, tobacco products includes a premium cigar, as defined in subdivision 13a.

Subd. 20. **Tobacco products distributor.** "Tobacco products distributor" means any of the following:

(1) a person engaged in the business of selling tobacco products in this state who brings, or causes to be brought, into this state from outside the state any tobacco products for sale;

(2) a person who makes, manufactures, or fabricates tobacco products in this state for sale in this state;

(3) a person engaged in the business of selling tobacco products outside this state who ships or transports tobacco products to retailers in this state, to be sold by those retailers.

Subd. 21. **Tobacco products subjobber.** "Tobacco products subjobber" means a person, other than a manufacturer or distributor, who buys from a distributor tobacco products upon which the tax imposed by this chapter has been paid and sells them to persons other than the ultimate consumers, and any licensed distributor who delivers, sells, or distributes tobacco products upon which the tax imposed by this chapter has been paid from a place of business other than that licensed in the distributor's license.

Subd. 21a. **Unlicensed seller.** "Unlicensed seller" means anyone who is not licensed under section 297F.03 to sell the particular product to the purchaser or possessor of the product.

Subd. 22. **Use.** "Use" means the exercise of a right or power incidental to the ownership of cigarettes or tobacco products.

Subd. 22a. **Weighted average retail price.** "Weighted average retail price" means (1) the average retail price per pack of 20 cigarettes, with the average price weighted by the number of packs sold at each price, (2) reduced by the sales tax included in the retail price, and (3) adjusted for the expected inflation as provided in section 297F.25, subdivision 1.

Subd. 22b. **Nicotine solution products.** (a) Beginning January 1, 2020, "nicotine solution products" means any cartridge, bottle, or other package that contains nicotine, including nicotine made or derived from tobacco or sources other than tobacco, that is in a solution that is consumed, or meant to be consumed, through the use of a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means that produces vapor or aerosol.

(b) Nicotine solution products includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, electronic nicotine delivery system, electronic vaping device, electronic vape pen, electronic oral device, electronic delivery device, or similar product or device, and any batteries, heating elements, or other components, parts, or accessories sold with and meant to be used in the consumption of a solution containing nicotine.

Subd. 23. **Wholesale sales price.** (a) "Wholesale sales price" means the price at which a distributor purchases a tobacco product.

(b) When a distributor sells a cartridge, bottle, or other package of a solution containing nicotine that is part of a kit that also includes a product, device, component, part, or accessory described in subdivision 22b:

(1) the wholesale sales price is the price at which the distributor purchases the kit; except that

(2) if the distributor also separately sells the same package of solution containing nicotine that is sold with the kit and can isolate the cost of the package of solution containing nicotine, then the wholesale sales price includes only the price at which the distributor separately purchases the package of the solution containing nicotine and any taxes, charges, and costs listed in paragraph (c).

(c) Wholesale sales price includes the applicable federal excise tax, freight charges, or packaging costs, regardless of whether they were included in the purchase price.

History: 1997 c 106 art 1 s 1; 1999 c 243 art 7 s 9; 2000 c 490 art 10 s 7-11; 2003 c 127 art 7 s 4,5; 1Sp2005 c 3 art 6 s 11; 2006 c 259 art 7 s 5; 2008 c 366 art 11 s 23; 2010 c 305 s 2; 2010 c 389 art 6 s 5; 2013 c 143 art 5 s 6-9; art 16 s 4; 1Sp2017 c 1 art 9 s 1; 1Sp2019 c 6 art 15 s 1-3; 1Sp2021 c 14 art 5 s 1,2; 2023 c 25 s 166