

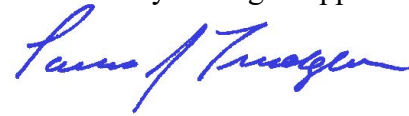
**ROSEVILLE**  
**REQUEST FOR COUNCIL ACTION**

Date: January 25, 2021  
Item No.: 7.c

Department Approval



City Manager Approval



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Item Description: Consider Tobacco Sales Violation Presumptive Penalty Approval for B-Dale Shell

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1 **BACKGROUND**

2 On Saturday, November 14, 2020, at 11:20 a.m., a plain clothes Roseville police officer, along with a  
3 19-year-old underage compliance checker, entered B-Dale Shell, located at 2164 Dale Street, Roseville,  
4 Minnesota, to conduct a tobacco compliance check. The underage compliance checker approached the  
5 front register and requested to purchase a pack of Newport cigarettes. The cashier requested and  
6 reviewed the underage checkers ID, processed the sale, and ultimately provided her with the cigarettes.  
7 The plain clothes officer then identified himself as a police officer. The cashier was administratively  
8 cited for the violation and the administrative fine was partially paid on December 01, 2020.

9 This is B-Dale Shell's second tobacco violation in the past twenty-four (24) months. On August 11,  
10 2020, an employee also sold tobacco to an underage compliance checker. As with the most recent sale,  
11 the cashier checked the underage checkers ID and ultimately processed the sale. The cashier and the  
12 business paid the administrative fines (ref CN 20019386).

13 The Roseville Police Department seeks Council approval to issue and administer the presumptive  
14 penalty pursuant to City Code Section 306.09, for tobacco license holders for the second violation  
15 within twenty-four (24) months. The mandatory minimum penalty shall be a four hundred dollar  
16 (\$400.00) fine and a two (2) day suspension.

17 **BUDGET IMPLICATIONS**

18 Pursuant to City Code Section 306.09, the financial impact shall be a mandatory penalty of a four  
19 hundred dollar (\$400.00) fine and a two (2) day suspension issued to the license holder for the second  
20 violation within twenty-four (24) months.

21 **STAFF RECOMMENDATION**

22 Staff recommends Council approval to issue and administer the presumptive penalty pursuant to City  
23 Code Section 306.09, for tobacco license holders for the second violation within twenty-four (24)  
24 months. The mandatory minimum penalty shall be a four hundred dollar (\$400.00) fine and a two (2)  
25 day suspension.

26 **REQUESTED COUNCIL ACTION**

27 The Roseville Police Department is seeking Council approval to allow the Roseville Police Department  
28 to issue and administer the presumptive penalty as set forth in Section 306.09, of the Roseville City  
29 Code or other action as determined by the Roseville City Council.

Prepared by: Joe Adams, Deputy Chief of Police  
Attachments: A: Police Report CN20028229  
B: Police Report CN20019386  
C: Letter announcing Council Meeting



**ROSEVILLE POLICE DEPARTMENT**  
**INCIDENT REPORT**

<b>ICR#</b> 20028229	<b>AGENCY ORI#</b> MN0620800	<b>JUVENILE:</b>
<b>Reported:</b> 11-14-2020 1124 <b>First Assigned:</b> 1124 <b>First Arrived:</b> 1124 <b>Last Cleared:</b> 1142 <b>Committed Start:</b> 11-14-2020 1120 <b>Committed End:</b> 11-14-2020 1130 <b>Title:</b> Compliance Checks-Tobacco <b>How Received:</b> Phone <b>Summary:</b> A tobacco compliance check was conducted at the business. The employee failed the check. <b>Location(s)</b> B-Dale Shell <b>Address:</b> 2164 DALE ST <b>City:</b> Roseville <b>State:</b> MN <b>Zip:</b> 55113 <b>Country:</b>		
<b>Officer Assigned:</b> Swanson, Jacob <b>Badge No:</b> 231 <b>Primary:</b> Yes		
<b>Involvement:</b> Mentioned <b>Name:</b> Shell <b>Phone:</b> (Business) (651)487-7931		
<b>Involvement:</b> Subject <b>Name:</b> Vincent, Raymond Leon Jr <b>Age:</b> 66 <b>Phone:</b> (Work) (651)487-7931		
<b>Involvement:</b> Mentioned <b>Name:</b> Murphy, Matt Robert <b>Age:</b> 48 <b>Phone:</b> (Work) (651)307-1231		
<b>BarCode:</b> 20-03201	<b>Item Type:</b> Cigarette(s)	<b>Bin:</b> B12
<b>Description:</b> Newports and receipt		
<b>Location</b>		
<b>Address:</b> (Business) 2164 DALE ST <b>City:</b> Roseville <b>State:</b> MN <b>Zip:</b> 55113 <b>Country:</b>		
<b>Offense:</b> (609.685.1a(a)) Sale of Tobacco/Tobacco Related Device to Chi		

<b>Supplemental Report</b>	
<b>ICR:</b> 20028229	<b>Last Modified:</b> 12-29-2020 1930
<b>Title:</b> Failed Compliance	<b>Created By:</b> Jacob Swanson
On 11-14-2020, XXXXXXXX XXXXXXXX acted as my underage tobacco buyer. XXXXXXXX was only in possession of one valid ID, which is issued by MN and contains her name and her birthdate. XXXXXXXX, her ID, and the two \$10 bills she was provided were photographed (see attached).  Around 1120 hours, XXXXXXXX entered Shell (2164 Dale St). XXXXXXXX made contact with employee, Raymond Vincent, at the register. XXXXXXXX requested a pack of Newport cigarettes and provided payment. XXXXXXXX was sold the cigarettes, given her change, the cigarettes, and a receipt. Vincent requested XXXXXXXXXX ID during the transaction, viewed the birthdate, and continued to	

allow the transaction.

Upon failing the compliance check, I made contact with Vincent, identified myself as a police officer, and advised him of the offense. Vincent stated he checked XXXXXXXXXX ID, but did not wish to pick it up off the counter and look too closely as he was afraid of COVID-19.

I provided the change back to Vincent and collected the \$10 bills used for payment. I collected the cigarette and receipt as evidence. They were photographed and placed in evidence at RPD.

Vincent was issued Roseville Admin citation #20737 for underage sale of tobacco.

Vincent advised the manager of the store is Matt Murphy. I asked him to have Murphy contact RPD with any questions.

Captured via PRS.

#### Supplemental Report

**ICR:** 20028229

**Last Modified:** 11-20-2020 1403

**Title:** Phone conversation

**Created By:** Joe Adams

On 11/20/2020 I contacted the store manager - Matt Murphy via telephone. I advised Murphy of the tobacco failure and informed it was the locations second failure in 24 months.

Murphy was also informed that the compliance failure would be scheduled for a future council meeting and he was be advised of the date once it was known.

#### Supplemental Report

**ICR:** 20028229

**Last Modified:** 12-02-2020 0724

**Title:** Payment (Incorrect)

**Created By:** Joe Adams

On 12/01/2020, I received the returned citation from Raymond Vincent however, the payment was in the amount of \$50 rather than the \$200 required. Also, the payment was made in cash. The citation states "Do not mail cash".



## ROSEVILLE POLICE DEPARTMENT INCIDENT REPORT

<b>ICR#</b> 20019386	<b>AGENCY ORI#</b> MN0620800	<b>JUVENILE:</b>
<b>Reported:</b> 08-11-2020 0833 <b>First Assigned:</b> 0833 <b>Last Cleared:</b> 0834 <b>Committed Start:</b> <b>Committed End:</b> <b>Title:</b> Compliance Checks-Tobacco <b>How Received:</b> Phone <b>Short Description:</b> Failure <b>Location(s)</b> B-Dale Shell <b>Address:</b> 2164 DALE ST <b>City:</b> Roseville <b>State:</b> MN <b>Zip:</b> 55113 <b>Country:</b>		
<b>Officer Assigned:</b> Stefani, Alan <b>Badge No:</b> 147 <b>Primary:</b> Yes <b>Officer Assigned:</b> Weber, Ryan <b>Badge No:</b> 217 <b>Primary:</b> No		
<b>MOC:</b> M7401 <b>Literal:</b> FURNISH TOBACCO-NICOTI DELIV DEVICE-CHILD-MISD <b>Statute:</b> 609-685-2 <b>UCR:</b> 26		
<b>Involvement:</b> Mentioned <b>Name:</b> XXXXXXXX XXXXXXX XXXXX <b>Age:</b> 18 <b>Address:</b> (Residence) XXXXX XXXX XXX X <b>City:</b> XXXXX XXXXX <b>State:</b> MN <b>Zip:</b> XXXXXXXXXXXX <b>Country:</b> <b>Phone:</b> (Cell) XXXXXXXXXXXXXXXX		
<b>Involvement:</b> Cited <b>Name:</b> DeMaio, Mareen Selena <b>Age:</b> 28 <b>Address:</b> (Work) 2164 Dale St. N <b>City:</b> Roseville <b>State:</b> MN <b>Zip:</b> 55113 <b>Country:</b> <b>Address:</b> (Residence) 1722 California Ave E <b>City:</b> St Paul <b>State:</b> MN <b>Zip:</b> 55106 <b>Country:</b> USA <b>Phone:</b> (Work) (651)487-7931 <b>Phone:</b> (Cell) (612)358-1489 <b>Phone:</b> (Cell) (612)759-4006		
<b>Involvement:</b> Mentioned <b>Name:</b> Murphy, Matthew Robert <b>Age:</b> 48 <b>Address:</b> (Residence) 669 Landau Drive <b>City:</b> Woodbury <b>State:</b> MN <b>Zip:</b> 55125 <b>Country:</b> <b>Phone:</b> (Work) (651)487-7931 <b>Phone:</b> (Cell) (651)307-1231		
<b>BarCode:</b> 20-02240 <b>Item Type:</b> Tobacco <b>Bin:</b> B12 <b>Description:</b> Grizzly Chew - Qty 2 <b>Location</b> <b>Address:</b> (Business) 2164 DALE ST <b>City:</b> Roseville <b>State:</b> MN <b>Zip:</b> 55113 <b>Country:</b>		

<b>Supplemental Report</b>	
<b>ICR:</b> 20019386	<b>Last Modified:</b> 08-12-2020 0812
<b>Title:</b> Tobacco tobacco - fail	<b>Created By:</b> Alan Stefani
On 08/11/2020, XXXXXXX XXXXXXX acted as my underage tobacco buyer. XXXXXXX was searched and had only one valid ID. A photo of XXXXXXX was taken (see attached), and a photocopy of his license was made.	
At 0822 hours Laurie entered the B- Dale Shell located at 2164 Dale St. XXXXXXX made contact	

with employee, Mareen Selana Demario (DOB: 06-21-1992) at the store's front register. Demario requested and checked identification from XXXXXX and sold XXXXXX two tins of Grizzly chewing tobacco valued at \$15.46. XXXXXX paid for the tobacco, was given change, a receipt, along with the two tins of chewing tobacco.

Upon failing the compliance check, myself and Ofc Weber made contact with Demario and advised er of the offense. Demario told me she wasn't wearing her glasses. .

Demario was ultimately issued Roseville Administrative citation #15570 for underage sale of tobacco.

Matthew Murphy - manager of the business was contacted and told to contact RPD if he had any questions about the process.

The receipt was attached to this report. The two tins of Grizzly chewing tobacco were placed in PL# 14.

Photos of XXXXXX and his drivers license were uploaded to the report.

Nothing further at this time.

#### Supplemental Report

**ICR:** 20019386

**Last Modified:** 08-28-2020 0921

**Title:** Follow up

**Created By:** Erika Scheider

I ran checks and did not find any previous compliance check failures that would result in a license suspension. Per the 2020 Fee Schedule, an administrative fine of \$300.00 was issued to B-Dale Shell.

I called and spoke to Matthew Murphy and explained the code and administrative fine. I advised him the fine would be mailed out on 8/28/2020.

#### Supplemental Report

**ICR:** 20019386

**Last Modified:** 09-21-2020 1043

**Title:** Follow up

**Created By:** Erika Scheider

On 9/21/20, I spoke via phone to Matt Murphy. I advised him we had not received payment for either fine (cashier or business). He advised he would get payment mailed today. He also was going to follow up with the cashier.

#### Supplemental Report

**ICR:** 20019386

**Last Modified:** 10-07-2020 1207

**Title:** Fines

**Created By:** Erika Scheider

I received payment from the business for the administrative fine (\$300.00); however, I have not yet received payment from the cashier.

I called and spoke with the cashier, Mareen. She said she was confused and didn't realize there was a separate fine for her. I provided her all of the information and gave her until 10/13/2020 to mail in a check for her fine.

#### Supplemental Report

**ICR:** 20019386

**Last Modified:** 10-19-2020 1432

**Title:** Final payment

**Created By:** Erika Scheider

On 10/19/2020, I received an additional \$100.00. This closes out all of the fines for B-Dale Shell. Information and payment forwarded to finance.



December 29, 2020

B-Dale Shell  
2164 Dale Street  
Roseville, MN 55113

Dear Manager,

On Monday, January 25, 2021, the Roseville City Council will discuss the November 14, 2020 tobacco compliance failure at B-Dale Shell. The 11/14/2020 sale is the second violation in 24 months. Staff has recommended Council impose the presumptive penalty of a \$400.00 fine and a (2) day tobacco suspension.

Council discussion of this violation will occur during the "Business Actions" segment of the meeting. A representative from your establishment may appear at the time of the council discussion to offer any information you deem relevant as to whether the Council should deviate from the presumptive penalties set forth in the Roseville City Code. If you choose not to appear at this meeting, the City Council will act without any input from your business. Please note, due to the pandemic, the January city council meetings are being held virtually. Information on providing input can be found on the city's website at <http://cityofroseville.com/3458/Attend-a-Virtual-Meeting>.

Summary of Violation:

November 14, 2020 An employee sold a 19 year old compliance checker a pack of Newport cigarettes. This is the second violation in the past 24 months. On August 11, 2020, an employee sold tobacco to an underage compliance checker. The administrative fine to the employee and the business were both paid and not disputed.

Please be advised if another violation should occur, further penalties will be invoked. If you have any questions, you can reach me at 651-792-7275.

Sincerely,

Joe Adams  
Deputy Chief of Police