Flabc

City Clerk's Office
Hiawatha City Hall
101 Emmons Street
Hiawatha, Iowa 52233

Memo

To: Mayor and City Council
From: Kelly Kornegor, City Clerk
Date: February 15, 2017
Re: 2017 Cigarette Violations

On November 9, 2016, the Hiawatha Police Department conducted their annual tobacco compliance checks as part of a 28E Agreement with Iowa Alcoholic Beverages Division. During the compliance checks, three clerks working at Hiawatha retailers sold tobacco or vapor products to the underage CI working with the police. All paperwork is attached to this memo.

The three retail establishments issued citations were River Rat Vapes (2nd Violation within 2 year period) located at 320 Blairs Ferry Road STE A, Hawkeye Convenience Store (1st Violation within 2 year period) located at 975 Robins Road and Fareway Store (1st Violation within 2 year period) located at 885 Miller Road. All three retailers settled their violations prior to the scheduled hearing date by paying their fine and signing the Acknowledgement/Settlement Agreement.

The information below provides a little reminder on the process for handling tobacco violations since we do not do these very often:

Once the store clerk receives adjudication from the Iowa Court System, I send the retailer a letter scheduling a hearing before City Council to allow the retailer to appear and be heard regarding the enforcement of a mandatory civil penalty and suspension of the tobacco license for a specified period based on the number of violations issued within a certain number of years. These penalties are set in Iowa Code Section 453A.22(2)(A). The city has no choice when it comes to setting the penalty or suspension of license.

The retailer has the option to sign an Acknowledgment / Settlement Agreement before the scheduled hearing date (refer to attachments). By doing this, the retailer voluntarily admits to the violation, waives the hearing before City Council, and agrees to pay the penalty to the city.

Since we received payment of the penalty and signed Acknowledgement/Settlement Agreements from all three retailers, City Council can simply approve a motion accepting the Acknowledgement/Settlement Agreements for River Rat Vapes, Hawkeye Convenience Store and Fareway Store, and the violations become satisfied.

Thanks for your consideration of this matter. Let me know if you have any questions or concerns.

ORDER ACCEPTING ACKNOWLEDGEMENT / SETTLEMENT AGREEMENT 1ST VIOLATION

IN RE:
Fareway Stores, Inc. #055
885 Miller Road
Hiawatha, Iowa 52233

: Fareway Stores, Inc. #055
: PO Box 70
: Boone, Iowa 50036

ORDER ACCEPTING ACKNOWLEDGEMENT / SETTLEMENT AGREEMENT 1ST VIOLATION

On this 15th day of February, 2017, the Hiawatha City Council approves the attached Acknowledgement / Settlement Agreement between the above captioned permittee and the City of Hiawatha.

THEREFORE, the Hiawatha City Council finds that the above captioned permittee has remitted to the City of Hiawatha a civil penalty in the amount of three hundred dollars ($300.00). Be advised that this violation dated November 9, 2016 will count as a first violation of Iowa Code section 453A.2(1), pursuant to Iowa Code Section 453A.22(2)(a). It is therefore ordered that the judgment in this matter is hereby satisfied.

_____
Mayor Bill Bennett

_____
Date

ACKNOWLEDGE/SETTLEMENT AGREEMENT
1st VIOLATION

IN RE:
Fareway Stores, Inc. #055
885 Miller Road
Hiawatha, Iowa 52233

:
:
:

Fareway Stores, Inc. #055
PO Box 70
Boone, Iowa 50036

ACKNOWLEDGEMENT/ SETTLEMENT AGREEMENT

ACKNOWLEDGEMENT/SETTLEMENT AGREEMENT

I (we) hereby knowingly and voluntarily acknowledge that we have received Notice of Hearing and the Complaint in the above case. I (we) hereby knowingly and voluntarily acknowledge the facts and allegations contained in the complaint, attached hereto and incorporated herein by reference, and knowingly and voluntarily admit that the same are true and correct. I (We) hereby knowingly and voluntarily waive hearing, and submit to the statutory penalties prescribed by Iowa law. I (We) understand that this violation date November 9, 2016, will count as an official "First Violation" of Iowa Code Section 453A.2 pursuant to Iowa Code Section 453A.22. I (We) have enclosed a check for the amount of three hundred dollars ($300.00) made payable to the City of Hiawatha to settle the above referenced complaint.

1/31/17
DATE

NOTE: This must be signed by an individual cigarette permittee, or in the case of another business entity, by individual(s) who have authority to bind the entity.

If you decide to sign the AKNOWLEDGEMENT/SETTLEMENT AGREEMENT and waive your appearance at a hearing, this document, properly signed and dated, along with your $300.00 check payable to the "City of Hiawatha," should be returned to the City of Hiawatha, 101 Emmons Street, Hiawatha, Iowa 52233 before the date of the scheduled hearing before City Council on February 15, 2017.

ORDER ACCEPTING ACKNOWLEDGEMENT / SETTLEMENT AGREEMENT 2nd VIOLATION

IN RE:		
Daniel Abbott	:	**River Rat Vapes**
320A Blairs Ferry Road	:	**320A Blairs Ferry Road**
Hiawatha, Iowa 52233	:	**Hiawatha, Iowa 52233**

ORDER ACCEPTING ACKNOWLEDGEMENT / SETTLEMENT AGREEMENT 2ND VIOLATION

On this 15th day of February, 2017, the Hiawatha City Council approves the attached Acknowledgement / Settlement Agreement between the above captioned permittee and the City of Hiawatha.

THEREFORE, the Hiawatha City Council finds that the above captioned permittee has remitted to the City of Hiawatha a civil penalty in the amount of one thousand and five hundred dollars ($1,500.00). Be advised that this violation dated November 9, 2016 will count as a second violation of Iowa Code section 453A.2(1), pursuant to Iowa Code Section 453A.22(2)(a). It is therefore ordered that the judgment in this matter is hereby satisfied.

_____

Mayor Bill Bennett

_____

Date

ACKNOWLEDGE/SETTLEMENT AGREEMENT
2nd VIOLATION

IN RE:
River Rat Vapes
320 Blairs Ferry Road STE A
Hiawatha, Iowa 52233

:
:
:
:

River Rat Vapes
Daniel Abbott
320 Blairs Ferry Road STE A
Hiawatha, Iowa 52233

ACKNOWLEDGEMENT/ SETTLEMENT AGREEMENT

ACKNOWLEDGEMENT/SETTLEMENT AGREEMENT

I hereby knowingly and voluntarily acknowledge that I have received the Complaint in the above case. I hereby knowingly and voluntarily acknowledge the facts and allegations contained in the complaint, attached hereto and incorporated herein by reference, and knowingly and voluntarily admit that the same are true and correct. I hereby knowingly and voluntarily waive hearing, and submit to the statutory penalties prescribed by Iowa law. I understand that this violation dated November 9, 2016, will count as an official "Second Violation" of Iowa Code Section 453A.2 pursuant to Iowa Code Section 453A.22. I understand that the penalty for this second violation is a $1,500.00 fine or a suspension of my cigarette permit for 30 days.

Owner Signature

12-28-16
DATE

In accordance with Iowa Code Section 453A.22(2)(b), the above-captioned permittee chooses the following penalty:

- ☒ $1,500.00 fine
- ☐ 30 day suspension

By signing the AKNOWLEDGEMENT/SETTLEMENT AGREEMENT, I waive my appearance at a public hearing, by issuing a check to the City of Hiawatha in the amount of $1,500.00, in payment of a civil penalty for a second violation of Iowa Code Section 453A.2 (1), pursuant to Iowa Code section 453A.22(2)(b).

ORDER ACCEPTING ACKNOWLEDGEMENT / SETTLEMENT AGREEMENT 1ST VIOLATION

IN RE:
Hawkeye Convenience Stores
975 Robins Road
Hiawatha, Iowa 52233

: **Petroleum Services Company LLC**
: **975 Robins Road**
: **Hiawatha, Iowa 52233**

ORDER ACCEPTING ACKNOWLEDGEMENT / SETTLEMENT AGREEMENT 1ST VIOLATION

On this 15th day of February, 2017, the Hiawatha City Council approves the attached Acknowledgement / Settlement Agreement between the above captioned permittee and the City of Hiawatha.

THEREFORE, the Hiawatha City Council finds that the above captioned permittee has remitted to the City of Hiawatha a civil penalty in the amount of three hundred dollars ($300.00). Be advised that this violation dated November 9, 2016 will count as a first violation of Iowa Code section 453A.2(1), pursuant to Iowa Code Section 453A.22(2)(a). It is therefore ordered that the judgment in this matter is hereby satisfied.

_____
Mayor Bill Bennett

_____
Date

ACKNOWLEDGE/SETTLEMENT AGREEMENT
1st VIOLATION

IN RE:
Hawkeye Convenience Stores
975 Robins Road
Hiawatha, Iowa 52233

:
:
:

Petroleum Services Company LLC
975 Robins Road
Hiawatha, Iowa 52233

ACKNOWLEDGEMENT/ SETTLEMENT AGREEMENT

ACKNOWLEDGEMENT/SETTLEMENT AGREEMENT

I (we) hereby knowingly and voluntarily acknowledge that we have received Notice of Hearing and the Complaint in the above case. I (we) hereby knowingly and voluntarily acknowledge the facts and allegations contained in the complaint, attached hereto and incorporated herein by reference, and knowingly and voluntarily admit that the same are true and correct. I (We) hereby knowingly and voluntarily waive hearing, and submit to the statutory penalties prescribed by Iowa law. I (We) understand that this violation date November 9, 2016, will count as an official "First Violation" of Iowa Code Section 453A.2 pursuant to Iowa Code Section 453A.22. I (We) have enclosed a check for the amount of three hundred dollars ($300.00) made payable to the City of Hiawatha to settle the above referenced complaint.

Petroleum Services Co. LLC

President + COO

1-18-17
DATE

NOTE: This must be signed by an individual cigarette permittee, or in the case of another business entity, by individual(s) who have authority to bind the entity.

If you decide to sign the AKNOWLEDGEMENT/SETTLEMENT AGREEMENT and waive your appearance at a hearing, this document, properly signed and dated, along with your $300.00 check payable to the "City of Hiawatha," should be returned to the City of Hiawatha, 101 Emmons Street, Hiawatha, Iowa 52233 before the date of the scheduled hearing before City Council on February 1, 2017.

Hiawatha Police

101 Emmons St., Hiawatha, IA 52233

Offense / Incident Report

Report Date	Type of Incident	Complaint No.	Case Status
11/09/2016 1536	**TOBACCO COMPLIANCE CHECK**	**16-5834**	**CLOSED**

Occurred on **11/09/2016 1334** to **11/09/2016 1457**

Incident Location

Street Address			City	State	Zip Code
			HIAWATHA	**IA**	**52233**
Sector	Precinct	Geo	Ward	Latitude	Primary Location
Neighborhood		Jurisdiction		Longitude	Secondary Location

Dispatch Information

Received Date / Time	Call Received Via	Dispatched Date / Time	Call Dispatched As	
Arrived Date / Time	Departed Date / Time	Offense Category **INVESTIGATION**	TTY Ref.#	TeleType Operator

Officers

ID	Name	Role	Primary	Arrived Scene	Departed Scene
845	**Investigator Rod Fiser**	**REPORTING**	☑		

Offenses

Charge Cause Number	Local Code	Jurisdiction	State Statute	State Charge Code Type/Class	Category
TOBACCO COMPLIANCE CHECK			**453A.2**	**4602** **M**	**INVESTIGATION**

Modus Operandi

Possible/Probable Motivatio | Offender Suspected of Using | Chemical / Incendiary Agent | Special Skills | Weather Conditions

Point of Entry | Method of Entry | Characteristics of Entry | Malicious Mischief Events

Reporting Party / Complainant

Name (Last, First Middle Suffix) | Race | Sex | DOB | Age | Juvenile | SSN | Moniker

Addresses

Type	Street Address	City	State	Zip Code	Country

Phone Numbers

Type	Phone	Ext/PIN

Email Addresses

Type	Email Address

Drivers License | Type | State | Expires | Restrictions | Marital Status | Resident Status | Ethnicity | Language

Statement / Notes:

Offense Narrative

Reporting Officer **845 Investigator Rod Fiser**

Approving Officer
(Cover Pages Only)

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Hiawatha Police

101 Emmons St., Hiawatha, IA 52233

Offense / Incident Report

Report Date	Type of Incident	Complaint No.	Case Status
11/09/2016 1536	**TOBACCO COMPLIANCE CHECK**	**16-5834**	**CLOSED**

On **11-09-2016** the Hiawatha Police Department conducted a Tobacco Compliance Check. Six stores were checked between 1334hrs and 1457hrs using a 17 year old Confidential Informant. The Kwik Shop, Quick Mart and Big Ten Mart were in compliance and did not sell to the CI. Alyssa Cheman, 11-09-1995, working at RiverRat Vapes 320 Blairs Ferry Rd Suite A sold Pin Up Betty with Nicotine Vape to the CI. Connie Martin, 01-26-1959, working at the Hawkeye Convenience Store 975 Robins Rd sold Marlboro Red cigarettes to the CI. James Krystofiak,01-13-1953 working at Fareway 885 Miller Rd also sold Marlboro Red cigarettes to the CI. All subjects that sold to the CI were issued a citation by Officer Kremer #851.

The Casey's was not checked at this time due to being closed for re modeling.

Nothing further.

Reporting Officer	845	Investigator Rod Fiser	Approving Officer (Cover Pages Only)

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