CITY OF ST. CHARLES ILLINOIS • 1834	**AGENDA ITEM EXECUTIVE SUMMARY**	**Agenda Item Number: 9**
	Title:	Discussion Regarding a Tobacco Citation and Hearing Notice for Walmart d/b/a Walmart 1898, Located at 150 Smith Road, St. Charles.
	Presenter:	Police Chief Keegan

Meeting: City Council	**Date**: June 20, 2022	
Proposed Cost: $	Budgeted Amount: $	Not Budgeted: ☐

Executive Summary (*if not budgeted please explain*)**:**

This is a complaint of violation being brought before the Liquor Control Commission to determine whether the St. Charles Local Liquor Control Commission, pursuant to this authority, shall revoke or suspend the local cigarette license issued or impose a fine upon by reason of the Complaint of Violation filed by the Police Department of offences happening on or about May 17, 2022 at the establishment of Walmart d/b/a Walmart 1898, Located at 150 Smith Road, St. Charles.

Attachments (*please list*)**:**
Memo, Citation and Notice of Hearing

Recommendation/Suggested Action (*briefly explain*)**:**

Discussion Regarding a Tobacco Citation and Hearing Notice for Walmart d/b/a Walmart 1898, Located at 150 Smith Road, St. Charles.

ARRAIGNMENT FORM

NOTE: THIS FORM MUST BE COMPLETED AND SUBMITTED TO THE CITY CLERK WITHIN THREE (3) CALENDAR DAYS PRIOR TO THE ARRAIGNMENT HEARING. IF YOU FAIL TO FILE THE ARRAIGNMENT FORM WITHIN THREE (3) CALENDAR DAYS PRIOR TO THE ARRAIGNMENT HEARING, AND IF YOU FAIL TO APPEAR AT THE HEARING, YOU WILL BE FOUND GUILTY OF THE VIOLATION BY DEFAULT AND THE ST. CHARLES LOCAL LIQUOR CONTROL COMMISSIONER WILL DETERMINE THE APPROPRIATE PENALTY.

I, Erik Schneider, as agent for Walmart, Inc. d/b/a Walmart 1898, being a licensee charged with a violation of Chapter 5.16 of the Municipal Code of the City of St. Charles at **150 Smith Road, St. Charles, IL 60174**, do hereby:

☑ I admit liability for the allegations set forth in the Complaint, but request a hearing in mitigation in which I will be given an opportunity to present evidence in support of my position to minimize any penalty.

☐ I admit liability for the allegations set forth in the Complaint. I do not request a mitigation hearing.

☐ Deny the allegations set forth in the Complaint. I request a hearing.

Walmart, Inc.
d/b/a Walmart 1898

By: Erik Schneider
(Signature)

Date: ~~6/13/2022~~ 6/14/2022

Subscribed and sworn to before me this 14th day of June, 2022.

CHARMAINE CHAMBERS
NOTARY PUBLIC - ARKANSAS
BENTON COUNTY
MY COMMISSION EXPIRES 01-01-2026
COMM. # 12696857

Notary Public

Form can be faxed to (630) 377-6034 or e-mailed to the attention of Tracey Conti at tconti@stcharlesil.gov Hard copy must follow by U.S. Mail

or

Form can be faxed to (847) 318-9509 or e-mailed to the attention of Nicholas S. Peppers at npeppers@srd-law.com Hard copy must follow by U.S. Mail

1066151_1

From: Erik Schneider [redacted]
Sent: Tuesday, June 14, 2022 9:04 AM
To: Nicholas S. Peppers
Cc: Russell Fusco
Subject: Walmart Store 1898 - Case Number 2022-LC-5

Good Morning Mr. Peppers,

We spoke on the phone yesterday about the tobacco sale to minor violation referenced in the subject line. I have attached the signed arraignment form and I've included a descriptive overview of the steps we've taken at this store in order to prevent future sales to minors.
Upon receiving notice of this violation, we implemented the following corrective actions:

1. The violating cashier was identified and terminated;
2. The store completed a corrective action plan to strengthen future compliance with corporate and regulatory requirements;
3. The store manager met with all cashiers and members of management to discuss age-verification training.

Additionally, below is a description of the compliance measures we take to prevent youth access to tobacco:

1. Mandatory computer-based training for store associates focused on preventing the sale of tobacco products to minors and requesting identification from customers that appear to be under a certain age (40 years of age or ID'ing all customers depending on the store). These trainings also instruct our associates on:
    a. Preventing the illegal sale of tobacco by knowing and looking for common signs of illegal practices such as a straw purchase;
    b. Instructing our associates on how to deal with hostile customers and enlisting help from managers or coworkers if necessary;
    c. Identifying legal forms of IDs, checking IDs, and recognizing fake IDs; and
    d. Discussing the potential criminal, civil, and administrative penalties for selling tobacco to a minor.
2. Formal communications to stores to refresh associates' knowledge of tobacco sale requirements;
3. Periodic monitoring and auditing focused on the execution of tobacco sales and posting of signage;
4. Cash register prompts that guide associates through each tobacco sale; and
5. An accountability matrix that imposes immediate disciplinary actions, including termination, for associates who sell tobacco products to minors.

Please let me know if we still need to have someone appear in person at the hearing or if the information above suffices for mitigation. Thank you!

Erik Schneider – *Manager II, ATF Compliance*
[redacted]
702 SW 8th Street | Bentonville, AR 72716-0885

STATE OF ILLINOIS)
) SS
COUNTIES OF KANE AND DU PAGE)

BEFORE THE LOCAL LIQUOR CONTROL COMMISSIONER OF THE CITY OF ST. CHARLES, ILLINOIS

IN THE MATTER OF THE TOBACCO LICENSE OF:	)	Case Number 2022-LC-5
Walmart, Inc. d/b/a Walmart 1898	)	

CITATION AND NOTICE OF HEARING

TO: Walmart, Inc. d/b/a Walmart 1898
150 Smith Road
St. Charles, IL 60174

PLEASE TAKE NOTICE THAT on June 20, 2022, at the hour of 4:30 p.m., in the City Council Chambers at the St. Charles City Hall, 2 East Main Street, City of St. Charles, Illinois, the St. Charles Local Liquor Control Commission shall conduct a hearing pursuant to Chapters 5.16.070 of the Municipal Code of the City of St. Charles and the Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act, 720 ILCS 675/1 *et seq.*

The purpose of said hearing shall be to determine whether the St. Charles Local Liquor Control Commissioner, pursuant to this authority, shall revoke or suspend the local cigarette license issued to you or impose a fine upon you, or both, by reason of the Complaint of Violation filed by the Chief of Police, James Keegan, a copy of which is attached.

AT WHICH TIME AND PLACE YOU MAY APPEAR AND DEFEND. YOU MAY BE REPRESENTED BY AN ATTORNEY IF YOU SO CHOOSE. ATTACHED HERETO IS AN ARRAIGNMENT FORM, WHICH IS INCORPORATED HEREIN. THE ARRAIGNMENT FORM SHOULD BE COMPLETED AND FILED WITH THE CITY CLERK WITHIN THREE (3) CALENDAR DAYS PRIOR TO THE HEARING. IF YOU FAIL TO FILE THE ARRAIGNMENT FORM WITHIN THREE (3) CALENDAR DAYS PRIOR TO THE HEARING AND IF YOU FAIL TO APPEAR AT THE HEARING, YOU WILL BE FOUND GUILTY OF THE VIOLATION BY DEFAULT AND THE ST. CHARLES LOCAL LIQUOR CONTROL COMMISSIONER WILL DETERMINE THE APPROPRIATE PENALTY.

YOU ARE ADVISED THAT IF A HEARING IS HELD AND YOU ARE FOUND GUILTY AFTER THE HEARING, THEN, IN ACCORDANCE WITH SECTION 5.16.180(E) OF THE ST. CHARLES MUNICIPAL CODE, YOU WILL BE REQUIRED TO REIMBURSE THE CITY FOR ANY AND ALL OUT OF POCKET EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES, COURT REPORTER APPEARANCE FEES AND THE COST OF HAVING POLICE OFFICERS AND WITNESSES PRESENT TO TESTIFY. ANY AND ALL QUESTIONS MUST BE DIRECTED TO THE CITY ATTORNEY, NICHOLAS S. PEPPERS, AT (847) 318-9500 OR TO THE DEPUTY CITY CLERK, TRACEY CONTI, AT (630) 377-4422.

DATED this 7th day of June, 2022.

Lora A. Vitek

Lora A. Vitek
Local Liquor Control Commissioner
City of St. Charles

cc: Heather McGuire, City Administrator
Chief of Police, James Keegan

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STATE OF ILLINOIS)
) SS
COUNTIES OF KANE AND DU PAGE)

CERTIFICATE OF SERVICE

The undersigned, being first duly sworn on oath, deposes and states that he did service a copy of the Citation and Notice of Hearing upon the person to whom it is directed by leaving a copy with said individual as follows: Chris Bethel at 1200 _____ on the 8 day of June, 2022.

SUBSCRIBED AND SWORN TO
before me this 9th day of June, 2022.

NOTARY PUBLIC

"OFFICIAL SEAL"
SARA K CASS
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 11/29/2023

1066134_1

STATE OF ILLINOIS)
) SS
COUNTIES OF KANE AND DU PAGE)

BEFORE THE LOCAL LIQUOR CONTROL COMMISSIONER OF THE CITY OF ST. CHARLES, ILLINOIS

IN THE MATTER OF THE	)	
TOBACCO LICENSE OF:	)	
	)	Case Number 2022-LC-5
Walmart, Inc.	)	
d/b/a Walmart 1898	)	
150 Smith Road	)	
St. Charles, IL 60174	)	

COMPLAINT OF VIOLATION

NOW COMES the Petitioner, James Keegan, Chief of Police of the City of St. Charles, Illinois, and files this complaint before the Local Liquor Control Commission of the City of St. Charles, Illinois, and states as follows:

1. The Petitioner is the duly appointed Chief of Police of the City of St. Charles and as such is charged with the duty of enforcing the laws of the State of Illinois and the ordinances of the City of St. Charles.

OFFENSE

2. On or about May 17, 2022, Walmart, Inc. d/b/a Walmart 1898 ("Licensee") was operating under a Tobacco License issued by the City of St. Charles.

3. On or about May 17, 2022, at approximately 5:25 p.m., Licensee, by and through its employees, officers and/or agents, committed the following violation of the St. Charles Tobacco Code:

OFFENSE

Sold tobacco/alternative nicotine product to a minor, in violation of Section 5.16.070 of the St. Charles Municipal Code.

4. That the acts detailed in Sections of this Complaint of Violation is prohibited and is in violation of and contrary to Sections 5.16.070 of the St. Charles Municipal Code and the Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act.

5. Licensee is responsible for the acts of its employees, officers and agents and is required to ensure that no violations of state law or ordinances of the City of St. Charles take place on said premises.

WHEREFORE, the Petitioner, James Keegan, Chief of Police requests, pursuant to Sections 5.16.170 of the St. Charles Municipal Code, that the Local Liquor Control Commission, a/k/a the Tobacco Commission, hold a hearing on this matter and take such action against Licensee as the Commission shall deem appropriate under the circumstances.

James T. Keegan

James Keegan
Chief of Police
City of St. Charles, Illinois

Nicholas S. Peppers
Storino, Ramello & Durkin
9501 West Devon Avenue
Suite 800
Rosemont, Illinois 60018
(847) 318-9500
npeppers@srd-law.com

STATE OF ILLINOIS)
) SS
COUNTIES OF KANE AND DU PAGE)

CERTIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief, and, as to such matters, the undersigned certifies as aforesaid that he verily believes the same to be true.

James Keegan, Chief of Police

SUBSCRIBED AND SWORN TO
before me this 30th day of June, 2022.

NOTARY PUBLIC

"OFFICIAL SEAL"
SARA K CASS
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 11/29/2023

ARRAIGNMENT FORM

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☐ Deny the allegations set forth in the Complaint. I request a hearing.

Walmart, Inc.
d/b/a Walmart 1898

By: _____
(Signature)

Date: _____

Subscribed and sworn to before me
this _____ day of June, 2022.

_____
Notary Public

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or e-mailed to the attention of Tracey Conti
at tconti@stcharlesil.gov
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