

# ORDER ACCEPTING TOBACCO SETTLEMENT AGREEMENT – 2<sup>nd</sup> VIOLATION

BEFORE THE WINDSOR HEIGHTS CITY COUNCIL:

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In Re: Sam's Club  
1101 73<sup>rd</sup> St.  
Windsor Heights, IA 50324

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On this 16th day of February 2015, in lieu of a public hearing on the matter originally set for 16 February 2015, the *Windsor Heights City Council* approves the attached Settlement Agreement between the above captioned permittee and the *CITY*.

THEREFORE, the *Windsor Heights City Council* FINDS that the above captioned permittee has remitted to the *CITY* a civil penalty in the amount of fifteen hundred dollars (\$1500.00) pursuant to second violation requirements. Be advised that the violation dated 19 November 2014 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.

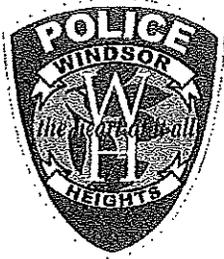
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Diana Willits, Mayor

ATTEST:

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Brett Klein, City Administrator / Clerk



# Windsor Heights Police Department

1133 66<sup>th</sup> Street  
Windsor Heights, Iowa 50324

Phone: (515) 277-4453

Fax: (515) 271-8160

www.windsorheights.org

## Tobacco Settlement Agreement – 2<sup>nd</sup> Violation

IN RE: Case #WH14-1049

Sam's Club *6344*  
1101 73<sup>rd</sup> St.  
Windsor Heights, IA 50324

I (We) hereby knowingly and voluntarily acknowledge that we have received the Notice of Hearing and the complaint in the above case. 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. We hereby knowingly and voluntarily waive our right to a public hearing, and submit to the statutory penalties prescribed by Iowa law.

We understand that the violation on November 19, 2014 will count as an official "Second Violation" of Iowa Code section 453A.2 pursuant to Iowa Code section 453A.22. We have enclosed payment for the amount of \$1500.00 made payable to the City of Windsor Heights to settle the above referenced complaint OR agree to turn over our tobacco distribution permit for a 30-day suspension period [beginning: \_\_\_\_\_ ending: \_\_\_\_\_]. We understand that in order to conclude this matter the Mayor must approve this settlement agreement.

*JR MANABER*  
JIM RENNOW / ~~LOK~~ ~~AST~~ ~~STRETT~~      *[Signature]*      01-21-15  
Printed Name of Representative, Title      Signature      Date

\_\_\_\_\_  
Mayor's Signature

\_\_\_\_\_  
Date

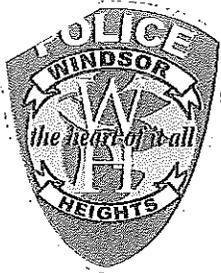
NOTE: This must be signed by an individual cigarette permittee, or in the case of another business entity, by individuals that have the authority to bind the entity.

If you decide to sign this Settlement Agreement and waive your appearance at a hearing, this document, properly signed and dated, along with your \$1500.00 civil penalty made payable to the City of Windsor Heights OR tobacco distribution permit, should be returned to:

City of Windsor Heights Police Department  
1133 66<sup>th</sup> Street  
Windsor Heights, Iowa 50324

*Dennis W. McDaniel, Chief of Police*

**PROTECTION. SERVICE. ENFORCEMENT. EDUCATION.**



## Windsor Heights Police Department

1133 66<sup>th</sup> Street

Windsor Heights, Iowa 50324

Phone: (515) 277-4453

Fax: (515) 271-8160

[www.windsorheights.org](http://www.windsorheights.org)

Sam's Club  
1101 73<sup>rd</sup> St.  
Windsor Heights, IA 50324

January 16, 2015

### Re: Tobacco Violation—Notice of Hearing—Sam's Club

Dear Retailer:

On November 19, 2014, the Windsor Heights Police Department performed a tobacco compliance check at your establishment. As you are aware, a minor was able to purchase cigarettes from your establishment, from employee Brenda Foster (Case #14-1049), in violation of state and city tobacco laws. Iowa Code Section 453A.2 and Windsor Heights City Code Section 121.07 provide that "no person shall sell, give, or otherwise supply any tobacco, tobacco products, or cigarettes to any person under eighteen (18) years of age." See Iowa Code §453A.2 and Windsor Heights City Code §121.07. If a retailer or employee of a retailer is found to have violated the provisions of this section, the Council is authorized, after written notice and hearing, to assess a civil penalty in the amount of fifteen hundred dollars (\$1500.00) OR suspend the retailer's tobacco permit for thirty (30) days for a second violation. As the retailer, you will be permitted to choose which penalty you wish to fulfill. See Windsor Heights City Code §121.07(2). Failure to pay the civil penalty or serve the suspension as ordered will result in additional automatic suspension of the retailer's cigarette permit for a period of fourteen (14) days. See *Id.*

Due to this violation, the City of Windsor Heights has scheduled a hearing before the Windsor Heights City Council at 6:00 p.m. on February 16<sup>th</sup>, 2015 at the City Council Chambers, located at 1133 66<sup>th</sup> Street, Windsor Heights, IA 50324. Attached is a copy of the hearing complaint that has been filed against you. You have the opportunity to be heard at this hearing and to be represented by an attorney at your own expense regarding the mandatory civil penalty of fifteen hundred dollars (\$1500.00). If you or your representatives fail to appear at this hearing, a decision may be rendered against you.

Signed acknowledgement of the Settlement Agreement and payment to the City of the \$1500 civil penalty OR surrender of your tobacco distribution permit to begin the 30-day suspension period prior to your scheduled hearing date will relieve you of any requirement to attend the upcoming hearing before the City Council. If you or your attorney has any questions, please don't hesitate to contact me.

Sincerely,

Dennis W. McDaniel

Chief of Police

[dmcdaniel@windsorheights.org](mailto:dmcdaniel@windsorheights.org)

COPY

Enclosure

*Dennis W. McDaniel, Chief of Police*

**PROTECTION. SERVICE. ENFORCEMENT. EDUCATION.**

BEFORE THE WINDSOR HEIGHTS CITY COUNCIL

<p>IN RE:</p> <p>Sam's Club 1101 73<sup>rd</sup> St. Windsor Heights, IA 50324</p>	<p>TOBACCO VIOLATION COMPLAINT</p>
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The City of Windsor Heights hereby makes the following complaint against the above-named retailer.

1. Iowa Code Section 453A.2 and Windsor Heights City Code Chapter 121 provide that "No person shall sell, give or otherwise supply any tobacco, tobacco products or cigarettes to any person under eighteen (18) years of age."

2. Iowa Code Section 453A.22(2) and Windsor Heights City Code Section 121.07 provide that, if a retailer or employee of a retailer violates the tobacco laws, the following civil penalty shall be assessed: "For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this subsection." Failure to pay the civil penalty as ordered under this subsection shall result in an additional automatic suspension of the permit for a period of fourteen (14) days.

3. On or about **November 19, 2014**, the retailer, or an employee of the retailer, sold cigarettes to person under eighteen years of age. *A copy of the citation is attached and incorporated herein.*

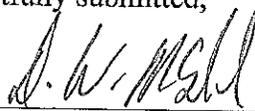
4. Therefore, in accordance with Iowa law and the Windsor Heights City Code, the City of Windsor Heights requests the Windsor Heights City Council find a violation of the

referenced sections of the Iowa Code Chapter 453A and the City Code Chapter 121, and assess a civil penalty against Sam's Club in the amount of fifteen hundred dollars (\$1500.00) OR suspend the retailer's tobacco permit for a period of thirty (30) days.

5. Wherefore, it is requested that the City Council of the City of Windsor Heights consider this complaint during its regularly scheduled council meeting on February 16<sup>th</sup>, 2015 and after said hearing, grant the relief requested herein.

Respectfully submitted,

By:



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Dennis W. McDaniel  
Chief of Police  
City of Windsor Heights  
1133 66<sup>th</sup> Street  
Windsor Heights, IA 50324  
515/277-4453 phone  
[daniel@windsorheights.org](mailto:daniel@windsorheights.org)  
[www.windsorheights.org](http://www.windsorheights.org)

