

§ 114.05 ADMINISTRATION, SUSPENSION, REVOCATION OR REFUSAL TO RENEW A LICENSE.

(A) The Director may refuse to issue, renew or may revoke or suspend any license granted under this chapter if at any time the Director finds that a licensee or applicant:

(1) Has failed to comply with the restrictions, requirements and conditions of this chapter, or with such material regulations as may be enacted by the Director pursuant to this chapter; has knowingly provided false information to gain or maintain a license or work permit or has willfully failed to keep the information required hereinabove current;

(2) Has knowingly allowed or an operator or employee has knowingly allowed possession, use or sale of controlled substances on the premises, or knowingly allowed prostitution or solicitation for prostitution on the premises, or knowingly allowed the violation of other criminal statutes as set out hereinabove.

(B) If the Director finds that a licensee or applicant has violated any of the provisions of this chapter, he or his designee may request:

(1) The licensee or applicant orally or through warning letter take corrective action.

(2) The licensee or applicant to meet informally with him or his designee. He or his designee may require the licensee or applicant to appear before him at a hearing and show cause why disciplinary action should not be taken. At any point, the licensee or applicant may request that a hearing be held. At any hearing under this subchapter, the Director shall consider all relevant factors including:

(a) The willfulness of the licensee or applicant's failure to comply with the applicable restrictions, requirements and conditions, and the willfulness of the failure of the individual designated on the licensee's application to under such compliance;

(b) The extent to which the failure to comply has been repeated by the licensee or applicant or by the individual designated on the licensee's application to undertake such compliance;

(c) Any mitigating circumstances which the licensee or applicant has shown which makes compliance impractical or impossible;

(d) Whether the licensee or applicant has remedied the failure to comply prior to the hearing;

(e) The willfulness of the failure of the owner or operator to undertake compliance with the disclosure of current information required hereunder;

(f) The extent to which such failure to disclose information required to be kept hereunder has been repeated;

(g) The length of time such disclosure requirements have been out of compliance;

(h) The number of violations;

(i) The number and frequency of incidents of illegal conduct;

(j) Whether the licensee or its agents or employees are found to have had knowledge of the illegal conduct;

(k) The degree to which licensee's business is found to have permitted or encouraged such illegal conduct.

(3) When the Director determines or is requested to hold a hearing pursuant to this section, he shall serve written notice of the hearing and of the specific nature of the charges to be determined. The notice shall be served upon the licensee or applicant at the address listed for the licensee or applicant in the application at least seven days in advance of the hearing. Service of notice shall be deemed complete upon certified mailing return receipt requested or personal delivery. At the hearing the Director shall afford the licensee or applicant an opportunity to be represented by an attorney, to present evidence, to cross examine adverse witnesses, and otherwise to rebut the evidence presented against the licensee or applicant. Within three days after the hearing and based upon evidence received at the hearing, the Director shall issue his findings and shall determine the sanction, if any, to be imposed on the licensee or applicant, or upon the owner of the licensed establishment which may include suspension of the licensee's license for a period not to exceed one year, revocation of the license, or refusal to issue a license. If the Director suspends a license, the Director may at its option allow the owner to pay in lieu of part or all of the days suspended the sum of up to \$50 per day. If the licensee's license is suspended or the application refused, all persons listed on the application whether as partner, director, officer, owner, part owner, operator or managing partner, may also be suspended from participating in any sexually explicit entertainment activities for a period not to exceed five years, if the Director finds that such persons knew or reasonably should have known of the violation for which the license is suspended or refused and failed to take steps to promptly cure the violation.

(4) The findings and rulings of any hearing before the Director shall be a final determination of the issues raised unless appealed. Any such appeal must be made within 20 days of the Director's finding to a court of competent jurisdiction. If an applicant or licensee pursues a judicial appeal of the final decision of the Director, then the city shall immediately issue a provisional license to the applicant or to the licensee and that licensee or applicant may operate or continue to operate a sexually oriented business pending the entry of a judgment on the appeal.

(5) The Director is empowered to enact from time to time whatever rules and regulations are deemed necessary for the orderly and complete administration of this chapter as the need arises for such rules and regulations.

(Ord. 11-01-930-00, passed 12-1-03)