Sec. 310.06. - Revocation; suspension; adverse actions; imposition of conditions.

(a) *Council may take adverse action.* The council is authorized to take adverse action, as defined in section 310.01 above, against any or all licenses or permits, licensee or applicant for a license, as provided in and by these chapters. Adverse actions against entertainment licenses issued under chapter 411 of the Legislative Code may be initiated for the reasons set forth in subsection (b) below, or upon any lawful grounds which are communicated to the license holder in writing prior to the hearing before the council. Such actions shall be initiated and carried out in accordance with the procedures outlined in section 310.05; provided, however, that the formal notice of hearing shall be used to initiate the adverse action without the use of prior procedural steps.

(b) *Basis for action.* Such adverse action may be based on one (1) or more of the following reasons, which are in addition to any other reason specifically provided by law or in these chapters:

(1) The license or permit was procured by misrepresentation of material facts, fraud, deceit or bad faith.

(2) The applicant or one acting in his or her behalf made oral or written misstatements or misrepresentations of material facts in or accompanying the application.

(3) The license was issued in violation of any of the provisions of the zoning code, or the premises which are licensed or which are to be licensed do not comply with applicable health, housing, fire, zoning and building codes and regulations.

(4) The license or permit was issued in violation of law, without authority, or under a material mistake of fact.

(5) The licensee or applicant has failed to comply with any condition set forth in the license, or set forth in the resolution granting or renewing the license.

(6)

a. The licensee or applicant (or any person whose conduct may by law be imputed to the licensee or applicant) has violated, or performed any act which is a violation of, any of the provisions of these chapters or of any statute, ordinance or regulation reasonably related to the licensed activity, regardless of whether criminal charges have or have not been brought in connection therewith;

b. The licensee or applicant has been convicted of a crime that may disqualify said applicant from holding the license in question under the standards and procedures in Minnesota Statutes chapter 364; or

c. The licensee or applicant (or any person whose conduct may by law be imputed to the licensee or applicant) has engaged in or permitted a pattern or practice of conduct of failure to comply with laws reasonably related to the licensed activity or from which an inference of lack of fitness or good character may be drawn.

(7) The activities of the licensee in the licensed activity created or have created a serious danger to the public health, safety or welfare, or the licensee performs or has performed his or her work or activity in an unsafe manner.

(8) The licensed business, or the way in which such business is operated, maintains or permits conditions that unreasonably annoy, injure or endanger the safety, health, morals, comfort or repose of any considerable number of members of the public.

(9) Failure to keep sidewalks or pedestrian ways reasonably free of snow and ice as required under chapter 114 of the Saint Paul Legislative Code.

(10) The licensee or applicant has shown by past misconduct or unfair acts or dealings: physical abuse, assaults or violent actions done to others, including, but not limited to, actions meeting the definition of criminal sexual conduct pursuant to Minnesota Statutes sections 609.342 through 609.3451; sexual abuse, physical abuse or maltreatment of a child as defined in Minnesota Statutes section 626.556, subdivisions 2 and 10e, including, but not limited to, acts which constitute a violation of Minnesota Statutes sections 609.02, subdivision 10; 609.321 through 609.3451; or 617.246; neglect or endangerment of a child as defined in Minnesota Statutes section 626.557, subdivision 2; the manufacture, distribution, sale, gift, delivery, transportation, exchange or barter of a controlled substance as defined in Minnesota Statutes chapter 152; the possession of a controlled substance as defined in Minnesota Statutes chapter 152 in such quantities or under circumstances giving rise to a reasonable inference that the possession was for the purpose of sale or distribution to others; or by the abuse of alcohol or other drugs, that such licensee or applicant is not a person of the good moral character or fitness required to engage in a licensed activity, business or profession.

(11) The licensee or applicant has materially changed or permitted a material change in the design, construction or configuration of the licensed premises without the prior approval of the city council in the case of Class N licenses, the director in the case of Class T licenses, and the inspector in the case of Class R licenses, or without first having obtained the proper building permits from the city.

(12)

The licensee or applicant has violated section 294.01 of the Legislative Code, or has made or attempted to make a prohibited ex parte contact with a council member as provided in section 310.05(c-2) of the Legislative Code.

(13) The licensee violated the law or any license condition and that violation is related to a death or great bodily harm, as defined in Minnesota Statute section 609.02, subd. 8, in or near the establishment.

(14) The licensee has failed to pay license fees within sixty (60) days of the date the fees are due. Licensee must pay any outstanding fees and delinquent fees in total. Failure to do so within sixty (60) days of the due date may result in revocation of the license. A revocation for this reason, however, is not considered a revocation resulting from misconduct or unfitness of the licensee, evidence of violations of law involving licensed premises, evidence that the applicant had been involved in the operation of a nuisance, or fraud or deception in the license application. Therefore, the requirement of § 310.02(d) prohibiting re-application within one year of revocation shall not apply to revocations under this paragraph.

The terms "licensee" or "applicant" for the purpose of this section shall mean and include any person who has any interest, whether as a holder of more than five (5) percent of the stock of a corporation, as a partner, or otherwise, in the premises or in the business or activity which are licensed or proposed to be licensed.

With respect to any license for activities entitled to the protection of the First Amendment, notwithstanding the foregoing provisions, neither the lack of good moral character or fitness of the licensee or applicant nor the content of the protected speech or matter shall be the basis for adverse action against the license or application.

(c) *Imposition of reasonable conditions and/or restrictions.* When a reasonable basis is found to impose reasonable conditions and/or restrictions upon a license issued or held under these chapters, any one (1) or more such reasonable conditions and/or restrictions may be imposed upon such license for the purpose of promoting public health, safety and welfare, of advancing the public peace and the elimination of conditions or actions that constitute a nuisance or a detriment to the peaceful enjoyment of urban life, or promoting security and safety in nearby neighborhoods. Such reasonable conditions and/or restrictions may include or pertain to, but are not limited to:

(1) A limitation on the hours of operation of the licensed business or establishment, or on particular types of activities conducted in or on said business or establishment;

(2) A limitation or restriction as to the location within the licensed business or establishment where particular type of activities may be conducted;

(3) A limitation as to the means of ingress or egress from the licensed establishment or its parking lot or immediately adjacent area;

(4) A requirement to provide off-street parking in excess of other requirements of law;

(5) A limitation on the manner and means of advertising the operation or merchandise of the licensed establishment;

(6) Any other reasonable condition or restriction limiting the operation of the licensed business or establishment to ensure that the business or establishment will harmonize with the character of the area in which it is located, or to prevent the development or continuation of a nuisance.

The inspector may impose such conditions on Class R licenses with the consent of the license holder, or may recommend the imposition of such conditions as an adverse action against the license or licenses; the inspector has the same power with respect to Class T licenses. The council may impose such conditions on Class N licenses with the consent of the license holder, or upon any class of license as an adverse action against the license or licenses following notice and hearing as may be required. Such conditions may be imposed on a license or licenses upon issuance or renewal thereof, or upon and as part of any adverse action against a license or licenses, including suspension. Conditions imposed on a license or licenses shall remain on such licenses when renewed and shall continue thereafter until removed by the council in the case of conditions on Class N licenses or conditions imposed by adverse action, and by the inspector in the case of Class R and T licenses.

(d) *Standards for multiple license determination.* In any case in which the council is authorized to take adverse action against less than all of the licenses held by a licensee, or applied for by an applicant, the following standards may be used:

(1) The nature and gravity of the grounds found by the council to exist upon which the adverse action would be based;

(2) The policy and/or regulatory goals for the particular licenses involved, either as embodied in the Legislative Code or as found and determined by the council;

(3) The interrelationship of the licenses and their relative importance to the overall business enterprise of the licensee or applicant;

(4) The management practices of the licensee or applicant with respect to each of such licenses;

(5) The extent to which adverse action against less than all of the licenses or applications would result in difficulty in enforcing and monitoring the adverse action taken;

(6)

The hardship to the licensee or applicant that would be caused by applying adverse action to all licenses or applications; and

(7) The hardship and/or danger to the public, or to the public health and welfare, that would result from adverse action against less than all of the licenses or applications.

(Code 1956, § 510.06; Ord. No. 17584, § 1, 8-25-88; Ord. No. 17657, § 15, 6-8-89; Ord. No. 17659, § 2, 6-13-89; Ord. No. 17901, §§ 2, 3, 1-14-92; Ord. No. 17917, §§ 2, 3, 3-31-92; Ord. No. 17922, § 1, 4-28-92; C.F. No. 94-500, § 3, 7-6-94; C.F. No. 94-1340, § 3, 10-19-94; C.F. No. 95-473, § 5, 5-31-95; C.F. No. 99-500, § 3, 7-7-99; C.F. No. 06-954, § 2, 11-8-06; C.F. No. 06-1072, § 2, 12-27-06)