

Sec. 138-25. - Remedies for noncompliance.

- (a) At such public hearing, the permittee may appear in person, or by attorney or representative, and shall further have the right to cross examine witnesses, and to offer such evidence and testimony as he desires with regard to compliance or noncompliance as described above. Upon hearing all evidence with regard to the matter, the city council shall enter an order finding compliance or noncompliance on the part of the permittee. If the order finds compliance, the matter shall be concluded for that audit year.
- (b) If the order finds noncompliance for the audit year, the city council shall further provide for one of the following actions:
- (1) Immediate suspension of the permittee's operation of the private club on the premises and immediate implementation of procedures to revoke and delete the special use permit for a private club designation from the zoning of the permittee's property; or
 - (2) Establishment of one or more a six-month period of probation period(s) the aggregate of which shall not to exceed 12 months during which the permittee may continue operations under its special use permit for a private club. For overlapping reporting periods or sequential permit years of non-compliance, the probationary period(s) may run concurrently for the purposes of determining compliance for all affected periods. The purpose of the probationary period(s) is to allow the permittee to come into compliance with the requirements that were found to be noncompliant as a result of the public hearing. For any period(s) of probation ordered on or after May 1, 2012, c Compliance with the gross receipt requirements of Section 138-22(a) shall be established whendetermined based on the permittee shall have achieved the required percentage of food sales for not less than 50% of the months contained in the probationary period(s).the prior six consecutive months' gross receipts.
- (c) At the end of the probationary period(s), if same is ordered, an additional audit shall be performed at the permittee's expense. The auditor may be internal (staff member) or external and shall be selected and engaged by the city councilCity Manager. The purpose of the audit shall be to determine compliance or noncompliance of the permittee during the entire probationary period(s) with all requirements of this article.
- (d) Upon completion of such audit, the original copy shall be furnished to the city council, with a copy to the permittee.

(e) Upon receipt by the city of an audit of a permittee's probationary period(s), the matter shall be scheduled for consideration at a city council meeting. Written notice shall be given to the permittee. The permittee, his representative or attorney shall have the right to appear at such meeting and to present any testimony or evidence regarding compliance or noncompliance with this article, or even the results of the audit, as may be desired. Upon hearing of all evidence and testimony, the city council shall enter an order finding compliance or noncompliance with the requirements of this article.

(1) If the order finds compliance, the probationary period(s) shall be ended and the permittee's operations under the special use permit may be continued.

(2) If the order finds noncompliance, the permittee shall immediately cease the operation of the private club on the premises. Procedures shall immediately be implemented on behalf of the city to revoke and delete the special use permit for a private club designation from the zoning for the permittee's property.

(f) A special use permit for the operation of a private club shall not be issued for a period of one year for an establishment that has had a special use permit revoked pursuant to section 138-22 or section 138-23.