

Chapter 8-05

RESTAURANTS

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Section 8-05-01DEFINITIONS

The following definitions shall apply in the interpretation and the enforcement of this Chapter:

RESTAURANT:

The term "Restaurant" shall mean any fixed or mobile restaurant, coffee shop, cafeteria, short order cafe, luncheonette, tavern, sandwich stand, soda fountain, ice cream stands, grill, tea room, bar, cocktail lounge, night club, roadside stand, industrial-feeding establishment, public or nonprofit organization or institution routinely serving food, catering kitchen, commissary or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere, and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge; provided there shall not be included private clubs, fraternal and church organizations which do not serve or prepare meals more than once a week.

UTENSILS:

The term "Utensils" shall include any kitchenware, tableware, glassware, cutlery, utensils, containers, or other equipment with which food or drink comes in contact during storage, preparation or serving to the public.

HEALTH OFFICER:

The term "Health Officer" shall mean the duly appointed Health Officer or his deputy or a member or employee of the Central District Health Department.

PERSON:

The word "Person" shall mean any individual, firm, corporation, partnership or association.

LICENSE:

The term "License" shall mean a license issued by the City of Boise, which has not been suspended, or is not expired and which has been issued pursuant to the applicant having met, and continuing to meet, all of the requirements of this chapter.

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LICENSING OFFICER:

The City Clerk or their designated appointee.

PERMIT:

The term "Permit" shall mean the duly issued permit, or license, issued by the Central District Health Department, based on a inspection by a Health Officer of that Department.
(5450, Amended, 05/11/1993; 3533, Amended, 02/25/1974)

Section 8-05-02LICENSE REQUIRED

It shall be unlawful for any person to operate a restaurant in the City who does not possess an unrevoked, unsuspended, or unexpired license from the City Clerks Office and in whose place of business such permit is not posted in a conspicuous place. Each license shall be issued by the City Clerk as of January 1 of the year in which issued, and shall remain in force for one (1) year and no license shall be transferable. The annual non-refundable fee for such license shall be in an amount established by the Boise City Council and listed on the most current City Clerk License Fee Schedule. Only persons who comply with the requirements of this Chapter shall be entitled to receive and retain such license. A license shall be suspended or revoked by the City Clerk upon receiving written confirmation from the Central District Health Department that the health permit has been suspended or revoked.
(6419, Amended, 09/20/2005; 5450, Amended, 05/11/1993; 2012, Added, 01/01/1922, Ord. 2012, Sec. 1: 1922 Code, Sec. 15-802)

Section 8-05-03GRADE; NOTICE

Every restaurant shall display at all times in a conspicuous public place designated by the Health Officer, a notice approved by the Health Officer, stating the grade of the establishment. (Ord. 1820, Sec. 3; 1952 Code, Sec. 15-803)

Section 8-05-04INSPECTION; SAMPLES

The Health Officer shall have access, ingress, and egress to all restaurants, as defined in Chapter 1 of this Title for the purpose of the inspection of any or all food and drink, and for that purpose may obtain and take samples for analysis. Any person who knowingly offers for sale any unwholesome, impure, adulterated or misbranded food or drink shall be guilty of a misdemeanor. (Ord. 1820, Sec. 4; 1952 Code, Sec. 15-804)

Section 8-05-05INSPECTION PERIODS

At least once every six (6) months the Health Officer shall inspect every restaurant located within the City. In case the Health Officer discovers the violation of any item of sanitation required for the grade then held, he shall make a second inspection after the lapse of such time as he deems necessary for the defect to be remedied, and the second inspection shall be used in determining compliance with the grade requirements of this Chapter.

One (1) copy of the last inspection report shall be posted by the Health Officer upon an inside wall of the restaurant, and said inspection report shall not be defaced or removed by any person except the Health Officer. Another copy of the inspection report shall be filed with the records of the Health Department. (Ord. 1820, Sec. 5; 1952 Code, Sec. 15-805)

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Section 8-05-06HEALTH PERMIT REQUIRED

It shall be unlawful to operate any restaurant, when not in possession of a valid health permit as provided by the Laws of the State and this Chapter, and every person so operating a restaurant as herein defined shall have the health permit available to show the Health Officer, Licensing Officer, or Inspector of the State Department at any time when called for. A permit may be suspended by the Health Officer, or revoked after an opportunity for a hearing by the Health Officer, upon the violation by the holder of any of the terms of this Chapter. (Ord. 1820, Sec. 6; 1952 Code, Sec. 15-806)
(5450, Amended, 05/11/1993)

Section 8-05-07RESTAURANTS; GRADING

The grading of all restaurants shall be based upon the following standards:

All grade A restaurants shall comply with all of the following items of sanitation:

Item 1. The floors of all rooms in which food or drink is stored, served, or prepared, or in which utensils are washed, shall be of such construction as to be easily cleaned, shall be smooth, and shall be kept clean and in good repair.

Item 2. Walls and ceilings of all rooms shall be kept clean and in good repair. All walls and ceilings of rooms in which food or drink is prepared shall be finished in light color. The walls of all rooms in which food or drink is prepared or utensils are washed shall have a smooth washable surface up to the level reached by splash or spray.

Item 3. When flies are prevalent, all openings into the outer air shall be effectively screened and doors shall be outward opening and self closing, unless other effective means are provided to prevent entrance of flies.

Item 4. All rooms in which food or drink is prepared or in which utensils are washed shall be well lighted.

Item 5. All rooms in which food or drink is stored, prepared, or served, or in which utensils are washed, shall be well ventilated.

Item 6. Every restaurant shall be provided with adequate and conveniently located toilet facilities for its employees, conforming with the regulations of the City and the Laws of the State. Toilet rooms shall not open directly into any room in which food or drink or utensils are handled or stored. The doors of all toilet rooms shall be self-closing. Toilet rooms shall be kept in a clean condition, in good repair, and well lighted and ventilated. Signs directing the washing of hands shall be posted in each toilet room used by employees. In case privies or earth closets are permitted and used they shall be separate from the restaurant building, and shall be of a sanitary type constructed and operated in conformity with the standards of the State Health Department.

Item 7. The water supply shall be easily accessible to all rooms in which food is prepared or utensils are washed, and shall be adequate, and of a safe, sanitary quality.

Item 8. Adequate and convenient handwashing facilities shall be provided, including warm water, soap and approved sanitary towels. The use of a common towel is prohibited. No employee shall resume work after using the toilet room without first washing his hands.

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Item 9. All multi-use utensils and all display cases or windows, counters, shelves, tables, refrigerating equipment, sinks, and other equipment or utensils used in connection with the operation of a restaurant shall be so constructed as to be easily cleaned and shall be kept in good repair.

Item 10. All equipment, including display windows or cases, counters, shelves, tables, refrigerators, stoves, hoods and sinks, shall be kept clean and free from dust, dirt, insects, and other contaminating material. All cloths used by waiters, chefs, and other employees shall be clean. Single-service containers shall be used only once. All multi-use eating and drinking utensils shall be thoroughly cleaned with an approved detergent and effectively subjected to an approved bactericidal process after one (1) usage. All multi-use utensils used in the preparation or serving of food and drink shall be thoroughly cleaned and effectively subjected to an approved bactericidal process immediately following the day's operation. Drying cloths, if used, shall be clean and shall be used for no other purpose.

Item 11. After bactericidal treatment no utensil shall be stored except in a clean dry place protected from flies, dust, or other contamination, and no utensils shall be handled except in such a manner as to prevent contamination as far as practicable. Single-service utensils shall be purchased only in sanitary containers, shall be stored therein in a clean, dry place, until used and shall be handled in a sanitary manner.

Item 12. All wastes shall be properly disposed of, and all garbage and trash shall be kept in suitable receptacles as provided by this Code in such manner as not to become a nuisance.

Item 13. All readily perishable food or drink shall be kept at or below fifty degrees Fahrenheit (50 F.), except when being prepared or served. Waste water from refrigeration equipment shall be disposed of.

Item 14. All food and drink shall be wholesome and free from spoilage. All milk, fluid milk products, ice cream, and other frozen desserts served shall be from sources approved by the Health Officer. Milk and fluid milk products shall be grade A. Milk and fluid milk products shall be served in the original containers in which they were received from the distributor; provided, that this requirement shall not apply to cream, which may be served from the original or from a dispenser approved for such service. All oyster, clams and mussels shall be from approved sources.

Item 15. All food and drink shall be so stored and displayed as to be protected from dust, flies, vermin, unnecessary handling, droplet infection, overhead leakage, and other contamination. No live animals or fowls shall be kept or allowed in any room in which food or drink is prepared or stored. All means necessary for the elimination for flies shall be used.

Item 16. All employees shall wear clean outer garments and shall keep their hands clean at all times while engaged in handling food, drink, utensils or equipment.

Item 17. The premises of all restaurants shall be kept clean and free of litter or rubbish. None of the operations connected with a restaurant shall be conducted in any room used as living or sleeping quarters. Adequate lockers or dressing rooms shall be provided for employees' clothing and shall be kept clean. Soiled linens, coats, and aprons shall be kept in containers provided for that purpose.

Item 18. Grade B restaurants are those which fail to comply with Item 1, 2, 4, 5, or 17, but which conform with all other items of sanitation required for grade A restaurants.

Grade C restaurants are those which fail to comply with either the grade A or grade B requirements. (Ord. 1820, Sec. 7; 1952 Code, Sec. 15-807)

Section 8-05-08 GRADE REQUIRED; TEMPORARY PERMIT

No restaurant shall be operated within the City, unless it conforms with the grade A or grade B; provided, that when any restaurant fails to qualify for any of these grades the Health Officer is authorized to revoke the permit or in lieu thereof the Health Officer may degrade the restaurant to a grade C restaurant and permit its operation during a temporary period of and not exceeding thirty (30) days. (Ord. 1820, Sec. 8; Ord. 1861, Sec. 1; 1952 Code, Sec. 15-808)

Section 8-05-09 REGRADING

Any restaurant, the grade of which has been lowered and grade displays changed accordingly, or the permit of which has been suspended may at any time make application for regrading or reinstatement of the permit. Within one (1) week after the receipt of a satisfactory application, accompanied by a statement signed by the applicant to the effect that the violated item or items of the qualifications or specifications have been conformed with, the Health Officer shall make a reinspection, and thereafter as many additional reinspections as he may deem necessary to assure himself that the applicant is again complying with the higher grade requirements, and, in case the findings indicate compliance, shall award the higher grade and/or reinstate the permit. (Ord. 1920, Sec. 9; 1952 Code, Sec. 15-809)

Section 8-05-10 CLEANING MATERIALS

No article, polish or other substance, containing any cyanide preparation or other poisonous material shall be used for the cleansing or polishing of utensils. (Ord. 1820, Sec. 10; 1952 Code, Sec. 15-810)

Section 8-05-11 COMMUNICABLE DISEASE; NOTICE

Notice shall be sent to the Health Officer immediately by the restaurant manager, or by the employee concerned, if any person employed in such restaurant contracts any infections, contagious or communicable disease, or has a fever, a skin eruption, or a cough lasting more than three (3) weeks. Any employee may be ordered by the Health Officer, at any time, to report to the City Physician for a health examination and upon failure to report to the Physician, the health card of such employee shall be revoked. A placard containing this Section shall be posted in all toilet rooms. (Ord. 1820, Sec. 11; 1952 Code, Sec. 15-811)

Section 8-05-12 COMMUNICABLE DISEASE; REGULATION

When any person working in a restaurant contracts any infectious contagious, or communicable disease, the Health Officer is authorized to require any or all of the following measures:

- A. The immediate exclusion of the employee from all restaurants.
- B. The immediate closing of the restaurant concerned until no further danger of disease outbreak exists, in the opinion of the Health Officer.
- C. The adequate medical examinations of the employee and his associates, with such laboratory examinations as may be indicated. (Ord. 1820, Sec. 12; 1952 Code, Sec. 15-812)

Section 8-05-13 PENALTY

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Any person violating any of the provisions of this Chapter shall be guilty of an infraction and shall be punishable by a fine of Fifty Dollars (\$50.00) excluding court costs and fees. An infraction is a civil public offense, not constituting a crime, which is punishable only by a penalty not exceeding one hundred dollars (\$100) and for which no period of incarceration may be imposed. There is no right to a trial by jury of a citation or complaint for an infraction and such trials shall be held before the court without a jury. A second and any subsequent conviction for a violation of the provisions of this chapter within five years shall be a misdemeanor and upon conviction thereof shall be punished by a fine of not more than three hundred dollars (\$300.00), or by imprisonment in the County Jail for not more than six (6) months, or by both such fine and imprisonment. Each day such violation is committed or permitted to continue and each and every violation of the provisions of this Chapter shall constitute a separate offense.

(Ord. 1820, Sec. 13; 1952 Code, Sec. 15-813)
(6191, Amended, 10/08/2002; 5450, Amended, 05/11/1993)

Section 8-05-14SAVING CLAUSE

Should any section, paragraph, sentence, clause, or phrase of this Chapter be declared unconstitutional or invalid for any reason the remainder of the Chapter shall not be affected thereby.
(Ord. 1820, Sec. 14; 1952 Code, Sec. 15-814)