

Chapter 370

RESTAURANTS

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[**HISTORY:** Derived from Art. V of Ch. XXV of the Charter and Ordinances, 1974, of the City of Buffalo. Amendments noted where applicable.]

GENERAL REFERENCES

- Alcoholic beverages — See Ch. 69.
- Public buildings — See Ch. 111.
- Enforcement — See Ch. 137.
- Infectious diseases — See Ch. 158.
- Food and drugs — See Ch. 193.
- Fruits and vegetables — See Ch. 199.
- Inspections — See Ch. 249.
- Taverns — See Ch. 313, Art. II.
- Sanitation — See Ch. 378.
- Slaughterhouses — See Ch. 391.
- Smoking — See Ch. 399.

§ 370-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

EATING, DRINKING AND COOKING UTENSILS — Includes all kitchenware, tableware, glassware, cutlery, utensils, containers and other equipment with which food or drink comes into contact during the storage, preparation or serving of food or drink used in restaurants.

RESTAURANT — Any hotel, public restaurant, public dining room, dining car, drugstore, soda fountain, steamboat, catering service, restaurant takeout or other similar establishment where food or drink is prepared for sale or sold, whether or not consumption of such food or drink is intended to take place at such establishment. [Amended 6-8-1993, effective 6-21-1993]

TEMPORARY STAND — Any temporary establishment where food or drink is prepared for sale or sold during a special event within the City of Buffalo. [Added 6-8-1993, effective 6-21-1993]

§ 370-2. License required. [Amended 12-9-2003, effective 12-19-2003]

No person, firm or corporation shall continue or engage in the business of conducting a restaurant in the City of Buffalo without a license issued by the Commissioner of Permit and Inspection Services after written application duly verified has been made therefor upon a form provided by said Commissioner. Said application shall give the name and address of said applicant, the location of

the premises whereon said restaurant is or is to be operated and such other information as said Commissioner shall require.

§ 370-3. Referral and approval of license application. [Amended 6-8-1993, effective 6-21-1993; 12-9-2003, effective 12-19-2003]

- A. Before issuing any license hereunder, the Commissioner of Permit and Inspection Services shall refer said application to the Health Commissioner for approval as to health and sanitary conditions of the place, personnel, equipment, service, etc.
- B. Before the issuance of such license, the Commissioner of Permit and Inspection Services shall also refer said application to the Commissioner of Fire for his approval. The approval of the Commissioner of Fire shall cover such matters as fire hazards, safe means of exit, fire-fighting equipment, etc. The approval of the Commissioner of Permit and Inspection Services shall cover generally matters of structural safety, building permits, occupancy certificates and the applicable requirements of the Building and Zoning Ordinances and state laws relating to matters of structural safety.
- C. Before issuing any license for restaurant, the Commissioner of Permit and Inspection Services shall also refer said application to the Precinct Captain and Commissioner of Police for their investigation regarding citizen complaints, loud music, rowdy patrons and/or criminal activities, with approval or disapproval of application returned to the Commissioner of Permit and Inspection Services.
- D. The foregoing approval may be stamped or printed on said application in the form as directed by the Commissioner of Permit and Inspection Services, subject to the provisions of this section.

§ 370-4. Expiration of license; fees. [Amended 6-8-1993, effective 6-21-1993]

- A. Said license shall expire on September 1 after the issuance thereof, unless revoked by the Commissioner of Permit and Inspection Services for cause. [Amended 12-9-2003, effective 12-19-2003]
- B. If outstanding complaints are not resolved, a hearing will be held before renewal is granted.
- C. The annual fee for said license shall be based upon seating capacity as provided in Chapter 175, Fees.

§ 370-5. Posting of occupancy limits.

- A. Every licensee under this chapter shall be required to post a sign in a conspicuous location designated by the Fire Commissioner indicating the maximum number of patrons it is licensed to accommodate at any given time. The signs are not to be less than 14 inches in width and seven inches in height with boldface, black lettering, 3/4 inch in height on a white background, to read as follows: "THE TOTAL CAPACITY IN THIS RESTAURANT IS LIMITED TO ____." The posting of such sign shall be prima facie evidence of:
 - (1) The validity of the indicated capacity limit; and
 - (2) Notice to all employees on the premises of the contents of the sign.
- B. Failure by the licensee, manager or any agent of the licensee to limit the number of patrons to the amount indicated, as required above, at any given time shall constitute a violation of this section, for which the licensee, manager or agent may be held jointly or severally liable. It shall be no defense by the licensee to any charge of violating this section that said licensee was unaware of the occurrence of the overcrowding prohibited by this section.
- C. Upon conviction for a violation of this section, the court shall impose a minimum fine of \$100. The maximum penalty for each violation of this section shall be a fine of not more than \$1,500, imprisonment for not more than 15 days, or both such fine and imprisonment.

§ 370-6. Sanitary conditions of premises; screening of openings; cooking odors.

All buildings, rooms and apartments used in the conduct of said business and the surroundings thereof shall be maintained at all times in a clean and sanitary condition. Windows, doors and other openings shall be properly screened to exclude flies, and odors of cooking must be disposed of in such a manner as to prevent injury, detriment or annoyance to any person or persons.

§ 370-7. Cleanliness of equipment.

All show- or display cases and windows, counters, tables, refrigerating cabinets and other equipment used in connection with the operation of a restaurant shall be so constructed as to be easily inspected and cleaned and shall be clean and in good repair and free from dust, dirt, insects and other contaminating material. The cloths used by waiters, chefs and other employees shall be clean.

§ 370-8. Cleansing and disinfecting of utensils.

All eating, drinking and cooking utensils shall be so cleaned and disinfected as to be free from bacilli of the coliform group and to have a total bacterial count of not more than 100 per utensil, as determined by test in a laboratory approved for the purpose by the State Commissioner of Health.

§ 370-9. Storage of utensils.

After cleansing and disinfection, all eating, drinking and cooking utensils shall be stored in a clean place.

§ 370-10. Storage of materials used in food preparation.

All materials used in the preparation of meals and lunches shall be stored, handled, transported and kept in such a manner as to protect them from spoilage, contamination and unwholesomeness. No ingredient or material shall be used in the preparation of any meal or lunch which is spoiled

or contaminated or which may render such meal or lunch unwholesome, unfit for food or injurious to health.

§ 370-11. Refrigeration.

All perishable food or drink shall be kept at or below 50° F., except when being prepared or served. This shall include all cream-filled pastries.

§ 370-12. Transmission of communicable diseases and local infections.

No person suffering from a communicable disease transmitted through food or drink or who resides in a household with a case of such disease or who is known to be a carrier of the organisms causing such disease and no person suffering from a local infection transmissible through food shall be employed in any restaurant.

§ 370-13. Employee cleanliness.

All employees shall wear clean outer garments and shall keep their hands clean at all times while on duty in a restaurant.

§ 370-14. Use of substances containing cyanide preparations prohibited.

No article, polish or other substance containing any cyanide preparation shall be used for the cleansing or polishing of eating or cooking utensils.

§ 370-15. Employee toilet facilities.

Every restaurant shall provide for its employees adequate toilet facilities, conveniently located and properly constructed and maintained. Toilet and washing facilities and dressing rooms must be provided for the use of employees in accordance with the provisions of the New York State Labor Law applicable thereto, but no toilet room or room used as sleeping quarters shall be in direct connection with kitchen, dining room or any room where food is stored or handled.

§ 370-16. Employee lavatory facilities.

Every restaurant shall provide for its employees adequate and convenient washing facilities, including soap and individual sanitary towels. The use of a common towel is prohibited.

§ 370-17. Water supply.

The water supply shall be easily accessible to rooms in which food is prepared, shall be adequate and shall be of a safe, sanitary quality.

§ 370-18. Inspections. [Amended 6-8-1993, effective 6-21-1993; 12-9-2003, effective 12-19-2003]

The Commissioner of Permit and Inspection Services may request inspections from the Health Department when deemed necessary, or if any condition contrary to §§ 370-2 through 370-17 is found.

§ 370-19. Revocation, suspension or nonrenewal of license. [Added 6-8-1993, effective 6-21-1993; amended 12-9-2003, effective 12-19-2003]

The license of any person granted under this chapter may be suspended, revoked or renewal thereof refused by the Commissioner of Permit and Inspection Services upon determination by the Director, after notice and hearing before him, in accordance with Section 17-2 of the Charter.