

14B NCAC 15B .0105 SPECIAL REQUIREMENTS FOR RESTAURANTS

(a) Requirements to Qualify for Brownbagging, On-premise Fortified Wine, Mixed Beverages, or Modified Plan Permits. To qualify as a restaurant for a Brownbagging, on-premise Fortified Wine or Mixed Beverages Permit, or a Malt Beverages Permit in areas approving on-premise malt beverages under G.S. 18B-602(a)(4), a business shall have an inside dining area set aside for the service of meals that contains seating for at least 36 persons. Food shall be available at all times that alcoholic beverages are being served. After 10:00 P.M., restaurants may offer a partial food menu or prepackaged food in individual servings.

(b) Typical Characteristics. Although a facility need not possess all of the following characteristics to qualify as a restaurant, each is typical of a bona fide restaurant and the Commission shall consider the extent to which a facility possesses these characteristics in deciding whether to issue, suspend, or revoke the permits listed in Paragraph (a):

- (1) The facility has a printed menu listing full meals with substantial entrees;
- (2) The facility has complete cooking and refrigeration equipment;
- (3) The greatest portion of the food sold is prepared in the facility's own kitchen and prepackaged food is only an incidental part of the sales;
- (4) The greatest portion of the food sold is consumed on the premises;
- (5) There are separate kitchen and service staffs;
- (6) Seating for dining customers is primarily at tables;
- (7) Only a small portion of the premises is devoted to activities unrelated to the service and consumption of food; and
- (8) Sales of food are significantly greater than sales of nonalcoholic beverages, especially nonalcoholic beverages sold as "set-ups."

(c) Requirements for Application. For a restaurant to obtain a permit listed in Paragraph (a), the applicant shall submit to the Commission the appropriate application fee and the following documents:

- (1) a completed application on a form provided by the Commission, which includes the full names and addresses of all owners, officers, directors, shareholders owning 25 percent or more of the stock, interest holders holding 25 percent or more of the interest, and the manager; if, however, a corporation holds any other ABC permit, application by the manager is sufficient;
- (2) a copy of the restaurant's menu or list of food served;
- (3) photographs of sufficient detail to show the following:
 - (A) entire kitchen, including all equipment;
 - (B) all dining areas, showing seating arrangements, including patios or outdoor areas where alcoholic beverages will be sold or consumed;
 - (C) bars, counters, mixing stations;
 - (D) locked storage area or areas for storage of alcoholic beverages; and
 - (E) front exterior of premises or if establishment is located in an office building, mall or other larger structure, the main entrance.

History Note: Authority G.S. 18B-100; 18B-207; 18B-900; 18B-901; 18B-902; 18B-1000(6); 18B-1008; Eff. January 1, 1982; Amended Eff. January 1, 2011; July 1, 1992; May 1, 1984; Transferred and Recodified from 04 NCAC 02S .0105 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.