

Food Premises Inspection & Mandatory Food Handler Certification By-law

PH-16 – Consolidated August 30, 2010

As Amended by:

By-law No.	Date Passed at Council
PH-16-10001	August 30, 2010

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London
CANADA

**OFFICE CONSOLIDATION
INCLUDING AMENDMENT PH-16-10001 (August 30, 2010)**

Bill No. 255
2010

By-law No. PH-16

A by-law to regulate the display of information to the public regarding the health inspection status of food premises and to provide for mandatory certification of food handlers in the City of London.

WHEREAS subsection 5(3) of the *Municipal Act*, S.O. 2001, c.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act*, 2001, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS 10(1) of the *Municipal Act*, 2001 provides that a municipality may provide any service or thing that the municipality considers necessary or desirable to the public

AND WHEREAS subsection 10(2) of the *Municipal Act*, 2001 provides that a municipality may pass by-laws respecting: paragraph 6, health, safety and well-being of persons; paragraph 7, services and things that the municipality is authorized to provide under subsection (1); and paragraph 8, protection of persons and property, including consumer protection;

AND WHEREAS subsection 391(1) of the *Municipal Act*, 2001 provides that a municipality may impose fees and charges on persons,

- (a) for services or activities provided or done by or on behalf of it;
- (b) for costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board; and,
- (c) for the use of its property including property under its control;

AND WHEREAS section 425 of the *Municipal Act*, 2001 authorizes the City of London to pass by-laws providing that a person who contravenes a by-law passed by it under that Act is guilty of an offence;

AND WHEREAS section 444 of the *Municipal Act*, 2001 provides that the municipality may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity, and any person who contravenes such an order is guilty of an offence;

AND WHEREAS the City of London considers it necessary and desirable to provide information to the public regarding health inspection status of food premises and to provide for mandatory certification of food handlers in the City of London;

AND WHEREAS it is deemed expedient to pass this by-law;

NOW THEREFORE The Council of The Corporation of the City of London hereby enacts as follows:

1.0 DEFINITIONS

1.1 For the purpose of this By-law:

“Accredited Program” means:

- (a) The Middlesex-London Health Unit’s Food Handler Certification Course;
- (b) A food handler training and certification program or course provided by a Board of Health established under the Act; or
- (c) A food handler training and certification program or course that has been accredited by the Medical Officer of Health;

“Act” means the *Health Protection and Promotion Act*, R.S.O. 1990, c.H-7, as amended, and any regulations thereunder;

“Certified Food Handler” means a person who holds a valid Food Handler Certificate;

“City” means the municipality of the City of London or the geographic area of the City of London as the context requires;

“City Treasurer” means the Treasurer of The Corporation of the City of London or a person delegated by him or her for the purposes of this By-law;

“Council” means the Municipal Council of The Corporation of the City of London;

“food” means food or drink for human consumption, and includes an ingredient of food or drink for human consumption;

“Food Handler Certificate” means a certificate issued to a person by the provider of an Accredited Program certifying that the person has successfully completed that program;

“Food Premises” means a Premises where food or milk is sold or offered for sale to the public or where meals or meal portions are prepared for immediate consumption or sold or served in a form that will permit immediate consumption on the premises or elsewhere by the public, but does not include food premises that are excepted from the application of R.R.O. 1990, Reg. 562 (The Food Premises Regulation under the Act) as set out in section 2 of that Regulation;

“Hazardous Food” means any food that is capable of supporting the growth of pathogenic organisms or the production of the toxins of such organisms;

“Medical Officer of Health” means the Medical Officer of Health for the Middlesex-London Health Unit or a person delegated by him for the purposes of this by-law;

“Middlesex-London Health Unit Food Premises Inspection Summary” means an original notice issued by the Medical Officer of Health to a Food Premises as a result of any inspection of such premises conducted pursuant to the Act;

“milk” means milk from cows, goats or sheep;

“Officer” means a municipal law enforcement officer, a police officer or an officer, employee or agent of the Corporation of the City of London whose responsibilities include the enforcement of this by-law;

“Operator” means a person who has responsibility for or control over an activity carried on at a Food Premises and there may be more than one operator of the same Food Premises;

“Premises” means lands and structures, or either of them, and includes,

- (a) water;
- (b) ships and vessels;
- (c) trailers and portable structures designed or used for residence, business or shelter; and,
- (d) trains, railway cars, vehicles and aircraft;

“Public Health Inspector” means a Public Health Inspector of the Middlesex-London Health Unit.

2.0 POSTING INSPECTIONS

2.1 Every Operator of a Food Premises shall keep posted in the Food Premises in a conspicuous location at or near the entrance or entrances of such Food Premises and clearly visible to members of the public the most recent Middlesex-London Health Unit Food Premises Inspection Summary.

2.2 Where a Food Premises does not have an entrance or entrances at which the most recent Middlesex-London Health Unit Food Premises Inspection Summary may be posted, then the Operator shall ensure that the Middlesex-London Health Unit Food Premises Inspection Summary is posted at or near the pick-up window or other location clearly visible to members of the public.

2.3 No persons shall deface, alter or remove any Middlesex-London Health Unit Food Premises Inspection Summary.

3.0 CERTIFIED FOOD HANDLERS

3.1 Every Operator of a Food Premises where Hazardous Food is prepared shall ensure that there is at all times when the Food Premises is operating, at least one Certified Food Handler working at the premises who is supervising the preparation, processing, packaging, service or storage of food.

3.2 Every person, when working as the Certified Food Handler supervising the preparation, processing, packaging, service or storage of food under section 3.1 shall produce for inspection his or her Food Handler Certificate upon request by an Officer.

4.0 FOOD HANDLER TRAINING AND CERTIFICATION

4.1 The Medical Officer of Health may accredit any food handler training and certification program if he or she is satisfied that the program is equivalent to the Middlesex-London Health Unit’s Food Handler Certification Course having regard to:

- (a) the standards contained in the “Food Safety Protocol, 2008” in accordance with the “Ontario Public Health Standards, 2008” issued under the Act; and,
- (b) the examination criteria and standards contained in the report of the Food Safety Task Force, Canadian Institute of Public Health Inspections, Ontario Branch, entitled “Food Safety Training and Certification, a Standard for Health Units/Departments in Ontario”.

4.2 Every provider of a food handler training and certification program seeking accreditation by the Medical Officer of Health shall:

- (a) provide the Medical Officer of Health with such information as the Medical Officer of Health considers necessary to evaluate the program; and,
- (b) pay the prescribed application fee.

4.3 Every provider of an Accredited Program shall provide the Medical Officer of Health such information as the Medical Officer of Health considers necessary to determine the validity of the Food Handler Certificates issued by the provider or to

monitor and audit the program, including without limitation to the examinations used in the program.

4.4 The Medical Officer of Health may terminate the accreditation of any Accredited Program if he or she is satisfied that the program has ceased to be equivalent to the Middlesex-London Health Unit's Food Handler Certification Program or if he or she is satisfied that the provider has failed to comply with section 4.3.

4.5 Unless sooner terminated by the Medical Officer of Health, the accreditation of an Accredited Program is valid for five (5) years.

4.6 A Food Handler Certificate is valid for five (5) years.

5.0 INSPECTION AND ORDERS

5.1 If an Officer is satisfied that this by-law has been contravened, the Officer may make an order, known as an Order to Discontinue Activity, requiring the person who contravened the by-law, or who caused or permitted the contravention, or the owner or occupier of the land on which the contravention occurred, to discontinue the contravention.

5.2 An Order to Discontinue Activity shall set out:

- (a) the municipal address of the property on which the contravention occurred;
- (b) the date of the contravention;
- (c) the reasonable particulars of the contravention of the by-law; and
- (d) the date by which there must be compliance with the order.

5.3 The Order to Discontinue Activity may be served personally on the person to whom it is directed or by regular mail to the last known address of the person, in which case it shall be deemed to have been given on the third day after it is mailed. Service on a corporation can be affected by registered mail to the corporate mailing address.

5.4 No person shall contravene an Order to Discontinue Activity.

6.0 ADMINISTRATION AND ENFORCEMENT

6.1 Administration of this by-law is assigned to the Medical Officer of Health who shall generally perform all of the administrative functions conferred upon him or her by this by-law.

6.2 This By-law may be enforced by an Officer.

6.3 The Medical Officer of Health and Public Health Inspectors are hereby designated as agents of the City for the purpose of enforcing this By-law.

6.4 No person shall hinder or obstruct or attempt to hinder or obstruct any person who is exercising a power or performing a duty under this By-law, including carrying out an inspection.

6.5 Fees or charges for services and activities provided under this By-law shall be set and approved by Council from time to time.

6.6 The fees or charges imposed constitute a debt of the person to the City. The City Treasurer may add fees to the tax roll and collect them in the same manner as municipal taxes on any property for which all the owners are responsible for paying the fees.

7.0 PENALTY

7.1 Any person who contravenes any provision of this By-law is guilty of an offence.

7.2 A director or officer of a corporation who knowingly concurs in the contravention of this by-law is guilty of an offence.

7.3 Any person convicted under this by-law is liable:

- (a) upon a first conviction, to a minimum fine of \$500 and a maximum fine of \$5,000; and,
- (b) upon a subsequent conviction, to a minimum fine of \$2,500 and a maximum fine of \$25,000.

7.4 Despite section 7.3, where the person convicted is a corporation, the corporation is liable:

- (a) upon a first conviction, to a minimum fine of \$2,500 and a maximum fine of no more than \$25,000; and,
- (b) upon a subsequent conviction, to a minimum fine of \$5,000 and a maximum fine of not more than \$ 50,000.

7.5 If this By-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the by-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted.

8.0 GENERAL

8.1 If any provision or part of this by-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the balance of the by-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

8.2 If there is a conflict between a provision of this by-law and a provision of any other City by-law, then the more restrictive provision shall apply.

9.0 MISCELLANEOUS

9.1 This by-law may be referred to as the "Food Premises Inspection and Mandatory Food Handler Certification by-law".

9.2 Save and except sections 3.1 and 3.2, the By-law shall come into force and effect on October 1, 2010. Sections 3.1 and 3.2 of the By-law shall come into force and effect on October 1, 2011.

PASSED in Open Council on June 14, 2010.

Anne Marie DeCicco-Best
Mayor

Catharine Saunders
City Clerk

First Reading - June 14, 2010
Second Reading - June 14, 2010
Third Reading - June 14, 2010